



ACCESS

The Role of Courts in Shaping Access to Asylum

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CONTENTS

INTRODUCTION: OBJECTIVES OF ACCESS	5
DEFINING TERMS	5
PART 1: BARRIERS TO ACCESSING ASYLUM	8
I. IDENTIFYING BARRIERS	8
A. Barriers of general relevance	8
II. UNDERSTANDING BARRIERS	8
A. Barriers of general relevance	8
PART 2: CASE LAW ANALYSIS.....	39
I. IDENTIFICATION OF BARRIERS IN THE CASE LAW	39
A. Description of the barriers in the case law	39
B. Institutional settings	40
C. Legal context and legal system	43
D. Laws and norms at the domestic level	44
E. Legal standing	49
F. The influence of international Courts	50
G. Comparative insights	51
H. Role of expert testimony	52
I. Future Directions	52
II. IDENTIFICATION OF LEADING DECISIONS	53
A. Description of the barriers in the selected decisions	54
B. Impact of the judicial body’s decision	61
C. Consistency with previous jurisprudence	61
PART 3: SOCIO-LEGAL FACTORS	64
I. PROCEDURES IN ASYLUM ACCESS ADJUDICATION	64
A. Access to judicial bodies	64
B. Legal aid	69

C. Lodging the appeal	72
D. Hearing	73
E. Deliberation	74
F. Review of decisions	75
G. Procedures in decentralized states	75
H. Influence of procedures in practice and the role of courts	75
I. Other procedures.....	76
II. JUDICIAL BODIES IN ACCESS TO ASYLUM.....	77
A. Institutional configuration	77
B. Independence	81
C. Centralization/decentralization	88
D. Specialization	89
E. Human resources	93
F. Tools supporting adjudication	97
G. Management	99
H. Caseload and delays	101
I. Influence of judicial bodies on access to asylum	103
J. Judicialization of politics	106
III. OTHER ACTORS IN ASYLUM ACCESS ADJUDICATION	108
A. Bodies of the executive branch in asylum access adjudication	108
B. International or regional organizations	112
C. NGOs and bar associations	115
D. Supranational courts.....	119
E. Other actors.....	120
IV. THE SOCIO-POLITICAL CONTEXT	120
A. Migratory routes and entry points	120
B. Composition and spatial distribution of forced migration population	124



C. Political and public debate in the country 126

D. Corruption 129

E. Other socio-political factors..... 130

INTRODUCTION: OBJECTIVES OF ACCESS

The research project “Gatekeepers to International Refugee Law? – The Role of Courts in Shaping Access to Asylum” [ACCESS](#) investigates the role of courts in shaping access to asylum. It seeks to understand how courts globally interpret State-developed barriers in light of the Refugee Convention (RC) and other international norms, what socio-legal factors influence asylum access adjudication, and how the emerging jurisprudence shapes international refugee law (IRL) and migration governance.

ACCESS adopts a comparative approach as it relies on data collected from 19 countries, theoretically selected to cover all geographical regions, various legal systems and adjudication models, and different forms of participation in the international refugee law regime.¹

Given the comparative and socio-legal approach of the project, our goal is to collect data through multiple methods that guarantee comparability, comprehensiveness, and reliability of the data.

The data collection template, along with the explanatory guidance used for the preparation of this National Report, can be found at: Lacchei, Alice; Lambertini, Sara Mariella; McDonough, Paul; Moraru, Madalina; Reyhani, Adel-Naim; Scissa, Chiara (2026) National Report ACCESS Project Template. DOI: 10.6092/unibo/amsacta/8984

In addition, the summaries of the judicial decisions analysed in Part II of this National Report and cited throughout this document can be found at: Lacchei, Alice; Lambertini Martinez, Sara Mariella; McDonough, Paul; Moraru, Madalina; Reyhani, Adel-Naim; Scissa, Chiara; Jesudoss, Loretta Mary (2026) ACCESS Mid-Term Dataset: The Role of Courts in Shaping Access to Asylum. University of Bologna. DOI 10.6092/unibo/amsacta/8962. [Dataset]

DEFINING TERMS

‘Asylum’ denotes the protection a state grants on its territory to non-citizens who seek it. It includes a legal status that protects against refoulement and provides a right to stay. In several jurisdictions, e.g. those that do not have domestic asylum legislation, this status might not be labelled ‘asylum’. The research nevertheless includes such equivalent protection under the term ‘asylum’. Similarly, if a national system that includes an asylum status provides additional protection statuses that include a set of rights closely similar to those the 1951 Convention provides for refugees lawfully staying, the research includes those statuses under ‘asylum’.

‘Accessing asylum’ describes using legal and practical avenues to move towards the territory of potential host states, or to enter procedures and other arrangements for obtaining such status (labelled as asylum or not) implemented by a state or on its behalf. Territorial asylum processing (sometimes referred to as refugee status determination or RSD) itself or equivalent practices, however, are not studied here.

‘Barriers to accessing asylum’ refers to measures, arrangements, approaches, implementation practices, or structures that impede access to asylum. They can be implemented by state actors and others (if tolerated by the state); be of a practical or legal character; incorporate socioeconomic and cultural elements; and pertain to administrative or judicial spheres. Barriers implemented after the formal start of territorial asylum processing can be considered, if the processing is conducted as a sham or pretence rather than allowing effective access to asylum.

‘Pushbacks’ denote the removal or non-admittance of individuals trying to access asylum, without a substantive assessment of risks or potential rights violations. They can occur both on land and sea, including on international waters.

¹ Australia; Kenya, South Africa, Tunisia (Africa); Austria, Greece, Italy, Poland, Spain (Europe); India, Malaysia, Pakistan, Turkey (Asia); Argentina, Brazil, Chile, Ecuador, Mexico (Latin America), USA.

‘Pullbacks’ are the dragging back of individuals approaching a destination state to the territory of a state from which they had departed without a substantive assessment of risks or potential rights violations. Such practices are often implemented in cooperation between two or more countries. While typically practiced at sea, such as in the territorial waters of the state of departure, pullbacks can also occur on land.

‘Walls and fences’ include physical barriers that prevent access to territory at or near borders, irrespective of the specificities of the construction or the materials used.

‘Detention’ is the imprisonment or other limitations of the right to liberty and security of person of individuals, territorially or extraterritorially, in connection with their asylum accessing.

‘Externalization of asylum processing’ denotes outsourcing procedures and transferring individuals to other jurisdictions to assess protection claims. Under such a practice, for example, potential destination states disallow asylum procedures on their territory, dismiss the corresponding applications, and deport individuals to cooperating countries. Externalized asylum processes can be based on formal and informal agreements between states.

‘Procedural barriers’ refers to any administrative practice or arrangement which, after individuals (attempt to) claim asylum, impedes the formalization of the application or the commencing of a procedure for obtaining asylum. This barrier can, for example, take the form of sham processes or (fast-track) processes based on the safe third country or safe country of origin concept, or a lack of mechanisms for ensuring appointments at registration offices.

‘Judicial or quasi-judicial body’ is the body that reviews/assesses the legality of the decisions, actions, or omissions of state authorities. This term encompasses the wide range of institutions adjudicating asylum barriers, including government/executive bodies, UNHCR, etc.

‘First instance judicial or quasi-judicial body’ is a court, tribunal, or other quasi-judicial body that hears appeals against administrative or executive decisions. ‘Second instance judicial or quasi-judicial body’ is a court or tribunal or other body that hears appeals against decisions made by a first instance judicial or quasi-judicial body. ‘Third instance judicial or quasi-judicial body’ is a court or tribunal (possibly a constitutional court) or another body that hears onward appeals, i.e., appeals against decisions already made by a judicial or quasi-judicial body of at least a second instance. In some jurisdictions there might be further levels of appeal.

‘Legal system’ refers to deeply rooted, historically conditioned attitudes about law’s nature and role, the legal system’s organization and functioning, and how the law is developed, applied, and interpreted (Merryman, 1985). The most common legal systems are the common law, civil law, Islamic, indigenous and socialist legal traditions (*idem*).

‘Asylum access adjudication’ refers to judicial examination and review by courts or quasi-judicial bodies of administrative decisions made by executive or immigration authorities regarding asylum.

‘Socio-legal factors’ refer to macro, meso, and micro factors influencing asylum access adjudication in the selected jurisdictions. They can originate at the macro level (state), at the meso level (judicial or quasi-judicial body), and at the micro level (individual). For example, adjudication may be influenced by the level of independence of the judiciary (macro factor) or the specialization of the asylum adjudication system (e.g., specialized courts); or availability of judicial or quasi-judicial bodies resources such as time, funds, human resources (meso factors); or individual characteristics of the actors involved, such as background or gender of adjudicators (micro factors).

‘Judicialization of politics’ refers to the increasing reliance on courts and judicial means for addressing core moral, political, and public policy questions (Hirschl 2013). For an overview of the meanings of judicialization, please refer to Hamlin and Sala (2018), who trace various forms in which judicialization of politics can occur (e.g., expanding the jurisdiction of courts, judicial activism, or due to the large number of cases decided by courts).

'Forced migration' refers to 'a migratory movement which, although the drivers can be diverse, involves force, compulsion, or coercion' (IOM, 2019:77). Although it is not an international legal concept and the use of the term is debated because of the controversial dichotomy of voluntary/forced movements, in this report we refer to forced migration including the movement of refugees and asylum seekers, as well as other displaced persons (including those displaced by disasters or victims of human trafficking) who will not attempt to lodge an asylum application. When referring to 'other displaced persons', we mean those forced migrants who are not registered as asylum seekers or refugees, etc., despite being present in the country.

1. **Functioning:** What is the barrier's specific functioning? How does it prevent individuals from accessing asylum?
2. **Time:** What is the implementation period of the barrier? Is it still in use? Is there a time frame for its planned termination?
3. **Place:** Where is the barrier implemented?
4. **Actors:** Who are the key institutional and other actors implementing the barrier? Are there relevant actors from other jurisdictions or international actors?
5. **Interaction:** How does the barrier interact with other barriers and the country's asylum system?
6. **Development:** What has been the historical and political context for introducing the barrier, and how have its implementation and its character developed over time? (Please consider e.g. corruption, economic or human resources available to implement the barrier, resistance or support by local actors - officials or local community)
7. **Rationale:** What are the stated purposes (e.g., in legislative preambles, government/executive, or judicial statements) the barrier is designed to serve?
8. **Legal Status:** What legal status does the national legal framework provide to individuals prevented by this barrier from accessing asylum? For example, do they fall under a specific (protected or unprotected) category within national law, such as asylum seekers or refugees before formal recognition, or are they treated under the general framework for non-citizens?
9. **Specific Impact:** What is the impact of the barrier on specific groups, such as children, women, LGBTQ+ individuals, or people with disabilities? How does it differ from the barrier's general impact?
10. **Reach:** How many individuals have been affected by this barrier since 2010, both in absolute numbers and relative to the number of procedures for determining protection status in the same period? Has the barrier contributed to less movement of displaced persons towards the country? Please provide an informed estimate if reliable statistics or studies are unavailable.
11. **Source:** What is the legal basis or source of the barrier? Is it grounded in or approved by domestic, international, or supranational law (even if its legality might be contested)?
12. **Justification:** What justifications have the government/executive branch provided for the barrier? Are there official statements or documents that outline these justifications?
13. **Domestic and International Reactions:** What have been the reactions or interventions from domestic actors, international bodies, or other countries?
14. **Externalization:** How does the barrier outsource migration control functions to actors outside the jurisdiction?
15. **Technology:** How does the barrier draw on technological infrastructure or tools to fulfil its functioning?
16. **Other:** Any further information considered crucial for understanding this barrier to accessing asylum and its relevance.

PART 1: BARRIERS TO ACCESSING ASYLUM

I. IDENTIFYING BARRIERS

This section identifies the barriers to accessing asylum relevant to Chile between 2010 and 2024.

A. Barriers of general relevance

Which of these barriers are implemented in this jurisdiction?

Pushbacks:

Walls and fences:

Detention:

Procedural barriers:

II. UNDERSTANDING BARRIERS

A. Barriers of general relevance

Pushbacks

Summary: Pushbacks in Mexico encompass a variety of acts, including “hot expulsions”: (i) rejection at borders (including airports), of people trying to enter regularly; (ii) “hot expulsions” of people trying to enter irregularly, including collective expulsions; (iii) summarily removals of people “detected” within the country (e.g. at a checkpoint); (iv) forced and summarily returns of people in detention (e.g. by forcibly signing a return form while in detention). In a way, (ii) to (iv) are different moments (at the very border, within the country, after detention). In addition, in the case of Mexico, the (forced) “transfer” of migrants from the Northern to the Southern Mexican border will be considered as (or part of) a pushback (“collaborative pushback”).

1. *Functioning*: Pushbacks prevent people from accessing asylum by forcibly (and physically) returning people (with violence that includes even rudimentary tools such as “stones and sticks”)² beyond Mexican borders, or by dragging them from the Northern border (where the United States authorities left them) to the Southern border to then remove them. In doing so, Mexico does the United States’ “dirty job” by managing Central Americans crossing through Mexico.³ In recent years, Haitians,⁴ Cubans,⁵ and people from other nationalities (e.g., from India and Pakistan)⁶ have crossed the Southern border.

² Amnesty International (2021), *Empujados al peligro. Devoluciones forzadas de niños y niñas migrantes no acompañados efectuadas por Estados Unidos y México*. Retrieved from: <https://www.amnesty.org/es/wp-content/uploads/sites/4/2021/07/AMR5142002021SPANISH.pdf>

³ Amnesty International (2021), quoted.

⁴ S. Priya Morley et al., *A Journey of Hope: Haitian Women’s Migration to Tapachula, Mexico* (2021). Retrieved from: <https://imumi.org/attachments/2020/A-Journey-of-Hope-Haitian-Womens-Migration-to%20-Tapachula.pdf>

⁵ WOLA (2022), *Luchando por sobrevivir: la situación de las personas solicitantes de asilo en Tapachula, México*. Report. Retrieved from: <https://www.wola.org/wp-content/uploads/2022/06/Luchando-por-Sobrevivir-Solicitantes-Asilo-Tapachula.pdf>

⁶ Red Regional de Protección (2020), *Situación de los derechos de las personas en movilidad humana en México y en el norte de Centroamérica*. Retrieved from: <https://asylumaccess.org/wp-content/uploads/2020/12/Informe-CIDH-Red-Regional-de-Proteccion.pdf>

However, most pushbacks occur in the South: provided that asylum can only be claimed within the territory, pushbacks are mostly concentrated on the Southern border, to prevent people from Central America from entering the country.⁷

All these dimensions may be identifiable as part of a Mexican “contention policy”.⁸ This policy, carried out by Mexican authorities, is the “first barrier” for asylum seekers, as it aims to detect foreigners entering the country irregularly and deport them quickly.⁹

2. *Time*: The implementation period for pushbacks is, in general, 2010-2024. Some components of the barrier become more important in certain periods:

- In 2014, a Program for the southern border started running, and the number of summary deportations or expulsions rose.
- A few years later, and as a response to US accusations against Mexico regarding the “Migrant Caravan” (*Caravana de migrantes*),¹⁰ the National Guard was deployed in key spots along the territory, according to a bilateral agreement between the United States (US) and Mexico in 2019. In fact, the National Guard was created in 2019 “to fight against organized crime” but soon would assume other functions, such as migrant “detection”.¹¹

Pushbacks are still in use.

3. *Place*: The barrier is implemented at all borders (land, airports, etc.) and even at any point within the territory. Still, pushbacks are mostly concentrated on the Southern border.

The Southern border is the major scene for pushbacks, but in general, the whole Mexican territory is the place where the barrier is implemented: arbitrary and indiscriminate forced “transfers” (“collaborative pushbacks”)¹² of migrants and asylum seekers from the North to the South, without providing information or considering their particular situation, are regularly reported by NGOs.¹³

Even unaccompanied children and adolescents are caught in targeted “rescue” operations, as a Mexican diplomat has declared.¹⁴

4. *Actors*: The key institutional actors are:

- The National Migration Institute, the INM (*Instituto Nacional de Migraciones*- the immigration authority).

⁷ Castillo Ramírez and Trujillo Macario, 2024.

⁸ Cantalapiedra et. al. (2021) “El sistema de refugio mexicano: entre proteger y contener”. *Frontera Norte* Vol. 33, Art. 7, 2021. <https://doi.org/10.33679/rfn.v1i1.2103>

⁹ Cantalapiedra et. al. (2021), quoted.

¹⁰ The so-called “Migrant Caravan” literally consists of migrant people (mostly from Central America but soon including other nationalities) walking together in large groups (the largest gathered 7,000 persons) through Mexico, some barefoot, carrying babies and strollers without food. Most of them set off from Honduras. The first of the migrant caravans appeared in 2017, and a total of 30 have been detected through the end of 2022, with nearly half of them forming in 2021. The first caravan took almost a whole year to arrive at the US-Mexican border in Tijuana. There are many sources. See for example: <https://www.bakerinstitute.org/research/migrant-caravans-deep-dive-mass-migration-through-mexico-and-effects-immigration-policy>

¹¹ Red Regional de Protección (2020), quoted.

¹² The idea of “collaborative pushbacks” appears on the US/Mexico border. One pattern is that the US guards summarily refuse entry, so the persons concerned wait at the border crossing on the Mexican side, and periodically, the Mexican authorities force them to leave. The people also wait on the Mexican side because the US guards often just say “not now, come back some other time”.

¹³ Colectivo de Monitoreo de la Frontera Sur (May 26, 2023), “Documentamos expulsiones en caliente en la frontera sur de México”. Retrieved from: https://caravanamigrante.iberomx/uploads/monitoreos_pdf/6b0dc9f7d4d55e012f21f9547e356f2c.pdf

¹⁴ Amnesty International (2021), *Empujados al peligro. Devoluciones forzadas de niños y niñas migrantes no acompañados efectuadas por Estados Unidos y México*. Retrieved from: <https://www.amnesty.org/es/wp-content/uploads/sites/4/2021/07/AMR5142002021SPANISH.pdf>. Please see “reasoning”.

- The National Guard (created in 2019),

Other actors are:

- Federal police forces.
- The Army.
- Municipal police may also be involved.

They are all national actors.

Then, the **organized crime** deserves special mention; the violence they deploy, usually followed by detention and disappearance, play all a role in (i) discouraging people from usual routes (so people tend to make less known and more dangerous journeys) but also in (ii) Mexican policy: detention is presented as a “protective” measure in front of organized crime, children and adolescents caught are equally “secured”; additionally, the many roadblocks spread in Mexican routes and railroads are justified as part of the fight against drugs.¹⁵

Finally, the **US government** arises in many reports since it has pressured Mexican authorities to take tougher measures against migration from Central America.¹⁶ It is also highlighted that Donald Trump usually puts pressure on Mexico to act as a third safe country.¹⁷

5. *Interaction*: Pushbacks interact with detention and procedural barriers.

As it was mentioned before, “detection”, detention and pushbacks are the three main components of Mexican migration policy, “regardless of the ruling government”.¹⁸ In this manner, it is reported that more than 87% of people in detention during 2013-2020 were finally deported. The same source explicitly states that “deportation” is directly linked to detention.¹⁹ Still, detention will be a barrier *per se* and not merely an instrument for pushbacks (please see more in “Detention. 5. Interaction”).

Pushbacks are also connected with some procedural barriers. On the one hand, people arriving from Central America through the Mexican Southern border are required to stay in Chiapas (the poorest Mexican state) in order to weekly sign their asylum applications. This immobility allows for fixing a population in the state where a massive military deployment is located, so control/detection and deportation are easier. NGOs have reported cases of asylum seekers (with already submitted claims) who were captured in raids in Tapachula (Chiapas) and summarily removed²⁰ without further consideration. “Historically”, 70% of the raids and detentions took place in Chiapas.²¹

6. *Development*: Many factors have impacted the development of pushbacks in Mexico: the US’s own policy, the Migrant Caravan, and the pandemic.

The pushback policy in Mexico is closely connected with the US policy regarding migration. This is by no means new: deportations are not new in Mexican history, but the context and conditions in which they occur are new.²² It started some decades ago, as an externalization of the US policy towards Mexico.²³ Some sources mention, for example, that when the 2008 economic crisis in the US increased the number

¹⁵ París Pombo, M. (2022) Externalización de las fronteras y bloqueo de los solicitantes de asilo en el norte de México. Retrieved from: <https://www.scielo.br/j/remhu/a/1pzSsfbThFPwFDBtyjpBkMk/?format=pdf&lang=es>

¹⁶ WOLA, 2022, op. Cit. Red de Protección, 2020, op. Cit.; Amnesty International, 2021, op. Cit.

¹⁷ García, R., Gaspar, S. y García, P. (2020) Las políticas migratorias en México ante el cambio de gobierno (2018-2024). Si Somos Americanos. *Revista de Estudios Transfronterizos*, 20(2), 186-208. doi: 10.4067/S0719-09482020000200186.

¹⁸ Red Regional de Protección, 2020, quoted., page 8.

¹⁹ Red Regional de Protección, quoted.

²⁰ WOLA, 2022, quoted.

²¹ París Pombo, 2022, quoted.

²² Albicker, S. and Velasco, L. (2016), Deportación y estigma en la frontera México-Estados Unidos: atrapados en Tijuana. *Norteamérica*. Año 11 n. 1. Retrieved from: <https://www.scielo.org.mx/pdf/namerica/v11n1/1870-3550-namerica-11-01-00099.pdf>

²³ París Pombo (2022), quoted.

of deportees (from the US to Mexico), Mexico started to debate a new legal (human rights-based) framework. It took two years, and this is how, apparently, the 2011 Migration Law arose,²⁴ as a sort of response to the crisis and the US policy. This law particularly emphasizes the role of Mexico as a “transit country”.²⁵

One important program to detain and deport migrants was run between 2001 and 2003 under the name “The Southern Plan (Plan Sur)”, one of the largest operations against irregular migration in Mexico. This Southern Plan aimed to stem Central American migration by improving inspection and immigration checkpoints at the Isthmus of Tehuantepec, along the Gulf of Mexico, and on the Pacific coast. In addition, the plan focused on developing interagency cooperation across INM, the Federal Police, the Attorney General’s Office, and other government agencies to combat organized crime, corruption, and illicit trafficking of migrants and narcotics.²⁶

Then, the “Three-Layer System” was deployed in 2014, prior to the Southern Border Program. It consisted of three “rings” or belts located at the main migrant routes. The three belts with checkpoints were fixed along geographical lines, located at strategic points in Mexico’s southern border region. The first belt is located roughly 30 miles from the southern border, the second is at 100 miles, and the third line runs through the Isthmus of Tehuantepec. The three-layer system makes use of sensors and other technology to gather intelligence against criminal groups in the region.²⁷ They became part of the Southern Border Program.

Then, pushbacks received great support by means of the “Integral Program for the Southern border” (in Spanish: “*Programa Integral para la Frontera Sur*”) launched in 2014, mainly triggered by the massive arrival of unaccompanied children during the 2014 summer,²⁸ a major event also labelled as a “crisis”. Also in 2014, it was reportedly the first time the US Border Patrol detained more Central Americans than Mexicans.²⁹ There is no official definition of the program.³⁰ It is aimed primary “protecting” migrants entering Mexico and managing migration. The government focused better on this second objective, so raids, detentions, and deportations increased dramatically, along with crimes against migrants.³¹ Some sources have referred to this policy as a “migrant hunting” program.³²

The Migrant Caravan, a phenomenon that began in 2017³³ (but caught media attention in 2018), triggered a new reinforcement of pushbacks. In 2019, the US accused Mexico of letting people (from the Migrant Caravana) easily reach the US border, so President Andrés Manuel López Obrador (Mexican president at the time) went from a rhetoric based on migrant human rights to a “control and contention” policy.³⁴ Soon after this, the US implemented the “Remain in Mexico” (*Quédate en México*) program (a sort of US asylum policy externalization), and the two countries signed an agreement in mid-2019.(*). As a result of the agreement, Mexico announced the deployment of the National Guard (a new force made up of Navy

²⁴ García Zamora and Gaspar Olvera, 2020, quoted.

²⁵ Leutert et. Al (2019), La Implementación y el Legado del Programa Frontera Sur de México. Report, University of Texas at Austin. Retrieved from: https://www.strausscenter.org/wp-content/uploads/prp_208-LA-IMPLEMENTACION%CC%81N-Y-EL-LEGADO-DEL-PROGRAMA-FRONTERA-SUR-DE-ME%CC%81XICO.pdf

²⁶ Leutert, et. Al, 2019, quoted. p. 8.

²⁷ Leutert et. al., 2019, quoted.

²⁸ Leutert et. Al, 2019, op. Cit.; Mena Iturralde and Cruz Piñeiro (2021), “Atrapados en busca de asilo. entre la externalización fronteriza y la contención sanitaria”, *REHMU*, Retrieved from: <https://www.scielo.br/j/remhu/a/BGPRQXktSDR6qfj7tvbJZFf/>

²⁹ Mena Iturralde and Cruz Piñeiro, 2021, quoted.

³⁰ Morales Vega, Luisa Gabriela, & Sanromán Aranda, Roberto. (2016). Derechos humanos y seguridad nacional en México. Programa Frontera Sur a cuatro años de la Ley de Migración. *Anuario mexicano de derecho internacional*, 16, 345-372. Recuperado en 25 de marzo de 2025, de http://www.scielo.org.mx/scielo.php?script=sci_arttext&pid=S1870-46542016000100345&lng=es&tlng=es

³¹ Leutert et. Al, 2019, quoted.

³² Morales Vega and Sanromán Aranda (2016), quoted.

³³ There are many sources. See for example: <https://www.bakerinstitute.org/research/migrant-caravans-deep-dive-mass-migration-through-mexico-and-effects-immigration-policy>

³⁴ Mena Iturralde and Cruz Piñeiro, 2021, quoted.

and Army's officers) with 6,000 and 15,000 officers on the Southern and the Northern borders. Mexico also agreed to recording/registering and controlling all entries.³⁵ By the end of 2022, a total of 28,542 "military elements" were spread within the territory.³⁶

(*) See more about the "Remain in Mexico" program and this agreement in 14.

7. *Rationale*: The Southern Border Program provides much of the rationale for pushbacks in irregular entrances: they are intended to "protect" people, mainly from organized crime.

The discourse about protection is shaped through three major events: the Tamaulipas' massacre in 2010,³⁷ the "crisis" of unaccompanied children in 2014, and the Migrant Caravan starting in 2018. The public discourse to take restrictive policies was organized around protecting these populations. One diplomat refers, regarding the deportation policy of unaccompanied children, that "as we say, there is a rescuing of persons that traffickers are smuggling across the Guatemalan border" (in Spanish: "*como decimos nosotros, está 'rescatando' a personas que los traficantes están introduciendo clandestinamente por la frontera de Guatemala*").³⁸ On March 19, 2021, the INM (immigration authority) issued a statement confirming its aim of intercepting Central American children and adolescents in route to the US, to assert their best interests.³⁹

Other documents also refer to the "need" of having "**adequate measures to guarantee** the transfer (*traslado*)" of people from Guatemala, Honduras, Nicaragua and El Salvador "who are at the disposal of the Mexican migration authority".⁴⁰

National security reasons are mentioned second: the Mexican Plan for National Security includes not only protection, but also "migration," which is mentioned among the challenges in security matters.⁴¹

On the other hand, pursuant to the US-Mexico agreement signed in June 2019, the governments committed to "strengthening actions to ensure compliance with the Law in Mexico" to "reduce irregular migration".⁴²

Finally, some noticeable collective expulsions took place between July and August 2021. The government (through the Foreign Office) argued that they were performed to "minimize agglomeration" in the US Border Patrol stations (case *Amparo en revisión 198/2024*)⁴³. Still, the Supreme Court identified breaches in human rights due to the collective expulsion.

"The issuance of information note 11, issued in Mexico City on March twenty-first, two thousand and twenty, on the regular internment of citizens of El Salvador, Honduras, and Guatemala "in order to minimize the crowding at stations of the United States [America] Border Patrol", through which the authorization of admission in the form of mass expulsion from the USA to Mexico for populations on the move is agreed".⁴⁴

³⁵ Red de Protección, 2020, quoted.

³⁶ WOLA, 2022, quoted.

³⁷ It is a sad event eventually known as "the Massacre of the 72": 72 dead bodies from Central American people appeared in a farm. It was a sort of turning point, since it became clear the risks and violence migrants were facing. More about the Tamaulipas's massacre: <https://www.cndh.org.mx/noticia/masacre-de-san-fernando-tamaulipas-masacre-de-los-72-migrantes-0>

³⁸ Amnesty International, 2022, quoted.

³⁹ Amnesty International, 2022, quoted.

⁴⁰ *Memorandum de entendimiento entre los gobiernos de los Estados Unidos Mexicanos, de la República de El Salvador, de la República de Guatemala, de la República de Honduras y de la República de Nicaragua, para la repatriación digna, ordenada, ágil y segura de nacionales centroamericanos migrantes vía terrestre, 2005.* Retrieved from: https://crmsv.org/sites/default/files/Documentos%20Finales/memorandum_mexico_firmado.pdf

⁴¹ Morales Vega and Sanromán Aranda, 2016, quoted. Retrieved from: https://www.scielo.org.mx/scielo.php?script=sci_arttext&pid=S1870-46542016000100345

⁴² Joint Declaration, June 7, 2019. Retrieved from:

https://www.gob.mx/cms/uploads/attachment/file/467956/Declaracion_Conjunta_Mexico_Estados_Unidos.pdf

⁴³ MEXICO, Supreme Court of Justice, File ("Amparo en revisión") 198/2024, judgment of Nov. 13, 2024.

⁴⁴ In Spanish: "*La emisión de la nota informativa 11, dictada en la Ciudad de México el veintiuno de marzo de dos mil veinte, sobre internación regular de ciudadanos de El Salvador, Honduras y Guatemala "a fin de minimizar la aglomeración en estaciones de la Patrulla Fronteriza de los*

8. *Legal Status*: Asylum seekers facing pushback are NOT protected by the principle of *non-refoulement* before the application is made.

The Refugee Law states that “No applicant or refugee shall be returned...” (Article 6, Refugee Law), so an application is required. However, the Refugee Law Implementing Regulations also state that “any authority that becomes aware of a foreigner’s intention of applying for asylum” should notify the Mexican Commission for Refugee Assistance (*Comisión Mexicana de Ayuda a Refugiados- COMAR*) (Article 18). Actually, there is a legal case where an oral asylum application was accepted.⁴⁵ Still, it was a very violent case, so to say, that took place under very exceptional circumstances: the person (a Colombian man) enjoyed a regular residence but it is revoked; without knowing this, he received a notice from the immigration authority and went to the migration offices, where he is detained (in a very violent manner) so he claimed asylum, but he is finally deported. The legal case is about the damages the removal caused.

9. *Specific Impact*: Pushbacks disproportionately impact children, particularly unaccompanied children. Several reports and legal cases have addressed the topic. Actually, new regulations regarding children obligate authorities to assess the best interests of the child before deportation; interestingly, authorities have frequently determined that deportation was in their best interests (Amnesty International, 2022).

Many children were those “left behind” and had no family in their countries of origin. They attempt the crossing many times. A survey run by the United Nations High Commissioner for Refugees (hereinafter UNHCR) and the United Nations Children’s Fund (UNICEF) found that 66% of the unaccompanied children they interviewed during their displacement planned to flee their countries again if they were detained and deported to their countries of origin, and that 25% were attempting to reach the United States or Mexico for a second or third time.⁴⁶

Other groups are also affected. Literature refers to the Migrant Caravan as “diversified” in the profile of migrants, including women, families and LGBTQ+ persons.⁴⁷ Finally, new movements from people (migrants) who, having previously moved to Latin American countries (e.g., Brazil), decided to go to the US, ended up being particularly affected: this is the case of Haitians. Gender-based and anti-Black racial discrimination by Mexican authorities is reported.⁴⁸

10. *Reach*: Statistics are partially available. On the one hand, because irregular movements are, mostly by definition, difficult to measure; on the other, because they are recorded as “events” and not “persons”, the same person can be counted twice. For example, there were 2,4 million “encounters” or “events” at the US-Mexico border only in 2022, “the highest on record”.⁴⁹ “Encounters” means both apprehensions and expulsions and includes many migrants who tried to enter the United States several times without authorization. Additionally, rejections at borders are countless, since commonly, no Rejection Record is issued.

On the other hand, it is also difficult to navigate the different terms that sources use: “returns”, “expulsions”, “deportations”, etc. These acts are, additionally, counted as “events”, so the same person

Estados Unidos [de América]”, a través de la cual se acuerda la autorización del ingreso en la modalidad de expulsión masiva desde los EUA hacia México de población en movilidad”.

⁴⁵ MEXICO, 18 Collegiate Court in Administrative Matters of the 1 Circuit, *File 271/2016 (“amparo directo”)*, judgment of May 8, 2017.

⁴⁶ Amnesty International, 2022, quoted.

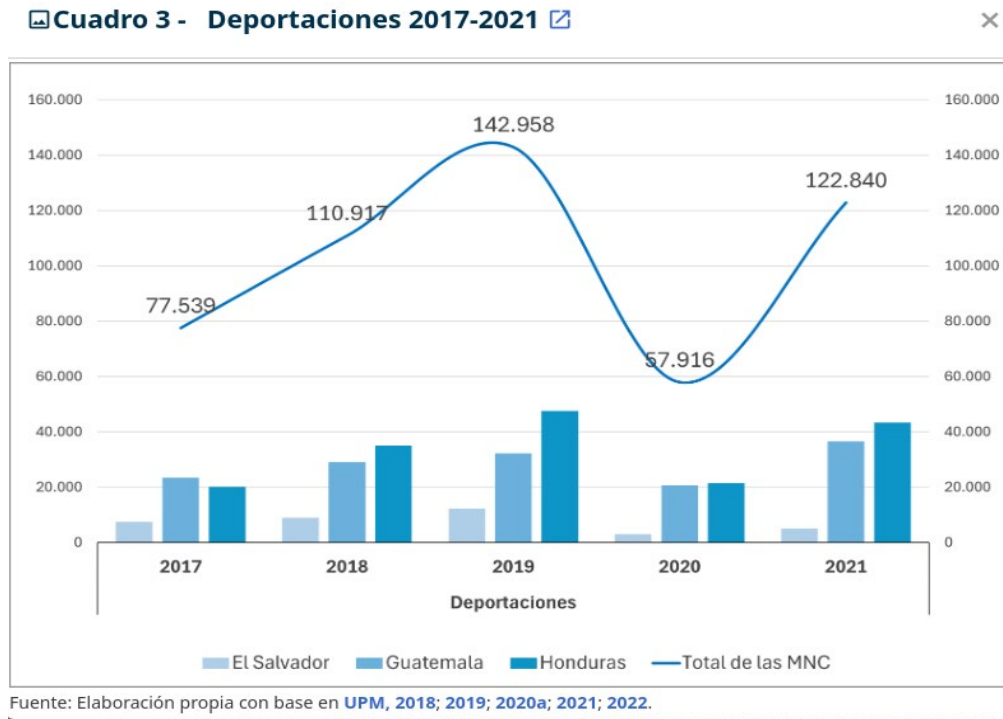
⁴⁷ Castillo Ramírez and Trujillo Magario, 2024, Castillo Ramírez, G.; Trujillo Magario, M. (2024), *Contención migratoria en pandemia. configuración territorial de detenciones y deportaciones en las fronteras de México*. REHMU. v. 32. Retrieved from: <https://www.scielo.br/j/remhu/a/KqbMjgDSgmtZ5WmhVXTCdRS/>

⁴⁸ S. Priya Morley et al. (2021), *A Journey of Hope: Haitian Women’s Migration to Tapachula*, quoted.

⁴⁹ IOM (2024), *World Migration Report*. Retrieved from: <https://publications.iom.int/books/world-migration-report-2024> , page 98.

might be involved (e.g., deported twice). Thirdly, public statistics are estimated monthly, and, for example, they include “entrances” but no “rejections” (see, for example, INM-UPM).⁵⁰

A report states that the Mexican government has “increased massive deportations”: 82,237 expulsions in 2017 and 149,812 in 2019.⁵¹ This is consistent with another piece of literature⁵² that has collected data on deportation events regarding Central American nationals in irregular situations. In 2017, a total of 9,812 Central American migrants were deported along the Northern border, while deportations reached 41,229 along the Southern border.⁵³ Please see the graphic below, taken from Castillo Ramírez and Trujillo Macario (2024) as well:



The graphic is organized through years (2017 to 2021) by three nationalities (Salvadorians in light blue, then Guatemala and then in blue, Honduras).

Regarding children, in 2019, the Mexican authorities returned more than 90% of unaccompanied children and adolescents (approx. 12,000) they had intercepted. Regardless of COVID-19, in 2020, more than 70% of unaccompanied children and adolescents detained were returned.

On the other hand, rejections at the airport are part of the INM’s statistics: 6,124 in January 2024 vs. 4,362 in January 2025. During 2024 (January-December), the number of rejections at airports was 100,049. In 2023 (January-December) is 83,428. Please see below:

⁵⁰ INM-UPM (2025), Boletín mensual de estadísticas migratorias 2024. Unidad de Política Migratoria, Registro e Identidad de Personas/ Subsecretaría de Derechos Humanos, Población y Migración/ SEGOB. Retrieved from: http://www.politicamigratoria.gob.mx/work/models/PoliticaMigratoria/CEM/Estadisticas/Boletines_Estadisticos/2024/Boletin_2024.pdf

⁵¹ Red de Protección, 2020, quoted.

⁵² Castillo Ramírez and Trujillo Macario, 2024, quoted.

⁵³ Castillo Ramírez and Trujillo Macario, 2024, quoted.

Rejections at airports	2016	2017	2018	2019	2020	2021	2022	2023	2024
N.	+14,000	15,636	14,669	30,674	16,240	72,483	98,338	83,428	100,049

Source: author's own elaboration on https://portales.segob.gob.mx/es/PoliticaMigratoria/evento_de_rechazos_aereos and EPU Report, 2019.

During January-August 2024, statistics show the number of “presented” and “channelled” (to detention facilities): 719,690 vs. 205,395. Still, statistics themselves also mention cases that were not included, ranging from 8 cases in May to 271 in July, so numbers may vary. Regarding the number of “returns” [*In Spanish: devoluciones*] (including deportations and “assisted returns”), for the same period is 16,474. Chiapas leads the ranking (7,445), followed by Veracruz (5,273) and Mexico City (1,212). The total number is higher, since many cases were not considered.

For 2023, statistics from January to December are available. They show the following numbers: 563,569 presented, 215,338 “channelled”. They also were 54,728 “returns”.⁵⁴

Of course, asylum seekers’ rejections are not disaggregated. The situation is considered to be the worst at the airport, since people are rejected based on “migration” criteria. In 2017, a group of NGOs submitted a public information request to know how many asylum claims had been made at the airports. The authority responded that it kept no record of them (EPU Report, 2019). In Spanish: “*En el año 2017 se solicitó al INM información sobre solicitudes de asilo hechas en aeropuerto, y contestó que no lleva registro de ello*”. Considering that rejections are often made without issuing a report, it is almost impossible to determine the number of people with protection needs who are being rejected daily.

Finally, in 2022 and for the first time, there were more “encounters” with migrants from Venezuela, Cuba and Nicaragua, instead of Mexican, Guatemalan and Salvadorians.⁵⁵

11. *Source:* Rejections at airports (or at any other “legal” border crossing point) are based on “immigrant” criteria, so the legal basis is the Migration Law.

Article 42 (Migration Law) mentions that the immigration authority “may” authorize the entrance of asylum seekers without a passport or visa, so it may also reject.⁵⁶ Please also note that the *non-refoulement* principle starts once the person actually submits an application. Since 2021, there has also existed a “*Procedimiento Administrativo Migratorio*” (migratory administrative proceedings), pursuant to Migration Law Articles 99, 100, 101, 112 and 113, together with Article 222 of the Migration Regulations.

All other pushbacks involving “irregular” entrances lack a comprehensive legal framework to rely on other sources. There are many agreements to “repatriate” Central Americans from Mexico, celebrated between Mexico and Guatemala (June 2005, for repatriation of Guatemalans, Salvadorians and Hondurans), Mexico and El Salvador (May 2005, repatriation of Salvadorians) or Guatemala and El Salvador (August 2005, repatriation of Salvadorians from Mexico). There is a comprehensive document: 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, expeditious and safe repatriation of Central American migrant nationals by land” (“*Memorandum de entendimiento entre los gobiernos de los Estados Unidos Mexicanos, de la República de El Salvador, de la República de*

⁵⁴ INM-UPM (2024), Boletín de estadísticas migratorias 2023. Unidad de Política Migratoria, Registro e Identidad de Personas/ Subsecretaría de Derechos Humanos, Población y Migración/ SEGOB. Retrieved from: <http://www.politicamigratoria.gob.mx/es/PoliticaMigratoria/CuadrosBOLETIN?Anual=2023&Secc=3>

⁵⁵ IOM, 2024, quoted.

⁵⁶ Article 42: “The Secretariat may authorize the entry of foreigners who request recognition of refugee status, political asylum, statelessness determination, or due to force majeure or, due to major force or humanitarian reasons, without complying with any of the requirements established in Article 37 of this Law”. Article 37 includes passport or any valid travel document, visas, etc.

Guatemala, de la República de Honduras y de la República de Nicaragua, para la repatriación digna, ordenada, ágil y segura de nacionales centroamericanos migrantes vía terrestre”) signed on 5 May 2006 with an Annex from 26 April 2007.

The Memorandum sets some guidelines for “repatriations”: daily hours, a list of persons and buses should be provided in advance to consular authorities; adequate food, communication, medical attention, and hygiene should be provided if possible.⁵⁷ Before “repatriation”, nationality verification should be carried out, if possible. Lists of persons need to be made, with an indication of vulnerable populations. Groups may not exceed the capacity of the buses. Finally, repatriations shall be carried out “respecting” the principle of family unity, “avoiding” the separation of members of the same family, “subject to verification” of the family relationship.

12. *Justification*: “Protecting people” (mainly from organized crime), “rescuing persons that traffickers are smuggling across the Guatemalan border”,⁵⁸ and asserting “the best interests” of children⁵⁹ are some of the justifications outlined by the Executive Branch. Regarding some collective expulsions that took place between July and August 2021, the Mexican Foreign Office argued that they were performed to “minimize agglomeration” in the US Border Patrol stations (case *File “Amparo en revisión” 198/2024*).⁶⁰ The first instance judge agreed with this explanation.⁶¹ Still, the Supreme Court identified breaches in human rights due to the collective expulsion.

Finally, pushbacks are performed by means of military deployment and checkpoints. These two elements (not the pushbacks themselves) were referred to by some congressman/woman as an answer to the US pressure: as a result of US pressures (e.g., taxes on Mexican products), the Mexican government commits “to register and control entries at the border”, as well as “to deploy the National Guard throughout the territory and especially on the southern border”.⁶²

13. *Domestic and International Reactions*: There are several reports from domestic NGOs⁶³ and critical scholarship about pushbacks at both main borders (Guatemala, US). Some NGOs and international organizations, such as UNHCR, IOM and the Danish Council,⁶⁴ have developed monitoring programs on both the Northern and the Southern borders. All these reports express great concern regarding the fragile situation of asylum seekers: several violations of the *non-refoulement* principle are reported by a large cluster of NGOs,⁶⁵ including pushbacks of unaccompanied children made by Mexico and/or the US.⁶⁶

⁵⁷ The original wording: The States undertake to take the necessary steps, to the best of their ability, to ensure that the food, medical care, hygiene and communication needs of migrants are met. (Article III, Memorandum).

⁵⁸ Amnesty International, 2022, quoted.

⁵⁹ Amnesty International, 2022, quoted.

⁶⁰ Supreme Court of Justice, *File (“Amparo en revisión”) 198/2024*, judgment of Nov. 13, 2024.

⁶¹ The explanation was provided by an “Informative Note” which the (first instance) judge considered to be just a non-binding “declaration document”.

⁶² Senate of the Nation Gazette, July 2019. Retrieved from: https://www.senado.gob.mx/66/gaceta_del_senado/documento/97023

⁶³ See for example: PRAMI (Programa de Asuntos Migratorios de la IBERO): <https://prami.ibero.mx/que-hacemos/>; Colectivo de Observación y Monitoreo de Derechos Humanos en el Sureste Mexicano:

<https://caravanamigrante.ibero.mx/frontera-sur> : Red Jesuita con

Migrantes: <https://www.redjesuitaconmigranteslac.org/post/convocada-misi%2525C3%2525B3n-virtual-de-monitoreo-de-ddhh-en-la-frontera-sur-m%2525C3%2525A9xico-guatemala> ; Fray Matias: <https://cdhfraymatias.org/dossier-documental-del-colectivo-de-monitoreo-frontera-sur/>

⁶⁴ Refugee Danish Council; Servicio Jesuita a Refugiados Mexico (2023), *Monitoreo de Protección: México*. Retrieved from: <https://drc.ngo/media/t0kgpopf/mex-snapshot-julio-agosto-2023-esp.pdf>

⁶⁵ Red de Protección (2020), op. Cit. See also: IMUMI, Asylum Access Mexico, CJR Alaíde Foppa, Clínica de Litigio Estratégico UASLP, Sin Fronteras, Casa Refugiados, CMDPDH, Apoyo a migrantes Venezolanos, Servicio Jesuita a Refugiados Mexico (hereinafter IMUMI et. al, 2023): “El principio de no devolución”, 2023. Report. Retrieved from: <https://imumi.org/attachments/2024/El-Principio-de-No-Devolucion-en-Mexico-2023.pdf>

⁶⁶ Amnesty International (2021), quoted.

Concerning the National Guard itself, several Mexican NGOs have posited that it is unconstitutional for the National Guard to exercise public security functions in the context of migration, and that this reflects a return to viewing migration as a national security – rather than a human rights – issue.⁶⁷

Regarding practices against the law, a national body (The National Commission on Human Rights) reports (Recommendation 42/2015) human rights violations against foreigners at airports (in communication - not even phone calls were allowed, verbal aggression from migration officers, lack of translator in some cases, long double checks -more than 4 hours-, detention for more than 24 hours).⁶⁸

14. Externalization: Pushbacks are externalized by agreements with the US, on the one hand, and Guatemala and El Salvador, on the other, but only the latter will be referred to in this report. In a strict sense, the US externalizes its pushbacks to Mexico by, for example, the “Remain in Mexico” Program (officially known as the Protocol for Migrant Protection), originally launched in 2019 and restarted by Biden in 2021. Even though Mexico is committed to guaranteeing some basic rights to assist those populations, they also face “collaborative pushbacks” and may be forcibly transferred to the Southern Border to then be summarily returned.

Mexico and Guatemala have signed an agreement in 2005 and there is also comprehensive document involving Mexico and four key Central American countries: 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, expeditious and safe repatriation** of Central American migrant nationals by land”,⁶⁹ (my own emphasis) also from 2005. The Memorandum sets some guidelines for “repatriations”: daily hours, list of persons and buses should be provided in advance to consular authorities; adequate food, communication, medical attention, hygiene should be met if possible.⁷⁰ (See more above in section “Legal sources”).

Guatemala has also had a role in preventing the Migrant Caravan from reaching Mexico. This role has involved detention⁷¹ and violent repression.⁷²

Prior to that, Mexico and Guatemala had created the High-Level Group of Border Security (*Grupo de Alto Nivel de Seguridad Fronteriza*, GANSEF). The GANSEF created specialized groups for migration, human rights, and border issues; public security; international terrorism; organized crime and judicial cooperation; and border customs. By 2019, it was still running, but “it is unclear based on publicly available information what specific progress the group has achieved on improving bilateral cooperation since its establishment”.⁷³

15. Technology: Checkpoints were “improved” by US aid, but no further details about what this improvement consisted of.⁷⁴

⁶⁷ S. Priya Morley et al., 2021, A Journey of Hope: Haitian Women’s Migration to Tapachula, Mexico, quoted.

⁶⁸ Arcila Russi, Luis (2021), Extranjeros en los Aeropuertos de México, Grupo Vulnerable ante la Inobservancia de los Derechos Humanos por parte del INM durante el Procedimiento de Rechazo o Inadmisión. *De Iure*. Vol. 3 N. 3. Retrieved from: <https://revistas.uaq.edu.mx/index.php/deiure/Article/view/1273>

⁶⁹ See the Memorandum here: <http://www.gobernacion.gob.mx/work/models/SEGOB/Resource/689/1/images/MEMOR15.PDF>

⁷⁰ The original wording: The States undertake to take the necessary steps, to the best of their ability, to ensure that the food, medical care, hygiene and communication needs of migrants are met. (Article III, Memorandum).

⁷¹ “Guatemala retiene caravana migrante que salió de Honduras”, DW, January 21, 2024. Retrieved from:

<https://www.dw.com/es/guatemala-retiene-caravana-migrante-que-sali%C3%B3-de-honduras/a-68044055>

⁷² BBC (January 21, 2021), “Caravana de migrantes: la violenta represión en Guatemala contra grupos que se dirigen caminando a EE.UU”. Retrieved from: <https://www.bbc.com/mundo/noticias-america-latina-55698861>

⁷³ Leutert et. Al, 2019, quoted, p. 10.

⁷⁴ Leutert et. Al, 2019, quoted : In 2001, “The United States provided US\$11 million to improve checkpoints and to provide Grupo Beta with additional personnel and equipment”

The three-layer system that ultimately became part of the still-in-force Southern Border Program makes use of sensors and other technology to gather intelligence against criminal groups in the region.⁷⁵

16. *Other*: In this section, four topics will be addressed:

- The role of violence (both private and institutional, equally generalized and arbitrary),
- The impact of COVID-19 measures (For instance, violence and COVID converged in January 2020, when officers from the National Guard stopped 800 migrants in a caravan with beatings and tear gas).⁷⁶
- Visa requirements.
- The practice of internal “transferring” or “collaborative pushbacks” of migrants from the North (US-Mexico) to the South (Mexico-Guatemala-Belize).

Violence is mostly, but not exclusively, exercised by members of organized crime. Mexico is usually referred to as the most violent country for migrants, inasmuch as virtual private armies control entire territorial zones.⁷⁷

The Mexican path (“the largest migration corridor in the world” -IOM, 2024) to the US is pointed out as one of the most dangerous routes. The tragic discovery of an open-air grave in 2010, full of migrants from Central America who had been kidnapped by a drug cartel (the *Zetas*), deeply impacted public opinion. There are more episodes like this.

Violence is also, of course, a huge issue in the origin country. The last OIM report still highlights that “criminal violence, political instability and poverty remain some of the biggest drivers of irregular migration from [Central America], with many migrants experiencing significant risks and dangers, including extortion, sexual violence and separation from families”.⁷⁸

In addition, migrants face violence, threats, and corruption from public forces. Extortion and robbery were the most reported events. Public forces involved are, in decreasing order for 2014-2015, Federal Police, Municipal Police, unidentified police group, and state police. 49.9% of the reported violence took place in Chiapas.⁷⁹

According to data collected between October 2020 and October 2021 by the Danish Refugee Council (DRC) and the Jesuit Refugee Service Mexico (JRS) from surveys of 2,742 asylum seekers in Tapachula, 34.3 percent of these people “report incidents of extortion, violence, threats and other abuses, compared to only 9.1 percent of respondents who indicated having entered regularly.” There are also two measures that can count as institutional violence: authorities banned both public transportation and private car drivers from transporting migrants.⁸⁰

Regarding COVID-19, the existing literature states that after the first year of the pandemic, there has been a notable increase in the records of irregular migrant movements in transit through Mexico to the US. Detentions and deportations decreased by more than 30% during 2020; detentions drastically increased again in 2021.⁸¹

⁷⁵ Leutert et. al., 2019, quoted.

⁷⁶ Red de Protección (2020), quoted.

⁷⁷ Varela, A. (2019), “México, de “frontera vertical” a país tapón”. Migrantes, deportados, retornados, desplazados internos y solicitantes de asilo en México”. *Iberoforum*. Vol. 14 n. 27, retrieved from: <https://iberoforum.ibero.mx/index.php/iberoforum/Article/view/124>

⁷⁸ IOM (2024), op. Cit., p. 91.

⁷⁹ REDODEM (2015), *Migración en tránsito por México*. Report. Retrieved from: <https://redodem.org/2015-2/>

⁸⁰ Torres Cantalapedra, 2022. El estudio de las caravanas migrantes en México. NORTEAMÉRICA, Año 17, número 2, julio-diciembre de 2022.

⁸¹ Castillo Ramírez and Trujillo Magario, (2024), quoted.

In addition, visas are increasingly required for many South American nationalities, so together with the lack of “migration-based” alternatives, people are forced to go by irregular inland paths,⁸² overexposing them to violence and pushbacks.

Finally, many migrants (including asylum seekers) are transferred from one place to another. Reasons and destinations are not always clear.

Many of them are transferred after a migrant raid, but some are just evictions. In January 2025, people were literally collected from a bus station by police officers and brought to detention facilities. Many mobile phones were taken away, and a case of family separation was registered.⁸³ By March 2025, ten similar events were reported by NGOs. At least one judge has issued protective measures to prevent people from being evicted.

Walls and fences

Summary: While historically reluctant to construct a traditional physical barrier, Mexico has effectively established a “mobile border” to control irregular migration, primarily along its Southern border with Guatemala. This containment strategy relies on a combination of physical barriers—such as metallic fences and barbed wire—and the widespread deployment of military personnel, the National Guard, and an extensive network of inland checkpoints. Driven by initiatives like the 2014 Southern Border Program and intensified by US political pressure to intercept large Migrant Caravans, this militarized infrastructure operates as a systemic mechanism for migrant detention and pushbacks, increasingly supported by surveillance technology like drones. Although the Mexican government officially frames these measures as efforts to ensure orderly migration and combat organized crime, civil and human rights organizations heavily criticize this border securitization for driving vulnerable populations toward longer, more dangerous routes and undermining humanitarian protections.

1. Functioning: Mexico has been generally reluctant to build a wall to deal with migration in the US fashion. However, since 2019, the existing walls and fences in Mexico have worked with militarization, and they prevent people from accessing the country. The deployment of military elements has usually been referred to as a “mobile border”.⁸⁴ Thus, this section mainly focuses on the Southern border. Still, some reports highlight the performance of the Mexican National Guard, “a human wall,” on the Northern border.⁸⁵ Metaphorically speaking, the “military” or “mobile” wall is aimed at impeding people from entering Mexico. Its principal and most visible role was during the first Migrant Caravan. Metallic fences were the first (very weak) line, and military officers, the second one. Checkpoints (spread everywhere) may be included as an extension of the “military wall”, a device that works with detention and pushbacks. By 2018, checkpoints stopped 66% of the “irregular” migrants.⁸⁶

⁸² WOLA, 2022, quoted.

⁸³ García S., Andrés (March 13, 2025), “Policías armados desalojan campamento de migrantes de Avenida 100 metros, reporta ONG”. Infobae. Retrieved from: <https://www.infobae.com/mexico/2025/03/13/policias-armados-desalojan-campamento-de-migrantes-de-avenida-100-metros-reporta-ong/>.

⁸⁴ Iñiguez Ramos, J. (2022), “Los muros militares en la frontera sur de México”, *Periodico UNAL*, Retrieved from: <https://periodico.unal.edu.co/articulos/los-muros-militares-en-la-frontera-sur-de-mexico> . Also: Soberanes, R. (2024), “El muro militar de México contra la migración”, *Bajo la bota*. Retrieved from: <https://bajolabota.com/el-muro-militar-de-mexico-contra-la-migracion/>

⁸⁵ Gallegos, R. (2024), “El polémico –e irregular– cerco migratorio de la Guardia Nacional en Ciudad Juárez”. Retrieved from: <https://bajolabota.com/el-polemico-e-irregular-cerco-migratorio-de-la-guardia-nacional-en-ciudad-juarez/>

⁸⁶ Najjar, Alberto (May 24, 2018), “El efectivo “muro” de policías y militares que usa México para detener migrantes centroamericanos”. Retrieved from: <https://www.bbc.com/mundo/noticias-america-latina-44194144>

On the other hand, a wall (a barbed-wire wall) was built all along the rail (“*La Bestia*”), and it prevents people from accessing (what was for many years) the main transportation and, particularly, migrant shelters.⁸⁷ People are in this manner forced to follow longer and more dangerous routes.

2. *Time*: Military components (the military and mobile wall) and military checkpoints have been deployed massively in rings since 2019, when the National Guard was created. News had already referred to a “wall of military and police officers” in 2018.⁸⁸ They are still functioning.

In general, checkpoints (organized mostly since 2013) precede the role of walls. Plan Mérida furnished many checkpoints in 2013 with high-technology, but it was not a program directly aimed at dealing with human mobility but with organized crime. The Southern Border Program, launched in 2014, strengthened the role of checkpoints.

The wall with barbed wire all along the rail tracks started to be built in 2014 by the private rail company together with the local government of “Tierra Blanca”, in the state of Veracruz.

3. *Place*: Mexico’s southern border shares approximately 1,200 km with Guatemala and Belize, 970 km of it only with Guatemala. Twenty-nine of Mexico’s 52 migration stations are located in this area.

By 2022, it is estimated that there will be more than 200 routes for the irregular transit of people.⁸⁹ Specifically, the Rodolfo Robles bridge, above the Suchiate River, is where the elements are situated. Military checkpoints are all along the Mexican Territory. Only in the southern province/state of Chiapas, there is a checkpoint every 22 kilometres.

The barbed-wire wall is located in several spots alongside the rails.

4. *Actors*: The Army, the National Guard, the Navy. Also, military officers who belong to the immigration authority. The rail company and the state of Veracruz also play a role in building a wall alongside the rails.

All domestic actors.

Guatemalan security forces have collaborated to confront the Migrant Caravan by pushing people back. *See more in Pushbacks. Externalization.*

On the other hand, Guatemala regularly strengthened its border with Mexico (e.g. in October 2024),⁹⁰ mostly a response presented as part of the efforts to deal with organized crime actions.⁹¹

5. *Interaction*: Walls and fences, particularly “mobile walls” and checkpoints, interact with pushbacks and detention. For instance, people trying to cross the border are directly returned, even in the same bus (a bus as a little detention facility).

Metallic fences at the Southern border allow “channelling” mobility (people are forced to wait in lines), and this manner interacts with procedural barriers. Migration officers said: “Go form a line, get in line so we can organize you and start serving you” (in Spanish: “*Váyanse a formar, vayan a la fila para que los organicemos y los empecemos atender*”).⁹² In that sense, the first stage of waiting is the fence.

⁸⁷ Infobae, 2017. “Mexico tiene su propio muro de la vergüenza”. Retrieved from: <https://www.infobae.com/america/america-latina/2017/01/29/mexico-tiene-su-propio-muro-de-la-verguenza-en-el-sur/>

⁸⁸ Najar, A. (2018), quoted.

⁸⁹ Iñiguez Ramos, J. (2022), quoted.

⁹⁰ Meléndez, José (February 09, 2024), “Guatemala y México afianzan muro invisible con Cinturón de Fuego”. *El Universal*. Retrieved from: <https://www.eluniversal.com.mx/mundo/guatemala-y-mexico-afianzan-muro-invisible/>

⁹¹ Nuñez, Manuel (June 07, 2026), “Guatemala refuerza frontera con México y combate al narcotráfico junto a Estados Unidos”, *Diario del Sur*. Retrieved from: <https://oem.com.mx/diariodelsur/mundo/guatemala-refuerza-frontera-con-mexico-y-combate-al-narcotrafico-junto-a-ee-uu-30422116>

⁹² SwissInfo (May 2, 2023), Migrantes derriban vallas en el sur de México para exigir regularización. Retrieved from: <https://www.swissinfo.ch/spa/migrantes-derriban-vallas-en-el-sur-de-m%C3%A9xico-para-exigir-regularizaci%C3%B3n/48481628>

6. *Development*: Mexico has been ambivalent regarding walls and fences to deal with asylum seekers and migrants in general. From time to time, the intention of building a “US fashion” wall is brought up by politicians in Mexico and even in the US (“a wall on the Mexican-Guatemalan border would be more effective for US policy”),⁹³ and recently, fake news about the very existence of such a wall has been circulated. For example, Mexico attempted to build its own “US-style” wall in 2010,⁹⁴ and there have been many other attempts since then. NGOs have expressed concerns about these initiatives.

Of course, there is a very well-known border wall in the North, built by the US, which monopolizes all the attention of the media and academic studies. Even when the walls on the US-Mexico border have been there for a long time (President Bush senior) started building the wall in 1991, Clinton expanded it during 1993-2001, and Bush junior made it even wider; then presidents Obama and Biden did the same during 2009-2017,⁹⁵ there is no evidence that Mexico funded any part of the wall. Actually, several presidents have spoken out about it: “Mexico is not going to pay for the wall”.⁹⁶

In 2011, detention centres and border facilities started receiving “kiosks” directly from the US for collecting biometric data.⁹⁷ However, the Southern Border program launched in 2014 can be identified as the starting point to reinforce the existing wall and fences with military elements. Previously, the *Plan Mérida* (aimed at fighting drug trafficking) furnished many checkpoints in 2013 with high-technology, which ended up being very useful when the Southern Border program was implemented. Southern border infrastructure has received great financial support since that year, and the wall alongside the rail tracks started to be built in 2014.

Donald Trump has repeatedly stated (e.g., in 2016)⁹⁸ that Mexico should pay for the wall he wanted to reinforce.

Then, the National Guard was created in 2019 and deployed along both the Northern (15,000 officers) and the Southern (12,000) Mexican borders as a response to the US pressure regarding migration;⁹⁹ from 2019 onward, the “military mobile wall” appeared in critical media and academia. The same year, a program called “Migration and Development” was launched to deal with the Migrant Caravan. According to official information, the program relies on five axes: 1. Coordination with the National Guard. 2. Migration Policy in the Southern border. 3. Employment for migrants in Southern states. 4. Integral assistance. 5. Relation with Central American and Caribbean countries.¹⁰⁰

A final word about corruption. Testimonies state that on the Guatemalan side of the Southern border, people directly pay the Police, just next to the Migration office. Buses stop in front of the police, people

⁹³ “Analista propone muro en la Frontera Sur de México”, January 03, 2017. Retrieved from: <https://www.krgv.com/videos/analista-propone-muro-en-frontera-sur-de-mexico/>

⁹⁴ Valladares, Danilo (October 22, 2010), “México construye muro en la frontera sur”, *Contralínea*. Retrieved from: <https://contralinea.com.mx/linea-global/mexico-construye-muro-en-frontera-sur/>

⁹⁵ Alonso Meneses, A. (2022), Muros fronterizos, operativos de control y leyes: Algunos efectos colaterales de la frontera México-Estados Unidos, 1991-2021. *Frontera Norte*, vol. 34. Retrieved from: https://www.scielo.org.mx/scielo.php?script=sci_arttext&pid=S0187-73722022000100113

⁹⁶ President Peña Nieto, January 2017. <https://www.bbc.com/mundo/media-38758039>

⁹⁷ WOLA (2017), *La frontera sur de México*. Report. Retrieved from: <https://www.wola.org/wp-content/uploads/2017/06/WOLA-Resumen-Frontera-sur-de-Mexico-1.pdf>

⁹⁸ Martínez Chacón, Marcos (May 01, 2025), El “muro” que México sí paga: el “brutal aparato de contención” de la migración al servicio de EEUU”, *Univisión*. Retrieved from: <https://www.univision.com/noticias/inmigracion/mexico-muro-trump-exjefe-migracion-mexicano>

⁹⁹ WOLA (2020), “Un año después de la creación de la Guardia Nacional, México está lejos de desmilitarizar la seguridad pública”. *Perspectivas*. Retrieved from: <https://www.wola.org/es/analysis/primer-aniversario-guardia-nacional-mexico/>

¹⁰⁰ More info in the official web page: <https://www.gob.mx/inm/videos/plan-de-migracion-y-desarrollo-instituto-nacional-de-migracion-219768>

form a line, and start paying.¹⁰¹ By the way, Guatemala did sign an agreement with the US as a “third safe country” in 2019; it was terminated in 2021.¹⁰²

7. *Rationale*: The “*Programa Frontera Sur*”, for example, refers to “strengthening” of border infrastructure as one of its aims in order to “increase development and security”, together with migrant rights protection.¹⁰³ On the other hand, Mexico usually complains about walls and militarization on its Northern border. In April 2025, it sent a diplomatic note expressing its concern about (its own) sovereignty and (lack of) cooperation.¹⁰⁴

Regarding a plan called “Migration and Development”, Marcelo Ebrard (former Secretary of Foreign Affairs) expressed in December 2019 that the aim was “to protect the lives of migrants and offer them jobs. In its explanation about the program, the government also mentions that the program “prioritizes human life and strengthens a regular, ordered and safe migration”.¹⁰⁵ However, civil organizations pointed out that the program was only a military strategy of migration control.¹⁰⁶

Finally, omissions are also important. The Mexican Migration Policy Program 2018-2024 refers nothing about walls or militarization.¹⁰⁷

8. *Legal Status*: The barrier is intended to prevent people from physically entering Mexico, where asylum can be claimed. There is no protection before an asylum application is made; oral requests are exceptional.

9. *Specific Impact*: The wall and fences in the militarized manner aforementioned described impact mostly on the Migrant Caravan, composed of entire families, women traveling with children, unaccompanied adolescents and children, and LGBTQ persons. One of the reasons behind this is the very composition of the caravan, mostly made up of fragile populations that try to avoid risks by traveling in large groups.

On the other hand, the wall and fences on the Southern border were brought to the spotlight precisely due to the Caravan: the spectacle of families, women, and children begging and then throwing the fence down went around the world.¹⁰⁸

10. *Reach*: Chiapas counts on 10 entrance points: territorial (7), air (2), and maritime (1). During 2023, almost 44 million persons entered Mexico: the two main points were located at the Southern border. The C.F. Talismán (Mexico-Guatemala) recorded 913,872 entries while C.F. Subteniente López registered

¹⁰¹ Martínez, C. et. Al (2019), “El muro del Sur”, *El País*. Report. Retrieved from: <https://elpais.com/especiales/2019/frontera-sur/capitulo-4/>

¹⁰² SwissInfo (February 05, 2021), “Estados Unidos pone fin al acuerdo de «tercer país seguro» con Guatemala”. Retrieved from: <https://www.swissinfo.ch/spa/estados-unidos-pone-fin-al-acuerdo-de-tercer-pa%C3%ADs-seguro-con-guatemala/46349718>

¹⁰³ WOLA (2017), op cit.

¹⁰⁴ Urrutia, Alonso; Muñoz, Alma (April 17, 2025), “Por militarización de la frontera, envía México nota diplomática a EU”, *La Jornada*. Retrieved from: <https://www.jornada.com.mx/noticia/2025/04/17/politica/por-militarizacion-de-la-frontera-envia-mexico-nota-diplomatica-a-eu>

¹⁰⁵ Official information in the web page: <https://www.gob.mx/inm/videos/plan-de-migracion-y-desarrollo-instituto-nacional-de-migracion-219768>

¹⁰⁶ Soberanes, R. (2024), op. Cit.

¹⁰⁷ See: https://www.gob.mx/cms/uploads/attachment/file/530166/Nueva_Politica_Migratoria_2018-2024.pdf.

¹⁰⁸ Fences at the Southern border gained notoriety when the Migrant Caravan broken them. The first Migrant Caravan in 2018 was composed of 7,000 persons, while the second gathered around 2,000 and the third caravan, 1,500 (Torre Cantalapedra, 2022). There were other caravans but not all of them crossed the Mexican-Guatemalan border. In January 2020 a new caravan of 3,000 persons from Central America crossed the border. It was followed by two movements starting in San Pedro Sula (Honduras) in September 2020 and January 2021, but these two did not succeed in crossing the border: the Mexican government accused them of being a risk for public health and announced a massive deployment of police forces. The Guatemalan government cracked down many caravans (Torre Cantalapedra, 2022, quoted).

546,206.¹⁰⁹ In 2022, 34.5% of all national “events” on irregular entries took place in Chiapas, with 152,448 records of irregular crossings.¹¹⁰

11. *Source:* There is no legal source for wall(s) and fences themselves.

The concept of the “military mobile wall” is grounded in the May 2019 legislation that established the National Guard, most recently amended in 2022. Under this legal framework, the Guard is classified as a “civil” institution of “public security.” Its statutory mandate is to “carry out the function of public security”—for example, at national borders—in order “to safeguard the integrity” of individuals.¹¹¹

There is no legal source for the wall alongside the rails.

12. *Justification:* Justification goes mostly around militarization as a second line after the wall and fences.

President A. López Obrador defended the involvement of military elements in migrant detention. In February 2024, when he was asked about two Mexican Army camps in Tijuana, installed practically inside US territory and in an area reported by the US Border Patrol as having a high presence of irregular migration, he said: “They help to prevent human trafficking and especially drug trafficking,” he replied. On the issue of migration, the priority is “to ensure that people in Central American countries and Mexico have job opportunities and are not forced to emigrate”.¹¹² The Defence Secretary Luis Crescencio Sandoval, according to the same source, is more direct on the point: the aim is to stop all the migration.

The Federal Police Chief, Manelich Castilla, said in an interview that by stopping the Caravan, the forces met the main goal: “his forces achieved their main objective of preventing a violent violation (lit.) of more than 3,000 migrants” (in the original: “*sus fuerzas lograron su principal objetivo de prevenir una violación violenta de más de 3,000 migrantes*”).¹¹³ Relating to the Migrant Caravan, a senator upheld that: “The Mexican State must act with the utmost sensitivity and responsibility so that the migrant caravan does not lead to a humanitarian crisis of alarming proportions (...) We must be the hinge, not the border wall”.¹¹⁴

13. *Domestic and International Reactions:* Press and media extensively covered, for example, how the Migrant Caravan faced and then was pushed down the metallic fences. The US government reacted against Mexico and claimed strong measures against Central American mobility.

On the other hand, national human rights bodies monitoring the situation of the Migrant Caravan have expressed that “walls” are not the answer but precise and coordinated responses.¹¹⁵ Recommendations in this report include: “avoid border securitization” and actions regarding “excessive use of force”.¹¹⁶

14. *Externalization:* Agreements with Central American countries are about “repatriations” (detailed in “Pushbacks”). Guatemala also performed many pushbacks regarding the Migrant Caravan. No

¹⁰⁹ INM-UPM (2023), Eventos de entradas a México. Retrieved from: http://www.politicamigratoria.gob.mx/work/models/PoliticaMigratoria/CEM/Estadistica/Atlas/Atlas2023/A_2023_1.jpg

¹¹⁰ INM-UPM (2022), Anuario de Movilidad y Migración internacional en las entidades federativas de México. Retrieved from:

http://www.politicamigratoria.gob.mx/work/models/PoliticaMigratoria/CEM/Estadistica/anuario/2022/Anuario_2022.pdf

¹¹¹ See “Ley de Guardia Nacional” here: <https://www.ordenjuridico.gob.mx/Documentos/Federal/html/wo120948.html>

¹¹² Gallegos, Rocío (April 19, 2024), “El polémico –e irregular– cerco migratorio de la Guardia Nacional en Ciudad Juárez”, *Bajo la Bota*. Retrieved from: <https://bajolabota.com/el-polemico-e-irregular-cerco-migratorio-de-la-guardia-nacional-en-ciudad-juarez/>

¹¹³ “Caravana de migrantes derriva valla fronteriza para llegar a México”, *La Voz América*, October 19, 2018. Retrieved from: <https://www.vozdeamerica.com/a/caravana-de-migrantes-centroamericanos-derriva-valla-fronteriza-para-llegar-a-mexico-/4621167.html>

¹¹⁴ “Caravana de Migrantes: por qué se dice que México se convirtió en la policía migratoria de los Estados Unidos”, *BBC News Mundo*, October 22, 2018. Retrieved from: <https://animalpolitico.com/2018/10/caravana-de-migrantes-por-que-se-dice-que-mexico-se-convirtio-en-la-policia-migratoria-de-estados-unidos>

¹¹⁵ National Commission of Human Rights (2022). *Informe Especial Caravanas 2021*. Retrieved from: https://www.cndh.org.mx/sites/default/files/documentos/2022-06/informe_especial_caravanas_2021_cndh.pdf

¹¹⁶ National Commission of Human Rights (2022), op. Cit.

information about an agreement on walls or fences with Mexico. The US threatened Guatemala and other Central American countries with cutting financial aid if they do not stop the Caravans.¹¹⁷

15. *Technology*: According to official declarations, in 2020, Mexico announced the employment of drones to monitor the Migrant Caravan and the Southern border in general.¹¹⁸

Detention

Summary: Mexico uses a national network of “migrant stations” and temporary facilities that operate under a strict detention model. Administered by the INM with extensive support from the National Guard and the army, this highly militarized system frequently subjects migrants and asylum-seekers to accelerated deportations, serious delays, and poor living conditions. Although Mexican legislation euphemistically frames these detentions as protective “accommodations”, human rights organizations describe the practice as a systemic “wear-and-tear” policy that routinely violates the rights of vulnerable populations, including children. Despite significant legal reforms, the number of apprehensions continues to surge, with hundreds of thousands detained annually. Characterized by severe overcrowding and lack of due process, the system effectively acts as a remarkable barrier, prioritizing containment over humanitarian protection.

1. *Functioning*: Detention is a widespread practice to manage migration (meaning refugees, migrants, asylum seekers) in Mexico; some sources refer to it as “automatic”.¹¹⁹ This is why a report states that “Mexico has one of the largest immigration detention systems in the world, employing several dozen detention centres—euphemistically called “*estaciones migratorias*” (migrant stations)—and detaining hundreds of thousands of people every year.”¹²⁰

In general, foreign people who do not prove a regular status are detained; there is even a case where Mexican people were actually in detention because they looked like “Guatemalans” (it will be the legal action “amparo 388/2022”). Most people in detention are finally returned.

On the other hand, asylum seekers can experience detention (“accommodation may be extended”) until their application is decided (Article 235, Migration Law¹²¹).¹²² Since July 2016, a Program to provide alternatives to detention has been implemented: the “*Programa de Salidas de Estaciones Migratorias (SEM)*”. It is run by the Immigration authority, the Refugee authority, and UNHCR Mexico.

2. *Time*: The barrier has been implemented during the period 2010-2024, but it has been in force for a long time. The first mention of a “migration station” was made in the 1947 Population Law.¹²³

¹¹⁷ “Miles de migrantes hondureños forzaron las vallas fronterizas para entrar a México”, *El Tribuno*, October 19, 2018.

Retrieved from: <https://www.tribunomexico.com/nota/2018-10-19-18-8-0-miles-de-migrantes-hondurenos-forzaron-las-vallas-fronterizas-para-entrar-a-mexico>

¹¹⁸ “México utilizará drones para vigilar a caravana migrante en frontera sur”, *El Sol de México*, October 04, 2020. Retrieved from: <https://oem.com.mx/elsoldemexico/mexico/mexico-opta-por-drones-para-vigilar-frontera-sur-con-caravana-partida-caravana-migrante-migrantes-honduras-guatemala-mexico-estados-unidos-16678241?token=-292358150>. Also: <https://hch.tv/2020/10/05/vigilan-con-drones-la-frontera-sur-de-mexico-para-evitar-ingreso-de-nueva-caravana-migrante-de-centroamericanos/>

¹¹⁹ Asylum Access Mexico (2021), Informe de Investigación sobre Alternativas a la Detención para personas solicitantes de la condición de refugiado en México. Retrieved from: <https://asylumaccess.org/wp-content/uploads/2021/09/informe-investigacion-atd.pdf>

¹²⁰ Global Detention Project (2020), *Country Report Mexico*. Retrieved from: <https://www.globaldetentionproject.org/countries/americas/mexico#country-report>

¹²¹ Mexico, Migration Law (in force since May 2024): <https://www.diputados.gob.mx/LeyesBiblio/pdf/LMigra.pdf>

¹²² Arcipreste Morales, E. (2023), “Sin libertad y sin salud: salud sexual y reproductiva en la Estación Migratoria de la Ciudad de México”, *Revista Methodos*. N. 25. Retrieved from: https://revista-metodhos.cdihcm.org.mx/index.php/metodhos/Article/view/182/2023_metodhos25_articulo4.pdf

¹²³ CNDH Mexico (2019), Informe especial. situación de las estaciones migratorias en México, hacia un nuevo modelo alternativo a la detención. Retrieved from: <https://www.cndh.org.mx/sites/default/files/documentos/2019-11/Informe-Estaciones-Migratorias-2019->

There is no time frame for its termination, although a program for alternatives to detention started running in July 2016. However, it is discretionary and the responsibility of the immigration authority, and could only be a political (non-binding) agreement between the refugee authorities and the INM.¹²⁴

3. *Place*: People can be detained at any moment during their transit, and there are detention facilities all along the Mexican territory.

Detention takes place in “migration stations” (“*estaciones migratorias*”). There are 33 migration facilities throughout the Mexican territory and 13 provisional facilities for the shortest detention (up to 48 hours); they are Provisional Facilities Type A. Then there are 10 (ten) facilities (“Type B”) for up to 7 days, and finally 9 (nine) extensions of provisional facilities.¹²⁵ All provisional facilities were created to accommodate people until they can be transferred to a “migration station”. They all follow an incarceration model: barred and locked up.¹²⁶

One report highlighted that many “provisional” facilities can actually accommodate even more persons than the “migration stations”.¹²⁷

4. *Actors*: The National Institute of Migration (INM, “*Instituto Nacional de la Migración*”); other actors are the Interior Secretariat (*Secretaría de la Gobernación*), the Intersecretarial Commission for Comprehensive Attention to Migration Matters (*Comisión Intersecretarial de Atención Integral en Materia Migratoria*).

The National Guard (*Guardia Nacional*) and the Army are also involved or directly in charge of detentions. Until the end of April 2022, 28,542 military “elements” were deployed in migration control functions in Mexican borders.¹²⁸

There is no evidence of any foreign actor taking part in detentions in Mexico.

5. *Interaction*: Detention closely works with (accelerated) deportation without further assessment, so with pushbacks: 87% of the persons detained between 2013 and 2020 were finally deported.¹²⁹

Along detention, asylum seekers face pre-filters, office shutdowns, and a lack of provisional documents, according to a report about the situation of asylum seekers during 2023.¹³⁰ The COMAR Office in Mexico (the largest of the 11 branches) was not only closed during the pandemic but also for 71 days in 2024 due to a “relocation”.¹³¹

These barriers also interact with backlogs “under precarious living standards and usually without freedom”.¹³² People are forced to wait in very precarious conditions of detention, and the backlog is an incentive to be forced to sign for her/his release, usually including a withdrawal.

6. *Development*: There is not a precise date for the creation of migration facilities but authors coincide in 1947 as the first date in which a law refers that: prisons and police stations were authorized to work for

[RE.pdf#:~:text=A%20partir%20de%20los%20a%C3%B1os%2090s%20se,Migraci%C3%B3n%20concedi%C3%A9ndole%20la%20facultad%20de%20operar%20las.](#)

¹²⁴ Asylum Access Mexico (2021), Informe de Investigación sobre Alternativas a la Detención para personas solicitantes de la condición de refugiado en México. Retrieved from: <https://asylumaccess.org/wp-content/uploads/2021/09/informe-investigacion-atd.pdf>

¹²⁵ Asylum Access Mexico (2021), op. Cit.

¹²⁶ CNDH Mexico (2019), op. Cit.

¹²⁷ CNDH Mexico (2019), op. Cit.

¹²⁸ WOLA (2022), op. Cit.

¹²⁹ Red de Protección, 2020, op. Cit.

¹³⁰ GTP Mexico (Grupo de Trabajo Protección) (2024), “Actualización del análisis de protección”, Retrieved from: <https://reliefweb.int/report/mexico/actualizacion-del-analisis-de-proteccion-mexico-diciembre-2024>

¹³¹ REDODEM (4 Sept. 2024), “Desmantelamiento del sistema de refugio en México...”. Retrieved from: <https://animalpolitico.com/analisis/invitades/refugio-sistema-desmantelamiento>

¹³² Cantalapiedra et. al. (2021) “El sistema de refugio mexicano: entre proteger y contener”. FRONTERA NORTE VOL. 33, ART. 7, 2021. <https://doi.org/10.33679/rfn.v1i1.2103>

the detention of foreign people without documents.¹³³ In 1993, the recently created INM (Immigration authority) was put in charge of running the migration facilities, and only in 2001 a General Regulation for Migration Facilities (“*Acuerdo por el que se emiten las normas para el funcionamiento de las estaciones migratorias del Instituto Nacional de Migración*”) was issued; it was modified by a new agreement in 2009 (please see Legal Sources below).

On July 21, 2008, an important reform to the General Population Law was published, which eliminated the criminal offenses that criminalized migrants.

More recently, detention is presented as a protective tool. The order issued by the Immigration authority to detain a person in a migration facility is named “presentation” or “submission” (literally, “*presentación*”), and detention was abandoned in favour of “hosting” (“*alojamiento*”); however, the foreigner is not allowed to leave the “accommodation” and bad conditions such as overcrowding, lack of hygiene and food were reported.¹³⁴ There will be legal cases complaining about these conditions. Additionally, many dangerous events in detention facilities have been reported in recent years. In 2023, a migration facility in Juárez City (next to the US border) caught fire: 39 died, 27 were injured, and “no authority attempted to help them then”.¹³⁵ Thus, both terms have been referred to as euphemisms.¹³⁶

The Judiciary has played a more real protective role in detention. In 2023, it was ruled that to avoid arbitrariness, the migration detention should last less than 36 hours and fulfil three criteria: reasonability, necessity, and proportionality.¹³⁷ More importantly, the two terms referred to in the Law (Article 111), a maximum detention period of 15 working days with an exceptional extension of up to 60 (working) days, were deemed unconstitutional.¹³⁸ Notwithstanding that, the implementation of its rulings requires monitoring for further assessment. There are, e.g., still different situations within the legal framework: irregular migrants cannot be detained for more than 36 hours (Article 68), except if they have submitted legal claims (up to 15 days), or reliable information about his/her identity or nationality cannot be gathered (up to 60 days), among other “exceptional” situations (Article 111). According to information provided by the Immigration authority, the average period of detention is 8 (eight) days.¹³⁹

7. *Rationale:* The Mexican Migration Law does not mention “detentions” or “retentions” whatsoever, but Migration Facilities are mentioned. Under the title “On the Administrative Proceedings”, the chapters V (“On Foreigners’ Presentation”) and VI “On the Rights of Persons Accommodated in Migration Facilities”), the law regulates the detention of “adult foreigners”¹⁴⁰ by using euphemisms such as “accommodation” and “presentation”¹⁴¹. The “presentation” (literally: “*presentación*”, which may also be translated as “submission”) is a measure of “public order” to be taken “while their migratory situation in national territory is being determined” (Article 99). This purpose (status determination) is also mentioned

¹³³ CNDH Mexico (2019), INFORME ESPECIAL. SITUACIÓN DE LAS ESTACIONES MIGRATORIAS EN MÉXICO, HACIA UN NUEVO MODELO ALTERNATIVO A LA DETENCIÓN. Retrieved from: <https://www.cndh.org.mx/sites/default/files/documentos/2019-11/Informe-Estaciones-Migratorias-2019-RE.pdf#:~:text=A%20partir%20de%20los%20a%C3%B1os%202009%20se,Migraci%C3%B3n%20concedi%C3%A9ndole%20la%20facultad%20de%20operar%20las.>

¹³⁴ Asylum Access Mexico (2021), op. Cit.

¹³⁵ García Flores, A. and Rodríguez García, T. (2024) “¿El inmigrante irregular como sujeto peligroso-enemigo del Estado?: Análisis dogmático jurídico de la política migratoria en México”. *DeLiberación*. Vol. 1. Retrieved from: https://revista.sanmartin.edu.co/index.php/de_liberacion/Article/view/25/25

¹³⁶ Sin Fronteras, 2018. Sin Fronteras, I. A. P., La detención de personas extranjeras en estaciones migratorias (México: Sin Fronteras, 2012), 16, <https://sinfronteras.org.mx/wp-content/uploads/2018/12/La-detención-de-las-personas-extranjeras-en-estaciones-migratorias.pdf>

¹³⁷ MEXICO, “*Amparo en Revisión 388/2022*”, Thesis:1a. XXII/2023 (11a.).

¹³⁸ MEXICO, “*Amparo en Revisión 388/2022*”, Thesis 1a./J. 111/2023 (11a.).

¹³⁹ Arcipreste Morales, 2023, op. Cit.

¹⁴⁰ In no case, according to the law, children or adolescents shall be presented or accommodated in migration facilities (Article 99).

¹⁴¹ According to the law, “presentation” is “the measure issued by the Institute by means of which it agrees to the temporary accommodation of an adult foreigner who does not prove his immigration status for the regularization of his stay or assistance for his return” (Article 99).

in other Articles.¹⁴² On the other hand, the Refugee Law Regulations consider the case of asylum seekers in detention (“applicants who have been presented before the National Migration Institute” -Article 34), for example, to assess whether they need “special care”. In the case that such special care is temporary, once it is provided, they shall be returned to the migration facility (Article 65, Refugee Law Regulations).

Such a “presentation” is also a “measure of securing” (“*medida de aseguramiento*”). The word in Spanish (“*aseguramiento*”, instead of “*seguridad*”) suggests that it is intended for the foreigner. The Agreement to the Functioning of Migration Facilities issued in 2009 argues that “corresponds to the Ministry of Interior [*Secretaría de Gobernación*] the supervision [*vigilancia*] of any entrance or exit of foreigners together with their documents”. In addition:

“It corresponds to the Ministry of the Interior to establish the creation of Migratory Stations so that, with strict respect for and protection of human rights, and **as a measure of securing**, foreigners whose internment has been authorized on a provisional basis, must be expelled and/or repatriated, in accordance with the applicable legal provisions, may be housed” (emphasis added).¹⁴³

Migrant’s human rights “respect” and “fulfilment” are also mentioned in the recitals of the aforementioned agreement, while the status of the foreigners “is determined” (in Spanish: “*en tanto se resuelva*”) or “enforced” (“*o se ejecute*”).

Finally, the government has likened the migration facilities with “shelters” (in Spanish: “*albergues*”): “they have been an effort to respond in an orderly manner to the challenges posed by the transit and apprehensions of migrants, and more recently by the immobility of asylum seekers and refugees in the United States who are waiting in Mexican territory for the resolution of their immigration status”.¹⁴⁴

8. *Legal Status*: Pursuant to legal terms, all persons (either in detention or not) submitting an asylum application are entitled to the *non-refoulement* principle. Then, the national framework refers to detainees as “hosted” or “presented” persons, and a list of rights is enumerated in the law. Among these rights, it is the right to be informed about asylum proceedings. So, an asylum application is crucial to be protected by the *non-refoulement* principle.

Sometimes asylum seekers received a particular status: “Humanitarian Visitor” (*Visitante por Razones Humanitarias*). In legal terms, all children and adolescents should receive a visa (Article 112, Migration Law). Regarding asylum seekers in general, they are entitled (once his/her application has been submitted) to apply for a Humanitarian visa during the asylum proceedings. Pursuant to the law wording, the authority should grant the visa to all (Article 52, see original below), but this is not the case. The Humanitarian Visitor figure allows the holder to remain and work within Mexico. See law’s original wording and translation below (Migration Law):

“Article 52: VISITOR FOR HUMANITARIAN REASONS. *This residence status will be granted to foreign nationals who meet any of the following criteria: c) Be an applicant for political asylum, recognition of refugee status, or complementary protection from the Mexican State, until their immigration status is resolved. If the application is approved, they will be granted permanent resident status, in accordance with Article 54 of this Law*” (Source: Migration Law).

Artículo 52: V. VISITANTE POR RAZONES HUMANITARIAS. Se autorizará esta condición de estancia a los extranjeros que se encuentren en cualquiera de los siguientes supuestos: c) Ser solicitante de asilo político, de reconocimiento de la condición de refugiado o de protección complementaria del Estado Mexicano, hasta en tanto no se resuelva su situación

¹⁴² Article 100: “When a foreigner is placed at the disposal of the Institute, derived from **proceedings of verification or migratory revision** (...) the corresponding agreement of presentation will be issued within twenty-four hours (...)”. Article 101: “Once the presentation agreement is made, and **until a resolution regarding the immigration status of the foreigner is issued** (...)”.

¹⁴³ Acuerdo por el que se emiten las normas para el funcionamiento de las Estaciones Migratorias del Instituto Nacional de Migración, recitals. Retrieved from: https://www.dof.gob.mx/nota_detalle.php?codigo=5113141&fecha=07/10/2009#gsc.tab=0

¹⁴⁴ See: <http://omi.gob.mx/es/OMI/ApMMX>

migratoria. Si la solicitud es positiva se les otorgará la condición de estancia de residente permanente, en términos del artículo 54 de esta Ley” (Source: Migration Law).

9. *Specific Impact:* Children have been particularly affected by this barrier and have been a group of particular concern. Legal cases *File Complaint 205/2019*,¹⁴⁵ *File “Amparo en revisión” 7/2020*,¹⁴⁶ and *Queja 465/2022*¹⁴⁷ address or include detention of children. Many cases involving migrant children’s rights have been successfully litigated: they are, in a way, a port of entry for achieving better protection standards for migrant and refugees. In late 2020, Mexico adopted reforms to its migration law prohibiting the detention of children, which some observers greeted with scepticism because of the prominence of this practice in Mexico—which detained more than 50,000 children in 2019—and its failure to adhere to previously existing child detention prohibitions.¹⁴⁸ Mexico has for many years been one of the world’s more aggressive detainers of migrant children.¹⁴⁹

Transgender women are also a group of concern, together with all women between 18 and 39, and elderly people.

10. *Reach:* During 2023, 6.1 million foreign persons entered Mexico, which means an increasing in 37,5% in comparison with 2022.¹⁵⁰ On the other hand, the Mexican state has tripled the number of irregular migrants in detention: from a monthly average of 37,000 in 2023 to 118,000 in 2024. Only during January–May 2024, a total of almost 600,000 migrants were detained.¹⁵¹ Previous to that, Mexico detained more than 180,000 people for migration-related reasons in 2019, one of the highest totals in the world that year and among the highest on record for Mexico. As of 2020, the country was operating nearly 60 long- and short-term immigration detention centres.¹⁵²

Another source (from a civil society coalition) states that in 2023, a total of 778,000 “events of detention” took place, against 441,000 in 2022. Statistics for 2024 are not available yet, but only during January–August, 995,000 “events” have occurred.¹⁵³

There is reconstructed data for some detention facilities. Between 2012 and 2022, the City of Mexico facility “hosted” 36,830 foreign persons (17,978 women and 18,852 men). In addition, 586 of them were children who experienced detention for more than 15 working days.¹⁵⁴

11. *Source:* The barrier is grounded in domestic law. Migration Law (2011); its last amendment is dated May 2024. Sections regarding detention have not substantially changed.

The Migration Law does not mention the term “detention”. It firstly provides a definition of “migration facility” (“the term migratory station shall refer to the physical facility established by the Institute to temporarily house foreigners who cannot prove their regular migratory status, while their migratory status is being resolved”)¹⁵⁵, to then states, for example, that a detention cannot last more than 36 hours (Article 68). Interestingly, other regulations regarding detention (the law uses the term “presentation”, to refer “appearance” before an authority) are under the title V: “about protection of migrants transiting though

¹⁴⁵ Circuit Court (21st Collegiate Court in Administrative Matters of the 1st Circuit), *File Complaint 205/2019*, appellate instance, June 6, 2019.

¹⁴⁶ Supreme Court of Justice, *File (“Amparo en revisión”) 7/2020*, appeal instance, Feb. 16, 2022.

¹⁴⁷ Collegiate (Federal) Circuit Court, *Queja 465/2022*, appeal instance, Nov. 26, 2022.

¹⁴⁸ Global Detention Project (2020), quoted.

¹⁴⁹ Global Detention Project (2021), Country Report Immigration Detention in Mexico. Retrieved from: <https://www.globaldetentionproject.org/wp-content/uploads/2021/02/Immigration-Detention-in-Mexico-2021-GDP.pdf>

¹⁵⁰ García Flores and Rodríguez García 2024, quoted.

¹⁵¹ CNN (July 09, 2024), “México triplica la cantidad de migrantes ‘irregulares’ detenidos en lo que va de 2024”. Retrieved from: <https://cnnespanol.cnn.com/2024/07/09/mexico-triplica-migrantes-irregulares-detenido-2024-orix>

¹⁵² Global Detention Project (2020), op. Cit.

¹⁵³ GTP Mexico (Grupo de Trabajo Protección) (2024), “Actualización del análisis de protección”, Retrieved from: <https://reliefweb.int/report/mexico/actualizacion-del-analisis-de-proteccion-mexico-diciembre-2024>

¹⁵⁴ Arcipreste Morales, 2023, op. Cit.

¹⁵⁵ Mexico, Migration Law (2011), Article 3, page 4. Retrieved from: <https://www.refworld.org/es/leg/legis/pleg/2011/es/126825>

Mexico”. All other regulations about “presentation” are included under Title VI (“On Administrative Proceedings”), chapter V (“on Foreigner’s Presentation”), chapter VI (“on rights of those housed in migration stations”), VII (“Special proceedings for people in vulnerable situations”) and VIII (“on assisted returns and deportations”) starting with Article 99, which says: “It is of public order the presentation of adult foreigners in migratory stations or in places authorized for this purpose, while their migratory situation in the national territory is being determined”. “Presentation” of children and/or adolescents is forbidden (Article 99), so the “presentation of adults taking care of migrant children or adolescents should be avoided, taking into account the principle of family unity and the best interests of migrant children and adolescents” (Article 99).

There is also a General Regulation for Migration Facilities: Agreement issuing the rules for the operation of the immigration stations of the National Institute of Migration (“*Acuerdo por el que se emiten las normas para el funcionamiento de las estaciones migratorias del Instituto Nacional de Migración*”). Issued in 2009, the agreement regulates the functioning and organization of the migration facilities in charge of the National Immigration Institute (INM) (Article 1). The detained is defined as “hosted” (Article 2), either “secured” or in the process of “repatriation”. A timetable for different activities is organized (cleaning, breakfast, medical services, phone calls, visits, dinner, and time to go to bed, and after 8 pm, no person can remain outside the dorms). Then, there are prohibitions: no violation of migrant human rights is allowed (Article 6), including discrimination; no cell phones are permitted, etc. The accommodation should be for the shortest time possible (Article 7); the legal situation of the “hosted” should be solved in no more than 15 working days, but the accommodation cannot last more than 90 days (Article 8), with exceptions. Some of these exceptions are: lack of reliable information about his/her identity, no trips available, and diseases. Every person will count with a file (Article 14). Voluntary repatriations are regulated in Article 15: a form (including information about the right to ask asylum) should be signed.¹⁵⁶

12. Justification: The government has changed its discourse during the last years, from detention as a punishment for illegal entry to a protective presentation. Currently, migration stations are intended to protect people. The Agreement on Migration Facilities of 2009 (extensively quoted in previous sections) refers to “presentation” and “accommodation” as a “securing measure” (in Spanish: “*medida de aseguramiento*”).

In 2023, the INM announced the transformation of migration facilities into “friendly, open and safe” spaces. So far, it is only a beautiful wall in one migration centre.¹⁵⁷

In addition, the context of violence has justified many of the detentions.

13. Domestic and International Reactions: The situation of detention in Mexico is generally monitored by institutional organizations, either local or international NGOs or international organizations such as UNHCR. Several reports (many of them quoted here), annually issued, include recommendations.

Some sources pointed out that the Mexican government relies on its own institutional incapacity and dysfunctionality to manage migration: “In the facts, this means restricting the number of people who receive international protection and somehow stop or slow down the mobility processes that involve those in need of international protection”. Additionally, there may be a certain “dependence of the Mexican international protection system on the contention of migration flows in transit over the country”.¹⁵⁸

Summing up, detention is a key part of a so-called “wear-and-tear policy” (“*política de desgaste*”): it is not about an official policy, but about the overall effect of governmental actions and omissions which mainly

¹⁵⁶ The full document: https://www.dof.gob.mx/nota_detalle.php?codigo=5113141&fecha=07/10/2009#gsc.tab=0

¹⁵⁷ INM (July 20, 2023), “Inicia INM transformación de estaciones migratorias en espacios abiertos, seguros y amigables”. Retrieved from: <https://www.gob.mx/inm/prensa/inicia-inm-transformacion-de-estaciones-migratorias-en-espacios-abiertos-seguros-y-amigables?idiom=es>

¹⁵⁸ Cantalapiedra et. al., 2021, page 19.

result in “persons having to fight for survival, under vulnerable conditions that expose them to arbitrary treatment while they navigate several lengthy proceedings”.¹⁵⁹

Finally, in 2023, there was a massive fire in the “Juárez City” migration station: 40 migrants died, and 27 were injured. A few days before the fire, the civil organization “*Servicio Jesuita a Refugiados*” had visited the centre and noted “anxiety”, “stress” and “depersonalization” among the detainees. People have been in detention for a much longer time than legally allowed, some of them even counted on transit documents, or were Mexicans. In addition, they were virtually incommunicado and had no information about their legal proceedings. Corrupt practices were also mentioned at that time, and for survivors.¹⁶⁰

14. Externalization: Detention works as an outsourcing device for the US, but there is no evidence so far on whether and how Mexico outsources its own detention practices or facilities to, for instance, Guatemala. There have been several meetings between Mexico and Guatemala on migration matters, but no tangible results (only political declarations about a “humanitarian border”¹⁶¹, tweets, etc.).

15. Technology: The Report “Technologies on Migration Control in the Americas,” issued in 2023, includes some references to Mexico. For detention, there is a digital platform named “*SICATE*” introduced in 2006 that gathers all the “events” of detention. It means that the same person can be detained several times; each time is an “event”. This tool captures and keeps biometric data, which is shared with different governmental, national, and foreign offices. In fact, the Mexican Government shared with the US data on more than 300,000 persons detained in four major migration facilities.¹⁶²

Biometric data, according to the same source, includes fingerprint scanners, facial and iris recognition.

Procedural barriers:

Summary: Mexico’s asylum system is characterized by an extensive network of formal and informal procedural barriers that function collectively as an “attrition policy” designed to exhaust applicants and provoke claim withdrawals. Informally, migrants face severe deterrence tactics from the INM and armed forces, including the unlawful rejection of asylum requests at borders, the destruction of documents, language barriers, and the arbitrary issuance of removal orders while claims are still pending before the severely overwhelmed Refugee Authority (COMAR). Formally, applicants are hindered by strict 30-day filing deadlines and mandatory weekly in-person signatures that trap them in their arrival cities—such as Tapachula—without access to work or state subsidies. Compounded by crippling systemic backlogs that regularly extend the legal 45-day processing window to over a year, these bureaucratic hurdles frequently result in prolonged detention and disproportionately endanger vulnerable populations, particularly children and families lacking financial resources.

1. *Functioning:* Procedural barriers in this section include (a) backlog in different stages of the asylum proceedings, or in certain offices so people may be transferred to another part of the Mexican territory; (b) removal orders issued while an asylum claim is pending (including a case where the asylum was orally requested in the context of a pushback); (c) submissions (asylum applications) rejected at borders (“this is not the place for it. Please reach the COMAR”)¹⁶³; and COMAR has no offices at borders; around 20

¹⁵⁹ WOLA (Washington Office on Latin America) (2022), *Luchando por sobrevivir: la situación de las personas solicitantes de asilo en Tapachula, México*. Retrieved from: <https://www.wola.org/wp-content/uploads/2022/06/Luchando-por-Sobrevivir-Solicitantes-Asilo-Tapachula.pdf>

¹⁶⁰ Miranda, Salvador (March 28, 2025), “Comparte Servicio Jesuita refugiados sobre su visita a la estación migratoria tres días antes del incendio”. *El heraldo de Juárez*. Retrieved from: <https://oem.com.mx/elheraldodejuarez/local/servicio-jesuita-refugiados-visito-la-estacion-migratoria-tres-dias-antes-del-incendio-22416790>

¹⁶¹ See declarations in the news: https://www.youtube.com/watch?v=a_IPQP0ca6w

¹⁶² CEJIL, 2023. *Tecnologías de vigilancia en el control migratorio*. Retrieved from: <https://cejilmovilidadenmesoamerica.org/wp-content/uploads/2023/11/Informe-Tecnologias-de-Vigilancia-en-el-Control-Migratorio.pdf>

¹⁶³ WOLA, 2022, quoted.

hours walking depending on the crossing point;¹⁶⁴ (d) diverse disincentives for applying or continuing applications:

- Informal Mechanisms: by authorities directly discouraging them, by saying, e.g., it is not worth it (an informal and extended practice, according to some sources), or by destroying the documents people carried, or by omitting to inform the Refugee Authority about asylum requests.
- Formal Mechanisms: by policy or legal mechanisms such as deadlines to applying for asylum. In addition, asylum applicants should reside (to sign weekly) in the place where they have submitted their application (and so wait there for several months), usually with no access to work, health and no subsidy whatsoever for asylum seekers. Finally, it is worth mentioning that people are usually under detention while their case is before the COMAR, with limited access to health and precarious living conditions. Due to the backlog, proceedings (and so, detention) can last a year or more. These mechanisms can also be considered as “sanctions” for having applied.

All these topics are extended barriers.

Then: (e) for some nationalities, there are language barriers (sometimes translators are not provided for non-Spanish speakers.¹⁶⁵ There is also (f) an isolated case regarding, ultimately, the children’s access to asylum: the father and mother had received refugee status in Mexico, but due to their lack of financial resources, their children cannot be brought under the figure of “family reunification”. There is a judicial case about this.

Procedural barriers are systematized as follows, in order, more or less, of “appearance”: from border to deportation. In the table below, “Informal” refers to a practice against the law or that takes place in the “silence gap” of the law (backlog: there is a period to solve an asylum application, 45 working days, but also many exceptions to extend it); “formal” refers to a barrier stated or organized by the law/policies.

<p>General Relevance Informal barrier; “deterrence tactic” (WOLA, 2022)</p>	<p>Asylum claim rejected at borders (“this is not the place; go to the city”). Quotation: “Those in need of protection can rarely request it at official border entry points” (WOLA, 2022)</p>
	<p>Backlog in different stages, and locations (e.g., COMAR offices in Tapachula is the most affected) Quotation: By 2022, “the unprecedented increase in asylum applications in Mexico has left those arriving to encounter an overwhelmed asylum system, lacking sufficient resources, and facing significant delays” (WOLA, 2022, page 15).</p>
<p>General Relevance Informal discouraging (“deterrence tactics”, “<i>prácticas de disuasión</i>”, WOLA, 2022)</p>	<p>Informal disincentives (“it’s not worth it”, “you’ll be under detention during the whole process of asylum”, which may be actually true...WOLA, 2022), forced disincentives (“sign here to leave the detention facility”, without mentioning it implies withdrawing of the asylum application), other practices (e.g. violence; security forces tore up the certificate issued by COMAR -IMUMI et. al, 2023, and the holder is consequently detained and removed). There is case law on this topic. The INM is in charge, by law, of letting the COMAR know when a person requests asylum or international protection. It is a right that it is not always guaranteed; authorities are discretionary about it (IMUMI et. al, 2023).</p>

¹⁶⁴ WOLA, 2017, quoted.

¹⁶⁵ Red de Protección, 2020, quoted.

General Relevance Formal barrier/ discouraging	-Deadline for submitting the application. There is case law on this topic -appointments to submit a proper asylum application (apparently, it took place only during 2021 -WOLA, 2022). This was called “ <i>citatorio</i> ” (the citation), a figure created in 2019 (IMUMI et. al., 2023). -weekly signature; so the waiting is in the arrival city. Please note that no subsidies or economic resources are provided for applicants. There is case law on this topic -Many migrants usually face detention during proceedings with limited access to food or health. No access to legal aid or translators. There is case law on this topic
General Relevance Informal barrier (against the law)	-Removal orders with pending asylum claims (including oral requests) Note: there is case law on this topic According to an NGO report, during 2022, at least 53 applicants or recognized refugees were at risk; 38 of them were actually deported (IMUMI et. al., 2023). It is not an official statistic: it depends on the case being reported by some NGO or by UNHCR. Once the person is removed, the COMAR usually considers s/he has abandoned the proceedings and closes the case (IMUMI et. al., 2023)
Informal barrier for some nationalities (so not that extended, and it depends, e.g., on the detention facility) (against the law)	Language barriers (non-Spanish speakers and a translator may not be provided) There is case law on this topic, but it’s a legal claim actually made by native Mexicans. The judgment, however, refers the guarantee to all in migratory detention facilities; people have been detained by mistake because “they looked like Guatemalans”.
Formal barrier (isolated case)	A separate child asylum application is required when the parents lack financial resources: financial solvency can be an obstacle to family reunification of recognized refugees with relatives abroad. In the litigated legal case, the “family abroad” were children. Therefore, the authority ordered that, given parents’ lack of resources, children should submit their applications on their own.

Source: Author’s own elaboration.

Note: Regarding removal orders with pending asylum claims, it can also be understood that a removal order with a pending asylum application is part of a “pushback” barrier. However, I’ve dissected the barriers to identify what happens when an asylum application is still in process, differently from just a removal or a deportation. Thus, a procedural barrier in this sense is not a pushback or removal itself but “only” a removal order (issued by the migration system), with a pending application before the refugee system.

All these barriers are aimed at discouraging people from applying or from withdrawing the application once it is made and before a decision. As many reports refer to, it is a burnout or attrition policy (“*política de desgaste*”).¹⁶⁶ Actually, barriers continue after the claim is submitted, e.g., applicants are not directly granted a provisional but regular status; they need to apply for a Humanitarian Visitor category, which may be granted (or not) by the immigration authority.

Backlog, for example, as a barrier, aims at discouraging applicants; only “real” refugees would actually wait. Of course, this is not the case: only desperate people with no further options will wait.

On the other hand, removals with pending asylum applications can be considered from two viewpoints. On the one hand, the removed person cannot weekly sign, so the COMAR will consider that s/he has

¹⁶⁶ WOLA, 2022.

abandoned the application. On the other hand, it could be somehow a “mistake” derived from two different systems, a lack of coordination that is useful in the end.

2. *Time*: All barriers were there for the period 2010-2024. Two events affected some barriers: **backlog** appeared as a great concern since the first Migrant Caravan in 2018, and after the pandemic, during 2021, the COMAR Office in Tapachula was particularly severely affected.¹⁶⁷ Appointments for a formal asylum claim submission appeared during 2019.¹⁶⁸ By the end of 2021, an online system was implemented.

3. *Place*: Procedural barriers take place in different parts of the Mexican territory and at different times during the proceedings.

The refusal to receive an asylum request takes place at borders; many other situations can occur at any point or time, given the spread system of checkpoints. Forced disincentives (“sign here to leave”) usually take place at a detention facility.

Backlog appears in two main parts of the proceedings: to get an appointment for the eligibility interview, and for the decision itself. In some years, there is also a delay in getting an appointment to submit the application itself.

4. *Actors*: Summarily, the Army, the National Guard, the COMAR (Refugee Authority), the INM, and NGOs. The first two take part mainly in informal discouragement or even in the violence employed in destroying migrant’s documents. Armed forces play a central role in migration control; they are the first contact of asylum seekers.¹⁶⁹

The INM is in charge of “detecting” people who need international protection. The Refugee Law Implementing Regulations state that “any authority that becomes aware of a foreigner’s intention of applying for asylum” should notify the COMAR (Article 18). Additionally, the INM issues removal orders with pending asylum decisions.

Some reports have also mentioned that during the pandemic, US personnel were strategically deployed at the Southern border.

Interestingly, when a non-governmental organization has contacted the authorities to request the entry of a person or group of asylum seekers, “there are better guarantees that asylum seekers can cross by an official border crossing point and avoid being detained by the INM in an immigration station (detention centre) while their cases are processed”.¹⁷⁰

5. *Interaction*: There are many interactions among specific barriers, such as detention and procedural barriers. The refusal to receive asylum requests at borders forces people to walk for about 65 kilometres (depending on the entrance point), so this practice exposes them to violence and to be detained while walking.

Authorities and the lack of recognition of certificates issued by COMAR (the paper that proves the person has actually submitted an application or has an appointment to do so) interact with detention and removal: people are treated as any other irregular foreigner, detained in a migration facility, and then summarily deported. Authorities do not check with COMAR.

People in detention are forced to “voluntarily” sign a deportation order to be released from the facility. COMAR usually takes this “departure” from the country as a withdrawal.

¹⁶⁷ WOLA, 2022, quoted.

¹⁶⁸ IMUMI et. al., 2023, quoted.

¹⁶⁹ WOLA, 2022, quoted.

¹⁷⁰ WOLA, 2022, page 12.

Additionally, the lack of further options beyond asylum (e.g., migration-based proceedings) clogs the asylum system. This lack of options persisted during 2024.¹⁷¹

Regarding the backlog, regulations state that there is no deadline to decide an asylum application.

On the other hand, removal orders with a pending asylum application show the relative independence of the migration system. Reports tend to highlight the “parallel” actions of the INM.¹⁷² There is a legal case: Circuit Court, Queja 156/2018, judgment of 11 October 2018, shows the interaction with a pushback: the person claimed asylum during a (violent) pushback; the court recognizes his right.

6. *Development*: All these procedural barriers have existed in an extended manner since at least 2014. The refusal to take asylum requests at borders, for example, is referred to as an extended practice. Only a few of them, at least based on desk research, have registered changes: (i) The COMAR has tried different forms to deal with the backlog,¹⁷³ with different success; (ii) the “*citatorio*” is a figure introduced in 2019.

Far from taking steps to sort the procedural barriers out, the opposite seems to be the case. However, during a few months in 2020, a pilot program was implemented. The objective was to easily target persons with international needs to then channel he/she to the “merge procedure”. In this manner, the admission and eligibility interview took place in only 1 day.¹⁷⁴

7. *Rationale*: Most of these barriers exist only in practice (even the issuing of deportation orders with pending asylum applications, since the law recognizes the non-refoulement principle¹⁷⁵), so there is no written statement about them. So this section will focus on (i) formal or legal barriers of general relevance (deadline, weekly signature and the “*citatorio*”); isolated formal or legal barriers (separated children’s asylum application for parents lacking economic resources).

The “*citatorio*” was introduced in 2019 to deal with the increase in applications.¹⁷⁶ However, I found no official webpage mentioning it.

There are also judicial decisions about deadlines, about weekly signatures, on detention, and about removal orders while a decision on asylum is pending. Regarding the 30-day **deadline** (case *Amparo en revisión No. 353/2019*),¹⁷⁷ the Supreme Court ran a proportionality test on the Mexican Refugees’ Law based on the American Convention on Human Rights and its standards about legitimate restrictions (Article 30, ACHR). By this text, the court analysed three dimensions: whether the measure is legitimate, suitable (“*idónea*”) and necessary, and proportional. In the end, the Court answered with a “Yes” to all three dimensions (**so the deadline is considered a legitimate, suitable, necessary and proportional measure**) and then located the issue in the Implementing Regulations of the Refugees’ Law. Such a Regulation states exceptions for not meeting the deadline, and access to be granted with an exception requires “due evidence that the deadline was not met because of out-of-his-will causes”. Interestingly, the Court abandoned here the proportionality test to go behind how that exception should be interpreted: “According to international human rights commitments assumed by the Mexican state”, the standard for such evidence should be as low as possible, given the “vulnerability” of migrant persons. Finally, it

¹⁷¹ GTP (Grupo de Trabajo de Protección) (2024), “Actualización del análisis de protección”. Retrieved from: https://www.refworld.org/es/ref/inforreg/drcong/2024/es/149224?prevDestination=search&prevPath=/es/search?keywords=reglamento&order=desc&page=1&sm_country_name%5B%5D=M%C3%A9xico&sort=ds_created&result=result-149224-es

¹⁷² IMUMI et al, 2023.

¹⁷³ (WOLA, 2022; IMUMI et al, 2023).

¹⁷⁴ Source: <https://acsg-portal.org/tools/mexico-merged-procedures-and-application-of-the-broader-refugee-definition/>

¹⁷⁵ An official web page clearly refers that the INM cannot take any measure against a person seeking refuge, including the situation of a person going to the INM to actually apply. In Spanish: “*es importante recalcar que el INM no puede tomar medidas en contra de ningún extranjero que manifieste su deseo de solicitar refugio*”. Source: <https://www.gob.mx/comar/articulos/requisitos-para-solicitar-refugio-en-mexico?idiom=es>

¹⁷⁶ INUMI, 2023. This report defines the “CITATORIO” as the “Summons to submit the application for recognition of refugee status. Document or electronic notification issued by COMAR in which the foreigner is assigned a date to come to initiate the procedure for the recognition of refugee status” (IMUMI et. al., 2023, pp. 8-9).

¹⁷⁷ SCJN, *Amparo en revisión No. 353/2019*, ruling date of October 16, 2019.

provided some guidelines about evidence (declarations, reachable proofs, and particular situations). Overall, the decision highlighted that “failure to comply with the deadline or other formal requirements should not lead to an automatic rejection of the application”.

In relation to family reunification and procedural obstacles, the Supreme Court did not rule in favour of the plaintiffs. The case involved two recognized refugees, a mother and father of children they wanted to reunite in Mexico. The COMAR asked for evidence of economic resources, which they failed to provide. Eventually, the children arrived in Mexico, and the COMAR requested a separate asylum application from them. The parents challenged it before the Judiciary, but the final ruling, from the Supreme Court, was negative. The Court ruled that the Refugee Law Regulations have some requirements (such as the need for financial resources to bring family members) and they are constitutional; additionally, it ruled that any recognized refugee may choose which situation suits him/her better: family reunification with financial resources or separate applications (*Case Amparo en Revisión 385/2020*).¹⁷⁸ In this manner, separate applications for children whose parents have already got refugee status are not considered a barrier.

8. *Legal Status*: In legal terms, all persons looking for asylum or international protection are protected from the moment they submit the application. The Implementing Regulation connects the written submission (Article 21) with the protection (Article 22), but at least one judgment has agreed that oral requests are valid (*Case Complain 156/2018*).¹⁷⁹ In this manner, provided oral applications are legally allowed, they are legally protected from the very expression of looking for asylum. However, these legal provisions are not enough to protect asylum seekers from arbitrary practices. An additional source of protection could be provided by diplomatic representations, but there is no evidence about it.

9. *Specific Impact*: Children seem to suffer a higher impact. Pursuant to the terms of the legal decision mentioned in the previous section, they need to separately apply in case their parents (with status granted) cannot provide evidence of economic resources. The other option is that the family group arrives together, but sometimes this is not the best option, e.g., parents traveling by land in risky situations.

It can also be a matter of focusing: there are more NGO reports and judgments on children’s applicants than in relation to other groups¹⁸⁰, including national reports from human rights bodies.¹⁸¹

10. *Reach*: Little data is available on the components of this barrier, since it is made mostly of practices. Cases are also mostly collected by NGOs, based on a limited number of cases, with limited economic and human resources. The following are examples of the information collected by NGOs.

In relation to backlog and delays, an NGO estimated in 2020 that more than 70% of the applicants from 2018 and 2019 were still waiting.¹⁸²

Regarding the refusal to receive asylum requests at borders, e.g., NGOs refer to an “extended practice”.¹⁸³ So there is no number about how many migrants/asylum seekers are actually affected. Relating to violence, for example, a 2024 report mentions that “it has escalated”, together with kidnapping, but again with no

¹⁷⁸ SCJN, *Amparo en Revisión 385/2020*, judgment date of Dec. 2, 2020.

¹⁷⁹ 1st Collegiate Court in Criminal Matters of the 1st Circuit (City of Mexico), *Complain 156/2018*, date of 11 October 2018.

¹⁸⁰ Only for example: Plan International and Save the Children (2025), Unaccompanied Children Risks and violence along the migration route through Mexico. Report available here: <https://plan-international.org/uploads/2025/04/Unaccompanied-Children-Report-ENG.pdf>. UNICEF (2023), The Changing Face of Child Migration in Latin America and the Caribbean. Report. Retrieved from: <https://www.unicef.org/media/144741/file/Migration-Child-Alert-English-2023.pdf>. See also other reports already mentioned in previous sections.

¹⁸¹ CNDH-Mexico (2018), Informe Especial. La problemática de niñas, niños y adolescentes centroamericanos en contexto de migración internacional no acompañados en su tránsito por México, y con necesidades de protección internacional. Retrieved from: <https://www.cndh.org.mx/sites/default/files/documentos/2019-04/Informe-Ninez-Adolescentes-Centroamericanos-Migracion.pdf>

¹⁸² See: <https://asylumaccess.org/wp-content/uploads/2020/01/HOJA-INFORMATIVA-SOBRE-EL-ASILO-MEXICANO.pdf>

¹⁸³ IMUMI et al., 2023.

numbers.¹⁸⁴ In this manner, one report highlights, for example, that “the WOLA team listened to tales of detentions and abuses by the INM, police forces and military elements, even against migrant persons with official permits to be in the Mexican territory. Risks are higher for people without documents”.¹⁸⁵

In 2023, an NGO issued a report on how many people have been deported with pending asylum applications or having expressed concerns before the authorities. The report is based on 257 persons. On the other hand, all the persons “returned” in 2023 were, according to official information, 51,091 persons. Interestingly, the same report also notes that only in 2023, the COMAR had processed 140,812 asylum applications and issued 111,462 “*citatorios*” or emails with a date to submit an asylum application.¹⁸⁶ It has been so far its highest number, after having received almost 131,000 applications in 2021 and more than 118,000 in 2022.¹⁸⁷

After reading many of the available reports, this report concludes that procedural barriers are so diverse and extended than affect pretty much all persons seeking asylum in Mexico.

11. *Source.* Procedural barriers may be, as defined in the first section of “Procedural barriers”, formal or informal. Only some formal barriers are based on a legal source, whereas all the other are practices, many of them against the law.

The maximum period to take a decision on asylum applications is 45 working days, with several exceptions to extend it. The legal provision is in Article 24 of the Refugee Law:

“The Secretariat will analyse and evaluate all applications for recognition of refugee status and must issue, in each case, a written resolution, founded and motivated, within 45 working days from the day following the submission of the application.

For the preceding paragraph, the Secretariat will request an opinion on the conditions prevailing in the applicant’s country of origin from the Ministry of Foreign Affairs and other competent authorities established in the regulations with respect to the applicant’s background.

Said opinion must be issued within fifteen working days, counted as of the day following the day on which the same was received; if after said term, the Secretariat does not receive the requested opinion, it shall be understood that there is no opinion or information on the matter.

The term to issue the resolution may be extended for up to an equal period at the discretion of the Secretariat, only in the following cases:

- I. Lack of information regarding the facts on which the request is based;
- II. The lack of a translator or specialists to facilitate communication with the applicant;
- III. The impossibility of conducting interviews due to the applicant’s health conditions;
- IV. The request of the foreigner to provide elements to support his request, or
- V. Any other circumstance derived from an act of God or force majeure that makes it impossible for the Secretariat to carry out the procedure properly”

However, some official guidelines explicitly mention that the proceedings can take between 45 to 100 working days.¹⁸⁸ In addition, the same source highlights that the document issued in this first instance is valid only for 45 working days. Extension should be required before the COMAR.

¹⁸⁴ GTP (Grupo de Trabajo de Protección) (2024), “Actualización del análisis de protección”. Retrieved from: https://www.refworld.org/es/ref/inforreg/drcong/2024/es/149224?prevDestination=search&prevPath=/es/search?keywords=reglamento&order=desc&page=1&sm_country_name%5B%5D=M%C3%A9xico&sort=ds_created&result=result-149224-es

¹⁸⁵ WOLA, 2022, page. 12.

¹⁸⁶ IMUMI et. al, 2023.

¹⁸⁷ IMUMI et. al., 2023 and WOLA, 2022.

¹⁸⁸ https://help.unhcr.org/mexico/wp-content/uploads/sites/22/2022/04/Guia-solicitante_COMAR_2022.pdf

Among the formal barriers, the 30-day deadline and the obligation of a weekly signature (so living within the province is required) are stated either in the Refugee Law or in the Refugee Law Regulation Proceedings.

In relation to the deadline: Article 18 (Refugee Law) states “The foreigner who requests to be recognized as a refugee must submit his application in writing to the Secretariat within a period of 30 working days from the following working day to the one on which he has entered the country or, as the case may be, to the one on which it has been materially possible to submit it under the terms defined by the regulations.

In the case provided for in Article 13, Section III, the term to file the application will run from of the day following the day on which the facts referred to in said provision become known to the applicant.

If the applicant can’t submit the application in writing, the application shall be submitted verbally, and the applicant’s statements shall be recorded in a record. If the foreigner does not have the possibility of communicating verbally, the necessary measures will be taken to record the applicant’s statements in the corresponding record.

Likewise, an applicant will be considered to have abandoned his/her application when he/she moves, without the authorization of the Coordination, to a state other than the one in which he/she filed his/her application.

And relating weekly signatures: Article 24 (Refugee Law Regulations) states that “In the event that the applicant does not appear before the Institute, once the application has been registered, he/she must attend weekly before the Coordination or the Institute, on the day indicated to him/her.

The application process will be considered abandoned when the applicant does not attend the Coordination or the Institute for two consecutive weeks without a justified cause. Once the abandonment is determined, the foreigner will cease to be considered as an applicant, and the Institute must be notified or, as the case may be, the Institute will notify the Coordination.

In the event that a foreigner who has abandoned his/her application expresses his/her intention to file a new application, he/she must justify the reasons for the abandonment, which will be evaluated by the Coordination in order to determine his/her admission.

Likewise, an applicant will be considered to have abandoned his/her application when he/she moves, without the authorization of the Coordination, to a state other than the one in which he/she filed his/her application”.

The “*citatorio*” is not mentioned.

12. *Justification*: Regarding the backlog, the COMAR authority mentions many reasons behind it: an unprecedented increase in asylum applications, the earthquake in 2017 (which damaged the COMAR building in Mexico City), leading to the COMAR suspending all the deadlines in its offices spread across 25 Mexican states, and a lack of human resources.¹⁸⁹

Then, the “*citatorio*” was introduced due to a backlog after the first Migrant Caravan. Unfortunately, no report mentions the source for this figure. I found no official statement, document, or circular. The *citatorio* no longer exists, but there are other forms of delaying the application: it is the “pre-registration”. People register and wait for months to have a proper appointment to submit her/his application.

On the other hand, in 2024 the COMAR authority mentioned that the COMAR is on the brink of collapse, so they received “recommendations” from the Executive Branch (as if the COMAR would work totally apart from the Executive...). One of these recommendations was “be more accurate” at receiving applications: “The COMAR was neither created for those trying to reach the US nor for those without

¹⁸⁹ Source: interview included in <https://globalpressjournal.com/americas/mexico/mexicos-spike-asylum-applications-causes-long-delays-many-migrants-cant-afford-wait/es/>

other options”, a COMAR authority agreed.¹⁹⁰ In addition, he declared that by no means is there an “attrition policy”.¹⁹¹

In relation to weekly signatures, the Government refers to them as an asylum seeker’s “obligation”.¹⁹²

13. Domestic and International Reactions: NGOs are quite critical of procedural barriers, mainly focusing on informal barriers or extended practices. To a lesser extent, there is also some critical scholarship.¹⁹³

One of these reports mentions, for instance, that “the unprecedented increase in asylum applications in Mexico has meant that those arriving have found the asylum system overwhelmed, under-resourced, and with significant delays. Nowhere is this reality more evident than in Tapachula”.¹⁹⁴

Backlog and delay also permitted the implementation of shorter proceedings (“expedited proceedings”) as “pilot experiences” that may count as an intervention. With the UNHCR’s assistance, Mexico ran a pilot program that is presented as a “good practice”. Apparently, it is still running.¹⁹⁵ In general, Mexico has received support from the UN to strengthen its capacities.¹⁹⁶

14. Externalization: No evidence of externalization so far. Mexico had held meetings with Guatemala, but the (real) content and outcomes from the meetings are not clear.

15. Technology: Technologies are concentrated in the “migration system” and in detention facilities (e.g., biometric data).¹⁹⁷

The refugee system in Mexico uses a “pre-registry” system by means of an App. The COMAR coordinator announced it in June 2023.¹⁹⁸ There is no clear evidence whether this system was finally implemented. There does exist “COMAR Digital”, but it is only to check the application status: “the submissions continued being in person”.¹⁹⁹ The same source refers to technological transformations in the asylum procedures: file digitalization and the SIRE (“*Sistema de Información sobre Refugiados (SIRE)*”).

¹⁹⁰ See: <https://www.swissinfo.ch/spa/gobierno-mexicano-pidi%C3%B3-a-la-comar-ser-%22m%C3%A1s-afinada%22-en-otorgar-asilos%2C-seg%C3%BAn-su-titular/84646105>

¹⁹¹ In the original: “Por otra parte, Ramírez rechaza categóricamente que la Comar aplique, junto a otras autoridades, una “política de cansar” a los migrantes para que desistan de regularizar su situación. “Lo refuto totalmente”, asevera, y asegura que “nosotros no cansamos a nadie ni nos cansamos, es nuestra obligación, atribución y convicción”. Con la proximidad del adiós del presidente, Andrés Manuel López Obrador, para el 1 de octubre, Ramírez lamenta que el presupuesto de la Comar es “insuficiente”, a pesar de celebrar que el organismo ha trabajado “como nunca”. Source: <https://www.swissinfo.ch/spa/gobierno-mexicano-pidi%C3%B3-a-la-comar-ser-%22m%C3%A1s-afinada%22-en-otorgar-asilos%2C-seg%C3%BAn-su-titular/84646105>

¹⁹² Official web page: <https://www.gob.mx/comar/articulos/los-solicitantes-de-la-condicion-de-refugiado-tienen-derechos-y-obligaciones>

¹⁹³ Paris Pombo, 2022.

¹⁹⁴ WOLA, 2022, p. 15.

¹⁹⁵ Asylum Capacity Support Group (s.f), “México: Expedited Procedures”. Retrieved from : <https://acsg-portal.org/tools/mexico-expedited-procedures/>

¹⁹⁶ One of the reports refers that: “With UNHCR support, COMAR increased its processing capacity by 116 percent between 2020 and 2021, and has grown from 20,466 case determinations in 2019 to 38,054 in 2021. In December 2021, COMAR signed a new agreement with UNHCR that will allow COMAR to directly hire 230 staff members (under Mexican law, only state officials can make asylum determinations; that is, staff working for UNHCR cannot replace COMAR in this function).” WOLA, 2022, pp. 15-16.

¹⁹⁷ Red en Defensa de los Derechos Digitales (January 28, 2020), “La frontera en el cuerpo: registro biométrico en el contexto migratorio”. Retrieved from: <https://r3d.mx/2020/01/28/la-frontera-en-el-cuerpo-registro-biometrico-en-el-contexto-migratorio/>

¹⁹⁸ Florez, Rosa (June 1, 2023), “México planea lanzar una aplicación para que migrantes tramiten su solicitud de asilo”.

Retrieved from: <https://cnnespanol.cnn.com/2023/06/01/mexico-planea-lanzar-aplicacion-migrantes-solicitud-asilo-trax>

¹⁹⁹ UNHCR (September 09, 2024), “Solicitantes de asilo podrán consultar sus casos en línea a través de COMAR digital”.

Retrieved from: <https://www.acnur.org/mx/noticias/comunicados-de-prensa/solicitantes-de-asilo-podran-consultar-sus-casos-en-linea-traves-de>

PART 2: CASE LAW ANALYSIS

I. IDENTIFICATION OF BARRIERS IN THE CASE LAW

A. Description of the barriers in the case law

Pushbacks. Pushbacks and, in general, summary expulsions function as immediate barriers by preventing individuals from formally entering Mexico or by swiftly removing them without due process, thus obstructing their ability to seek asylum.²⁰⁰ In Mexico, this barrier adopts many forms, namely: **a. Rejection at borders:** The non-admission or rejection at borders (or lack of suspension of the Rejection Acts) impedes people from entering the territory and so from filing an asylum application in a system with territorial asylum only. **b. Hot expulsions (including collective expulsions):** That prevent people near the border from filling an asylum application, from receiving any legal advice to claim asylum, and ultimately, from getting a proper assessment of their situation. **c. Rejections at “Extended” Borders (Expulsions from Inland):** Rejections from inland function as an “extended” hot expulsion, but all over the Mexican territory, mainly through (migration) control checkpoints. It includes people in detention who experience “forced voluntary returns”, usually after signing “release” papers. **d. Collaborative Pushbacks:** Forced transfers of migrant (including asylum seekers) from different points within the Mexican territory, mostly from the North to the South.

Type of body: Supreme Court, Collegiate Circuit Tribunal, first instance.

Detention: Detention prevents people from applying, and usually there is neither information about asylum nor access to legal services in detention facilities. For applicants, the Release Form usually includes a withdrawal of their asylum application, even if people are not properly informed or aware of that effect. In Mexico, this extended barrier includes different forms of detention of children and adolescents, including families, although it is legally forbidden. Detention also interacts with other barriers. For instance, long detention periods provoke people to desist from filling asylum applications or from the applications already submitted. In legal terms, a more than 36-hour detention impairs personal liberty. Lack of proper living conditions also leads people to desist from submitting asylum applications or withdrawing from filled applications. There have been legal decisions issued on detention in general, detention of children, adolescents, and families, duration and deadline (36 hours), and living conditions in detention facilities.

Type of body: Supreme Court, Collegiate Circuit Tribunal, first instance.

Procedural barriers. Submission of asylum application and deadlines. The imposition of strict deadlines for asylum applications functions as a significant barrier to accessing protection. These limited timeframes, particularly the shorter ones, can prevent individuals fleeing persecution from effectively accessing the asylum system. Newly arrived individuals may be traumatized, lack information about the asylum process, or face logistical challenges in gathering necessary documentation and legal assistance within such a short period.²⁰¹ The deadline to apply is, in this manner, a formal (procedural) barrier that generally (some exceptions allowed) prevents people from filing an asylum application after the 30-day period has expired. The Supreme Court ruled on how the evidence regarding exceptions should be taken. In addition, oral asylum requests should be admitted. Rejection of oral asylum requests is also a procedural barrier, since it prevents people from enjoying the non-refoulement protection, particularly when facing forced returns.

Type of body: Supreme Court, Collegiate Court, first instance.

²⁰⁰ Lambertini Martinez, S.M. (2026). Ecuador National Report. Bologna. DOI: 10.6092/unibo/amsacta/8978.

²⁰¹ Lambertini Martinez, S.M. (2026) Ecuador Country Report, quoted, pp. 22- 23.

Procedural barriers. Mechanisms of physical attachment. The **weekly signature** and the obligation to **stay in the city where the claim was filed** are two mechanisms of physical fixation. The weekly signature is a procedural barrier that works by forcing people to stay in the city (or in the surroundings) where they have arrived, usually Chiapas, which is the poorest state of Mexico, to periodically sign after the asylum application. This fixation discourages people from continuing to wait for a decision that usually takes a long time. If people decide to move, the lack of a signature is legally taken as a withdrawal. On the other hand, remaining in the city where the application was filed is part of this procedural barrier that ultimately seeks to provoke withdrawal because people eventually move from the city where they are supposed to remain. An authorization to move (e.g., for medical reasons), however, may be required, but few people are aware of it.

Type of body: first instance.

Procedural barriers: Lack of Resources and Separate Asylum Application for Children arriving after their parents. It is a procedural barrier that prevents children of (already recognized) refugee parents who lack sufficient vital resources from being reunified, so they must apply individually. Forced them to travel alone (since asylum is territorial) and face the bureaucratic process themselves, have their own criteria for applying for asylum, or give up seeking asylum and live apart from their parents.

Type of body: Collegiate Court.

Procedural barriers: Removal Orders with Pending Asylum Applications. A procedural barrier that provokes unintentional withdrawals since, once removed, people stop signing. Of course, it also breaches the non-refoulement principle.

Type of body: collegiate regional rooms.

No cases related to one or more selected barriers

To date, a review of judicial decisions has not revealed any direct rulings specifically addressing some of the barriers. This does not mean that the barrier was not contested, but rather that there is no substantive ruling on the matter. Most likely, the claims were dismissed at the trial/first instance court level.

Pushbacks: forced returns of people in detention and collaborative pushbacks. No legal decision was found. Once in detention, there is generally no access to legal aid, even when it is a practice against the law. It depends on the NGO's access to the detention facilities; there is actually a legal case litigated by an NGO that was not allowed to enter the migration facilities. It is the *case 16/2019* decided by the Supreme Court in favour of the NGO. On the other hand, "collaborative pushbacks" is a forced transfer of people, which difficult access to legal aid or being contacted/located to follow the case.

Walls and Fences. This barrier includes militarization and physical barriers to access to the train. NGOs usually refer to militarization and its effects in their reports, but there is no legal decision directly contending it.

Procedural barriers: asylum submissions or expressions of interest rejected at borders, other disincentives for applying, backlog and the "*citatorio*" count on no legal decisions. Many disincentives are narrated in NGO reports, but have not been "translated" into substantial case law. The problem here may be located in the form a legal claim should be made: the plaintiff needs to provide evidence of a human rights violation (to go before the constitutional courts) or an evident nullity in their asylum decision (to go before the administrative courts). Nullity firstly requires a procedure and then a decision, so it is difficult to articulate an administrative legal claim. The other option is a constitutional court, and it is probably hard to connect a practice against the law (e.g., how to collect the evidence) with a human rights violation, particularly when an authority is involved, and people may be reluctant to report.

B. Institutional settings

Migration (broadly speaking) matters may be submitted to federal courts, either constitutional courts (under the legal figure of "*amparo*") or federal administrative courts that are not part of the Judiciary.

While the first ones run “constitutional control” tests, administrative courts run “legality control” tests.²⁰² The first option is widely the most common for migrant and refugees, since the other is highly technical and requires an administrative procedure. Decisions at the second instance (“*tribunal colegiado de circuito*”) can then be reviewed by the Supreme Court of Justice. In some cases, the district courts, instead of deciding on an appeal, ask the Supreme Court to assume competence on the case.

For a more detailed description, please see section III.

Pushbacks:

- **Second instance judicial body:**
 - *Segundo Tribunal Colegiado en Materia Administrativa del Segundo Circuito*. 2nd Collegiate Court in Administrative Matters of the Second Circuit
 - *Pleno en Materia Penal del Primer Circuito*. Plenary in Criminal Matters of the First Circuit.
 - *Primer Tribunal Colegiado en Materia Penal del Primer Circuito (Ciudad de México)*. First Collegiate Court in Criminal Matters of the 1st Circuit (City of Mexico)
 - *Décimo Octavo Tribunal Colegiado en Materia Administrativa del Primer Circuito*. 18th Collegiate Court in Administrative Matters of the 1st Circuit.
- **Constitutional Court:** *Suprema Corte de Justicia de la Nación*. Supreme Court of Justice of the Nation.

Detention:

- **Second instance judicial body:**
 - *Vigésimo Primer (21º) Tribunal Colegiado en Materia Administrativa del Primer Circuito* 21st Collegiate Court in Administrative Matters of the 1st Circuit
 - *Cuarto (4º) tribunal Colegiado en Materia Administrativa del Segundo Circuito* (4rd Collegiate Court in Administrative Matters of the 2nd Circuit)
 - *Primer tribunal Colegiado en Materia Administrativa del primer Circuito* (1st Collegiate Court in Administrative Matters of the 1st Circuit)
- **Constitutional Court:** Supreme Court of Justice. *File 444/2021* (Judgment of May 31, 2023), *File 249/2021* (Judgment of March 30, 2022), *File 459/2024* (Judgment of November 27, 2024). Regarding living conditions in detention facilities: *Complain 465/2022*. Regarding the duration of the detention: *File 388/2022*, judgment of March 15, 2022. Supreme Court of Justice.

Detention of children, adolescents and families

- **First instance judicial body:**
 - *File 71/2018 IV II “I.A.R. y sus hijas V.L.C.A.; N.N.R.A.; y B.L.R.A”*. First Instance District Court Number 5, Tabasco. Judgment of April 30, 2018
- **Second instance judicial body:**
 - Collegiate District Court: *Complain 205/2019*.
 - Collegiate District Court: *Complain 227/2021*.
- **Constitutional Court:** Supreme Court of Justice. *File 249/2021* (Judgment of March 30, 2022).

²⁰² Pérez Bravo, M. (2021), La protección de los derechos de las personas migrantes en el juicio contencioso administrativo. IUS. Revista del Instituto de Ciencias Jurídicas de Puebla, México. Vol. 15, núm. 47, enero - junio 2021, pp. 133 -155.

Procedural barriers: deadline to apply

- **First instance judicial body:**
 - *File (Amparo) 1616/2018: Juzgado Quinto de Distrito del Estado de Tabasco.* District Court 5th of Tabasco State.
 - *File (amparo) 1525/2019: Juzgado Noveno de Distrito en Materia Administrativa de Ciudad de México.* District Court 9th in Administrative Matters of the City of Mexico.
 - *File (amparo) 1424/2019: Juzgado Segundo de Distrito en Materia Administrativa de la Ciudad de México.* District Courts 2nd in Administrative Matters of the City of Mexico.
 - *File 1951/2019.* Juzgado 1ro del Distrito del Estado de Tabasco. 1st District Courts of the Tabasco State.
 - *File 1275/2019_VIII. Juzgado de Segundo Distrito de Amparo y Juicios Federales del Estado de Chiapas.* Court of Second District in “Amparo” and Federal Suits of the Chiapas State
- **Constitutional Court:** Suprema Corte de Justicia de la Nación (SCJN).
 - *File 353/2019,* Supreme Court of Justice, Judgment of October 16, 2019.
 - Other cases without specific ruling (solved by mentioning legal decision in *file 353/2019*): *File 651/2019* (judgment of December 12, 2019). *File 593/2019* (Judgment of November 5, 2019), and *File 6268/2019* (Judgment of February 6, 2020).
 - Other cases similar to the ruling in *File 353/2019*: *File 529/2019* (Judgment of October 23, 2019); *File 437/2019* (Judgment of October 23, 2019).
 - “*Tesis aislada*” 2a. III/2020 (10a.). The 30-day deadline is constitutional (Supreme Court). Segunda Sala de la SCJN, Gaceta del Semanario Judicial de la Federación, Libro 75, febrero de 2020, Tomo I, p. 957
 - Also: “*Tesis aislada*” 2a. IV/2020 (10a.). The 30-day deadline should take exceptions on minimum requirements of evidence. Supreme Court.

Procedural barriers: weekly signature and obligation to stay in the city

- **First instance judicial body:**
 - *File 1951/2019 -VI-14. “D.M.C.Z. and daughters”.* First Instance District Court n. 1 of Tabasco. Judgment of February 7, 2020.
 - *File. 1275/2019-VIII. “V.G.R. and their children J.F.S.G., B.Y.S.G., D.A.S.G., N.B.P.R., M.Y.S.G. y J.R.S.G”.* First Instance District Court number 2 in Amparo and Federal Matters, Chiapas. Judgment of February 17, 2020. (*Juzgado Segundo de Distrito de Amparo y Juicios Federales en el Estado de Chiapas*)

Procedural barriers: Lack of Resources and Separate Asylum Application for Children arriving after their parents

- **Second instance judicial body:**
 - *File D.A. 172/2017.* 5th Collegiate Court in Administrative Matters of the 1st Circuit. Judgment of October 25, 2017.

Procedural barriers: Oral request of asylum

- **Second instance judicial body:**
 - Collegiate Court: *File 271/2016.*

- “*Tesis aislada*” I.18o.A.49 A (10a.). Tribunales Colegiados de Circuito, Gaceta del Semanario Judicial de la Federación, Libro 56, Julio de 2018, Tomo II, p. 1437

Procedural Barriers: Removal Orders with Pending Asylum Applications

- **Second instance judicial body:**

- *File 38/19-26-01-5 “C.M.L. (B.Y.M.L.)”*. Federal Court on Administrative Justice, Regional Room of Tabasco (Sala Regional de Tabasco del TFJA). Judgment of April 23, 2019.
- *File 27124/16-17-08-9* (an appealed administrative decision on asylum is also covered by the *non-refoulement* principle). “*A.I.L.H.*”. Federal Court on Administrative Justice, 8th Metropolitan Regional Room. Judgment of July 7, 2017.

Executive bodies involved in asylum access adjudication

According to the official website, the “Mexican Commission for Refugee Assistance (COMAR) is the Mexican government agency responsible for receiving, reviewing, and deciding on applications for refugee status in Mexico. It was established on 22 July 1980. COMAR operates nationwide and is the only authority with the legal authority to conduct the procedure for recognizing a person as a refugee.²⁰³ In this manner, the COMAR (*Comisión Mexicana de Ayuda a Refugiados*) is in charge of receiving the applications in most cases, processing them, and deciding if refugee status or complementary protection is going to be granted. However, it is not in charge of granting residences, visas, transit permits, or any other kind of permit.

Website: <https://www.gob.mx/comar>

The INM (*Instituto Nacional de Migraciones*, National Immigration Institute) is in charge of receiving applications in cities where the COMAR counts on NO offices. The INM has 32 offices throughout the Mexican territory.²⁰⁴ It also issues a regular status once a decision on the asylum application is made. As the migration authority, it is in charge of the detention facilities.

Website: <https://www.gob.mx/inm>

International or regional organizations involved in asylum access adjudication

International organizations are not involved in adjudication itself, but they participate in other ways. The UNHRC supported the launch of a pilot program to expedite processing. There are other signed agreements whose content is unclear (“develop mechanisms”),²⁰⁵ the last of them was signed in May 2025.²⁰⁶ In addition, the “accommodation offer” (facilities) was expanded with the organisation’s financial support. The official statements only mention that the UNHRC provided “support” for existing “accommodation facilities”.²⁰⁷ The same source indicates that UNHRC has funded more personnel to the COMAR and provided technical assistance, e.g., by digitalisation of asylum claims.

At any event, no international or regional organization has litigated or been required or found responsible in a legal case.

C. Legal context and legal system

The legal system in Mexico is based on civil law. The applicable legal framework (laws, decrees), the national constitution, and international human rights treaties are commonly referenced in case law. In

²⁰³ See: <https://www.gob.mx/comar/que-hacemos>

²⁰⁴ See: <https://www.gob.mx/inm/acciones-y-programas/horario-y-oficinas-del-inm>

²⁰⁵ <https://www.acnur.org/noticias/comunicados-de-prensa/acnur-oim-y-unicef-refuerzan-su-compromiso-con-la-ninez-migrante-y-refugiada-en-mexico>

²⁰⁶ <https://www.jefaturadegobierno.cdmx.gob.mx/comunicacion/nota/firma-gobierno-de-la-ciudad-de-mexico-convenio-con-el-acnur-en-favor-de-poblacion-migrante>

²⁰⁷ <https://www.acnur.org/mx/sites/es-mx/files/2024-06/Resumen Ejecutivo - Informe Anual ACNUR México 2023.pdf>

many cases, particularly in the Supreme Court decisions, human rights standards head the argument, and then the argument is based on the legal (domestic) sources.

Reference to decisions from international or supranational tribunals

References to decisions from international or “supranational” courts are more frequent in Supreme Court decisions. For instance, in *file 353/2019* (judgment of 16 October 2019), the Supreme Court refers to several sources from the Inter-American System of Human Rights (Advisory Opinion 21/2014 and Advisory Opinion 18/03; *Velex Looor v. Panama* case; “*Pacheco Tineo v. Bolivia*” case), a decision from the Inter American Commission of Human Rights is also included (footnote 37, page 65): *John Doe et. Al vs. Canada* (no further references about this case are provided). There is also a decision (in the same judgment) from the European system of Human Rights quoted in footnote 17 (page 50): *Jabari vs. Turkey*, decision of 10 July 2000. They are all the references included in the decision.

International human rights standards established by supranational courts

Human Rights standards are frequently mentioned, particularly but not exclusively by the Supreme Court: in a way, the Supreme Court makes a more extensive quotation of supranational courts’ decisions and standards.

These standards are mostly used to “interpret” the extent of obligations undertaken by the State.²⁰⁸ Standards from the Inter-American Court of Human Rights are more commonly quoted, followed by standards from the Inter-American Commission of Human Rights.

In *File (“Amparo por Revision”) 665/2019* (regarding the granting of the “CURP”, a sort of social security number, to asylum seekers), the Supreme Court clearly states that: “to develop the content of the right to seek and receive asylum under a refugee status, and consequently, the guidelines that the Mexican State must comply with (through legislation and administrative acts) in its development of a comprehensive national migration policy, it will take into account what has been established by the Inter-American Court, in both its consultative and contentious work, as well as what has been determined by different international organizations specialized in the matter”.²⁰⁹ In this case, the Supreme Court extensively cites supranational decisions and documents.

Then, in a legal case regarding detention of children and adolescents in migration facilities (case 1), the circuit court cites the main standards from the IACtHR Advisory Opinion on Unaccompanied Children (OC 21-2014), together with the International Convention on the Rights of the Child.²¹⁰

D. Laws and norms at the domestic level

Mexico is a signatory country of both the 1951 Refugee Convention and the 1967 Protocol, and they have played a role in some legal cases.

Mexico became part of the 1951 Refugee Convention in August 2000, and an interpretative declaration was included: “The determination and Granting of the status of refugee shall always correspond to the Government of Mexico, in accordance with its legal provisions in force, notwithstanding the definition of refugee provided for in Article 1 of the Convention and I of its Protocol”.²¹¹ Its real implications are not clear (beyond a sort of sovereignty reservation), but the Refugee Law (its last amendment occurred in

²⁰⁸ García, Lila (2026), Between Sinking Ships and Collective Wins. Human mobility standards from the Inter-American System of Human Rights in domestic adjudication: the Argentinean and the Mexican Supreme Courts in perspective. *World Comparative Law (WCL)/Verfassung und Recht in Übersee (VRÜ)*. (forthcoming).

²⁰⁹ Mexican Supreme Court of Justice, Amparo por Revision 665/2019, judgment of Sept. 22, 2021, parr. 53. Retrieved from: <https://www2.scjn.gob.mx/ConsultasTematica/Detalle/260776>

²¹⁰ MEXICO, Circuit Court (21st Collegiate Court in Administrative Matters of the 1st Circuit), *File Complain 205/2019*, appellate instance, June 6, 2019.

²¹¹ See: <https://www.ordenjuridico.gob.mx/TratInt/Derechos Humanos/D31.pdf>

2014) did not explicitly mention either the 1951 Convention or the 1967 Protocol. In this manner, the role is clearer in adjudication.

In a legal decision regarding detention (*File 227/2021*), the circuit court took into account Article 31 of the 1951 Refugee Convention to argue that detention based on an irregular entrance is exceptional.²¹²

In another case (*File “Amparo en revisión” 7/2020*), relating collective or *prima facie* determination of refugee status for children in the Migrant Caravan), the 1951 Refugee Convention and the 1967 Protocol (together with other documents such as the Cartagena Declaration) were part of the “parameter of control” that the Supreme Court takes into account to analyse state’s responsibility towards children in the Migrant Caravan (par. 28).²¹³ However, there is another legal decision (*File “Amparo en Revisión” 385/2020*) in which the 1951 Refugee Convention is quoted to support the Mexican Refugee Law and to declare that the challenged Articles were constitutional and “conformed” (“*acordes*”) to the Refugee Convention (parr. 46).²¹⁴

The principle of non-refoulement

The *non-refoulement* principle may be considered as implicitly recognised at the constitutional level. Since 2016, the Mexican Constitution has recognized the right to asylum in the following terms:

“Every 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 shall regulate their procedures and exceptions” (Article 11).²¹⁵

Then, the non-refoulement principle is mentioned in the Refugee and Complementary Protection law in Article 5 (as a principle, without further details), in Article 6, and then regarding extraditions, although with no reference to, for instance, the 1951 Refugee Convention.²¹⁶ Article 6 is the most relevant:

“No applicant or refugee may in any way be rejected at the border or returned in any way to the territory of another country where his/her life is in danger for the reasons indicated in Article 13 of this Law, or where there are well-founded reasons to consider that he would be in danger of suffering torture or other cruel, inhuman or degrading treatment or punishment. The foreigner who is granted complementary protection may not be returned to the territory of another country where his life is in danger or where there are well-founded reasons to consider that he would be in danger of being subjected to torture or other cruel, inhuman or degrading treatment or punishment”.

The Refugee Regulations only add, regarding asylum seekers, that “once the application has been filed, the applicant may not be returned to his country of origin. The Coordination, without prejudice to the right to *non-refoulement* of the applicants, shall request to the Immigration authority (INM), in each case and in writing, to refrain from taking measures to return the applicant to his country of origin, as well as **not to provide information or notify the consular or diplomatic authorities** of the country of origin unless there is evidence of the express consent of the applicant, until the request for recognition of refugee status is resolved” (Article 22, emphasis added).

Finally, the best example of the *non-refoulement* principle in adjudication is provided by case *File 271/2016 “amparo directo”*. The court (a district court), after considering that oral asylum requests are valid, provides several sources for the principle. Firstly, it reproduces the 1967 UN Declaration on Territorial Asylum (Articles 1-4: *yes, quotations tend to be literal and quite extensive*); Article 4 mentions the principle. Then the

²¹² MEXICO, 4rd Collegiate Court in Administrative Matters of the 2nd Circuit, *File 227/2021*” (queja), judicial, appeal instance (administrative matters).

²¹³ Supreme Court of Justice, *File (“Amparo en revisión”) 7/2020*, appeal instance, Feb. 16, 2022.

²¹⁴ Supreme Court of Justice, *File (“Amparo en Revisión”) 385/2020*, supreme instance (constitutional), Dec. 2nd, 2020.

²¹⁵ See: <https://www.supremacorte.gob.mx/sites/default/files/cpeum/documento/2020-06/CPEUM-011.pdf>

²¹⁶ Article 53: (...) The Foreign Affairs secretary shall issue its opinion during the extradition procedure, shall issue its opinion as to whether or not the extradition request is in accordance with the safeguarding of the principle of non-refoulement and, if so, the actions that may be appropriate in its opinion, in order to comply with said principle.”

court quotes Resolution 45/140-UNHCR (1990) and Resolution 52/103-UNHCR Report (1998), both containing references to the principle, to be finalised by saying that:

“From the already mentioned norms a principle of good faith derivates, together with the fundamental premise of facilitating access to the institution of asylum, freeing the applicants from rigid formalisms and attending to the petitions in a rapid manner, making the core of the right in question effective, avoiding the practices of expulsion or return of the asylum seekers, at least until the country determines whether or not the granting of asylum is justified, or if it must, in any case, deliver the applicant to another country, through the figure of extradition. These norms are part of the international legal order in force in Mexico (...), and they have acquired a mandatory relevance and application, given their human rights content, and by virtue of the express commandment that was recently incorporated into Article 11 of the Constitution”.²¹⁷

The right to asylum

The right to asylum is clearly recognised at the constitutional level, in Article 11. As it was mentioned above, since 2016, the Mexican Constitution recognises the right to asylum in the following terms: “Every 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 shall regulate their procedures and exceptions” (Article 11).

However, the Refugee, Complementary Protection, and Political Asylum law provides a specific interpretation of asylum: political asylum. Rather than an exception, it belongs to the regional diplomatic tradition of Latin American countries. In this manner, the Mexican Refugee Law defines “all asylum” as “political” (Article 2). Granting or not the “Political asylum” competes to the Foreign Affairs office (Article 14*bis*). In short, the law refers to three categories that may be granted: “refugee”, “(political) asylum” and “complementary protection”. Interestingly, case law refers to “asylum” in the regular sense, as it is internationally understood.

Then, the Refugee Law recognises some principles that are introduced mostly as the state’s obligations: besides non-refoulement, there are other principles: non-discrimination, best interests of the child, family unit, non-sanction for irregular entry and confidentiality (all in Article 5). Correlative obligations are mentioned in Articles 6 (already quoted), 7 (“no sanction shall be imposed for irregular entrance...”), 8 (measures to avoid discrimination shall be taken), 9 (refugee recognition shall take into account the family unit and the best interest of the child), 10 (information provided shall be treated as confidential). Then, the wording is again phrased as, broadly speaking, the state’s obligations instead of direct rights: in case of detention, “measures to guarantee” communication with his/her legal representative “shall be taken” (Article 21).

There is a recognised right to ask for asylum (Article 11: to ask for refugee, strictly talking), to receive timely and free information (Article 19). Another right recognised as such is “the right to apply independently” for family members, in case the main refugee status granted is cancelled (Article 38). There are some entitlements regarding the cancellation of the status (information, translator: Article 40), and finally, a whole Article (44) regarding rights beyond the procedure:

“Article 44. Due to the conditions that refugees experience when leaving their country of origin with respect to other foreigners [it seems to be a sort of justification], they should receive the greatest possible facilities for access to the rights and guarantees enshrined in the Political Constitution of the United Mexican States and the human rights instruments duly signed and ratified by the Mexican State, in accordance with the applicable provisions, among them: I. To receive support from public institutions, in the exercise and respect of their rights; II. To receive health services; III. To receive education and, where appropriate, the recognition of their studies; IV. To exercise the right to work, being able to engage in any activity, provided it is lawful, without prejudice to the legal provisions applicable to the matter; V. To obtain the identity and travel document

²¹⁷ MEXICO, 18th Collegiate Court in Administrative Matters of the 1st Circuit, *File 271/2016 (“amparo directo”)*, judicial instance, May 8, 2017.

issued by the Ministry of Foreign Affairs; VI. To request family reunification; and VII. Obtain the migratory document issued by the Secretariat, which accredits its condition of stay as a permanent resident”.

Finally, the Supreme Court has interpreted that getting a “CURP” (it is a sort of social security number) is also a right of asylum seekers or humanitarian visa holders.²¹⁸

Sources of international refugee law that are relevant to asylum access adjudication

The most relevant sources in Mexico’s adjudication, pursuant to the current state of research, are the Inter-American developments regarding asylum and migration standards. Even though they are not, in a strict sense, “international refugee law sources”, they are more frequently mentioned than the 1951 Refugee Convention and its 1967 Protocol. Finally, a third source is the UNHCR guidelines. The judgment in *File 353/2019* about the deadline for filing asylum applications, for instance, emphasizes the importance of accessing effective proceedings as a guarantee established in the “Note of Determination of Refugee Status under International Instruments” of 24 August 1977, UNHCR.

Other human rights obligations

There are several human rights instruments applicable and relevant to this jurisdiction. The American Declaration on Human Rights (1948) includes a “right of asylum” in the following terms:

“Article XXVII. Every person has the right, in case of pursuit not resulting from ordinary crimes, to seek and receive asylum in foreign territory, in accordance with the laws of each country and with international agreements”.

On the other hand, the Inter-American Convention on Human Rights acknowledges, in the scope of the right of freedom and movement (Article 22) that “Every person has the right to seek and be granted asylum in a foreign territory, in accordance with the legislation of the state and international conventions, in the event he is being pursued for political offenses or related common crimes” (section 7).

On these bases, the contentious and advisory opinions from the Inter-American Court on Human Rights have been built. Regarding advisory opinions: the Advisory Opinion 18/03 on the Legal Condition of Undocumented Migrants, the Advisory Opinion 21/2014 on Unaccompanied children in the context of migration, the AO 25/2015 on Asylum as a Human Right and Its Protection within the Inter American system and more recently, the AO on Climate Emergency and Human Rights (32/25) also included a full section on the rights of persons mobilised due to climate change.

Mexican courts also mention the Global Compact.²¹⁹

Finally, Mexico is also part of the International Pact of Civil and Political Rights and its Human Rights Committee. However, this body’s “jurisprudence” has received little attention from the Mexican courts.

Other obligations stemming from general public law, criminal law, humanitarian law, civil law

The Cartagena Declaration, for instance, is binding on the basis of customary law and is also mentioned in several rulings. Its role consists of expanding the interpretation provided by the 1951 Refugee Convention to protect other people. There is a *contradiction of thesis* (293/2011),²²⁰ issued by the Supreme Court, that has stated that all international treaties are mandatory for Mexican courts. The judgment in *File 07/2020* (judgment of February 16, 2022) explicitly mentions, after referring to the *thesis* 293/2011, that “the Cartagena Declaration, together with the 1951 Refugee Convention and its Protocol, are part of the instruments to be considered in a constitutional test”.²²¹

²¹⁸ Supreme Court, file 665/2019, quoted.

²¹⁹ Supreme Court, File 665/2019, quoted.

²²⁰ See the thesis here: https://www.scjn.gob.mx/derechos-humanos/sites/default/files/sentencias-emblematicas/sentencia/2020-12/CT_293-2011.pdf

²²¹ Original wording: “El presente recurso de revisión plantea preguntas constitucionales de gran relevancia para la doctrina jurisprudencial de esta Primera Sala; en el fondo, exige de los integrantes de este Tribunal explorar los límites de la discrecionalidad política que tradicionalmente se ha reconocido a favor del Poder Ejecutivo en materia migratoria frente al contenido normativo de principios constitucionales, que en los últimos años se han removido gradualmente de ese ámbito, para sustraerse como contenido de protección judicial, como son los derechos de los niños y las niñas, así

Then, the Supreme Court of Justice's judgment in *File 186/2023* refers the Cartagena Declaration in the following terms: "From reading of the [legal] initiative that [ended being the Refugee Law], it is clear the Mexican state's intention to continue advancing in the protection of human rights of refugees and in complementary protection, based on the provisions of the 1951 Refugee Convention and its Protocol as well as the expanded definition of the Cartagena Declaration on Refugees" (paragraph 100). Furthermore, the court also refers that "the Cartagena Declaration on Refugees, while recommending States to adopt the expanded definition, also urged them to ratify and adhere to the Convention relating to the Status of Refugees and its 1967 Protocol, which reflects, at least implicitly, that the definitions contained therein cannot, in principle, be understood as contradictory or mutually exclusive".²²²

On the other hand, there are also some regional treaties that belong to the "traditional and generous"²²³ diplomatic protection recognised within America Latina, but they are scarcely mentioned. The most recent seems to be the Convention on Diplomatic Protection signed in 1954;²²⁴ there are previous conventions from 1928, 1933, and 1939. *Case File 271/2016*, decided by a Collegiate Court on 8 May 2017, includes references to the 1933 Montevideo Convention and its right to asylum. It is a quotation to illustrate how extensively the right to asylum is recognised within Latin America.

Membership in a regional or other international organization

Mexico is part of the Organization of the American States (OAS), which counts on a body (the Inter-American Commission of Human Rights) that eventually became part of the so-called Inter-American System of Human Rights. This system also includes the Inter-American Court on Human Rights, established by the American Convention on Human Rights.

The role of these two bodies, especially the Inter-American Court, has been crucial in the field of asylum. In general, the Inter-American system of human rights has developed a large body of jurisprudence and advisory opinions on human mobility and a particular interest on asylum. For instance, the Advisory Opinion 25/2018 is on asylum.

Besides that, there are no legal cases involving or mentioning other regional treaties so far. But there exists an Integral Regional Framework for Protection and Solutions (it is not a "membership" as this item requires) which seeks to offer a "coordinated answer" to "forced displacement".²²⁵ Signature members (not sure if the agreement is a formalised international treaty) are Belize, Costa Rica, El Salvador, Guatemala, Honduras, Mexico, and Panama. This Framework, pursuant to the Supreme Court, "is going to be especially relevant in considering the appeal, because from that framework, along with national legislation and administrative acts, the Mexican State has operationalised the right to asylum under the status of a refugee person".²²⁶

como cierto conjunto de derechos de los migrantes, especialmente el de asilo y el estatuto de refugiado, reconocidos respectivamente en los artículos 4 y 11, segundo párrafo, 44 de la Constitución Federal, así como en diversos tratados internacionales, como son los artículos 1945, 22.7 y 22.846 de la Convención Americana sobre Derechos Humanos, y 22 de la Convención sobre los Derechos del Niño⁴⁷, así como la Convención sobre el Estatuto de los Refugiados de 1951 y su Protocolo de 1967, en relación con la definición regional de la Declaración de Cartagena, que, de conformidad con lo resuelto por el Pleno de esta Corte en la contradicción de tesis 293/2011, forman parte del parámetro de control constitucional" -par. 170.

²²² Supreme Court, *File 183/2023*, judgment of February 21, 2024, paragraph 103.

²²³ See the collective work on the duality and convergences of "asylum" and "refuge" in Latin America:

<https://www.corteidh.or.cr/tablas/22563.pdf>

²²⁴ See text here:

<https://www.acnur.org/fileadmin/Documentos/BDL/2002/0038.pdf?file=fileadmin/Documentos/BDL/2002/0038>

²²⁵ "The MIRPS is a concrete application of the Global Compact on Refugees, which encourages regional cooperation among countries of origin, transit and destination for a greater responsibility sharing in matters of prevention, protection and durable solutions. It also entails a participatory approach by directly involving people with protection needs and populations impacted by violence and insecurity. This mechanism also integrates cooperating member states in the Support Platform and works along regional and international organizations committed to the humanitarian and development agenda". Webpage. Retrieved from: <https://mirps-platform.org/en/what-is-the-mirps/>

²²⁶ Mexican Supreme Court of Justice, *Amparo por Revision 665/2019*, judgment of Sept. 22, 2021, parr. 63. Retrieved from: <https://www2.scjn.gob.mx/ConsultasTematica/Detalle/260776>

The role of soft law in asylum access adjudication

UNHCR guidelines are commonly quoted. In the case File (*Amparo por Revision 665/2019*, already quoted), the Supreme Court refers to the content of a right to asylum based on “*Comité Ejecutivo del Alto Comisionado de las Naciones Unidas para los Refugiados, Determinación del Estatuto de Refugiado, No. 8 (XXVIII) (1977)*”. UNHCR’s guidelines and standards are frequently integrated into the Mexican legal framework by the federal Judiciary. Probably the most cited in legal cases is the “Guidelines on the criteria and standards applicable to the detention of asylum seekers and alternatives to detention (2012)” (*File 353/2019; File 07/2022*). Finally, different “Conclusions” of the Executive Committee of the UNHCR were usually quoted: Conclusion 15 (1979), Conclusion 93 (2002), Conclusion 100 (2004).

E. Legal standing

Mexico lacks “migration” or “asylum” courts in a proper sense. The writ of Amparo (administrative jurisdiction) and nullity action against administrative decisions are the two main remedies to bring cases before the judiciary. To a lesser extent, there are also actions before the criminal courts.

Amparo actions are, by far, the most employed remedy to challenge most barriers, and organizations often use amparo as a tool for strategic litigation to establish new judicial criteria and standards of interpretation for migration and refugee laws. In general, in the Mexican legal system, the writ of Amparo (*juicio de amparo*) is the primary judicial mechanism for the protection of human rights recognized in the Constitution and international treaties. It serves as a check on authority, allowing individuals to defend themselves against laws or acts of authority that interfere with their fundamental rights.²²⁷ In addition, it is a legal tool that allows suspensions (of acts, decisions, etc.), a particularly critical issue in rejection at airports and removals.

Two distinct types of amparo actions are usually identified. The “*Amparo Indirecto*” (Indirect Amparo) typically involves two instances: it is first heard by a District Judge, and their decision can generally be challenged through a recourse of review (*recurso de revisión*) before a Collegiate Circuit Tribunal. It is designed to challenge acts that violate fundamental rights, such as arbitrary detention, or laws that cause prejudice simply by entering into force. The “*Amparo Directo*” (Direct Amparo) is generally a single-instance process heard by Collegiate Circuit Tribunals against final decisions that end a trial, such as criminal sentences or administrative rulings. Exceptional reviews by the Supreme Court are permitted only if the case presents a novel constitutional issue.

In the context of migration and asylum claims, the amparo is frequently used to challenge detention, particularly when it exceeds the constitutional limit of 36 hours. The Supreme Court has ruled that judges in administrative matters (rather than criminal) are competent to hear amparos against orders of presentation or lodging in migration stations. In cases of imminent deportation, expulsion, or threats to life, the court can decree a “*suspensión de plano*” (automatic or summary suspension). This is an immediate stay of execution ordered upon admitting the demand, often without a specific request from the party, to prevent the authority from executing an act that would cause irreparable harm. Finally, the Amparo serves as a final judicial review for those denied refugee status.²²⁸ While applicants generally must first exhaust administrative remedies (like the *recurso de revisión* before COMAR and a nullity trial before the Federal Court of Administrative Justice), they may bypass these and go directly to amparo if there is a risk of deportation or loss of life.

On the other hand, the nullity trial (*juicio de nulidad*), officially known as the contentious administrative trial (*juicio contencioso administrativo*), is a jurisdictional mechanism used to challenge the legality of acts and resolutions issued by the Federal Public Administration, including those from migration and refugee authorities. It is conducted before the Federal Court of Administrative Justice (*Tribunal Federal de Justicia*

²²⁷ Poder Judicial de la Federación (2024), *II Informe de Labores Poder Judicial de la Federación*, Mexico.

²²⁸ Ortega Velázquez, Elisa, 2022, quoted.

Administrativa — TFJA).²²⁹ Unlike the *juicio de amparo*, which focuses on constitutional violations, the TFJA primarily reviews whether an administrative act adheres to the principle of legality.

Regarding migration and asylum matters, the nullity trial is a second or final revision for COMAR or INM's decisions. As a second instance of appeal for those whose "*recurso de revision*" (internal review) was denied by the Mexican Commission for Aid to Refugees (COMAR), the TFJA has the power to nullify the denial and order a repositioning of the procedure or a new analysis of the refugee status.²³⁰ On the other hand, it is also useful to challenge INM acts, for instance, fines imposed by the National Migration Institute, denials of residency changes, or orders for assisted return and deportation.

Finally, it is worth mentioning that the trial is highly technical and requires specialized legal counsel.²³¹ Most migrants cannot afford these services, and while civil society organizations often provide help, their capacity is limited. Additionally, the trial can be slow, which is a major deterrent for migrants detained in migration stations who must remain in custody while the case is resolved.

F. The influence of international Courts

Jurisprudence of supranational courts shaping procedural protections or interpretation

There is a large influence from the Inter-American Court of Human Rights on domestic adjudication (not limited to the Supreme Court of Justice), but not from other international bodies such as the Human Rights Committee. Once involved, there is not a mere quotation in a footnote; on the contrary, the courts extensively refer to key cases from the Inter-American Court. In the Supreme Court, for instance, the court has ruled, during 2005-2024, on 31 cases regarding human mobility issues (migration and asylum matters). 14 of them include human rights references.²³²

The jurisprudence of the IACtHR and its Advisory Opinions play a significant role in shaping procedural protections and the interpretation of asylum rights in Mexico, even though this influence may manifest indirectly. The decision in *Vélez Loo v. Panama (2010)*, as in Brazil, serves as a key illustration. In this case, the IACtHR explicitly affirmed the obligation of states to respect due process and legal guarantees for all detained individuals, regardless of their immigration status. The Court's emphasis on fundamental safeguards, such as access to legal counsel and the right to judicial review of detention, establishes a crucial baseline for the procedural treatment of individuals by national legal systems.²³³

Supranational decisions have, for example, modified the interpretation (given by the Refugee Authority) of the asylum application's deadline. Based on an extensive quotation of different standards mainly from the Inter-American System of Human Rights, the court upheld: "the automatic application of a deadline to submit an asylum request is against international standards of protection, but not the deadline itself".²³⁴

However, the Supreme Court seems to be avoiding ruling that a certain part of either the Migration or the Refugee Law is "unconstitutional". It usually provides "another" possible interpretation. The courts also avoid dealing with public policies. For instance, the decision about the Program "Stay in Mexico" (asylum seekers in the US were required to wait in Mexico) was delayed until the program finished. The legal action was submitted in early 2022, and the judgment was made in August 2024. So the Supreme Court ruled: "Provided the program has come to an end, there is no decision to be made".²³⁵

²²⁹ Pérez Bravo, quoted.

²³⁰ Ortega Velázquez, 2022, quoted.

²³¹ Pérez Bravo, quoted.

²³² García, Lila, 2026, quoted. Please note that these numbers do not include non ruled cases (namely: dismissed cases, delivered to be ruled by the previous court, etc.).

²³³ Lambertini Martinez, S.M. (2026). Brazil National Report. Bologna. DOI: 10.6092/unibo/amsacta/9006, p. 50.

²³⁴ Supreme Court of Justice, *File 353/2010*, page 50.

²³⁵ Supreme Court of Justice, *File 606/2022*.

G. Comparative insights

Divergences among judicial bodies

There are no notable divergences in legal decisions themselves. Most of the cases gathered reflect “good” practices in asylum rights protection, also because the most visible cases, spread by media, NGOs and the Judiciary itself, are “good” cases.

However, the coin has another side, and this side is about other mechanisms to deal with legal actions: dismissals. Most amparos are rejected at a very early stage, for unclear reasons, and this is where a great divergence may be appreciated. A significant obstacle in migration cases is that *amparo* actions often become ineffective due to external circumstances. If a person is deported or expelled before the court can issue a ruling or implement protection measures, the trial is often considered to have had a “material loss of object,” leaving the victim without a remedy. Additionally, while a judge may order a stay of execution (*suspensión*), the lack of immediate notification systems at airports or border points sometimes results in the person being returned before the order is officially delivered.²³⁶

In any judicial instance, but particularly in the first instance, dismissals make issues of great importance invisible, but they also hide the (written) decisions of the court. Although this may be seen as a policy to avoid real rulings (by dismissing cases mostly on a formal basis), maybe to avoid confronting the Executive Branch, it also seems that once the case is accepted, it is most likely that the judgment aligns with the existing case law.

Divergences between national courts and supranational rulings

So far, no discrepancies have been found between the national decisions in Mexico and the decisions of the IACtHR. Actually, national courts tend to follow the international rulings.

Broader principles established by international bodies

National decisions show an alignment with international principles upheld by the UNHCR. In many cases, judgments simply reproduce fragments of UNHCR’s pieces. For instance:

“In turn, as it is relevant to the case under consideration, it is important to note that Conclusion No. 15 (1979) of the Executive Committee of the Office of the UNHCR, established that: “States should endeavour to grant asylum to those who seek it in good faith good faith.” And the diverse Conclusion No. 93 (2002) of the Executive Committee of the UNHCR, in turn, determined that: “...bearing in mind the need to provide a safe and dignified environment for asylum seekers and to discourage the misuse of asylum systems. Recognizing that asylum systems differ, as they comprise assistance in kind or financial assistance, or a combination of both forms of assistance, and involve governmental and non-governmental actors. Recognizing that many asylum seekers are capable of achieving a certain degree of self-sufficiency if given the opportunity, (a) recognizes the need to establish and apply fair and expeditious asylum procedures in order to recognize without delay those persons who are in need of international protection and those who are not, thereby avoiding prolonged periods of uncertainty for asylum seekers, discouraging abuse of the asylum system, and reduce the demands placed on the reception system.”²³⁷

The tribunal continues:

“Furthermore, Resolution 45/140-UNHCR (1990), in its point 3: “Calls upon all States to refrain from taking measures that undermine the institution of asylum, in particular the return or expulsion of refugees and asylum seekers, which are contrary to the fundamental prohibitions of such practices, and urges States to ensure adequate determination procedures and to continue to provide humanitarian treatment and grant asylum to refugees.” And Resolution 52/103-UNHCR Report (1998), in point 5, states: “Reaffirms that everyone has

²³⁶ IMUMI et al, 2023, El principio de No Devolución, quoted.

²³⁷ Collegiate Circuit Court, case 271/2016, judgment of 2017.

the right to seek and enjoy asylum from persecution in other countries and, since asylum is an indispensable instrument for the international protection of refugees, it urges all States to refrain from taking measures that undermine the institution of asylum, in particular by returning or expelling refugees or asylum seekers, contrary to international human rights instruments, humanitarian law, and refugee law”.²³⁸

Best practices or lessons learned from the adjudication of asylum barriers

Among the best practices or lessons learned from the adjudication of asylum barriers in Mexico, it is worth emphasizing the role of NGOs: most of the legal cases reviewed for this report have been brought before the courts by NGOs. Such activism is a lesson in itself.

On the other hand, the decision of the Mexican Supreme Court to rule in many cases (instead of, for instance, dismissing them) is also a good example for other jurisdictions.

There are also legal cases and consequent decisions that may be considered best practices: the case relating to the rights of relatives of missing migrants,²³⁹ limits of migration controls in places other than border crossing points,²⁴⁰ the Mexican state’s obligations regarding children and adolescents in a massive influx, a rule due to the Migrant Caravans.²⁴¹ The interpretation regarding the double nationality of asylum seekers is also remarkable: the court ruled that no asylum seeker may be forced to look for the protection granted by his/her second nationality.²⁴²

H. Role of expert testimony

To date, and similarly to Brazil, the judicial decisions under review have not relied upon expert testimony as a determinative factor in their outcomes. Instead, adjudications have primarily been grounded in statutory interpretation and the application of relevant legal norms, as informed by existing jurisprudence.

In this manner, and beyond NGOs’ reports or final reports issued by national human rights bodies, there is no evidence in the files or the judgments about the role of expert testimony.

I. Future Directions

Emerging trends or evolving issues in asylum law

An emerging trend is related to the protection of unaccompanied children and adolescents: there are several cases to protect their rights. In fact, their detention is not (legally) possible since the courts ruled against it, and the law changed consequently.

On the other hand, but not connected specifically with asylum, many sources refer to the structural constitutional reform proposed for the *Poder Judicial de la Federación* (PJF), initiated with a decree published on September 15, 202, as one of the most critical emerging issues. On the other hand, in 2021, the regulations about binding precedents changed, so many rulings (room’s decisions with four or more votes, and plenary’s decisions with eight or more votes) from the Supreme Court can become immediately obligatory for all courts.²⁴³

²³⁸ Collegiate Circuit Court, case 271/2016 quoted, Pages 24-25 (there are no paragraphs).

²³⁹ Supreme Court, File 382/2015, judgment of March 2nd, 2016.

²⁴⁰ Supreme Court, File 275/2019, judgment of may 18, 2022.

²⁴¹ Supreme Court, File 07/2020, judgment of February 16, 2022.

²⁴² Collegiate Court in Administrative Matters of the 1st Circuit, File “Amparo directo” 517/2022, Thesis Tesis: I.21o.A.3 A (11a.).

²⁴³ Gómez Marinero, Carlos Martín. (2025). La reforma judicial de 2021 y la declaratoria general de inconstitucionalidad. *Derecho global. Estudios sobre derecho y justicia*, 10(29), 63-85. Epub 26 de mayo de 2025. <https://doi.org/10.32870/dgedj.v10i29.537>

II. IDENTIFICATION OF LEADING DECISIONS

A. Description of the barriers in the selected decisions

Pushbacks: rejection at airports

1. Circuit Court (2nd Collegiate Court in Administrative Matters of the First Circuit). *Tesis (aislada) I.2o A.2A (11a)*. *File* (“*Amparo en Revisión*”) 235/2021. *Nataly Bustamante Lozano y otro*. Judgment of 23 Nov. 2021.
2. “*Contradicción de criterios*” 17/2016, issued on April 25, 2017; published on October 27, 2017. Digital record: 27415. Jurisprudence: thesis PC.I.P. J/32 P (10a.). Registro Digital 2015397.
3. Circuit Court in Plenary. *Thesis (jurisprudence) PC.I.P. J/28 P (10a.)*. Digital Record: 2013633. Location: [J]; 10a. Época; Plenos de Circuito; Gaceta S.J.F.; Libro 39, febrero de 2017; Tomo I; Pág. 658.

Pushbacks: collective expulsion within a collaborative pushback.

Supreme Court of Justice. *File* (“*Amparo en revisión*”) 198/2024, appeal instance, Nov. 13, 2024.

Pushbacks: steps to locate a missing deported

Circuit Court. *Tesis (aislada) I.1o. P150 p (10a.)* Queja 156/2018. Digital record: 2019008.

Pushbacks: rejections at “extended” borders (inland)

Supreme Court of Justice, “*Amparo*” (*File*) 275/2019. Judgment of May 18, 2022.

Detention: Detention of children and adolescents, and families.

1. Collegiate District Court: 4rd Collegiate Court in Administrative Matters of the 2nd Circuit. *Tesis II.4o.A1K (11a.)*. *Queja* 227/2021. Digital Record: 2024000. Sept. 2, 2021.
2. Circuit Court. *Tesis I.21o.A.4 A (10.º)*, SJF, tomo IV, Libro 6, 9 Aug. 2019, p. 4587. *Queja* 205/2019. Digital Record 2020336. 6 June 2019.

Detention, time limit.

1. Supreme Court. *File* 388/2022. Judgment of March 15, 2023. Detention for more than 36 hours breaches constitutional due process guarantees.
2. Supreme Court of Justice, *File* 371/2022, judgment of 19 October 2022.

Detention: standards for migration facilities

Circuit Court. *Tesis:IV.1o.A.24 A (11a.)*, *Tesis:IV.1o.A.23 A (11a.)*. *Queja* 465/2022 “*Yamid Camilo Lara Villalba*”. Digital Record: 31278, 2026010, 2026009. Nov. 16, 2022.

Detention. Exceptional measure and suspension to be granted

Thesis contradiction 06/2019 of 10 December 2019 (published in September 2020). Digital Registry 29490).

Procedural barriers: Deadline for submitting asylum applications.

Supreme Court of Justice. *Tesis (aislada) 2a. III/2020*. *Amparos en revisión* 353/2019, 399/2019, and 437/2019 and 529/2019. Digital Record 2021672. Judgment of 16 October 2019 (*File* 353/2019).

Procedural barriers: oral request of asylum

Asylum, oral request in the context of a pushback. 18th Collegiate Court in Administrative Matters of the 1st Circuit, *File* 271/2016 (“*amparo directo*”), judicial instance, 8 May 2017. The amparo remedy against the removal is *File* 1042/2010, ruled by the *Juzgado Décimo Tercero en Materia Administrativa del Primer Circuito*.

A. Description of the barriers in the selected decisions

Formality or informality of the barrier

The rejection at airports is a formal barrier regulated by law, and the courts ruled it is within the state's powers. The main debate is, in many cases, about the kind of suspension to be granted.

Pushbacks: rejection at the airport.

1. In *file 235/2021*, the circuit court did not grant protection in favour of two foreign persons rejected at the airport. Since both were returned to their country, no asylum was able to be submitted. By means of a legal representative, they contended the measure, but the legal action was rejected: the first instance judge (and then the Circuit Court) considered that, provided they were removed, no rights could be guaranteed. It's a "*fait accompli*" (*acto consumado*).

2. The *thesis J/32* (adopted on 27 October 2017 by "contradiction of criteria" or "*contradicción de criterios*" 17/2016) is about the type of suspension to grant (if any) regarding rejection at airports. Two different interpretations regarding rejection at airports and the possible suspension to be granted have been issued by circuit courts in criminal matters. On the one hand, the Fourth Circuit Court had decided that suspension should not be granted because rejection at borders was not similar to deportation and the foreigner can return to his/her country; in addition, it had argued that a suspension would damage the Mexican public interest. Additionally, it cannot be considered that the person had actually entered the country. The Third Circuit Court had been ruling in the opposite way, granting provisional suspension while the *amparo* was decided.

Provided these divergent interpretations, the plenary understood that a person rejected has not formally entered into Mexico. However, regarding suspension, it stated that in cases where provisional suspension is not granted, international commitments undertaken by Mexico may be unfulfilled, since human rights of persons are involved. In this manner, granting a provisional suspension is also a manner of "keeping *the amparo* alive" and avoiding the person suffering irreparable damage. So, provisional suspensions should be granted. The mandatory jurisprudence states:

"REJECTION NOTICE ISSUED BY THE IMMIGRATION AUTHORITY. IN THE AMPARO PROCEEDING FILED AGAINST ITS ENFORCEMENT, A PROVISIONAL SUSPENSION SHOULD BE GRANTED. The rejection notice is the document issued by the National Institute of Migration decreeing the denial of entry into the national territory to a foreign national who requested entry at locations designated for the international transit of persons. Now, pursuant to Article 128 of the Amparo Law, one of the requirements for granting a provisional suspension of the contested act is that it must not harm the public interest or contravene public order provisions. Therefore, it is necessary to clarify that "public interest" refers to any fact, act, or situation that provides society with an advantage or benefit, satisfies a collective need, or prevents public disruption or harm; whereas the concept of public order refers to those provisions contained in legal systems whose immediate and direct purpose is to protect the rights of the community in order to prevent any disruption or disadvantage, in addition to seeking to satisfy needs or provide some benefit or benefit..

In this regard, although these concepts are vague or open-ended and may therefore be a source of uncertainty, in order to make them functional, they must be given concrete content; to do so, the judge must examine the particularities of each case that is submitted for his or her consideration, in order to determine whether these concepts are affected. Consequently, when the contested act consists of the enforcement of the rejection order issued by the immigration authority, it is appropriate to grant a provisional suspension, since this does not harm the public interest nor contravene public policy provisions—because granting the suspension does not undermine the Mexican State's immigration policy—but rather, in light

of the imminent danger of its enforcement, its sole purpose is for the responsible immigration authority to maintain the status quo and, consequently, to temporarily refrain from physically removing the foreign national from the national territory. This, in turn, is consistent with the purpose of the suspensive measure to keep the subject matter of the amparo proceeding alive and, in the specific case of the provisional suspension, to prevent the petitioner from suffering harm that would be difficult to remedy until the amparo judge rules on the admissibility of the definitive suspension”.

3. This thesis (*J/28*, issued in February 2017) settled debates among, also, criminal courts within the first circuit (City of Mexico) in *complaints* 124/2015, 21/2016; 130/2015, 135/2015, 22/2016, 24/2016 and 17/2016. It states:

“NOTICE OF REJECTION BY WHICH THE IMMIGRATION AUTHORITY DECLARES A FOREIGN NATIONAL INELIGIBLE TO ENTER NATIONAL TERRITORY. AN EX OFFICIO AND AUTOMATIC SUSPENSION OF THIS NOTICE IS NOT PERMITTED. The aforementioned rejection order constitutes an administrative act arising from an immigration control procedure that takes place at international border crossings. With respect to this act, an ex officio and outright suspension is not applicable, as it is not covered by Article 22 of the Political Constitution of the United Mexican States, nor by Articles 15 and 126 of the Amparo Law, and, furthermore, because it does not endanger the life, physical integrity, or liberty of the individual, insofar as the foreign national is free to return to their place of origin as soon as factual conditions permit, with no limitation other than that of entering the national territory; furthermore, because it constitutes an autonomous and independent act grounded in Article 11 of the Constitution, which distinguishes it from deportation or expulsion, and may well be addressed through an ordinary suspension in the corresponding proceeding and in accordance with applicable regulations”.

Pushbacks: collective expulsion within a collaborative pushback. These pushbacks are not formally established in the law, but the court did not remove the barrier. Quite the opposite, the court validates the state’s performance, although some obligations were established.

File “Amparo en revisión” 198/2024,²⁴⁴ illustrates an example of the mass expulsion of migrants rejected at the border of the United Mexican States. Such practice is prohibited by the American Convention on Human Rights and by the Political Constitution of the United Mexican States. The principle of legality is violated by ordering the mass expulsion, rejection, and/or deportation of individuals without these measures being individualized to each specific legal situation, and without affording an opportunity to duly establish the grounds or reasons for their detention. In this regard, the responsible authorities violate the complainants’ right to defend human rights, thereby infringing the principle of legality and the right of access to justice as recognized in Articles 14 and 16 of the Constitution.

As set forth in the background section, the complainant civil associations challenged, through amparo proceedings, the omission of the Congress of the Union to develop in the Migration Law the principles recognized in Article 22, paragraphs 8 and 9, of the American Convention on Human Rights, among other acts. The District Judge who heard the case dismissed the action. In the portion relevant to the present matter, the judge held that, for a legislative omission to be established, it is essential that there exist a specific constitutional mandate to legislate in a particular manner; however, such an obligation does not arise from the aforementioned provisions of the Convention. Disagreeing with that decision, the claimants filed an appeal for review. With respect to the alleged legislative omission, the Collegiate Tribunal limited itself to addressing the grounds of inadmissibility raised by the parties—which were dismissed—on the basis that the analysis of the existence of such omission did not fall within its jurisdiction. Hence, it ordered the revocation of the challenged judgment and remanded the case file to this Supreme Court.

²⁴⁴ Supreme Court of Justice, *File (“Amparo en revisión”) 198/2024*, appeal instance, 13 Nov. 2024.

In sum, the grievances raised by the appellants with respect to the alleged omission are unfounded, as there is no specific mandate incumbent upon the Congress of the Union to legislate regarding the provisions set forth in Articles 22(8) and 22(9) of the American Convention on Human Rights that may be enforceable through this mechanism of constitutional review.

Notwithstanding the foregoing, both the principle of non-refoulement and the prohibition of the collective expulsion of foreign nationals provided for in those Articles form part of the constitutional parameter of regularity and, therefore, constitute provisions with direct effect that must necessarily be observed by all authorities of the Mexican State.

Pushbacks: steps to locate a missing person. An asylum seeker is detained in a migration facility and, in spite of the asylum request, is rapidly deported. A legal representative submitted a legal action on his behalf, but the person is no longer in Mexico and was not able to ratify the claim.

Interestingly, the court admitted the action and ordered that steps to locate him should be taken.²⁴⁵

Pushbacks: rejections at “extended” borders (inland). In 2015, the four complainants decided to travel by bus from Ocosingo, Chiapas, to Guaymas, Sonora, in order to work as agricultural labourers. Once the bus was stopped, the agents requested identification from the passengers and removed ten individuals from the vehicle, including the plaintiffs who, in order to prove their nationality, presented the original of their voter identification cards, with the exception of one of them who, being a minor, presented a copy of his/her birth certificate.

Notwithstanding that, the migration agents considered that the three siblings were Guatemalan nationals and, therefore, that the documents they had presented were false. As a result, they were detained and placed in detention. On September fourth, 2015, administrative migration proceedings were initiated, and they were required to appear before the authority and were granted a period of ten days to submit evidence proving their lawful stay.

After the evidence was submitted, a decision ordering the release was taken. Prior to their release, the siblings filed an indirect amparo action alleging as challenged acts the illegal detention, retention, and incommunicado confinement of the complainants at the migration station, despite being Mexican nationals.

The trial judge dismissed the proceedings with respect to the challenged provisions, considering that they did not have a self-executing character, as they did not contain a stigmatizing message. Dissatisfied with that ruling, the complainants filed an appeal for review in which they reiterated that the provisions were self-executing due to their stigmatizing effect. The Collegiate Tribunal resolved to modify the judgment, dismiss the proceedings with respect to an act it deemed non-existent, lift the dismissal previously ordered, and reserve the jurisdiction of this High Court to rule on the constitutionality of the challenged provisions.

The legal issue to be resolved by the First Chamber of the Supreme Court of Justice of the Nation is to determine whether Articles 16, section II; 17; 20, section VII; 97; 98; 99; 100; and 121 of the Migration Law—which provide migration authorities with the power to carry out inspection activities within the national territory, as well as to present and detain individuals—violate the right to equality and non-discrimination, the right to freedom of movement, and the right to personal liberty. More importantly, it recognized racial profiling as an unlawful practice.

Detention of children and adolescents. Detention is formally established as a valid measure but with limits, e.g., 36 hours, exceptionality. However, extended detentions became informally established. In this manner, when the 36-hour limit was recognized by the courts, the barrier itself remained.

A family of four (2 adults, two kids) submits legal action to get their detention suspended. A suspension is granted but with limited effects: it is granted against their expulsion, but the detention is ordered to continue. It is appealed, and the Circuit court rules that the authority should grant an alternative measure

²⁴⁵Circuit Court. *Tesis (aislada) I.1o. P150 p (10a.) Queja 156/2018*. Digital record: 2019008.

to detention, given that children are involved. Additionally, they attempted to apply for refuge, but they were not allowed; actually, they were pressured to sign their expulsion whether they wanted to leave the migration facility.

The court ruled in favour of the children.

2. *Queja 205/2019*. It is an expedited legal action (“amparo”) on behalf of all children under detention in migration facilities. Submitted by the Mexican Commission for Human Rights Defence and Promotion, “Sin Fronteras” NGO, a university legal clinic called “Alaide Foppa” (Iberoamericana University) and the Public Defence Office for Children’s Rights. Such an organization and mobilization were triggered by the death of a young Guatemalan kid who was under detention and received no access to health care while suffering from a disease.

The Circuit Court rules in favour of the applicants.

Note: *Note: this judgment received an award*. The legal claim mentions that they (the mother and her young girl) were asylum seekers.

Detention. 36-hour limit. In *File 371/2022*, a foreign national filed amparo proceedings challenging Article 111 of the Migration Law, the deprivation of his/her liberty for more than thirty-six hours in a migration detention facility, and the order of deportation or assisted return.

The District Judge dismissed the proceedings, considering, on the one hand, that the effects had ceased and, on the other, that even if amparo were granted, the effects of judicial protection could not be carried out. However, the Collegiate Tribunal with jurisdiction over the matter reversed the dismissals and remanded the case file to this Supreme Court so that it could rule on the constitutionality of Article 111 of the Migration Law.

This Second Chamber concluded that the appropriate course of action is to modify the challenged judgment and dismiss the amparo proceedings, pursuant to Article 63, section V, of the Amparo Law.²⁴⁶

Detention. Conditions of migration detention facilities. There is an important case about the role of detention facilities (*Queja 465/2022*). The judgment includes standards for both asylum seekers and migrants (the court explicitly refers to that), given that detention facilities are for both of them.

A foreign person under detention in a detention facility contended about his detention and asked for an immediate suspension. The district court ordered the authority in charge of the facility to inform (within a 24 hour-deadline) whether the person will continue under detention or not. The person challenged it. The Circuit Court said that “migration facilities” are intended to provide adequate shelter for asylum seekers, and, by quoting the Protocol (see below), that there is a right to be informed about the “right to request to be recognized as a refugee” (“*derecho a solicitar el reconocimiento de la condición de refugiado*”), among other rights. In addition, the court also mentioned that “under no circumstances can they function as centres for incarceration, preventive reclusion or judgments’ execution, given that the accommodation is not a sanction”. So, authorities shall guarantee the right to enter and exit the facility.

The judgment also extensively quotes and provides interpretations of the (Mexican) Protocol to Rule in Migrant and Persons Subject to International Protection Legal Cases.²⁴⁷

Outcome: The Circuit Court ruled that “the role of migration facilities for caring for migrants and refugees” (“*recintos migratorios para la atención de migrantes y refugiados*”) is to “guarantee accommodation in adequate conditions so people who must be extraordinarily accommodated can develop their lives with dignity”.

²⁴⁶ Supreme Court of Justice, *File 371/2022*, judgment of 19 October 2022.

²⁴⁷ Circuit Court. *Tesis: IV.1o.A.24 A (11a.)*, *Tesis: IV.1o.A.23 A (11a.)*. *Queja 465/2022 “Yamid Camilo Lara Villalba”*. Digital Record: 31278, 2026010, 2026009. Judgment of 16 Nov- 2022.

Detention. Exceptional measure and suspension to be granted. The “*Contradicción de tesis 06/2019*” (Thesis contradiction 06/2019) of December 10, 2019 (published in September 2020). Digital Registry 29490) states a guideline that prevails as (mandatory) jurisprudence: “Whether a person with migrant status files an amparo petition against potential deportation or repatriation and simultaneously challenges acts that restrict their personal liberty, carried out by administrative authorities other than the Public Prosecutor’s Office, the judge hearing the amparo case, in accordance with the principles of case consolidation and pro persona, must grant a suspension ex officio and outright with respect to both acts pursuant to Article 126 of the Amparo Law, and establish the conditions for effectiveness deemed appropriate in accordance with Articles 138, subsection I, and 164 of said law, even though the first of the aforementioned Articles refers to provisional suspension. This is because the petitioner’s release cannot be ordered without establishing conditions for the effectiveness of the relief, nor can the acts depriving the petitioner of liberty—consisting of his deportation—be separated from the proceedings; in such cases, the conditions set forth in Article 102 of the Migration Law may be used as a guideline, though they are not binding”.²⁴⁸

Procedural barrier: deadline to submit asylum applications. The deadline to submit an asylum application is a formal barrier, validated as such by courts. This is a common behaviour among courts: barriers remain (they are not challenged), with limits stated by the Judiciary.

Facts: Four persons are denied of submitting asylum applications because the deadline has expired. The deadline is 30 working days. An initially single legal action is divided into four but in the end there is only one “thesis” to decide the four cases. The cases are pretty similar (one man, three women): “*Amparo en revisión 353/2019. Edgardo Alfonso Díaz Alemán*”. *Amparo en revisión 399/2019. Katherine Alba Andara*. *Amparo en revisión 437/2019. Rosy Carolina Urbina Barreto* *Amparo en revisión 529/2019. Lorena Cristina Díaz Quezada*.

The Supreme Court finally ruled that the exception for submitting asylum applications after the deadline (stated in the law) should be broadly interpreted, with a minimum standard of evidence.

Procedural barrier: oral requests for asylum. The barrier pursuant to which an oral request was not allowed was informal.

The INM (Immigration Authority) removed an asylum seeker who had made an oral asylum request. So he submitted an expedited legal action (amparo), but it was rejected based on formal requirements (untimely submission). Then he goes with another legal action to get the damage repaired, and this is where the standards regarding oral requests are set.

The court ruled that the Mexican authority before which an asylum request is made cannot (“*no puede*”) return the foreign person without having processed and decided his/her asylum application first. This is mandatory even in the case the person has made an oral asylum request, and minimum due process guarantees are applicable. The *bona fide* principle, the vulnerable situation of an asylum seeker and the difficulties in getting evidence (“*precariedad probatoria en la que se encuentra*”) should also be taken into account.

Administrative obstacles faced by the applicant(s)

Across barriers, many obstacles arise from the judiciary itself: issues regarding standing, legitimacy, and documentation, which is highly difficult to get for a person in a precarious mobility situation. Sources

²⁴⁸ In Spanish: “*Cuando una persona con calidad de migrante solicita el amparo contra su posible deportación o repatriación y simultáneamente reclama actos restrictivos de su libertad personal, efectuados por autoridades administrativas distintas al Ministerio Público, el juzgador de amparo, en atención a los principios de continencia de la causa y pro persona, deberá otorgar la suspensión de oficio y de plano respecto de ambos actos en términos del artículo 126 de la Ley de Amparo, y fijar los requisitos de eficacia que estime pertinentes conforme lo establecen los artículos 138, fracción I y 164, del referido ordenamiento, aun cuando el primero de los indicados artículos se refiere a la suspensión provisional. Lo anterior en razón de que no se puede ordenar la libertad del quejoso, sin que se fijen medidas de eficacia y tampoco se pueden desvincular los actos privativos de la libertad consistentes en la deportación del quejoso, pudiendo en su caso, tomarse como parámetro, sin ser vinculantes, las condicionantes establecidas en el artículo 102 de la Ley de Migración*”.

emphasize that the judiciary is a lottery in itself, as each court has a different set of informal criteria that must be met before a claim can be accepted.

In many of the reviewed cases (rejection at airports with physical removal; physical removal after an unsuccessful oral request for asylum), not being present within the territory is an administrative obstacle itself. Moreover, a lack of proper papers to show that an asylum claim was submitted increases the chances of suffering detention and collective expulsions.

In addition, some specific administrative obstacles regarding particular barriers are worth mentioning:

Pushbacks: Rejection at airports. In some cases, the person was removed, and the action was claimed on his/her behalf; this fact can be considered an administrative obstacle in itself; once abroad, it is a “complex procedure”.

These acts (the “rejection airport records”, *actas de rechazo aéreo*) are often executed within hours (typically under 24 hours), making it nearly impossible for a person to mount a defence or receive legal guidance before being returned to their country.

Pushbacks: collective expulsions as part of collaborative pushbacks. COMAR delays in issuing documentation to prove the asylum application and INM delays in issuing the humanitarian visa leave people without proof of pending asylum, weakening protection against deportation and limiting access to services and legal support.

Detention. Some sources mention that the historical lack of a registry of migrant detentions has made it difficult for families or legal defenders to locate detained individuals and provide timely assistance. The Supreme Court confirms the Mexican state’s obligation to organize such a registry.²⁴⁹

Procedural barriers: deadline. While the law allows for exceptions if the applicant can prove “causes beyond their control”, authorities have frequently applied this deadline mechanically, resulting in the summary rejection of applications without evaluating the underlying risk to the person’s life or safety. In addition, applicants are often required to prove the certainty of the obstacles they faced to apply on time. The Supreme Court has noted that this is an excessive burden given the psychological state and vulnerability of those fleeing persecution

Procedural barrier: oral request. The person was removed, so the action was submitted on his behalf. Once abroad, it is a “complex proceeding”.

Challenges related to their legal standing or capacity

As mentioned, many NGOs have faced challenges related to their legal standing. In general, any decision (regardless of the barrier) starts by analysing the legitimacy or legal standing of the applicants. The INM regularly challenges the legal standing of the NGOs.

In this manner, a recurring argument in the reviewed legal cases involves the ability of civil associations to challenge laws or omissions that affect migrants, even when the association itself is not the direct subject of the law. The Supreme Court has established that for a private moral person (like a civil association) to have standing, it must prove: (i) An objective social (corporate purpose) linked to the human right allegedly violated; (ii) The suitability of that right to serve as a parameter for constitutional control. (iii) The effective exercise of that object social (actual activities performed in that field).²⁵⁰

Finally, legislative omissions (such as a detention registry) also allow NGOs to challenge this failure. Associations have standing to challenge those omissions because the lack of a legal framework (like a registry) prevents them from fulfilling their social mission to defend and locate migrants, thus violating their right of access to justice in its collective dimension. The related case law was developed in a detention-related case, but it is ultimately applicable to any legislative omission.

²⁴⁹ Supreme Court of Justice, File 459/2024, judgment of Nov. 27, 2024.

²⁵⁰ Supreme Court of Justice, File 07/2022, judgment of February 16, 2022.

Individuals have standing when a specific act of authority directly impacts their subjective rights.

In a case where Mexican citizens (such as indigenous persons) were subjected to migration checks, they have a direct legal interest in challenging the law because they are the recipients of the “stigmatizing message” of the norm, which assumes national identity can be determined by physical traits.²⁵¹ In this particular case, it did not matter that the persons were Mexicans and not migrants: standing is confirmed when authorities apply migration norms to individuals (e.g., stopping them at a checkpoint or detaining them in a station), even if those individuals are later found to be Mexican nationals.

Hearing

(Please note that these hearings do not refer to the eligibility interviews but to hearings within proceedings to challenge access barriers)

Three “hearings” (*audiencias*) can be mentioned.

Within a writ of “amparo” remedy, there is a “hearing guarantee”, but it is not a hearing itself for the person to be literally heard (“*comparecer*” or appear in person before the judge), but a procedural opportunity to provide evidence and arguments, and the judge (usually a district court) decides within the same opportunity.²⁵² It takes place in the court.

The other type of “hearing” is the “*audiencia incidental*” (incidental hearing) that takes place in a suspension request. This hearing occurs within five days of the request to decide if a temporary freeze on the authority’s action should be maintained (art. 130 Amparo Law).²⁵³

Finally, a more recent real hearing must be conducted regarding children and adolescents. For children and adolescents in migration, the Supreme Court emphasized that they must be guaranteed the right to be heard through an “initial interview” adapted to their age and sex, conducted by qualified professionals.²⁵⁴

Regarding detentions, there is a legal figure known as “*presentation*”. A critical point is the omission of a formal hearing before a judge to review the legality of migration detentions. International standards (such as the American Convention on Human Rights) require that any person detained be brought “without delay” before a judge for a hearing, a guarantee currently missing from Mexican migration legislation.²⁵⁵

Legal aid

Legal aid is ultimately provided in all cases, since otherwise it is not possible to submit a legal claim: the Mexican system demands having legal representation to submit a claim. However, this legal aid is mostly provided by the always limited resources of NGOs.

Regarding public and free legal aid, the situation changed in 2019. Until that year, a critical obstacle was the failure of the state to provide a specialized public defender to litigate the lack of access to asylum. Many migrants do not have the resources to hire private counsel and are unaware of their rights. In 2019, a limited service of public legal aid started functioning.

This situation does not vary across barriers or cases.

²⁵¹ Supreme Court of Justice, *File 275/2019*, judgment of 18 May 2022.

²⁵² No Author, “La audiencia constitucional en el juicio de amparo”, 2005. Retrieved from: https://www.scjn.gob.mx/sites/default/files/publicaciones_scjn/publicacion/2016-10/55483_1_0.pdf

²⁵³ Art. 138 Amparo Law: “Once a motion for suspension of the contested act has been filed, the court must conduct a balanced analysis of the prima facie validity of the claim, the absence of harm to the public interest, and the absence of any violation of public policy provisions; where appropriate, it shall rule as follows: “I. It shall grant or deny the provisional suspension; in the former case, it shall establish the requirements and effects of the measure; in the latter case, the responsible authority may implement the contested act. II. It shall set a date and time for the preliminary hearing, which must be held within five days; and III. It shall request a preliminary report from the responsible authorities, who must submit it within forty-eight hours; for this purpose, the corresponding notice shall be accompanied by a copy of the complaint and any attachments deemed relevant”.

²⁵⁴ Supreme Court of Justice, *File 07/2022*, quoted.

²⁵⁵ Supreme Court of Justice, *File 282/2019*, judgment of s/f (date in the judgment was erased), 2020.

Applicant's vulnerability

All legal cases involve applicants who are vulnerable in some way. The fact that they need to litigate in order to access asylum speaks volumes about how limited their chances of being granted a migration-based category are.

In general, the Supreme Court has recognized that all refugees and asylum seekers, even before being recognized as such, are vulnerable (since “mobility is a factor of vulnerability”) and it demands an enhanced protection.²⁵⁶

In some cases, converge on a specific vulnerability: for instance, the intersection with racialized characteristics,²⁵⁷ violent deportation proceedings,²⁵⁸ or specific references to vulnerability in the ruling.²⁵⁹

B. Impact of the judicial body's decision

The first impact in jurisprudence is that these judgments have helped turn migration and asylum issues into justiciable constitutional questions, not just administrative matters that are discretionary. The SCJN has used them to build lines of doctrine on access to asylum, *non-refoulement*, detention, interpretation of migration rules, and procedural guarantees, and it explicitly distinguishes between new precedents and decisions that simply apply earlier criteria. In particular, the Court's jurisprudence page also notes a ruling that the statutory deadline at issue was contrary to the right to seek and receive asylum, which shows that the Court has invalidated rules that unduly restrict access to protection.

In some topics, the Supreme Court has provided interpretations for divergent lower courts' rulings: regarding the deadline to apply and its exceptions, constitutional limits to detention (36 hours), alternative measures for the detention of children and adolescents, etc.

C. Consistency with previous jurisprudence

Regarding pushbacks: rejection at the border. There are three main types of decisions regarding what kind of preliminary injunction should be granted when a person is denied entry at an airport. A first group, now a minority position (reviewed in appeals), held that the suspension should be denied because the rules governing denial are matters of public order and social interest, aimed at preventing the entry of individuals who could threaten national security or public health. On the other hand, the prevailing position determined that a provisional suspension of the rejection (so a provisional stay) should be granted against the enforcement of the denial order. Its purpose is not to allow the foreign national's entry or free movement but solely to maintain the status quo so that the authorities refrain from physically removing the individual from the national territory until a decision is made on the definitive suspension. This preserves the “subject matter of the amparo” and prevents harm that would be difficult to remedy. Finally, some courts maintain that an *ex officio* suspension (“*suspensión de oficio y de plano*”) is not applicable against a rejection order. According to this argument, rejection is an administrative act of immigration control that does not fall within the serious cases provided for in Article 22 of the Constitution or Article 126 of the Amparo Law (such as deportation or danger to life). It is considered an autonomous act in which the foreign national is “free to return to their place of origin” and therefore is not deemed to irreparably jeopardize personal liberty outside of the proceedings.

Regarding pushbacks: extended rejection (inland). Based on the (successful) case decided by the nation's Supreme Court of Justice, *Case No. 275/2019*, it is possible to identify different positions regarding migration controls throughout Mexican territory. Based on the (successful) case decided by the nation's

²⁵⁶ Supreme Court of Justice, *File (“Amparo en Revisión”) 114/2020*, Gaceta del Semanario Judicial de la Federación. Libro 14, Junio de 2022, Tomo V, página 4080. Digital Record: 30686. Part of the ruling is mandatory (“Tesis de jurisprudencia” 78/2022 (11a.).

²⁵⁷ Supreme Court of Justice, *File 275/2019*, quoted.

²⁵⁸ Collegiate Circuit Court, *File (“Amparo directo”) 271/2016. Tesis (aislada) I.18 A49 A (10a.)*. Tribunales Colegiados de Circuito, Gaceta del Semanario Judicial de la Federación, Libro 56, Julio de 2018, Tomo II, página 1437. Digital Record: 2017328.

²⁵⁹ Supreme Court of Justice, *File 198/2024*, quoted.

Supreme Court of Justice, *Case No. 275/2019*, it is possible to identify several positions regarding immigration controls throughout Mexican territory. The District Judge (first instance) initially ruled to dismiss the case because the plaintiffs had already been released from the immigration detention centre after proving their nationality. According to this logic, the contested acts had “ceased to have effect,” and the situation had returned to its previous state. Moreover (or most concerning), the judge found that the challenged sections of the Immigration Law (Sections 97 and 98) were neither unconstitutional nor stigmatizing. He argued that the law simply regulated the entry and transit of foreigners within a framework of respect for human rights and did not contain a discriminatory message “per se” against specific groups. Finally, the judge also challenges the legitimate interest of the plaintiffs.

However, the Collegiate Court overturned the district judge’s decision. It determined that the complainants did have a legitimate interest in challenging the law as “self-executing” due to its stigmatizing effect. It is worth remembering that the plaintiffs were Mexican, so the legal case was also intended to demonstrate the widespread and severe damage within the population. Far from being an isolated case, militarized and racialized migration controls had been working in Mexico for many years before the case was submitted.

Then, the collegiate court argued that the effects had not ceased, since the complainants remained in a vulnerable situation as agricultural day labourers traveling throughout the country, facing the constant risk of being detained again under the same discriminatory criteria. Finally, finding that there was doubt regarding the constitutionality of the INM’s authority to conduct inspections outside international transit points using arbitrary criteria, the court referred the case to the Supreme Court.

In this context, the Supreme Court declared Articles 97 and 98 of the Migration Law unconstitutional, finding that they are excessively broad provisions, as they allow for the targeting of any person (national or foreign) anywhere within the territory without an objective reason. It also recognized the existence of racial profiling: since there is no requirement for Mexicans to carry identification documents within the national territory, nor are there objective criteria for stops, the law left it to the discretion of the authorities to decide whom to stop (based on physical or ethnic characteristics or language), which is discriminatory. Finally, the Court recognized that these checks have a harmful and disproportionate impact on indigenous and Afro-Mexican individuals.

Regarding detention. Three main positions have been identified among Mexican courts regarding migration detention on whether a stay in amparo proceedings should be granted ex officio and outright (immediately and automatically) or through a motion filed at the request of a party (a separate, non-automatic procedure), and which is the authority in that regard: 1. Enhanced Protective Stance (Ex Officio and Plenary Suspension). This stance, upheld by various Collegiate Courts and recently by Regional Plenary Sessions, holds that prolonged immigration detention constitutes an attack on personal liberty outside of criminal proceedings. Courts that follow this line of reasoning (as in Files 78/2022 and 465/2022) argue that if administrative detention exceeds the 36 hours provided for in Article 21 of the Constitution, it becomes arbitrary. Therefore, the outright suspension must have the effect of placing the migrant in immediate release. In connection with deportation, the Plenary of the Tenth Circuit (Contradiction 6/2019) determined that when a claim is filed challenging both deportation and acts restricting liberty, the judge must grant an immediate suspension of both acts jointly, without requiring prior ratification of the complaint, in order to protect liberty immediately. Finally, in cases involving children and adolescents, it is held that the stay must be granted to the fullest extent possible to ensure alternatives to detention and transfer to appropriate accommodations (not immigration detention centres), prioritizing the best interests of the child and family unity. 2. Procedural/Restrictive Approach (Suspension at the Request of a Party). This approach was common in previous proceedings and in certain rulings that gave rise to conflicting legal positions. Some courts (such as the ruling of the First Collegiate Court of the Tenth Circuit) held that migration detention is not “outside of proceedings” but is linked to an administrative verification process. Therefore, they argued that release cannot be granted outright in the order of admission but must be analysed in the motion for suspension at the request of a party. Historically, some courts denied release on the grounds that society has an interest in ensuring compliance

with the Immigration Law and that granting release would undermine public order. Finally, in cases where the individual has already been deported, some courts hold that release can no longer be the subject of a stay of proceedings because it constitutes an irrevocable act. **3. Authority in case of suspension.** There is a dispute over which authority should set the conditions for the suspension (and the resulting release) to take effect. One position holds that, since this is an autonomous constitutional proceeding, the amparo judge has the discretionary power to set the guarantee (bail) and the requirements to ensure that the migrant does not flee and may use Article 102 of the Migration Law only as a guideline. The opposing (and earlier) position argued that the guarantee must be set exclusively by the INM to its full satisfaction, and that the district judge oversteps their authority by setting specific amounts or conditions for release.

Finally, it is important to highlight the Protocol on the Administration of Justice for Migrants and Asylum Seekers. Although it is not binding, pro-freedom courts frequently cite it to argue that administrative detention should be the exception rather than the rule, and that the immigration “appearance” system should not be a euphemism for administrative detention. It has also recently been established that the right to an adequate defence is inalienable for migrants in detention, and the State must provide a public defender even if the migrant says they do not want one, due to their vulnerable situation and lack of familiarity with the legal system.

Regarding procedural barriers. The most hotly debated procedural obstacle is the 30-business-day legal deadline for filing an application after entering the country. In various lower courts, some judges held that the deadline was unconstitutional. They argued that refugee status is a pre-existing factual situation (declaratory in nature) and should not be subject to a statutory deadline. They contended that imposing a time limit creates a ground for exclusion not provided for in international treaties, thereby violating the principle of non-refoulement. However, the Second Chamber of the SCJN (AR 353/2019) ruled that the time limit is constitutional because it pursues legitimate aims: to quickly identify individuals in need of protection and to prevent prolonged irregular status. To mitigate the obstacle posed by the time limit, the Court established a conforming interpretation of Article 19 of the Regulations. It determined that COMAR cannot require rigorous or conclusive evidence to justify the late filing; it is sufficient for the applicant’s account to be consistent with their context of vulnerability, and the benefit of the doubt must be applied.

Regarding the oral request for asylum, not many legal cases were found to elaborate on trends and divergent criteria. The current jurisprudence states that upon receiving a verbal request, the authority has an immediate duty to suspend any deportation proceedings in order to process the request, even if it is ultimately found to be inadmissible.

PART 3: SOCIO-LEGAL FACTORS

This third part of the Report is divided into four sections: I) Procedures in asylum access adjudication; II) Judicial or quasi-judicial bodies in asylum access adjudication; III) Other actors in asylum access adjudication; IV) Socio-political context.

I. PROCEDURES IN ASYLUM ACCESS ADJUDICATION

A. Access to judicial or quasi-judicial bodies

This section will make reference to three bodies: the COMAR (asylum authority), the administrative federal court (TFA), and the constitutional courts.

Pushbacks: In practice, pushbacks are difficult to assess. But there are legal remedies; “writ of amparo” is the most frequently used. In addition, a written decision (e.g., a rejection at the airport, “*actas de rechazo aéreo*”) can be challenged before the Federal Tribunal, initially an administrative instance that then allows the applicant to reach the Judiciary. Although it is a legally possible recourse, it is highly technical and not as fast as the situation requires.

On the other hand, one of the most significant barriers is the routine interception of migrants by the National Migration Institute (INM) and the National Guard before they reach the Mexican Commission for Refugee Assistance (COMAR). Many asylum seekers are deported before they can access COMAR, meaning no administrative claim has been submitted that could later be reviewed judicially. In this manner, “promoting access to territory and strengthening the asylum system” is the first goal in the most recent strategy outlined by UNHCR.²⁶⁰ These hot expulsions usually take place without information on (or being given access to) asylum procedures, and without individual assessments of risks they could face upon deportation.²⁶¹ Equally, Amnesty International has described how migrants apprehended near Tapachula are returned to Guatemala without formal expulsion orders — making legality “unreviewable” because no act is formally recorded. Unaccompanied children are particularly affected by this.²⁶²

At airports, the situation is not different, and asylum seekers facing rejection are kept in detention to be removed, without access to legal counselling. Still, based on the current state of my research, it can also be mentioned that existing legal decisions challenging pushbacks were precisely submitted against rejection at airports. It might be explained (only a hypothesis without a proper validation) due to available economic/symbolic resources, such as asking for legal help. Some of these cases were brought before the Supreme Court: File 282/2019 (finally dismissed because by the time the Supreme Court’s decision was made, the person already held a permanent residence), *File 444/2021* (protection granted, ruling of 31 May 2023).

Regarding walls and fences: As far as this report has identified “walls and fences” as, primarily, militarization, the legality of the barrier itself cannot be assessed. A human rights breach or any consequence arising from militarization is required. Notwithstanding that, topics related to militarization

²⁶⁰ UNHCR (2025), *Mexico: Multi-year Strategy 2025-2027*. Retrieved from:

https://www.unhcr.org/sites/default/files/2025-01/Mexico-%20Strategy%202025%20-%202027_0.pdf

²⁶¹ Amnesty International (2021), “Americas: Pushback Practices and Their Impact on the Human Rights of Migrant and Refugees”. Retrieved from: <https://www.amnesty.org/es/wp-content/uploads/2021/05/AMR0136582021ENGLISH.pdf>

²⁶² “An international humanitarian organization informed Amnesty International that it conducted a needs assessment mission in February 2021 to Tapachula in the south and Matamoros in the north and found that INM routinely deported the majority of unaccompanied migrant children it encountered. The organization found that INM interceptions and deportations were particularly bad in Tapachula (nicknamed “Atrapachula” by some they spoke with). The Deputy Attorney’s Office for the protection of children was understaffed and ineffective in child protection, while the COMAR office indicated it was significantly underfunded and processing an artificial backlog of asylum-seekers created by Mexican authorities, which primarily comprised those who were already registered as refugees. The organization also found that fewer unaccompanied children were encountered by other migrants in northern Mexico, suggesting that the majority were either already apprehended in the south, or travelling with smugglers to evade Mexican immigration authorities”. Amnesty International 2021. <https://www.amnestyusa.org/wp-content/uploads/2021/06/PUSHED-INTO-HARMS-WAY.pdf>

were debated in *File 275/2019*: although it is a case about Mexicans, it is, in the end, about the effects of militarization, how widespread they are among the population, and how people are targeted. The NGO(s) that litigated it had submitted many legal actions before this successful one, to contend with the dramatic effects of having checkpoints all along Mexico, and the abuse of the security forces. All these previous legal actions were unsuccessful. Eventually, they came across this case: a group of Mexicans, no Spanish speakers since they belong to an original population in Chiapas, who were stopped and then detained while traveling in a bus. Their documents were destroyed. The people involved, I was told, were astonished by the situation and so, willing to do something about it. That “something” was the legal action.

Detention: There are many decisions on detention, so it is hard to uphold that its judicial assessment “cannot be assessed”. Yet, the existing legal decisions are only a small part within the universe of migrant detention in Mexico. Given that Mexico has the most extensive system of automatic detention in Latin America, the limited number of legal actions available to challenge detention is, at the very least, surprising. Among the difficulties in accessing judicial bodies, access to legal counsel and consular authorities is difficult, and professional interpreter services are unavailable. It is important to remember that the public offer of legal aid is limited to around 40 attorneys across the territory, and NGOs are always overwhelmed by the number of cases they have to deal with in this detention system.

In addition, access to telephone communication is problematic because migrants are required to purchase phone cards, which may not be readily available.²⁶³ Many sources identify *incomunicado* as the main barrier to claiming when people are in detention.²⁶⁴

Procedural barriers: Procedural barriers can be legally assessed (in legal terms), but in practice, they work differently. There are, for instance, several legal decisions on the deadline to submit an asylum application (at least nine of them arrived at the Supreme Court), but only one case regarding verbal rejections of asylum requests at borders, debated in a claim regarding damages for the removal. There are also legal decisions on the procedural barrier regarding weekly signatures.²⁶⁵ Beyond these topics, no other legal decisions regarding other procedural barriers were found. Thus, it seems that most of the informal procedural barriers have not been assessed.

Time as a challenge.

In **pushbacks** and, particularly, in rejection at airports and hot expulsions, the effectiveness of all legal actions is critically dependent on timing. Please also note that once the “physical return” (*devolución*) is carried out before the defence mechanisms, such as *amparo*, can be translated into effective protection, these mechanisms become ineffective because the objective of the legal challenge is considered lost (*pérdida material de objeto*). There are many rulings regarding the type of suspension to be granted in case of rejection, as mentioned in the previous section.

Additionally, there are deadlines associated with judicial mechanisms that may be seen as another obstacle for individuals attempting to seek justice. The deadline to file any “writ of *amparo*” is 15 working days (Art. 17 of the Writ of *Amparo* Law). However, whether a deportation is involved, it may be filed at any time. The law wording says:

“Art. 17. IV. When the contested act involves a risk of loss of life, attacks on personal liberty outside of due process, *incomunicado* detention, deportation or expulsion, proscription or exile, enforced disappearance of persons, or any of the acts prohibited by Article 22 of the Political Constitution of the United Mexican States, as well as forced conscription into the national Army, Navy, or Air Force, in which case it may be filed at any time”.

²⁶³ See Chapter 6, in the book “Detaining the Immigrant Other”. Retrieved from:

https://api.pageplace.de/preview/DT0400.9780190222581_A30397081/preview-9780190222581_A30397081.pdf

²⁶⁴ IMUMI et. Al, 2023, “El principio de no devolución”, quoted.

²⁶⁵ *File 1951/2019*. Juzgado 1ro del Distrito del Estado de Tabasco. 1st District Courts of the Tabasco State.

In **detentions**, the speed with which legal action is processed is paramount, as people are often returned (*devueltas*) within the first hours after actions challenging the detention are initiated.²⁶⁶ In case of an incommunicado detention, as mentioned above, there is no deadline to file a legal remedy (in all other cases the deadline is 15 working days), but the authority has 36 hours to decide on the person's detention. In reality, what may happen is that the person is rapidly deported before the 36 hours expire (one NGO mentions this in an interview).

Finally, regarding **procedural barriers**, one of these barriers is, precisely, time: the deadline to submit an asylum application (30 days). This deadline was particularly challenged by legal actions because asylum applications were automatically dismissed. The Supreme Court says that even though the deadline was constitutional, exceptions should be assessed (and consequently admitted) under a low burden/standard of proof.

The other barriers are also related to time (e.g., backlog). If the COMAR fails to fulfil the 45-day term to decide on an asylum application (it may be extended for another 45 days), the applicant may submit an amparo. The deadline to do this is 15 days, but provided is a continuous omission, the amparo may be filed at any time after the COMAR's deadline expires...

Regarding removal orders with pending asylum claims, time is also crucial: the legal claim against the removal should be submitted before the order is enforced.

Costs for legal representation

The lack of a sufficient system of public legal aid and the costs of legal representation (which is mandatory) undermine access to judicial bodies regarding access adjudication.

The situation is the same for all barriers, given how the Mexican system works.

The primary issue is that the Mexican legal framework governing asylum procedures, even for the most vulnerable populations, did not mandate state-funded representation until 2019. This creates an immediate and explicit barrier based on economic capability. Broadly, it was stated that Mexico “does not provide free legal representation to anyone, whether NNA or adults” (“*no proporciona representación legal gratuita a nadie, sean NNA o adultos*”).²⁶⁷

Without proper representation, they cannot effectively challenge the legality of their detention in court, since a lawyer is required to challenge any decision before a court. In the absence of state support, asylum seekers who manage to find assistance rely entirely on civil society organizations. However, these organizations often “lack the necessary budget and specialized personnel” (“*carecen del presupuesto y el personal especializado necesario*”) to handle complex cases.²⁶⁸

For example, when discussing the tortuous legal process faced by migrant Children and Adolescents (NNA), the sources explicitly note that the Mexican legal system does not provide free legal assistance for these children and adolescents, while the General Law on the Rights of Girls, Boys and Adolescents (*Ley General de los Derechos de Niñas, Niños y Adolescentes*) grants NNA the right to legal assistance; this right is specified as “not free” (“*no gratuita*”). This is contrasted with the fact that the same law specifies the right to be assisted “free of charge by a translator and/or interpreter” (“*gratuitamente por un traductor y/o intérprete*”).²⁶⁹

The situation shifted a little since 2019, when a public service was organized: the Federal Defence Office. The service is the outcome of an agreement made with the UNHCR and consists of 40 lawyers. However,

²⁶⁶ IMUMI et. al., 2023, quoted.

²⁶⁷ Ortega, Elisa (2018), Niños, niñas y adolescentes solicitantes de asilo en México: una crítica a los defectos del procedimiento para el reconocimiento de la condición de refugiado. Retrieved from: https://www.scielo.org.mx/scielo.php?script=sci_arttext&pid=S0041-86332018000200707

²⁶⁸ Human Rights Watch (2019), We Can not Help You Here. Source: <https://www.hrw.org/report/2019/07/02/we-cant-help-you-here/us-returns-asylum-seekers-mexico>

²⁶⁹ Ortega, Elisa (2018) “Niños, niñas y adolescentes”, quoted.

many sources pinpoint that the service is quite insufficient in terms of human resources. In addition, the main office and most of the staff are located in Mexico City.

Particularly regarding **detention**, detained migrants face challenges in accessing justice due to the lack of a public defender system in immigration/asylum proceedings, but also because they face communication issues with the detention facility. They have to cobble together legal resources from pro bono aid, jailhouse lawyers, and social networks. They also face problems in accessing interpreters and consular assistance.

Finally, the economic difficulties extend beyond direct legal fees, as asylum seekers often lack legal work permits (it is connected with the “CURP” and it works as a social security number that allow people to accessing health, work and education) and are forced to dedicate limited resources to sustain the prolonged legal process, including mandatory weekly administrative check-ins (weekly signature in the city where the asylum claim was submitted). This reliance on meagre funds affects their ability to pursue justice, as the requirement to sign weekly papers at INM and COMAR offices “affects the economy of the people, and makes it difficult to find employment due to the weekly absences” (“*afecta la economía de las personas, y dificulta conseguir empleos ante las ausencias semanales*”).²⁷⁰

Spatial and geographical issues

Spatial and geographical issues (e.g., remoteness of detention centres and being outside of the country after experiencing pushbacks) undermine access to judicial bodies in asylum access adjudication. Both pushbacks and detention involve particular geographical issues that undermine access to asylum adjudication. Once outside Mexico, the distance is prohibitive for judicial engagement. The “new geographic location of the persons prevents them from approaching courts or protection instances” (“*nueva ubicación geográfica de las personas les impide acercarse a juzgados o a instancias de protección*”).²⁷¹

It is worth mentioning that there are a few offices throughout the Mexican territory. COMAR maintains only ten locations across the country. This limited number of offices means that for a person located outside these areas, initiating a claim or maintaining engagement with an ongoing claim is geographically onerous.²⁷²

In relation to **pushbacks**, the most definitive geographical barrier occurs when an asylum seeker is forcibly removed from Mexican territory, rendering virtually all pending and future legal recourse futile. So, the definitive “legal termination” caused by being physically located outside of Mexico following a forced return undermines access to Mexican bodies. When a deportation or return (*devolución*) is executed quickly, preventative legal mechanisms like *amparo* are undermined because they “become ineffective, as the material object of the demands is considered lost” (“*se tornan inefectivos, pues se considera una pérdida material de objeto de las demandas*”).²⁷³ *File 235/2021* deals exactly with this issue: the rejection at the airport is “a fait accompli” (“*un acto consumado*”).

Regarding **detention**, the physical isolation imposed by detention centres affects access to the relevant bodies. The physical confinement within immigration detention centres serves as an immediate spatial barrier that prevents asylum seekers from communicating with legal counsel, thereby undermining the viability of preventative legal action. Individuals in detention are held in conditions where they are “*de facto incommunicado*” (“*prácticamente incommunicadas*”). This isolation “makes it difficult to learn their history, obtain essential documents for their defence (such as COMAR certificates), and even identify the specific

²⁷⁰ Report submitted in 2019 before UN Human Rights Committee by the Grupo Articulador México del seguimiento a la Declaración del Plan de Acción de Brasil (GAM-PAB). Retrieved from: <https://share.google/B0obnswL8sNJSaLXY>

²⁷¹ IMUMI et. al., 2023, quoted.

²⁷² COMAR has ten locations in the country: Mexico City, Acayucan in the state of Veracruz, Tenosique in the state of Tabasco, Tapachula and Palenque in the state of Chiapas, Guadalajara in the state of Jalisco, Saltillo in the state of Coahuila, Monterrey in the state of Nuevo León, Tijuana in the state of Baja California and Ciudad Juárez in the State of Chihuahua. See UNHCR, Contact COMAR. Retrieved from: <https://help.unhcr.org/mexico/en/where-to-see-help/contacta-a-la-comar/>

²⁷³ IMUMI et. al., 2023, quoted.

authorities to whom legal actions should be submitted” (*dificulta conocer su historia, obtener documentos indispensables para su defensa (como las constancias de COMAR) y hasta poder identificar a las autoridades concretas a las cuales se deben presentar las acciones legales*).²⁷⁴

Then, for those detained by migration authorities (INM) in regions where COMAR is absent, gaining access to the asylum process or legal mechanisms is significantly delayed. There are 28 states without the presence of the Comar, meaning that for an asylum seeker detained in a station outside of the existing offices, it “takes longer for their case to be seen” (“*lleva más tiempo que su caso sea visto*”).²⁷⁵

Practices to overcome these challenges

Some practices were adopted to overcome these challenges.

Provided that the Mexican legal system generally does not provide free legal representation to anyone (whether NNA or adults), NGOs seek to fill this critical gap. Organizations such as the “*Clínica Jurídica para Personas Refugiadas “Alaide Foppa”*” (CJR) offer free advisory and legal representation services to people with international protection needs.²⁷⁶ Similarly, Asylum Access México (AAMX) A.C. offers legal services and integration to refugees;²⁷⁷ “Sin Fronteras, IAP” contributes to the promotion, protection, and defence of the human rights of migrants²⁷⁸ and IMUMI.²⁷⁹ There are also legal clinics organized by universities (National Autonomous University of Mexico, Iberoamericana University, University of Nueva Leon, etc.).

All these organizations periodically issue reports. So, monitoring and documentation of abuses is a key part of the strategy; NGOs and universities actively map and document violations, especially those concerning the principle of *non-refoulement*,

In addition, civil society also provides shelter and information. Humanitarian help provided by national and international NGOs, often in cooperation with UNHCR, allows applicants to be able to succeed with the legal claim.²⁸⁰ In Ciudad Juárez, organizations like the International Rescue Committee (IRC) implemented responses that included “promoting access to reliable information through the *InfoDigna* platform”.²⁸¹

For instance, NGO’s staff mentioned that they had filed 90 legal actions against systematic checks and detention by military forces. With no success. Then they run into a case that involved Mexicans, and they consider that the situation would be the best to show how extended the effects were, but also to achieve that somebody CARES: given that they were Mexicans, they were going to receive attention. The strategy paid off, and they finally got a protective ruling. The persons involved actually received monetary compensation.

Particularly regarding **pushbacks**, organizations occasionally escort asylum seekers to official border crossings, which, while risky—as demonstrated by incidents where the Human Rights Monitoring and Observation Collective for Southwest Mexico (COMDHSM) was allegedly threatened by an immigration official with a criminal investigation on human trafficking charges.²⁸²

²⁷⁴ IMUMI et. al., 2023, quoted.

²⁷⁵ Ortega, 2018, quoted.

²⁷⁶ See its profile here: <https://migrantinfo.iom.int/es/node/1258>

²⁷⁷ See its web page here: <https://asylumaccess.org/asylum-access-mexico/>

²⁷⁸ See here: <https://sinfronteras.org.mx/>

²⁷⁹ See here: <https://imumi.org/nuestro-trabajo/>

²⁸⁰ Willers, Susanne (2022). “Negotiating Survival: Central American Refugee Women in Mexico and the Politics of Deservingness”. *Social Inclusion*, vol. 10, n. 4. Retrieved from: <https://www.cogitatiopress.com/socialinclusion/Article/view/5739/5739>

²⁸¹ See more here: <https://www.rescue.org/press-release/northern-mexico-stranded-asylum-seekers-are-risk-violence-informal-settlements-irc-0>

²⁸² Human Rights Watch, 2022. Retrieved from: <https://www.hrw.org/news/2022/06/06/mexico-asylum-seekers-face-abuses-southern-border>

In relation to **detention**, a core tactic involves initiating rapid legal actions to counter immediate threats, particularly in cases of detention and imminent pushbacks. The viability of legal defence is often a race against time: Faced with knowledge of cases of applicants or refugees in migration detention, it becomes necessary to adopt measures to avoid this concluding with a return. One of them is usually the presentation of demands or complaints before human rights guaranteeing authorities. However, the efficacy of these demands is often challenged by the speed of authorities, as people are often returned within the first hours in which legal actions against detention are initiated.²⁸³

Finally, and beyond shelter, humanitarian aid, and information, there is no explicit strategy to overcome procedural barriers.

B. Legal aid

The mechanism for accessing legal representation in asylum access adjudication in Mexico is highly complex, marked by a significant gap between formal legal obligations established by the Supreme Court and international standards and the practical reality of access, which is overwhelmingly reliant on civil society rather than guaranteed by the state. The system can be described through three key procedural aspects: the legal duty of the State, the critical role of NGOs, and the specific challenges faced during detention and pushbacks (see below).

As mentioned, the Mexican legal framework governing asylum procedures, even for the most vulnerable populations, does not mandate state-funded representation. Representation is necessary to effectively pursue appeals beyond the initial administrative review. Without proper representation, they cannot effectively challenge the legality of their detention in court, since a lawyer is required to challenge any decision before a court. In the absence of state support, asylum seekers who manage to find assistance rely entirely on civil society organizations.

The SCJN has recently affirmed that any person subject to a judicial process has the right to a defence by an attorney who must provide adequate advice from the beginning. Furthermore, the State has an obligation to adopt “reinforced protection measures” (“*medidas reforzadas de protección*”) for migrants due to their vulnerability, recognizing the presumption that they lack legal counsel and knowledge of the applicable legal framework.²⁸⁴ However, the general procedural rule regarding state provision of counsel is severely limited in practice since, as it was mentioned before, there is no public aid available.

This was the generalized situation until 2019. In May 2019, the Office of the United Nations High Commissioner for Refugees signed a framework agreement with the Federal Institute of Public Defence (*Instituto Federal de Defensoría Pública*- IFDP), to facilitate legal representation services for asylum seekers. In February 2020, COMAR and the IFDP signed a subsequent agreement to channel asylum seekers toward free legal orientation, advisory, and representation services offered by the Institute. However, there is currently a lack of data on the effectiveness and coverage of these services.²⁸⁵ By 2021, the UNHCR reported that 400 persons had received legal aid.²⁸⁶

In general, UNHCR reported that it has been expanding its legal assistance network, which by the end of 2019 included 64 lawyers and 36 paralegals. This report does not yet have reliable information on when this aid works in practice. Then, the UNHCR entered into partnership agreements with private and public organizations, including the Federal Institute of Public Defenders (IFDP), the University of Veracruz, and

²⁸³ IMUMI et. al., 2023, quoted.

²⁸⁴ Supreme Court of Justice (2023), *Cuadernos de Jurisprudencia*. Retrieved from: <https://transparencia-ciudadana.scjn.gob.mx/sites/default/files/page/2025-09/cj-no20-personas-migrantes-y-sujetas-a-proteccion-internacional.pdf>

²⁸⁵ Ortega Velázquez, E. (2022), “El régimen contemporáneo del asilo en México”. Retrieved from: <https://archivos.juridicas.unam.mx/www/bjv/libros/14/6671/9.pdf>

²⁸⁶ UNHCR (May 31, 2021), “Fortalecen ACNUR e IFDP atención jurídica a personas refugiadas”. Retrieved from: <https://www.acnur.org/noticias/fortalecen-acnur-e-ifdp-atencion-juridica-personas-refugiadas#:~:text=A%20dos%20años%20de%20la%20firma%20del,han%20recibido%20orientación%2C%20asistencia%20y%20representación%20jurídica>

two additional pro bono law firms: Santamaria and Galicia, in order to offer free legal advice and representation. As a result, throughout the year, more than 60,000 people received information and guidance regarding their rights to seek asylum in Mexico, more than 25,000 received personalized legal assistance with respect to their asylum applications, and more than 3,500 received legal representation. After expanding protection activities in northern Mexico during the second half of 2019, UNHCR expanded and strengthened its legal assistance network in Tijuana, Mexicali, Ciudad Juárez, and Monterrey.

287

In February 2020, COMAR and the IFDP signed an agreement to channel asylum seekers toward free legal orientation, advisory, and representation services offered by the Institute.²⁸⁸ It was possible because of a previous general agreement signed by the UNHCR, the IFDP, and the Judiciary.²⁸⁹

Pushbacks: If a pushback is executed, no effective legal mechanism for comprehensive repair seems to exist in Mexico. Furthermore, if the deported person still has legal counsel in Mexico, the geographical distance complicates communication and the contribution of original documents before the judicial authorities.²⁹⁰

Detention: In 2019, the SCJN stated the State’s obligation to “assign a public defender for people in a Migratory Station” (“*asignar un defensor o defensora de oficio para las personas en contexto de movilidad que se encuentran en Estación Migratoria*”).²⁹¹ However, research also indicates that the denial of legal access is widespread: 92% of asylum seekers interviewed who were in detention reported they were never given the possibility of having legal representation during their time in migratory detention. The 8% who did access legal counsel did so mainly through the intervention and assistance of CSOs or UNHCR partners.²⁹² During 2019, UNHCR reported 384 visits to migration stations; it also registered 7,938 persons in detention whose cases required personal follow-up.²⁹³ The IFDP regularly visits detention facilities. It counts on 40 people for that task.²⁹⁴

Against this backdrop, the challenges faced by asylum seekers in Mexico when attempting to obtain legal representation are systemic, rooted in both institutional neglect and practical barriers. While the period before 2019 was defined by a critical absence of state-provided legal aid, the period after 2019 has seen formal legal progress undermined by continuous operational failures, overwhelming capacity issues, and hostile enforcement practices, particularly concerning detention. In this manner, academic research identifies multiple obstacles to effective access to justice for migrants. The crisis in access to justice is accentuated in historically marginalized groups, including migrants, due to factors such as poverty (lack of financial resources to pay for private representation), lack of information (lack of knowledge about available rights and procedures), for some migrants (e.g. Haitians) language barriers (insufficient number

²⁸⁷ UNHCR (2019), “Principales resultados ACNUR México”. <https://www.acnur.org/mx/sites/es-mx/files/legacy-pdf/6007120b4.pdf>

²⁸⁸ See announcement: <https://www.gob.mx/comar/prensa/firman-comar-e-ifdp-convenio-para-que-solicitantes-de-condicion-de-refugiado-tengan-asesoria-juridica-y-acompanamiento-342112?idiom=es>

²⁸⁹ See the agreement here: <https://aidef.org/wp-content/uploads/2019/12/oficina-nnuu.pdf>

²⁹⁰ IMUMI et. al., 2023, quoted.

²⁹¹ Supreme Court of Justice (2023), *Cuadernos de Jurisprudencia*. Retrieved from: <https://transparencia-ciudadana.scjn.gob.mx/sites/default/files/page/2025-09/cj-no20-personas-migrantes-y-sujetas-a-proteccion-internacional.pdf>

²⁹² Asylum Access Mexico (2021), “Informe Alternativas a la Detención”. Retrieved from: <https://asylumaccess.org/wp-content/uploads/2021/09/informe-investigacion-atd.pdf>

²⁹³ UNHCR, 2019, “Principales Resultados ACNUR Mexico”, quoted.

²⁹⁴ UNHCR (May 31, 2021), “Fortalecen ACNUR e IFDP atención jurídica a personas refugiadas”. Retrieved from: <https://www.acnur.org/noticias/fortalecen-acnur-e-ifdp-atencion-juridica-personas-refugiadas#:~:text=A%20dos%20años%20de%20la%20firma%20del,han%20recibido%20orientación%2C%20asistencia%20y%20representación%20jurídica>

of specialized interpreters) and workload (overload of cases in public defender's offices and civil organizations).²⁹⁵

Prior to 2019, the defining challenge was the lack of any official, state-mandated mechanism to provide free legal representation, despite the extreme vulnerability of asylum seekers.

Provided, as it was mentioned, that Mexico did not provide free legal representation to anyone, whether NNA or adults, legal defence relied entirely on civil society organizations, which often lack the necessary budget and specialized personnel to handle cases. This inability to meet the need left many without quality legal advice. This legal advice was, notably, even necessary during administrative procedures: asylum procedures are described as confusing and “not adapted” for asylum seekers to be completed without help. The lack of representation compounded the challenge of the asylum process itself, which was often “prohibitively opaque” (“*prohibitivamente opaco*”).²⁹⁶ During this earlier period (e.g., 2011–2016), analysis of COMAR resolutions showed that less than 15% of asylum seekers in Mexico counted on legal representation within their procedures. Furthermore, in the early years of the Refugee Law's operation (before 2014), COMAR often did not even inform applicants of their right to legal counsel.²⁹⁷

The period from 2019 onward saw a formal shift toward institutional recognition of the need for free legal aid, driven largely by massive increases in applications and new judicial criteria, but this formal progress was heavily constrained by practical and systematic enforcement challenges.

The exponential rise in asylum applications—reaching 70,327 in 2019 and 130,863 in 2021—vastly overstretched COMAR's budget and personnel.²⁹⁸ This lack of capacity caused prolonged delays, with resolutions often taking more than a year instead of the statutory 45 business days. This uncertainty and waiting acted as a structural barrier that restricted effective access to asylum.

Then, the most severe challenges to accessing representation occur within the migratory enforcement regime, particularly in detention. Although the SCJN ruled in 2023 (based on a 2022 decision) that the State must “assign a public defender for people in the context of mobility who are in the Immigration Station” (“*asignar un defensor o defensora de oficio para las personas en contexto de movilidad que se encuentran en Estación Migratoria*”), asylum seekers in detention consistently face obstacles. Human Rights Watch interviewed 19 people who had been held in immigration detention centres. Most said they were detained after entering the country undocumented, before applying for asylum. Some said immigration agents tried to dissuade them from applying for refugee status and pressured them to agree to voluntary return, even when they said they would be at risk of violence and persecution in their home countries. Some said they were instructed to sign voluntary return documents without reading them. Others said agents used poor conditions in detention as a deterrent, saying they would spend months in detention if they sought refugee status.²⁹⁹ Asylum seekers report experiencing “mistreatment and verbal abuse” (“*malos tratos y maltrato verbal*”) upon expressing their desire to apply for asylum in detention.³⁰⁰

Finally, immigration attorneys and advocates in El Paso, Texas, told Human Rights Watch the need for legal services for returned asylum seekers in Mexico is overwhelming and that attorneys working to provide

²⁹⁵ Universidad Iberoamericana Ciudad de México (2019). *Temas del Procedimiento administrativo para el reconocimiento de la condición de refugiado*. Retrieved from: https://programadh.ibero.mx/assets/documents/Ibero-2019_Informe-REP-LEGAL_v3.pdf

Also: Rangel Sánchez, J. (2013), “El acceso a la justicia en México como medio para el respeto a los derechos humanos de los transmigrantes irregulares”. Thesis. Retrieved from:

https://www.ugto.mx/campusgto/ddpg/images/stories/pdfs/Tesis/L_D/EL_ACCESO_A_LA_JUSTICIA.pdf

²⁹⁶ Ortega Velázquez, 2022, quoted.

²⁹⁷ Universidad Iberoamericana Ciudad de México (2019). *Temas del Procedimiento administrativo para el reconocimiento de la condición de refugiado*. Retrieved from: https://programadh.ibero.mx/assets/documents/Ibero-2019_Informe-REP-LEGAL_v3.pdf

²⁹⁸ Sánchez-Montijano, E. and Zedillo Ortega, R. (2022), Migration in Mexico: complexities and challenges. Retrieved from: <https://www.undp.org/sites/g/files/zskgke326/files/2022-10/PNUDLAC-working-paper-30%20Mexico-EN.pdf>

²⁹⁹ Human Rights Watch, 2022. <https://www.hrw.org/news/2022/06/06/mexico-asylum-seekers-face-abuses-southern-border>

³⁰⁰ Asylum Access Mexico (2021), “Informe Alternativas a la Detención”. Retrieved from: <https://asylumaccess.org/wp-content/uploads/2021/09/informe-investigacion-atd.pdf>

low-cost or free representation face serious barriers to providing that representation, including returned asylum seekers' lack of fixed addresses and telephone numbers.³⁰¹

C. Lodging the appeal

This section will refer to the procedural aspects regarding lodging an appeal before the Mexican courts, either administrative federal courts or the constitutional courts.

Lodging an appeal against a COMAR's decision (mostly, a decision that denies a refugee's status) involves a sequence of administrative and judicial recourses: 1) the *Recurso de Revisión* (administrative appeal) before COMAR; 2) the *Juicio Contencioso Administrativo* (nullity trial) before the *Tribunal Federal de Justicia Administrativa* (TFJA); and 3) the *Juicio de Amparo* (constitutional challenge- writ of amparo) before the *Poder Judicial de la Federación* (PJF). The first immediate procedural barrier lies in the administrative appeal before the Mexican Commission for Refugee Assistance (COMAR): it is an illusory recourse ("the administrative appeal is ineffective, inadequate, and illusory in practice").³⁰² Given its ineffectiveness, the *Recurso de Revisión* functions primarily as a necessary procedural burden or an obstacle to overcome before accessing genuinely independent judicial bodies like the *Juicio de Amparo*. It is, so, a long process. This is a matter of concern, provided that persons in detention will most likely remain in detention during the proceedings.³⁰³ Please note that all COMAR's decisions that deny refugee status are required to be submitted first to the administrative courts to then access the Judiciary by an "amparo".

The most common figure is the "writ of amparo", an expedited legal action that can be submitted even before criminal courts. Provided a breach of human rights is argued (in an "amparo"), no exhaustion of "ordinary" means is required.

The amparo may be "direct" or "indirect". The "indirect" is against norms, actions, omissions or decisions issued by authorities or even by persons. The "direct" amparo is against rulings or final decisions. It is submitted before a Collegiate Court or before the Supreme Court.³⁰⁴ Against the indirect amparo judgment, a review appeal proceeds before the corresponding Collegiate Court within ten days. This appeal is available to both the complainant and responsible authorities.

Article 17 of the Amparo Law establishes a general time limit of fifteen days to file the amparo petition. However, if the act involves an attack on personal liberty, deportation or expulsion, incommunicado detention, or disappearance, there is no deadline.³⁰⁵

Filing the writ of amparo includes correctly identifying all responsible or "executing" authorities, so expert knowledge is required. It usually includes the Federal or local INM delegate involved (e.g., at the specific airport or border crossing point), the delegate that actually issued the rejection record/act, etc. In case of a detention, the director of the migration detention centre should be identified.

³⁰¹ Human Rights Watch, 2022. Retrieved from: <https://www.hrw.org/news/2022/06/06/mexico-asylum-seekers-face-abuses-southern-border>

³⁰² Ortega Velázquez, 2022, quoted.

³⁰³ Universidad Iberoamericana Ciudad de México (2019). *Temas del Procedimiento administrativo para el reconocimiento de la condición de refugiado*. Retrieved from: https://programadh.ibero.mx/assets/documents/Ibero-2019_Informe-REP-LEGAL_v3.pdf

³⁰⁴ See: <https://estadisticajudicial.scjn.gob.mx/preguntas-frecuentes-ar.aspx>

³⁰⁵ Amparo Law: "**Artículo 17.** El plazo para presentar la demanda de amparo es de quince días, salvo: **I.** Cuando se reclame una norma general autoaplicativa, o el procedimiento de extradición, en que será de treinta días; **II.** Cuando se reclame la sentencia definitiva condenatoria en un proceso penal, que imponga pena de prisión, podrá interponerse en un plazo de hasta ocho años; **III.** Cuando el amparo se promueva contra actos que tengan o puedan tener por efecto privar total o parcialmente, en forma temporal o definitiva, de la propiedad, posesión o disfrute de sus derechos agrarios a los núcleos de población ejidal o comunal, en que será de siete años, contados a partir de que, de manera indubitable, la autoridad responsable notifique el acto a los grupos agrarios mencionados; **IV.** Cuando el acto reclamado implique peligro de privación de la vida, ataques a la libertad personal fuera de procedimiento, incommunicación, deportación o expulsión, proscripción o destierro, desaparición forzada de personas o alguno de los prohibidos por el artículo 22 de la Constitución Política de los Estados Unidos Mexicanos, así como la incorporación forzosa al Ejército, Armada o Fuerza Aérea nacionales, en que podrá presentarse en cualquier tiempo".

In relation to lodging a writ of amparo before the Judiciary, the main obstacle is the lack of (free) legal aid. In general, lodging a writ of amparo requires specialized legal training, so not all lawyers possess this knowledge. Then, legal representation is required, and the service is quite limited. Actually, the Mexican government has been offering legal representation since 2019.³⁰⁶ Provided that most migrants often flee poverty, they lack the economic resources to hire the necessary specialized legal professionals. This makes accessing the *amparo* recourse virtually impossible for individuals without pro bono assistance.³⁰⁷

Finally, lodging an appeal before the Circuit Courts (TCC) involves its own challenges. The TCCs issue binding and orienting precedents. The large and increasing number of sentences makes it “really complicated” (“*realmente complicado*”) for any person, including non-specialist lawyers, to stay informed about these criteria and their jurisprudential development. The TCCs’ use of “extremely technical language” (“*lenguaje sumamente técnico*”) further complicates understanding and access. On the other hand, there was a historical divergence regarding which TCCs were competent to hear appeals concerning migration detention. For instance, some TCCs in penal matters asserted competence for acts like detention, while others in administrative matters asserted competence. So, sorting this debate out could make the process longer. The SCJN eventually resolved this “Conflict of Criteria” (*Contradicción de Criterios*), determining that the order of detention is an administrative act, meaning the administrative TCCs are competent. This decision was taken in 2022. However, prior to this resolution, this procedural ambiguity presented a barrier and a source of internal conflict.

Pushbacks: In general, pushbacks may be challenged before several courts, and the most common figure is the “writ of amparo”. Regarding rejection at airports and according to jurisprudence of the Supreme Court of Justice of the Nation, the airport rejection record constitutes an independent administrative act that can be examined separately from other acts such as deportation or deprivation of liberty. The Federal Judicial Branch has determined that these acts are administrative in nature and do not directly involve deprivation of liberty; therefore, Federal District Courts in Administrative Matters have jurisdiction over them.

In cases of extreme urgency, such as airport rejection, it is possible to file a writ of amparo by appearance when there is an imminent risk of act execution. This procedure allows a third party (family member, lawyer) to file the petition on behalf of the affected person, requiring subsequent ratification by the complainant. In cases of border rejection, it is possible (and essential) to request immediate suspension to prevent immediate execution of the rejection record. Typical effects include abstention from executing rejection, return, or deportation, cessation of illegal deprivation of liberty and incommunicado detention, and guarantees of respect for personal liberty in the place determined by migration authorities.

Detention: The amparo is, again, the main and most effective way to challenge immigration detentions. It may be filed before federal district courts in administrative matters or before federal district courts in criminal matters. Apparently (according to the available sources), the latter is more common when the detention exceeds 36 hours. A writ of amparo against a detention usually includes a precautionary measure to get the detention suspended, and alternatives to detention may be required.

D. Hearing

Procedures to challenge barriers to accessing asylum do not generally require a hearing, and there is little evidence of hearings. Notwithstanding, the amparo proceeding in Mexico does provide for a hearing, formally known as a “constitutional hearing,” which is an essential stage of the procedure. This hearing is mainly regulated by Articles 112 to 120 of the Writ of Amparo Law.³⁰⁸

³⁰⁶ “Formally, until 2019 the government did not provide free legal representation to any asylum seeker, resulting in people who managed to initiate a refugee status recognition procedure not having legal assistance from the State; some civil society organizations assumed this task, although, for obvious reasons, they cannot handle all cases”, Ortega Velázquez, 2022, quoted.

³⁰⁷ Pérez Bravo, 2021, quoted.

³⁰⁸ Article 115: “If there is no prevention, or if it has been fulfilled, the jurisdictional body shall admit the claim; set a date and time for the constitutional hearing, which shall be held within the following thirty days; request a report with justification from

Once the amparo petition is admitted, the judge sets a date and time for the hearing, which must take place within 30 days (extendable for justified reasons). All the evidence around the case is shown in this hearing, and the decision is taken right after it.³⁰⁹

However, a review of the legal cases suggests that the hearing is merely a formal act with no further consequences; there is no registry of the person being physically present in the hearings. In the *writ of Amparo 07/2022*, there was a “constitutional hearing,” but no children or adolescents were there. In the *writ of Amparo 198/2024*, the NGOs that submitted the legal claim actually appealed the first-instance decision because the “constitutional hearing” was carried out without them.

As part of the detention process, there is a formal measure called “presentation” or “submission” (“*presentación*”) of the person before the authorities. It is, in legal terms, an opportunity to the person to “appear” (“*comparecer*”) and “make the statements it deems appropriate, in order to give it due hearing and, where appropriate, demonstrate that a measure other than accommodation can be opted for” (“*realizar las manifestaciones que estime oportuno, a efecto de darle debida audiencia y, en su caso, demostrar que se puede optar por una medida diversa al alojamiento*”)³¹⁰ The name and the explanation about what a “presentation” is (intentionally) confusing and may suggest that a judge or other similar authority (different from the migration authority, for instance) is going to hear the person. This is not the case: the presentation is a euphemism for the detention itself. It is the act of bringing the person before the (detention) authorities.

E. Deliberation

All the legal actions “amparos” start in the first instance and then can be reviewed by a panel. In some cases, they can achieve the Supreme Court of Justice. There are no differences depending on the barrier.

The first instance is composed of one judge. It is called “district court”. According to the most recent official data (2023), there are 430 district courts currently operating nationwide, which means there are 430 district (trial-level) judges.³¹¹ The second instance is a panel: the Collegiate Circuit Courts (*Tribunales Colegiados de Circuito*). Each collegiate court is made up of three magistrates (federal appellate judges), who make decisions collectively. Currently, there are 258 collegiate circuit courts, representing a total of 774 magistrates in these bodies. Until 2022, there were collegiate circuit courts composed of a single judge.

District judges must issue a judgment within fifteen business days following the constitutional hearing. This is established in Article 184, second paragraph of the Amparo Law, which states: “the judgment shall be issued, without public discussion, within fifteen days”.

the responsible authorities, warning them of the consequences of their failure to comply in accordance with Article 117 of this Law; order that the third party be notified, and, if applicable, process the suspension incident. (PARAGRAPH AMENDED D.O.F. MARCH 13, 2025) When, in the opinion of the jurisdictional body, there is a well-founded and sufficient cause, the constitutional hearing may be held within a period that may not exceed another thirty days.” Source: <https://mexico.justia.com/federales/leyes/ley-de-amparo/titulo-segundo/capitulo-i/seccion-segunda/>

³⁰⁹ See: https://www.scjn.gob.mx/sites/default/files/publicaciones_scjn/publicacion/2016-10/55483_1_0.pdf

³¹⁰ English translation: “Immigration detention is not automatic because, prior to issuing the presentation order, the foreign national is given the opportunity to appear and make any statements they deem appropriate, failing which they are given a fair hearing and, where appropriate, can demonstrate that they may opt for a measure other than detention”.

³¹¹ Consejo Federal de la Judicatura Federal (2023), *Anexo Estadístico*. Retrieved from: https://www.scjn.gob.mx/sites/default/files/informe_labores_transparencia/anexo_estadistico/2023-12/INTRO_2023.pdf

Regarding Appellate Instances (Collegiate Circuit Courts), they operate under specific rules for collegial deliberation. Review or direct amparo cases must be resolved within fifteen business days after the case is assigned to the reporting magistrate. The reporting magistrate must prepare a written draft of the resolution in the form of a judgment. Once the draft is prepared, it is submitted to the other magistrates for discussion and voting. Then, resolutions are adopted by unanimity or majority vote of the magistrates. In case of discrepancies, the matter is resolved according to the majority's criteria, and dissenting opinions may be issued.

Finally, Article 34 of the Organic Law of the Judiciary states that “rejected or withdrawn drafts for further study must be rescheduled”, causing additional delays in the deliberation process.

F. Review of decisions

The appeal of a writ of amparo (*recurso de revisión*) is the procedural remedy by which either the petitioner (*quejoso*) or the responsible authority challenges a district-court judgment in the collegiate circuit court. Its objective is to review both legal and factual issues decided at first instance and to ensure correct application of constitutional standards. The appeal must be filed within 10 business days counted from notification of the district-court judgment. It should be presented in writing, and before the body that has issued the resolution to be appealed. Then, it is delivered to the court of appeals. The clerk's office checks formal requirements; then the appeal is admitted, and the record is sent to the reporting magistrate. It is the same across barriers.

The reporting magistrate prepares a draft resolution within 15 business days of receipt of the record. The three magistrates convene to discuss and vote. Decisions require a majority vote; dissenting opinions may be issued.

Within 15 business days of assignment, the court issues its judgment, which may confirm, reverse, or remand the trial-level decision.³¹²

G. Procedures in decentralized states

Mexico is a federal state, but the federal norms and proceedings remain the same for all the territory: all procedural aspects involve federal norms that are, in legal terms, uniformly implemented all over the country. However, there may be differences in practices. One of the most outstanding practices is the requirement to admit a legal action. The practices of different jurisdictions, and even different courts within the same jurisdiction (or building), are so variable that they can be seen as requirements to avoid having an action dismissed.

H. Influence of procedures in practice and the role of courts

Some concrete practices (e.g., hearing conduct, legal representation) diverge from formal procedures. The amparo law establishes hearings, but sources (e.g., NGO reports) avoid mentioning hearings involving asylum seekers or migrants. In indirect amparo proceedings, the constitutional hearing is considered a formal procedural milestone. Although the constitutional hearing is the moment when evidence is presented and arguments are made and does not involve a direct interview between the judge and the complainant, it is the main judicial forum where the right to a “hearing” is exercised in amparo proceedings. Finally, free legal aid for migrant and asylum seekers is quite a new formal guarantee (the agreement to provide it was signed in 2020), so it will be insightful to see how this formal procedure works in practice.

On the other hand, the most relevant jurisprudence from judicial bodies that has actually shaped procedural protections relates to the type of suspension to be granted in “amparos” due to pushbacks.

There have been divergences among courts and jurisdictions regarding the type of suspension to be granted to deal with pushbacks, particularly in relation to rejection at airports. Following standards in

³¹² Marroquín Zaleta, Jaime (2020), *El debate en los tribunales colegiados de circuito*. Retrieved from: <https://archivos.juridicas.unam.mx/www/bjv/libros/11/5231/8.pdf>

human rights, the interpretation that prevailed was that only an automatic and outright suspension (“*suspensión de oficio y de plano*”) actually protects the right to due guarantees of migrants and asylum seekers (*Amparo 271/2016*). This case also included specific procedural rights, including the opportunity to allege and offer evidence, the right to manifest what suits their interests, and the ability to designate a representative. If a person cannot communicate due to language (e.g., not speaking Spanish well), the State must provide the necessary measures, suggesting the requirement for interpretation/translation services.

The many cases regarding the deadline to submit an asylum application have also shaped asylum rights in Mexico. The case *Amparo 353/2019*, ruled by the Supreme Court in October 2019, is the model that other cases would follow. The procedural barrier (“deadline”) was not declared illegal, but more flexibility regarding evidence was stated. It implies, in terms of the ruling, that a lower burden of evidence should be required to justify the exceptions. Sometimes, the very explanation of the person about the difficulties in applying on time may be enough.

The Inter-American Court of Human Rights (IACtHR) has played a decisive role in shaping Mexican jurisprudence on migration and asylum. Its standards are usually widely mentioned in the Supreme Court’s rulings. For example, the SCJN’s ruling concerning NNA in migrant caravans³¹³ was entirely guided by mandates from the American Convention on Human Rights, the American Declaration of Human Rights, and IACHR pronouncements. Interestingly, there are even cases before the Supreme Court that narrate standards achieved in the Inter-American system of human rights, only to then uphold that the particular case is not covered by them. Specifically regarding “procedural protections”, free legal aid is a recent achievement for migrant and asylum seekers’ rights. The SCJN ruled that the State must guarantee the right to a defender for individuals in migratory stations and that the maximum period of detention must be limited to thirty-six hours, after which individuals must continue their migratory process in freedom. In the context of detention (in migration stations), detainees must be provided with services including legal assistance (*asistencia jurídica*).

The SCJN found³¹⁴ that the omission of authorities to provide specialized legal representation and comprehensive evaluation (including specialized interviews) to unaccompanied minors seeking asylum violated their rights of access to justice and the principle of the best interest of the child. The need for specialized legal advice and representation for asylum seekers, including minors, has been established by the IACHR Court in cases like *Pacheco Tineo vs. El Estado Plurinacional de Bolivia* and *Vélez Loo vs. Panamá*.

The right to consular assistance has been developed by Mexican courts based on Inter-American standards³¹⁵ (e.g., in *Amparo 81/2024*), particularly the Advisory Opinion 16-99 issued by the Inter-American Court of Human Rights. Following subsequent developments from the Inter-American system, the Mexican court also uphold that this guarantee includes the right of the authorities to immediately inform the foreign national of their right to communicate with their consular office, the freedom of the foreign national to choose whether or not to contact their consulate, and the right of consular officials to visit the detained national to talk with them and organize their defence in court.

It has also been stated that migrants have the right to request and receive legal advice (*asesoría legal*), including free public service if applicable, as well as translation or interpretation services. Due process guarantees further include the right to offer evidence and allege what suits their rights, access to the administrative file, and to receive resolutions that are duly founded and motivated.

I. Other procedures

No other relevant procedural aspects so far.

³¹³ Supreme Court of Justice, File “Amparo en Revisión” 07/2020, quoted.

³¹⁴ Supreme Court of Justice, File “Amparo en Revisión” 400/2020, quoted.

³¹⁵ Supreme Court of Justice, File “Amparo en Revisión” 81/2024, Digital Record 33428.

II. JUDICIAL BODIES IN ACCESS TO ASYLUM

A. Institutional configuration

Asylum adjudication may be handled by administrative “courts” or constitutional courts.

(i) The first one deals with administrative decisions nullity, while the others oversee deciding rights violations when a constitutional right or clause is involved. An appeal against a refugee status denial issued by COMAR, for instance, must be filed before the administrative “courts”. Thus, the Federal Tribunal of Administrative Justice (TFJA) has jurisdiction over certain administrative immigration decisions. Differently from other administrative courts, “almost half of the states have deviated from the French model and ascribed these administrative courts to the judicial branch”.³¹⁶ The Federal Administrative Court, i.e., the federal administrative justice system or all federal administrative disputes [...], proceeds against all administrative decisions of the centralized federal public administration or parastatal entities.³¹⁷ However, most of the cases relating to barriers are filed before the Judiciary and by “amparo” legal actions. As research shows, most of the legal actions brought before the TFJA regarding migration and asylum issues correspond to fines imposed on transportation companies, followed by cases where the INM denied a change among migration-based categories (e.g., from temporary to permanent).³¹⁸

In consequence, this report will mainly focus on the second one.

(ii) The so-called constitutional courts are also known as “amparo” courts because most of the actions are expedited legal actions (“amparos”). The *writ of amparo* gives federal Mexican courts jurisdiction to entertain any case involving a violation of the Mexican federal constitution through a challenge filed before a federal district court. A challenge could also be made to review a final judgment rendered by a state court that allegedly misapplied state law. The benefit of amparo holds only for the individual case in which the writ was filed.³¹⁹

Similar to the United States, each of Mexico’s 31 states and Mexico City has a local court system. Both referred courts are federal, but only constitutional courts belong to the Judicial branch and sit in three instances or stages.

The Mexican federal judiciary (so, constitutional courts) consists of three tiers: the Supreme Court of Justice of the Nation (SCJN), Circuit Courts, and District Courts. Each level plays a distinct role in immigration-related judicial review. The SCJN serves as the constitutional court with final authority over constitutional interpretation, while federal district courts serve as the primary venue for constitutional challenges through the *amparo* mechanism.

The 2024 reforms introduced a new system of popular election for all judges; this reform will be implemented in two stages: elections will be held in 2025 and 2027. Lower court judges will be selected in local elections, and Supreme Court justices will be elected during national elections. To be eligible for judicial office, candidates for the lower courts must have a law degree (with a required level of performance) and five years of legal experience. They must submit an essay and letters of recommendation. After being vetted by commissions from the executive, legislative, and judicial branches, successful candidates enter a lottery; those selected may run for office. Candidates for the Supreme Court are nominated by the executive, legislative, and judicial branches; each branch may nominate ten candidates. The Senate verifies the nominees’ eligibility and forwards names to the National Electoral Institute to be

³¹⁶ López-Ayllón, S.; García, A.; Fierro, A. (2015), A Comparative-Empirical Analysis of Administrative Courts in Mexico. *Mexican Law Review*, vol. 7 no. 2. Retrieved from: https://www.scielo.org.mx/scielo.php?script=sci_arttext&pid=S1870-05782015000100001

³¹⁷ Pérez Bravo, quoted.

³¹⁸ Pérez Bravo, quoted.

³¹⁹ Immigration and Refugee Board of Canada, Country Profile: Mexico. Available at: <https://www.irb-cisr.gc.ca/en/country-information/ir/Pages/index.aspx?doc=432819>

submitted as candidates. Supreme Court justices serve a single 12-year term. All other judges serve renewable nine-year terms.³²⁰

First instance judicial or quasi-judicial body/ bodies:

- (i) The TFJA has 53 regional chambers distributed across 29 regions throughout the country. Each regional chamber is composed of three judges and has jurisdiction over its assigned territorial district. These chambers constitute the first instance of the system and are responsible for handling most of the daily judicial activity.³²¹
- (ii) Regarding the Judiciary, district courts consist of one judge and have jurisdiction over general and specialized first-instance federal cases.

Second instance judicial or quasi-judicial body/ bodies:

(i) Regarding the administrative federal justice, the Federal Tribunal of Administrative Justice is composed of the Superior Chamber. The Superior Chamber of the Tribunal is composed of 14 judges and divided into three sections. The first and second sections are competent to give final judgment on administrative and fiscal disputes, while the third section decides on disputes relating to the sanctioning of federal officials. The General Plenary is composed of the President of the Tribunal, thirteen magistrates of the sections of the Superior Chamber, and the two judges of the regional Chambers who are also part of the Governing and Administration Board of the Tribunal.

It has final jurisdiction over appeals against administrative procedures and acts in areas such as tax administration, social security, public works, public contracts, leases, damage to State property, administrative liability of public officials, etc. Magistrates are appointed by the President of the Republic of Mexico. Their appointment must be approved by the Senate or, in its recesses, by the Permanent Commission. They are appointed for a term of 15 years, which cannot be extended. The magistrates of the regional chambers, the specialized chambers, and the supernumerary magistrates shall be appointed under the same conditions for 10 years. Their appointment may be extended once for the same period.³²²

- (ii) In 2021, a judicial reform instituted a new appellate court structure. Regional Plenary Sessions were created to replace Circuit Plenaries. They are tasked with resolving conflicts between judgments issued by different circuits within the region of each Regional Plenary Session. Three magistrates review each case. The Unitary Courts were replaced by Collegiate Courts of Appeal. Instead of a single-judge review of appellate petitions, the new courts have three judges. This change was implemented to enhance the quality of the judgments. The Collegiate Courts of Appeal are principally responsible for reviewing indirect Amparo proceedings (*recurso de revisión*) and appeals of federal civil, criminal, administrative, and commercial proceedings.
- *Third instance judicial or quasi-judicial body/ bodies:*

The Supreme Court is the final court of appeal for both federal and state courts. It also serves as a constitutional court and reviews the constitutionality of legislation and government actions. In September 2024, as part of the constitutional reform initiative, the Mexican government reduced the number of justices from 11 to 9. It also eliminated the Court's tradition of hearing cases in panels; all cases are now heard by the entire court. The Court's power of judicial review was preserved; the Court may declare legislation unconstitutional with the votes of six of the nine justices. One of the most noteworthy of the 2024 reforms was to the judicial selection process. All judicial candidates in Mexico, including potential Supreme Court Justices, are now subject to

³²⁰ Judiciaries Worldwide, Country Profile: Mexico. Available at: <https://judiciariesworldwide.fjc.gov/country-profile/mexico>

³²¹ See: https://www.tfja.gob.mx/acuerdos/informacion_procesal/

³²² International Association of Supreme Administrative Jurisdictions, Mexico. Available at: <https://www.aihja.org/en/membre/mexico-tribunal-federal-de-justicia-administrativa/>

popular election. The prior method for appointing justices, confirmation by the Senate from a short list submitted by the President, was abolished, and all sitting Supreme Court Justices will be removed by August 30, 2025. In protest against these changes, eight of the Court's sitting eleven justices submitted letters of resignation in October 2024.³²³

The institutional configurations of bodies responsible for assessing the legality of the barriers to asylum access in asylum access adjudication have different implications.

The TFJA (*Tribunal Federal de Justicia Administrativa*, or Federal Court on Administrative Justice) follows the French model of administrative justice, which is characterized by being a specialized system outside the ordinary judiciary. This institutional configuration has profound implications for the protection of rights in migration matters and could be considered a court with little independence. The institutional paradox of the TFJA lies in its dual nature: it has full autonomy to issue its rulings but remains attached to the executive branch. This configuration generates a “structural conflict of interests”: “the same public authority, the executive branch, turns out to be both judge and party in the same process”.³²⁴ However, an empirical analysis shows that of 325 judgments analysed in immigration matters (2014-2019), the TFJA shows remarkable effectiveness in annulling administrative acts of the National Institute of Migration (INM), with 87% of acts declared null and void or deficient, mainly due to a lack of adequate grounds and reasoning.³²⁵

On the other hand, constitutional courts, where writs of amparo are decided, are judicial bodies and are therefore more independent. Furthermore, unlike the TFJA, judicial courts issue rulings based on the national constitution and may refer to international treaties.

Power/competences of the judicial bodies responsible for asylum access adjudication

This section describes the power/competences of the judicial bodies that are responsible for asylum access adjudication, considering, for example, whether they can decide on the merits or only on points of law, and if it can/must re-send the case to the administrative body, or whether and to what extent their decisions are binding on the government/executive branch.

Article 94 states that the exercise of the Judicial Power of the Federation is vested in a Supreme Court of Justice, an Electoral Court, Regional Plenary Sessions, Collegiate Circuit Courts, Collegiate Courts of Appeal, and District Courts.

- First instance judicial or quasi-judicial body/bodies:

(i) Administrative Federal Courts (regional chambers). The TFJA primarily exercises control over the legality of federal administrative acts. This means that it examines whether administrative decisions comply with the current legal framework, verifying: Competence of the official who issued the act; Adequate justification and reasoning; Correct form and procedure; Purpose in accordance with the law; Consistency between the facts and the decision.³²⁶

Its decisions are based on law, not on human rights treaties or the national constitution.

The judgment decides whether the decision/act/omission was legal or not. There is a list of cases in which the decision is “illegal” (art. 51), and on this basis, the judge has three options: declare the challenged resolution valid (option 1) or null it (in total or partially, options 2 and 3). The judge

³²³ Judiciaries Worldwide, Country Profile: Mexico. Available at: <https://judiciariesworldwide.fjc.gov/country-profile/mexico>

³²⁴ Ortega Velázquez, E. (2020), Niños, niñas y adolescentes solicitantes de asilo en México: una crítica a los defectos del procedimiento para el reconocimiento de la condición de refugiado. Retrieved from: https://www.scielo.org.mx/scielo.php?script=sci_arttext&pid=S0041-86332018000200707

³²⁵ Pérez Bravo (2015), quoted.

³²⁶ See “Ley Federal de Procedimiento Contencioso Administrativo”. <https://mexico.justia.com/federales/leyes/ley-federal-de-procedimiento-contencioso-administrativo/titulo-i/capitulo-i/>

can also then re-deliver the case for a new resolution or proceedings (art. 52, *Ley de Procedimiento Administrativo*).

(ii) First Instance Courts (“district tribunals” or “*juzgados de distrito*”). They can decide on the merits in cases involving any federal matter (civil, administrative, criminal), including constitutional issues, by means of a writ of amparo. So, they do not limit their competencies to the procedural or legal aspects. They can suspend the act or its effects. After the judgment, they can deliver the case to the corresponding authority for a new resolution. Its judgments are mandatory (Article 105 Amparo Law) for the government.

- *Second instance judicial or quasi-judicial body/ bodies:*

(i) Administrative Federal Courts: this competence (revision of a first instance’s decision) is exceptional, and it is exercised by the Superior Room. Most of the revisions are required via writ of amparo before the Judiciary (Collegiate Circuit Courts).

(ii) Collegiate District Court (“constitutional” courts). Collegiate Circuit Courts act as a second instance for district courts and also for administrative justice. They can decide on the merits in cases involving any federal matter (civil, administrative, criminal), including constitutional issues, by means of an “amparo”. So, they do not limit their competencies to the procedural or legal aspects. They can re-deliver the case to the previous instance or, in some cases, to the involved authorities. Its judgments are mandatory (Article 105 Amparo Law) for the government. In addition, in case of reiterating jurisprudence, it is mandatory also for other courts and for authorities dealing with similar cases.

For a firm ruling by a collegiate court to become binding case law, reiterative jurisprudence is required. For collegiate courts, 5 (five) consecutive rulings, by unanimity and in the same vein, are required. These requisites were still valid by October 2025.³²⁷ The reform did not impact previous “jurisprudence” (decisions with the status of a mandatory precedent)

- *Third instance judicial or quasi-judicial body/ bodies:* Until 2021, for a ruling to become binding case law, reiterative jurisprudence from the Supreme Court was required (five consecutive rulings). The judicial reform consisted of renewing the system for creating case law and transitioning from the traditional thesis system to one based on the precedent system, particularly in amparo proceedings.³²⁸

Now, a single judgment can be mandatory, provided it fulfils the constitutional requirements: “Reasons justifying the decisions contained in the judgments handed down by the Plenary of the Supreme Court of Justice of the Nation by a majority of eight votes, and by the Chambers by a majority of four votes, shall be binding on all jurisdictional authorities of the Federation and of the federal entities” (Regulatory Law of Articles 103 and 107 of the Political Constitution of the United Mexican States).

Since March 2025, a majority of six votes within the Plenary is required (art. 222).³²⁹

In the new constitutional framework, the binding nature of the precedent arises from the qualified majority in the Plenary or the Chambers; this provides legal certainty to the parties who are subject

³²⁷ See Amparo Law, Article 224: “Jurisprudence by reiteration is established by the collegiate circuit courts when they unanimously uphold the same criterion in five uninterrupted rulings. Questions of fact or law that are not necessary to justify the decision will not be binding”.

³²⁸ Pozas Loyola, Andrea; Negrete Cárdenas, Michael, (2022) “La nueva jurisprudencia por precedentes: ¿un reto para la enseñanza jurídica en México?”, *Revista del Posgrado en Derecho de la UNAM*.

³²⁹ See Amparo Law: <https://mexico.justia.com/federales/leyes/ley-de-amparo/titulo-cuarto/capitulo-ii/>

to its enforcement and to those who may be subject to it in a specific case; however, another fundamental element for the applicability of the precedent is its content.³³⁰

Implications of the available types of remedies on asylum access adjudication

The availability and type of remedies in Mexican law have significant implications for asylum access adjudication, particularly defining the scope of judicial scrutiny and the power dynamics between administrative actors (like the Mexican Commission for Refugee Help, COMAR, and the National Migration Institute, INM) and the high courts, namely the Collegiate District Courts (*Tribunales Colegiados de Circuito*) and the Supreme Court of Justice of the Nation (SCJN).

There are two types of remedies with different stages or instances: administrative justice and the so-called “constitutional” or federal courts, which belong to the Judiciary. The most effective is the constitutional, as long as the Supreme Court may intervene. In general terms, its rulings have been “beneficial” (at least in paper) for migrants and asylum seekers.

Amparo proceedings are primarily intended to bring before a federal judge the need to halt official actions that infringe upon an individual’s liberty, to prevent the execution of a deportation—which would constitute an act for which no remedy is available—and to allow the foreign national to complete their PAM while remaining at liberty. Indirect amparo proceedings are filed against administrative authorities (the manager or head of an immigration detention centre, an INM legal officer, an INM delegate or deputy delegate, etc.), whose contested actions constitute, as mentioned, attacks on personal liberty.

The Supreme Court acts as the ultimate guarantor of human rights and plays a central role in developing binding legal doctrine regarding asylum access. The constitutional remedy of the *writ of Amparo* (often reaching the SCJN through *Amparo en Revisión* or the *Facultad de Atracción*) is the primary tool that defines the extent of guaranteed scrutiny and adjusts power distribution, often favouring the rights of asylum seekers. For example, the SCJN ruled that a migration policy generating internal obligations is susceptible to constitutional control via the writ of amparo. This decision significantly shifts power by subjecting the Executive’s migration strategies (such as the “Remain in Mexico” program implementation) to judicial scrutiny.

The Supreme Court also set limits on the discretionary executive (COMAR)’s power to assess exceptions regarding the deadline to submit an asylum application. In the law, the COMAR is in charge of deciding whether an exception to the 30-day deadline is going to be granted, based on evidence (intended to prove why s/he did not meet the deadline) provided by the person. The Supreme Court ruled that this exception must consider the vulnerability of applicants and favour the widest protection of their fundamental rights. Finally, the SCJN has limited the power of migration authorities (INM) concerning detention, ruling that the detention periods specified in Article 111 of the Migration Law (15 and 60 business days) were unconstitutional.

B. Independence

The independence of the Mexican courts and related adjudicatory bodies is *formally* recognized. The Mexican Constitution specifically states that “All people have the right to enjoy justice before the courts and under the terms and conditions set forth by the laws. The courts shall issue their rulings in a prompt, complete, and impartial manner. Court’s services shall be free; judicial fees are prohibited” (Article 17).

Mexican law recognizes the guarantees of due process, requiring that resolutions determine rights and obligations based on the assurances of legal due process. The essence of due process includes the right to be heard by an independent and impartial tribunal.³³¹

³³⁰ Supreme Court of Justice, Contradicción de Criterios 408/2022. Retrieved from: <https://sjf2.scjn.gob.mx/detalle/ejecutoria/32112>

³³¹ Rodríguez Huerta, G. (2014), Extranjeros y Debido Proceso Legal. Retrieved from: <https://biblioteca.corteidh.or.cr/documento/63896>

Administrative Federal Courts (TFJA). The most significant criticism regarding judicial independence centres on the *Tribunal Federal de Justicia Administrativa (TFJA)*, which serves as the second administrative instance for challenging negative asylum decisions. The TFJA is not completely independent in the exercise of its functions because it is attached to the public administration, so the judge is part of it, but it is supposed to be impartial.³³² This arrangement fundamentally violates the principle of the separation of powers, which is meant to serve as a check on abuses of power by public authorities and is essential for a democratic state of law. Additionally, the TFJA is primarily an administrative (and fiscal) tribunal, not specialized in migratory or asylum issues, which limits its interpretative capacity in life-or-death asylum cases.

Constitutional Courts (Judiciary). All constitutional courts are part of the Judiciary, a separate branch in Mexican power's organization. However, a recent reform (passed in 2024) raises great concerns precisely about independence. Under the reforms, Mexico will transition to an appointment system where all of the country's judges will be popularly elected. This process will take place in two stages: the first in 2025, a special election where the Mexican Supreme Court and half of the judiciary will be renewed; the second part will be renewed in 2027.

Available sources identify the reform as a capture of the judiciary by the executive branch, since popular election makes judges dependent on political coalitions, a Judicial Disciplinary Tribunal with irrevocable decisions concentrates power, and the elimination of the Federal Judicial Council would eliminate institutional independence.³³³ In addition, it is also highlighted that in Mexico, where the executive and legislative branches now hold primary authority over judicial candidate selection, the potential for judicial capture and greater political influence on the courts has drawn increased scrutiny.³³⁴

Autonomy of the managing authority of the judicial or bodies in the field of access to asylum

This section considers the autonomy of the managing authority of the judicial bodies in the field of access to asylum.

Regarding the Administrative Federal Courts (TFJA): There is a body within the TFJA in charge of managing the financial aspects: the Governing and Administrative Board (*Junta de Gobierno y Administración*). There is also an Internal Control Body ("*órgano interno de control*") that includes many directorates.³³⁵

In regard to Constitutional Courts (Judiciary): The Federal Justice Council (*Consejo de la Judicatura Federal*) proposes and manages the budget, and it is also a disciplinary body.³³⁶ Established by the judicial reform of 1994, it serves as the specialized body for the administration, oversight, and discipline of the PJJ. One of the significant advances of the 1994 reform was creating a judicial civil service system, which the Council is responsible for managing.

The Federal Justice Council also plays a crucial role in maintaining the autonomy of judicial organs and the independence and impartiality of the judges.³³⁷ It is composed of seven counsellors and is chaired by the Chief Justice of the Supreme Court.

³³² Ortega V., (2018), Niños, niñas y adolescentes (...). *Boletín Mexicano de Derecho Comparado*, nueva serie, año XLX, núm. 152, mayo-agosto de 2018, pp. 707-739.

³³³ López Nachón, Gustavo (July 09, 2025), "Losing Sight of Judicial Independence: the case of Mexico's Judicial reform", *Yale Journal of International Law*. Retrieved from: <https://yjil.yale.edu/posts/2025-07-09-losing-sight-of-judicial-independence-the-case-of-mexicos-judicial-reform>

³³⁴ Orozco y Villa, Luz; Velasco Rivera, Mariana (April 30, 2025), "Unpacking the Rhetoric Behind Mexico's Judicial Reform", Baker Institute Brief. Retrieved from: <https://www.bakerinstitute.org/research/unpacking-rhetoric-behind-mexicos-judicial-reform>

³³⁵ See: https://www.tfja.gob.mx/tribunal/estructura_organica/

³³⁶ See: <https://www.oaj.gob.mx/funciones.htm>

³³⁷ Li, Qiaofeng (2024), "Challenges to Judicial Independence in Mexico", *Chicago Unbound*. Retrieved from: https://chicagounbound.uchicago.edu/cgi/viewcontent.cgi?Article=1138&context=international_immersion_program_papers

However, as of September 2024, the Federal Judiciary Council has been divided into a judicial administrative body and a Judicial Discipline Tribunal. With the new regulations, the administration of the judicial civil service now “falls under the recently established judicial administrative body. However, its structure is not yet fully defined, as the elections for the heads of both bodies are still pending”.³³⁸

Financial independence

Both tribunals count on relative autonomy regarding their budgets, as approved by the Parliament. In practice, the Congress decides and approves their budgets.

Administrative Federal Courts (TFJA): Their financial autonomy is not real. Both the Executive and the Legislative intervene in the decision about the budget, which may vary across years. It does not rely on a mechanism for stable and autonomous economic resources.

Constitutional Courts (Judiciary): Both the Executive and the Legislative intervene in the decision about its budget, which may vary across years. It does not rely on a mechanism for stable and autonomous economic resources.

One of the essential aspects of judicial independence is, of course, the budget, a process in which other branches of government are typically involved. Unlike other countries in the region, such as Honduras, Paraguay, Panama, and El Salvador, the Mexican Constitution does not mandate a fixed percentage of the gross domestic product, the general budget, or any predetermined parameter for the judiciary’s budget. Instead, it is negotiated annually, leaving (according to some sources) “the judiciary vulnerable” to these negotiations.³³⁹

The judiciary’s budget is proposed by each of the three main bodies that make up the Federal Judicial Branch (the Supreme Court of Justice of the Nation, the Electoral Tribunal, and the Federal Judiciary Council), which submit it to the Chief Justice of the Supreme Court. The Chief Justice must then forward it, without modifications, to the House of Representatives for debate.

Federal judges themselves do not participate in determining the judicial branch’s budget; instead, they are indirectly represented in the budgetary process by the magistrates and judges on the Federal Judiciary Council. Currently, no formal mechanism allows them to express their opinions on the Judicial Branch’s budget. No judicial body- whether a court, tribunal or other judicial entity- receives a specific budget allocation. So, the Federal Judiciary Council oversees and manages the budget of the Federal Judicial Branch, except for the Supreme Court of Justice, which is authorized to administer its budget through its respective administrative bodies.

In short, the Federal Judiciary Council (CJF) submits the budget proposal, but the Ministry of Finance and the Chamber of Deputies have the final say, limiting the financial autonomy of the PJF.

So, as one of the three branches of government, the federal judiciary, according to the Mexican Constitution, enjoys full independence and autonomy within the framework of inter-branch collaboration, including appointing its members. Since 1994, there have been unwritten conventions for appointing justices and maintaining a balance between federal judiciary members and legal experts from other areas of the profession; however, preference has always been given to career judicial attorneys.³⁴⁰

The FJC is supervised by Superior Audit Office of the Federation (*Auditoría Superior de la Nación*).

³³⁸ Cyrus R. Vance Center for International Justice and Federación Latinoamericana de Magistrados (2024), Assessment on the Independence of Mexican Judiciary, Retrieved from: <https://www.vancecenter.org/wp-content/uploads/2024/11/Mexico.-Judicial-System-Assessment-Nov-2024.pdf>

³³⁹ Cyrus R. Vance Center for International Justice and Federación Latinoamericana de Magistrados (2024), Assessment on the Independence of Mexican Judiciary, Retrieved from: <https://www.vancecenter.org/wp-content/uploads/2024/11/Mexico.-Judicial-System-Assessment-Nov-2024.pdf>

³⁴⁰ Cyrus R. Vance Center for International Justice and Federación Latinoamericana de Magistrados (2024), quoted.

Independence concerning human resource decisions

This section assesses the independence concerning human resource decisions about adjudicators and managers in judicial bodies in asylum access adjudication in aspects such as selection, appointment, dismissal, promotion, evaluation, and training.

Administrative Federal Courts (TFJA). According to the corresponding law (“*Ley Orgánica del Tribunal Federal de Justicia Fiscal y Administrativa*”) the Federal Court of Fiscal and Administrative Justice shall have the following public servants (art. 42):

1. Superior Chamber Magistrates
2. Regional Chamber Magistrates
3. Specialized Chamber Magistrates on Administrative Responsibilities
4. Supernumerary Regional Chamber Magistrates
5. General Secretary of Agreements
6. Assistant Secretaries of Agreements of the Sections
7. Secretaries of Agreements of the Superior Chamber
8. Secretaries of Agreements of Regional Chambers
9. Bailiffs (“*Actuarios*”, may be also “clerks”)
10. Jurisdictional Officers
11. Head of the Internal Control Body
12. Technical, Operational, or Auxiliary Secretaries
13. Director of the Centre for Studies on Administrative Justice
14. Other middle and senior management positions indicated by the Internal Regulations³⁴¹

The President of the Republic, with the approval of the Senate, shall appoint the judges of the Federal Court of Fiscal and Administrative Justice (Art. 4).

Then, Superior Court’s Judges shall be appointed for a non-renewable term of fifteen years (...). Regional Court Judges and Supernumerary Regional Court Judges shall be appointed for a term of ten years (...). Persons who have completed the term for which they were appointed as Regional Chamber Magistrates may be considered for new appointments. Persons who have completed the term for which they were appointed as Supernumerary Regional Chamber Magistrates may not be reappointed to that position (art. 5).

Finally, to be a Magistrate of the Federal Court of Fiscal and Administrative Justice, the following is required: “I. Be Mexican by birth and not have acquired any other nationality; II. Be in full enjoyment and exercise of civil and political rights; III. Be over thirty-five years of age on the date of appointment; IV. Have a reputation for good conduct; V. Hold a law degree with a registered title, issued at least ten years before appointment, and VI. Have at least eight years of experience in fiscal or administrative matters” (Art. 6).

Constitutional Courts (Judiciary). Similar requirements are stated for members of the Judiciary. A public competitive examination and background check is conducted. Magistrates and judges were selected (at

³⁴¹ See: <https://www.tfja.gob.mx/media/media/docs-marco/lotfja.pdf>

least until 2024) through competitive examinations. The selection process involves multiple stages with participation from Congress, the Judiciary, the Presidency, and the citizenry.

As a first step, the Senate issues a call to compile the list of candidates for the positions. The three branches of government will nominate different candidates, each of whom must meet certain requirements outlined in Article 95 of the Constitution.³⁴² These Committees will generate a list of the highest-rated profiles, from which candidates will be elected through a public drawing (“*insaculación*”). Subsequently, the Senate will forward the lists of selected candidates to the Electoral Institute, which will organize the elections, allowing the citizens to vote freely, directly, and secretly.

There is a 60-day campaign period during which neither public nor private financing is allowed. Appointments are made for an initial term of nine years. While there is no ratification process, individuals may be consecutively re-elected each time their nine-year term concludes.³⁴³

The Supreme Court is composed of eleven justices, one of whom is designated as the Chief Justice. These justices, referred to as 'ministers', are appointed for a single term of 15 years, with the Chief Justice selected by a peer vote among the justices to serve a four-year term, renewable but not consecutively for the same justice.³⁴⁴

In this regard, the law (all the following quotations are from the Law on the Organization of the Federal Judiciary) states: “Article 8. Ministers shall serve for a term of fifteen years, unless permanent physical or mental incapacity occurs”. Others are appointed in the following manner: “The Plenary of the Supreme Court shall appoint, at the proposal of its President, a Secretary General of Agreements and an Assistant Secretary General of Agreements. The President of the Supreme Court of Justice of the Nation shall appoint the assistant secretaries of agreements and the clerks who are necessary for the dispatch of the affairs of the Supreme Court of Justice” (Article 9).

The President of the Supreme Court of Justice of the Nation shall appoint the assistant secretaries of agreements and the clerks necessary for the dispatch of the affairs of the Supreme Court of Justice of the Nation, as well as the subordinate staff established by the applicable legal provisions.

The study and account secretaries shall be appointed by the corresponding ministers, in accordance with the provisions of the law” (*Ley Orgánica del Poder Judicial de la Federación*).³⁴⁵

The president of the Supreme Court is elected by the same court: “Article 12. Every four years, the members of the Supreme Court of Justice of the Nation shall elect from among themselves the president, who may not be re-elected for the immediately following term. The election shall take place at the first session of the corresponding year”.

³⁴² Requisites: “I. Be a Mexican citizen by birth, fully exercising his political and civil rights. II. Repealed. III. Possess on the day of the publication of the call mentioned in Section I of Article 96 of this Constitution a legally issued professional degree in law, a general grade point average of at least eight points or its equivalent and nine points or its equivalent in the subjects related to the position for which he/she is applying in the bachelors, specialty, masters or doctorate degree, and professional practice of at least five years in the practice of law; IV. Have a good reputation and not have been convicted of a crime punishable by more than one year of imprisonment; but if it is theft, fraud, forgery, breach of trust or any other crime that seriously damages the good reputation in the public opinion, he/she shall be disqualified for the office, regardless of the penalty. V. To have resided in the country during the two years prior to the date of publication of the call mentioned in section I of Article 96 of this Constitution; and VI. Not to have been Secretary of State, Attorney General of the Republic, senator, member of congress, or head of the executive branch of any federal entity, during the year prior to the date of publication of the call mentioned in section I of Article 96 of this Constitution”.

³⁴³ Cyrus R. Vance Center for International Justice and Federación Latinoamericana de Magistrados (2024), quoted.

³⁴⁴ Li, Qiaofeng (2024), “Challenges to Judicial Independence in Mexico”, *Chicago Unbound*. Retrieved from: https://chicagounbound.uchicago.edu/cgi/viewcontent.cgi?Article=1138&context=international_immersion_program_papers

³⁴⁵ See: <https://www.scjn.gob.mx/sites/default/files/sistema-bibliotecario/normativa/documentos/14 Ley Organica PJF.pdf>

According to some sources, the fixed 15-year term for judges (now 12 years from the 2024 judicial reform)³⁴⁶ helps shield them from political fluctuations and pressures, allowing them to make decisions based on law rather than temporary political climates. The involvement of both the President and the Senate in the appointment process also serves as a check and balance, preventing unilateral appointments. The Supreme Court has the authority to conduct constitutional reviews, a critical function for upholding the rule of law and human rights. This includes the power to strike down laws that are found unconstitutional, thus acting as a bulwark against potential abuses of power by other branches of government. Apart from the Supreme Court and Electoral Court, the administration, vigilance, and disciplinary control of the judiciary are managed by the Federal Judicial Council.³⁴⁷

All other judges within the Federal Judiciary are appointed based on lists organized by the Federal Judiciary Council. There is one single judge for the district court, while the Collegiate Circuit Court is made up of three members.³⁴⁸

“Article 33. When there is a vacancy for a secretary, clerk, or court officer, the President of the collegiate court shall appoint the person to fill the vacancy within thirty calendar days, from among those persons who appear in the top ten percent of the lists of successful candidates referred to in Article 30 of the Federal Judicial Career Law, notifying the Federal Judiciary Council thereof within a period not exceeding three business days. If the president of the corresponding court fails to appoint the person to fill the vacancy, the Federal Judiciary Council shall appoint that person directly from the lists, ensuring in all cases that the principle of gender parity is respected. This provision does not apply to vacancies for clerks or drafters referred to in Article 10, sections X and XIII of the Federal Judicial Career Law”.

So, in legal terms, the selection, appointment, and career of members of the Judiciary until 2024 seems to be quite independent from Executive or Legislative pressures.

Internal independence

The primary source of internal independence for each court is the non-binding nature of judicial decisions. As a general rule, decisions are not in themselves binding on judges.

For a firm ruling by a collegiate court to become binding case law, reiterative jurisprudence is required. For collegiate courts, 5 (five) consecutive rulings, by unanimity and in the same vein, are required. These requisites were still valid by October 2025.³⁴⁹ The reform did not impact previous “jurisprudence” (decisions with the status of a mandatory precedent)

Until 2021, for a ruling to become binding case law, reiterative jurisprudence from the Supreme Court was required (five consecutive rulings). The judicial reform consisted of renewing the system for creating case law and transitioning from the traditional thesis system to one based on the precedent system, particularly in amparo proceedings.³⁵⁰ Now, a single judgment can be mandatory, provided it fulfils the constitutional

³⁴⁶ Ayala Villagrana, R. (2024), “El ABC de la reforma judicial. Impactos y desafíos para las entidades federativas”. Nueva Epoca 125. Retrieved from: https://www.indetec.gob.mx/delivery?srv=0&sl=2&cat=8&path=%2Fboletin_financiero%2Fndiem%2F125%2FBoletinFN0125_5.pdf

³⁴⁷ Li, Qiaofeng (2024), “Challenges to Judicial Independence in Mexico”, *Chicago Unbound*. Retrieved from: https://chicagounbound.uchicago.edu/cgi/viewcontent.cgi?Article=1138&context=international_immersion_program_papers

³⁴⁸ Art. 25: “Los tribunales colegiados de apelación, los tribunales colegiados de circuito y los plenos regionales se compondrán por tres magistradas o magistrados de circuito y del número de secretarías y secretarios proyectistas, secretarías y secretarías, las y los actuarios, oficiales judiciales y personas empleadas que determine el presupuesto”.

³⁴⁹ See Amparo Law, Article 224: Art. 224 “La jurisprudencia por reiteración se establece por los tribunales colegiados de circuito cuando sustenten, por unanimidad, un mismo criterio en cinco sentencias no interrumpidas por otra en contrario. Las cuestiones de hecho o de derecho que no sean necesarias para justificar la decisión no serán obligatorias”.

³⁵⁰ Pozas Loyo, Andrea; Negrete Cárdenas, Michael, (2022) “La nueva jurisprudencia por precedentes: ¿un reto para la enseñanza jurídica en México?”, *Revista del Posgrado en Derecho de la UNAM*. Retrieved from: <https://revistaderecho.posgrado.unam.mx/index.php/rpd/Article/view/285>

requirements: “Reasons justifying the decisions contained in the judgments handed down by the Plenary of the Supreme Court of Justice of the Nation by a majority of eight votes, and by the Chambers by a majority of four votes, shall be binding on all jurisdictional authorities of the Federation and of the federal entities” (Regulatory Law of Articles 103 and 107 of the Political Constitution of the United Mexican States).

Since March 2025, a majority of six votes within the Plenary is required (art. 222).³⁵¹ There will be no more separate rooms, but only a plenary.³⁵²

Finally, and as mentioned above, available sources see the reform as creating executive capture of the judiciary, since popular election makes judges dependent on political coalitions; a Judicial Discipline Tribunal with unreviewable decisions concentrates power, and the elimination of the Federal Judicial Council would remove institutional independence.³⁵³

Implications of various aspects of independence

At least until 2024, the possibility of overturning executive decisions (from either the INM or the COMAR) suggests judicial independence.

In the Administrative Federal Courts (TFJA), 87% of challenged acts were annulled outright (“*nulidad lisa y llana*”) or annulled for effect, forcing the INM to reissue decisions. Only 13 judgments (4%) upheld the INM’s original measures.³⁵⁴ This would indicate a robust willingness to overrule executive administrative decisions when they lack a legal foundation or motivation. The volume and consistency of annulments—irrespective of political cycles—suggest the TFJA operates with operational autonomy, resisting external pressure to defer to executive prerogative. However, provided that access to the procedures is expensive and requires expert knowledge (and legal aid), it would be interesting to assess what kind of cases, with which legal representation, are challenged before the TFJA to achieve such a successful rate. Furthermore, it will be enlightening to know the total universe of cases in conditions that must be presented (e.g., how many legal orders were issued) but not submitted, to see how representative the cases decided are.

Regarding the judiciary branch itself, many NGOs refer to some friendly or more protective judges, while others seem to be “anti-migrant”. This difference itself may reflect some degree of independence.

Independence of the whole judicial system

The overall judicial system, particularly the Federal Judicial Power (*Poder Judicial de la Federación*, PJF), is seen as a key institution for guaranteeing rights, demonstrating a capacity for robust constitutional oversight. The Supreme Court of Justice of the Nation (SCJN) is the maximum tribunal, whose decisions are intended to guarantee the validity of constitutional norms and principles. The SCJN has been a relevant actor in developing Mexican legal doctrine, interpreting constitutional mandates in light of the highest international human rights standards.

Then, federal judges exercise their independence through the trial of amparo (*Juicio de Amparo*), a critical means of constitutional control that allows individuals to challenge acts, omissions, or general norms that violate human rights. The writ of amparo procedure is fundamental for defending individuals against abuses of public authority.³⁵⁵

Federal judges and the SCJN have issued significant criteria, such as declaring the unconstitutionality of “random” immigration checks and intervening to counteract administrative denials of rights.

³⁵¹ See Amparo Law: <https://mexico.justia.com/federales/leyes/ley-de-amparo/titulo-cuarto/capitulo-ii/>

³⁵² Saavedra Herrera, C. (2025), “La reforma judicial y el futuro del precedente judicial en México”, IBERICONNECT Blog. Retrieved from: <https://www.ibericonnect.blog/2025/05/la-reforma-judicial-y-el-futuro-del-precedente-judicial-en-mexico/>

³⁵³ López Nachón, Gustavo (July 09, 2025), “Losing Sight of Judicial Independence: the case of Mexico’s Judicial reform”, *Yale Journal of International Law*. Retrieved from: <https://yjil.yale.edu/posts/2025-07-09-losing-sight-of-judicial-independence-the-case-of-mexicos-judicial-reform>

³⁵⁴ Pérez Bravo, quoted.

³⁵⁵ Pérez Bravo, quoted.

In addition, they have demonstrated judicial independence by intervening against arbitrary detention and asserting the right to have the detaining authority's decision reviewed judicially and without delay. For instance, the PJF has ruled on the unconstitutionality of migratory detention lasting more than 36 hours.

The SCJN has ruled that the order of presentation or temporary lodging of a foreigner in migratory stations is an administrative act, not a criminal one, meaning the corresponding amparo challenges fall under the jurisdiction of administrative judges.

Despite judicial rulings, detention remains a systematic practice in Mexico, often operating as the rule rather than the exception. Furthermore, pursuing legal challenges like the nullity trial (*juicio de nulidad*), before the TFJA, often prolongs the applicant's time in detention, subjecting them to greater uncertainty and vulnerability, which discourages them from exercising their rights. The effectiveness of Amparo actions against deportation is legally mandated for immediate suspension to prevent the case from becoming moot, demonstrating a legal recognition of the severity of the act.

The real question, in my opinion, is not about a lack of independence or how the Executive influences the judges' decisions, but about the implementation of these rulings: do these legal decisions have a real impact?

Finally, the most critical legal obstacle to judicial independence and access to justice occurs within the administrative procedures designed to review negative asylum decisions. Even when it is not about barriers themselves, the literature has highlighted this issue many times.³⁵⁶

C. Centralization/decentralization

The Mexican judicial system is decentralized, in the sense that there are local units with territorial jurisdiction, and there are federal courts alongside local courts. However, all federal courts belong to the same system ("*Poder Judicial de la Federación*") and are non-independent, so they do not apply their own regulations and are regulated by the same laws. The Proceeding Law, for instance, is the same, as well as all the relevant applicable legal frameworks.

Their structure is essentially the same, and it does not even depend on the number of inhabitants: three judges in a collegiate district court, one judge for the first instance. However, the courts are distributing depending on other factors such as the inhabitants.

At the end of 2023, there were 6,730 judges in the federal and state courts of the country. This represented a rate of 5.1 judges per 100,000 inhabitants. Likewise, in the period from 2010 to 2023, there was a 34.6% increase in the number of judges.³⁵⁷ According to the same source, the Southern state of Chiapas (the state that receives the most migrants and processes the most asylum applications) has the lowest rate, with 2,1 judges per inhabitant. Then, Mexico City (First Circuit) counts on 73 district courts (*juzgados de distrito*, first instance) for 9.2 million inhabitants, while the surroundings (State of Mexico) counts on 32 district courts for almost the double of inhabitants (17,4 millions). Actually, 20% out of 100% of magistrates and judges would be concentrated in the First Circuit (City of Mexico).

Due to the fact that federal district courts (" *juzgados de distrito*") and circuit tribunals (" *tribunales colegiados de circuito*") sit only in certain cities, asylum seekers in remote or southern states (e.g., Chiapas, Oaxaca, Tabasco) may face difficulties in the follow-up of their cases.

³⁵⁶ When the Commission for Mexican Refugee Aid (COMAR) denies refugee status, the applicant must file a *Recurso de Revisión* (Review Appeal). This mechanism is assessed as fundamentally flawed because the appeal is lodged and resolved by the immediate hierarchical superior within the same administrative body (COMAR). This means the same authority that denied the status reviews its own decision, violating the principle of impartiality by effectively acting as "judge and party" in the process. Empirical analysis confirms that this resource is structurally incapable of reversing errors, as in less than 1% of cases was the initial negative resolution fully revoked. This lack of effectiveness renders the administrative appeal "illusory" or a mere "procedural burden" (*carga procesal*) that must be exhausted before seeking genuine judicial review (Ortega, 2018, quoted).

³⁵⁷ INEGI, "Estadísticas a propósito del día de las personas juzgadoras", Press Release 47/25. Retrieved from: https://www.inegi.org.mx/contenidos/saladeprensa/aproposito/2025/EAP_PERJUZG.pdf

First instance judicial or quasi-judicial body/ bodies:

Administrative Federal Courts (TFJA). There are 53 Regional Rooms, distributed in 29 regions throughout Mexico.

Constitutional Courts (Judiciary): the first instance is called “*Juzgados de Distrito*”, or district courts. They are composed of a single judge. There are 429 district courts, distributed in the 32 circuits.

Second instance judicial or quasi-judicial body/ bodies:

Administrative Federal Courts (TFJA). The Superior Room is made of 16 judges.

Constitutional Courts (Judiciary). There are 270 Circuit Courts.

(The *Consejo de la Judicatura Federal* (CJF) is composed of: ■ 270 *Tribunales Colegiados de Circuito* (TCC) ■ 25 *Tribunales Unitarios de Circuito* (TUC) ■ 39 *Tribunales Colegiados de Apelación* (TCA) ■ 449 *Juzgados de Distrito* (JD) ■ 41 *Centros de Justicia Penal Federal* (CJPF) ■ 1 *Centro Nacional de Justicia Especializado* (CNJE) ■ 93 *Tribunales Laborales Federales* (TLF) ■ 13 *plenos de Circuito* (PC) ■ 492 *órganos y/o unidades administrativas*).³⁵⁸

Third instance judicial or quasi-judicial body/ bodies:

The Supreme Court is composed, until 2024, by 11 (eleven) judges. Since the judicial reform, there will be nine (9) judges.³⁵⁹

- This report lacks official information about how many people (lawyers, administrative personnel, etc.) actually work in the Supreme Court. The number may be 3,667.³⁶⁰

D. Specialization

None of the Mexican courts mentioned above (administrative courts, federal “constitutional” courts) are formally specialised in migration or asylum. However, there exist two protocols that may count as “institutional specializations”: a “Protocol to Assess Legal Cases Involving Migrants, Asylum Seekers and Refugees” (issued in 2013 and updated in 2021), and a Protocol for Assisting People on the Move and Subject to International Protection.

Institutional specialization in asylum

The Protocol to Assess Legal Cases Involving Migrants, Asylum Seekers and Refugees³⁶¹: The official name is: “Protocol for Action for those who Administer Justice in Cases Affecting Migrants and Persons Subject to International Protection” (*Protocolo de Actuación para quienes imparten justicia en casos que afectan a personas migrantes y sujetas de protección internacional*). This protocol offers a “guide to judging” that addresses recurring legal controversies in specific cases, linking abstract principles with specific procedural problems. This structure facilitates its use by judicial operators in real time.

³⁵⁸ Source: <https://www.inegi.org.mx/contenidos/saladeprensa/boletines/2023/cnijf/cnijf2023.pdf>

³⁵⁹ Ayala Villagrana, R. (2024), “El ABC de la reforma judicial. Impactos y desafíos para las entidades federativas”. Nueva Época 125. Retrieved from:

https://www.indetec.gob.mx/delivery?srv=0&sl=2&cat=8&path=%2Fboletin_financiero%2Fndiem%2F125%2FBoletinFN0125_5.pdf

³⁶⁰ Supreme Court of Justice, *ACUERDO del Comité de Gobierno y Administración de diez de febrero de dos mil veinticinco, por el que se autoriza la publicación en el Diario Oficial de la Federación del Manual que regula las remuneraciones de las personas servidoras públicas de la Suprema Corte de Justicia de la Nación para el ejercicio fiscal dos mil veinticinco*. February 28, 2025. Retrieved from:

https://www.scjn.gob.mx/sites/default/files/remuneracion_servidores_publicos/documento/2025-03/Manual-Remuneraciones-PJF-2025_0.pdf

³⁶¹ See some highlights regarding the Protocol here:

https://www.scjn.gob.mx/sites/default/files/gaceta_compromiso/documento/2016-10/Gaceta201309_0.pdf

Its promoting entity was the Supreme Court of Justice of the Nation (SCJN), through its General Directorate of Human Rights. It was launched in 2013³⁶² and updated in 2021. Pursuant to some sources, the “Protocol for those who administer justice in cases affecting migrants and persons subject to international protection in Mexico” was actually prepared by the Mexican organisation *Sin Fronteras IAP* at the request of the Supreme Court of Justice of Mexico.³⁶³

The Protocol adopts a rights-based approach based on diffuse constitutional and conventional control, incorporating national and international standards. It establishes 10 general principles (non-discrimination, pro persona, non-refoulement, best interests of the child, family unity, etc.) and develops specific rules of action for different procedural scenarios. It also dedicates a specific chapter to intersectionality, recognizing that migrants may face multiple layers of vulnerability (gender, ethnic origin, age, sexual orientation, disability). This approach anticipates subsequent jurisprudential developments.

However, it is a guideline, not obligatory. This generates discretionary and diverse applications among federal and local courts. In addition, the protocol standards sometimes clash with the reality of limited resources, saturation of migration stations, and lack of systematic training of judicial personnel. In fact, there is limited evidence on training provided to the Judiciary’s members. There are some videos in the SCJN website (three videos, in fact) that were introduced as “training”, in 2022.³⁶⁴

Also in 2022, there was a course offered to the Judiciary’s members. It was organised by the Federal School of Judicial Training (*Escuela Federal de Formación Judicial*). It was addressed to Magistrates, Judges, Court and Tribunal Secretaries, Record and registration assistants, Bailiffs, Judicial officers, Public defenders and legal advisors of the PJJ, Administrative personnel of the PJJ, and the general public. The course was offered again in 2024. [See more information in the next answer]

Some activities regarding the Protocol were organized by civil society organizations (Sin Fronteras IAP, International Detention Coalition, Asylum Access Mexico, Centre for Justice and International Law) and some governmental personnel took part in them.³⁶⁵ In one of the activities, one of the speakers was a judge (Salvador Mondragón Reyes, Magistrate of the Federal Judicial Branch of Mexico). There was also a virtual presentation of the updated Protocol in June 2021. The SCJN organized an official presentation event transmitted by videoconference on June 23, 2021, with participation from Minister Juan Luis González Alcántara Carrancá, Regina Castro Traulsen (Director General of Human Rights, SCJN), and international experts and civil society organizations.³⁶⁶

The Protocol for Assisting People on the Move and Subject to International Protection. This protocol was launched in 2019. It is a “complementary tool and constitutes an additional effort to advance the professionalisation of advisors who work with people in transit and subject to international protection, as well as human rights defenders, who therefore have an obligation to defend human rights. This instrument seeks to contribute to the adequate defence of migrants and refugees, as well as to social change, the recognition and protection of diversity, and the fight against inequalities between people, regardless of their immigration status”.³⁶⁷

³⁶² Supreme Court of Justice (2013), “Presentan Protocolo de actuación para migrantes”. Retrieved from:

https://www.scjn.gob.mx/sites/default/files/gaceta_compromiso/documento/2016-10/Gaceta201309_0.pdf

³⁶³ “Buenas prácticas para la defensa de los derechos humanos de las personas migrantes y personas sujetas de protección internacional en Mesoamérica”, May 15, 2015. Retrieved from: <https://gmies.org/taller-buenas-practicas-para-la-defensa-de-los-derechos-humanos-de-las-personas-migrantes-y-personas-sujetas-de-proteccion-internacional-en-mesoamerica/>

³⁶⁴ See: https://www.scjn.gob.mx/derechos-humanos/vidioteca?field_categoria_video_target_id=1391&page=0 [Please note that the webpage may not be accessible from external VPNs, so a Mexican VPN is required].

³⁶⁵ “Buenas prácticas para la defensa de los derechos humanos de las personas migrantes y personas sujetas de protección internacional en Mesoamérica”, May 15, 2015. Retrieved from: <https://gmies.org/taller-buenas-practicas-para-la-defensa-de-los-derechos-humanos-de-las-personas-migrantes-y-personas-sujetas-de-proteccion-internacional-en-mesoamerica/>

³⁶⁶ Video available here: <https://www.youtube.com/watch?v=KD8JYV0tVkE&t=1s>

³⁶⁷ Instituto Federal de Defensoría Pública (Federal Institute of Public Defense) (s.f.), Protocolo de Atención a personas en movilidad y sujetas a protección internacional. Retrieved from:

There is a report that upholds that “one of the lines of work of the Federal Institute of Public Defender’s Office provide for attention to priority social problems, such as attention to people in the context of mobility, whether refugees, asylum seekers, migrants or internally displaced by contexts of violence or climate crisis”.³⁶⁸ This report also refers that “the Law of Interculturality, Attention to Migrants and Human Mobility in the Federal District, in its Article 5, recognizes that human mobility is “the exercise of the human right of every person to migrate, which includes positive transformations that reduce inequalities, inequalities and discrimination”.

Specialized training in asylum

There have been some trainings for the Judiciary’s members. All of them are recent.

In 2022, there was a course (“The jurisdictional protection of human rights of foreign migrants”) offered to the Judiciary’s members. It was organised by the Federal School of Judicial Training (*Escuela Federal de Formación Judicial*). It was addressed to Magistrates, Judges, Court and Tribunal Secretaries, Record and registration assistants, Bailiffs, Judicial officers, Public defenders, and legal advisors of the PJJF, Administrative personnel of the PJJF, and the general public.³⁶⁹ The course was offered again in 2024.

Regarding its content, the syllabus mentions the following topics:

- Migratory movements in the world and in Mexico
- Constitutional principles on migration, foreign nationals, and asylum
- Migration Law, Nationality Law, and Law on Refugees and Complementary Protection
- Human rights of foreign migrants in Mexico
- Migrant women: enhanced protection and realities
- Migrant children: enhanced protection and realities
- Right to personal liberty and expulsion
- Right to asylum and refuge
- Right to nationality and political rights
- Three practical exercises (April 19, May 3 and 24, 2022)
- Perspectives and challenges from the Federal Judicial Branch

The valuation was a final exam (70%) + practical tests (30%), with a minimum grade of 8.0 and 80% mandatory attendance. The academic faculty included Beatriz Felipe Pérez, Diana Villamar Ramírez, Elba Coria Márquez, Elba Gutiérrez, Elisa Ortega Vázquez, Jesús Segovia Villeda, Karlos Castilla Juárez, Lorena Cano, Martha Luz Rojas Wiesner, Salvador Guerrero Navarro.³⁷⁰

https://ifdp.oaj.gob.mx/dinamico/pdfs/publicaciones/protocolos/protocoloAtencion_personasMovilidad_ProteccionInteranal.pdf [Please note that the webpage is not accessible from external VPNs, so a Mexican VPN is required].

³⁶⁸ Instituto Federal de Defensoría Pública (Federal Institute of Public Defense), (s.f.) *Abriendo caminos para la justicia*.

Retrieved from:

https://ifdp.oaj.gob.mx/dinamico/pdfs/publicaciones/informes/unidadLitigioEstrategicoDerechosHumanos_2025.pdf [Please note that the webpage is not accessible from external VPNs, so a Mexican VPN is required].

³⁶⁹ See more information here:

<https://escuelajudicial.cjf.gob.mx/cursosesp/2022/Febrero/ProteccionDDHHMigrantes/ConvocatoriaProteccionDDHHMigrantes.pdf> [Please note that the webpage is not accessible from external VPNs, so a Mexican VPN is required].

³⁷⁰ Source:

<https://escuelajudicial.cjf.gob.mx/cursosesp/2022/Febrero/ProteccionDDHHMigrantes/ConvocatoriaProteccionDDHHMigrantes.pdf> [Please note that the webpage is not accessible from external VPNs, so a Mexican VPN is required].

The second edition was entitled “The jurisdictional protection of human rights of foreign migrants”.

The Federal Judicial Training School again offered the same course with updates, throughout a 26-hour course in 13 sessions that covered the following topics:

1. Human mobility in Mexico and its cross-border relations (August 20)
2. Constitutional principles on migration, foreign nationals, asylum, and human rights (August 22)
3. Securitization of migrations: challenges for a change in vision (August 27)
4. Protection of women in mobility who are victims of gender violence (August 29)
5. Practical exercise: Migration Law, Nationality Law, and Refugee Law from SCJN jurisprudence (September 3)
6. Unaccompanied and accompanied children in migratory movements (September 5)
7. Practical exercise: Migrant children in national, inter-American, and international jurisprudence (September 10)
8. Migratory detention (accommodation) and expulsion (September 12)
9. Practical exercise: Identification, presentation, accommodation, and human rights from migratory practice and jurisprudence (September 17)
10. Right to nationality and political rights (September 19)
11. Right to asylum and refuge from international standards (September 24)
12. Human mobility motivated by climate crisis and environmental degradation (September 26)
13. Theoretical-practical: Racism, xenophobia, and discrimination: three cross-cutting challenges for the PJJ (October 3)

The requirements for the certificate were: 80% attendance, evaluation of teachers and program, and a minimum grade of 8.0 in the final evaluation.³⁷¹ Please note there is no information about the professors.

Finally, on the occasion of the Protocol's first edition, the Director General of the Federal Public Defender Institute (IFDP), Mario Alberto Torres López, might have announced a massive training program addressed to 800 federal public defenders and more than 1,000 district judges and circuit magistrates across the Republic.

Based on these sources, the specialization provided by training seems insufficient. In formal terms, all persons (even the general public) were allowed to take part in the training, so it included clerks and lawyers. However, I have no information about how many people actually took the course, and more importantly, how many of them actually passed and got the certificate. Finally, there is no evidence (based on desk research) that those trainings have had an impact on asylum access adjudication.

Discrepancies between the specialization provided on paper and the actual specialization

Courts cannot decide by themselves to have an institutionalized or specialized section for migration or asylum matters.

Within the Administrative Federal Courts (TFJA), there is no discrepancy. They are not specialized either “on paper” (formal or institutional specialization) or in reality (there is no reliable source about informal specialization, given, e.g., by training). Training is, in addition, voluntary and not part of their formal

³⁷¹ Information retrieved from:

https://escuelajudicial.cjf.gob.mx/cursosesp/2024/Capacitacion_Judicial/Agosto/Proteccion_DH_Migrantes/Convocatoria_Proteccion_DH_Migrantes.pdf [Please note that it is not accessible from external VPNs. So I copied and pasted all the information]

training to achieve a position. The available sources do not indicate whether they actually take into account the Protocol when deciding cases.

Regarding the Judiciary, they are not specialized “on paper,” and beyond the training that first-instance judges might have received, there is no evidence of real specialization. Training is, in addition, voluntary and not part of their formal training to achieve a position.

However, they may have a “de facto” specialization: courts in Tapachula or in the first circuit (City of Mexico), where the main international airport is located.

E. Human resources

Profile of the group of adjudicators

The TFJA in general (first and appellate instance). According to Article 42 of the TFJA Organic Law, the Tribunal has the following public servants (considered positions of trust): Superior Chamber Magistrates; Regional Chamber Magistrates; Specialized Chamber Magistrates on Administrative Responsibilities; Supernumerary Regional Chamber Magistrates; General Secretary of Agreements; Assistant Secretaries of Agreements of the Sections; Secretaries of Agreements of the Superior Chamber; Secretaries of Agreements of Regional Chambers; Bailiffs (“*Actuarios*”); Jurisdictional Officers; Head of the Internal Control Body; Technical, Operational, or Auxiliary Secretaries; Director of the Centre for Studies on Administrative Justice; Other middle and senior management positions indicated by the Internal Regulations.³⁷²

The TFJA does not publish a complete directory of public servants with quantitative data disaggregated by category. Available information is limited to nominal directories of magistrates and area heads, position catalog (without public total figures), and aggregated budgetary information. Apparently, there is a public list of positions and vacancies, but no accessible so far.³⁷³

On the other hand, there is more detailed information for the Judiciary (see below). In general, all the Federal Judiciary, except the Supreme Court, counted, by 2019, on 392 administrative bodies.³⁷⁴ Also by 2019 and according to the same official source, the Federal Judiciary was composed of 49,711 public servants: 6,9% in the Supreme Court and 90% in the Judiciary itself.

First instance judicial or quasi-judicial body/bodies:

- Administrative Federal Courts (TFJA). The TFJA has 58 Regional or Specialized Chambers distributed throughout the country. Each Regional Chamber is composed of 3 Magistrates.

Constitutional Courts (Judiciary). By 2024 (the last year available), there were 417 district judges: 45,1% women and 54,9% men, with 429 district courts in operation.³⁷⁵ In comparison, in 2023 there were 424 judges (40,8% women), with 430 district courts in operation. In 2019, there were 440 district judges, with 26,5% women. Also in 2019, 34 district courts (“*juzgados de distrito*”), so first instance courts, were specialised in “amparo”, while 29 were on “administrative” matters and 283 were “mixed”.³⁷⁶ District courts counted on 3,426 secretaries by 2024.

³⁷² Source: https://www.cuentapublica.hacienda.gob.mx/work/models/CP/2024/tomo/VI/MAT_Print.32R32.02.NEF.pdf [Please note the link is not available from external -No Mexican based- VPNs]

³⁷³ Tribunal Federal de Justicia Administrativa, official web site available here: <https://www.tfja.gob.mx/transparencia/servidoras-publicas/#>

³⁷⁴ Censo Nacional de Impartición de Justicia Federal 2020 (2020). Retrieved from:

https://www.inegi.org.mx/contenidos/programas/cnijf/2020/doc/cnijf_2020_resultados.pdf

³⁷⁵ Source: https://www.dgej.cjf.gob.mx/recursos/anexos/2024/graficas/intro_2024.pdf [Please note the link is not available from external -No Mexican based- VPNs]

³⁷⁶ See: https://www.inegi.org.mx/contenidos/programas/cnijf/2020/doc/cnijf_2020_resultados.pdf

Second instance judicial or quasi-judicial body/ bodies:

- Administrative Federal Courts (TFJA). The Superior Chamber is composed of 16 Magistrates. By 2025, the Tribunal operates with only 11 magistrates in the Superior Chamber, with 5 vacancies.
- Constitutional Courts (Judiciary). By 2024, there were 668 magistrates of Collegiate Circuit Courts (TCC): Men: 524 (78.4%), Women: 144 (21.6%). According to the same sources, there are 260 Collegiate Circuit Courts in operation, with 3 magistrates each. In comparison, there were 713 magistrates in 2023: 78% men and 22% women, with 258 courts in operation. In 2019, there were 753 magistrates, with 17,7% women and 82,3 men. Also in 2019, 47 collegiate district courts were administrative, while 88 were “mixed”.³⁷⁷

Third instance judicial or quasi-judicial body/ bodies:

- By 2019, the Supreme Court counted on: 1 plenary, 2 rooms, and 32 administrative bodies.³⁷⁸ By 2019, the Supreme Court was composed of 27.3% women and 72,7%, men.

Selection and appointment

The system described below mostly covers the appointment system until the judicial reform in 2024.

District judges are selected via open/internal public competitions with training courses; magistrates of circuit via internal competitions restricted to sitting judges and secretaries. Both processes culminate in appointments by majority vote of the CJF Plenary and publication in the DOF.

First instance judicial or quasi-judicial body/ bodies:

- Administrative Federal Courts (TFJA): According to Article 73, section XXIX-H of the Mexican Constitution, magistrates of the Federal Tribunal of Administrative Justice (TFJA) are appointed by the President of the Republic with the ratification of the Senate. Article 4 of the Organic Law establishes that "The President of the Republic, with the approval of the Senate Chamber, shall appoint the Magistrates of the Federal Tribunal of Administrative Justice". The Senate must approve appointments by vote of two-thirds of the members present. Candidates appear before joint committees where they present their vision and proposals on how they will administer administrative justice.

Regional Chamber magistrates serve an initial six-year term.

- Constitutional Courts (Judiciary): the “ *juzgados de distrito* ”. The selection and appointment of adjudicators in the Federal Judiciary of Mexico follow two distinct but parallel processes for District Court Judges (“*jueces de distrito*”) and Collegiate Court Magistrates (“*magistrados de circuito*”), both regulated by the *Ley de Carrera Judicial del Poder Judicial de la Federación* and overseen by the *Consejo de la Judicatura Federal* (CJF).

The governing body is the CJF through its “*Escuela Nacional de Formación Judicial*” and technical committees.

The selection steps include: a) a public call (*convocatoria*): Published once in the *Diario Oficial de la Federación* and twice in a national newspaper, with 5 business days between each publication. It specifies whether the contest is “open” (external) or “internal” (CJ F personnel), the number of vacancies, and the evaluation criteria. (b) An evaluation by Jury: A jury of at least three members (including judges, magistrates, and academic committee members) evaluates all stages; jurors are appointed by the CJF Plenary. After the final stage, jurors issue a final report declaring the winners. c) The appointment: The CJF Plenary appoints the winning candidates in order of final score, publishes their names in the DOF, and issues formal appointment orders. Among the

³⁷⁷ See: https://www.inegi.org.mx/contenidos/programas/cnijf/2020/doc/cnijf_2020_resultados.pdf

³⁷⁸ See: https://www.inegi.org.mx/contenidos/programas/cnijf/2020/doc/cnijf_2020_resultados.pdf

requirements: Mexican by birth; ≥ 30 years old; law degree; ≥ 5 years professional experience; good reputation; no final convictions for intentional crimes.

Second instance judicial or quasi-judicial body/ bodies:

- Administrative Federal Courts (TFJA). Article 4 of the Organic Law establishes that “the President of the Republic, with the approval of the Senate Chamber, shall appoint the Magistrates of the Federal Tribunal of Administrative Justice”. Candidates appear before joint committees where they present their vision and proposals on how they will administer administrative justice. In 2017, the Citizen Participation Committee of the National Anti-Corruption System filed a motion with the Senate requesting transparency in the appointment of 18 magistrates (3 for the Superior Chamber's Third Section and 15 for Regional Specialized Chambers on Administrative Responsibilities).³⁷⁹
- Constitutional Courts (Judiciary): collegiate district courts. The selection and appointment of adjudicators in the Federal Judiciary of Mexico follow two distinct but parallel processes for District Court Judges (“*jueces de distrito*”) and Collegiate Court Magistrates (“*magistrados de circuito*”), both regulated by the “Judicial Career Law of the Federal Judiciary” (*Ley de Carrera Judicial del Poder Judicial de la Federación*) and overseen by the *Consejo de la Judicatura Federal* (CJF). The governing body is also the CJF through its *Escuela Nacional de Formación Judicial* and technical committees.
- The selection steps include: a. Internal competition. Only current District Judges and Secretaries of Study and Count of SCJN magistrates may participate. The first stage is a written questionnaire on relevant legal subjects. Subsequent stages are determined by the Escuela Judicial and evaluated by a jury analogous to the district-judge process; b. the elaboration of a top-10% list. Candidates who score in the top 10% of the final ranking are placed on a list, ensuring gender parity. Appointment. CJF Plenary appoints magistrates from that list, publishes appointments in the DOF, and assigns them to circuits. Among the requirements: Mexican by birth; ≥ 35 years old; law degree conferred ≥ 10 years earlier; ≥ 8 years’ experience in administrative or tax matters; good reputation; full exercise of civil and political rights.

Third instance judicial or quasi-judicial body/ bodies:

Supreme Court Justices (“*Ministros de la Suprema Corte de Justicia de la Nación*”) were, until 2024, appointed through a three-step procedure: a. Presidential Shortlist. The President of the Republic submits a shortlist of three candidates to the Senate within 30 days of a vacancy. Candidates must be Mexican by birth; between 35 and 65 years old; hold a law degree with at least ten years’ professional practice; enjoy full civil and political rights; and have no final criminal convictions (Art. 96 Constitution). b) Senate Ratification. The Senate holds a public hearing and, within 30 days, votes in plenary. An appointment requires the affirmative vote of two-thirds of those present. If all three candidates are rejected, the President must propose a new shortlist within 30 days (Art. 96 Constitution). b) Oath and Term. The ratified candidate takes the oath of office before the President of the Senate and immediately assumes duties. Each Justice serves a single, non-renewable 15-year term (Art. 95 Organic Law of the Federal Judicial Branch).

The judicial reform published on September 15, 2024, introduced an “unprecedented model” for the popular election of judges and magistrates in Mexico.³⁸⁰ To that end, the law also provides for the establishment of “Evaluation Committees” within the three branches of the federal government, as well as within the state governments, to oversee the selection process for judges who would be subject to a

³⁷⁹ <https://cpc.org.mx/teaching-your-children-how-to-garden-sustainably-7-2-2-2-7/>

³⁸⁰ Del Rosario Rodríguez, Marcos (2025), “La reforma constitucional al Poder Judicial de 2024: desafíos en la evaluación, integración de Comités y campañas electorales”, *Revista Internacional y Comparada de Derechos Humanos*, vol 8 nro 2, july-december 2025.

popular vote. These committees are intended to serve as an objective technical filter, but in practice, they have faced criticism for their alleged lack of clear criteria.³⁸¹

However, some aspects of the reform are interesting. Political campaigns cannot be financially supported by any government or private entity: each candidate should cover their own costs, and there are limits in terms of money (around 73,000 euros for candidates to the supreme court, which is the highest amount; 11,000 euros for a first instance court) but also on activities: no radio, TV, social media advertisements are allowed, payments for consultancy services to run and/or spread polls, foreign campaigns, use propaganda that links the candidate to any political party, etc.³⁸² Political parties may not endorse any candidate.

Clerks, or experts supporting the adjudication function

The TFJA (administrative court) mentions the existence of actuaries (“*actuarios*”) (art. 42).

Then, based on desk research and on a formal basis, no formal “judicial clerk” (in-house case expert) corps or external adjudicative experts exist in the Judiciary. However, it would be an inquiry if an “informal” body of clerks or a similar figure exists in general or as an informal practice that depends on each court/judge. There are career civil servants who draft opinions, research legal issues, prepare preliminary projects of decisions, and assist judges in managing caseloads, and “*Actuarios and Oficiales Jurisdiccionales*” (Judicial Assistants) who perform procedural tasks, notifications, and evidence gathering.

Interpretation service

Professional interpretation services are not institutionalized as dedicated, career-track positions within either the Federal Judiciary (PJF) or the Federal Tribunal of Administrative Justice (TFJA). Available evidence and official regulations show only ad hoc arrangements rather than a standing corps of qualified interpreters.

The Amparo Law and CJF Internal Regulations require judges to “provide interpreting services when parties do not speak Spanish”, but there is no centrally funded roster of certified court interpreters. In practice, interpretation is arranged on a case-by-case basis—often by subcontracting freelance interpreters or relying on bilingual court staff—leading to uneven language support capacity across districts. No publicly available statistics detail the number, qualifications, or availability of interpreters in district courts.

There is an interpretation service in the City of Mexico, Directorate of Human Rights and Citizen Guidance in Indigenous Languages (*Dirección de Derechos Humanos y Orientación Ciudadana en Lenguas Indígenas*), that provides services. Some sources point out that there are some gaps in the enforcement of the right to an interpreter or translator.³⁸³

Quality and availability of human resources

There is limited information to assess the quality and availability of human resources. For example, I found no public information about caseload: some cases are decided within weeks, while others take years. However, the General Directorate of Judicial Statistics (*Dirección General de Estadística Judicial*) should publish annual caseload and time-to-resolution dashboards, but on the web page, the information is organised by jurisdictional circuits.

³⁸¹ Del Rosario Rodríguez, 2025, quoted.

³⁸² See FAQ, “Elección del Poder Judicial” (2025), Retrieved from: <https://www.ine.mx/preguntas-frecuentes-eleccion-poder-judicial/>

³⁸³ Seminario-Hurtado, Nuria; Avellaneda-Vázquez, Jaior; Bermúdez-Tapia, Manuel (2025), “Estudio comparado de la garantía al traductor e intérprete en lenguas indígenas en los procesos penales en México y Perú”, IUSTA, 62, 22-36. See also: Nochebuena, Marcela (08 enero 2026) “Sin intérpretes no hay justicia?": 7 de cada 10 personas indígenas en prisión enfrentan obstáculos para comunicarse en México. Retrieved from: <https://grupoanimal.mx/sociedad/intérpretes-justicia-personas-indigenas-prision-mexico>

In 2024, for instance, 417 district judges were handling 429 district courts nationwide. Thus, sometimes a single judge also receives cases from another district court. On the other hand, caseload pressures are acute: the average district court receives over 2,000 new cases per year.³⁸⁴

Implications of human resources in judicial bodies responsible for asylum access

The Mexican judicial system, which relies primarily on trial courts (courts of first instance), has one key characteristic: while the higher courts resolve complex matters, the day-to-day burden falls on the trial courts, which receive and process thousands of cases each year. By February 2026, Miguel Carbonell (a very well-known scholar in Mexico) pointed out that “the Mexican judicial system is vast, complex, and increasingly in demand, but its resources are growing at a much slower rate than the number of disputes it must resolve”.³⁸⁵

The shortage of human resources is an important factor in understanding judicial outcomes. Although I do not have any studies to support this, it would be interesting to examine the relationship between the difficulties in getting a claim admitted by a court and the shortage of resources: the high rate of dismissals might be the courts’ way of coping with the volume of legal actions filed.

F. Tools supporting adjudication

Key organizational tools supporting asylum adjudication

In the “Protocol for those administering justice in cases involving migrants and persons entitled to international protection,” there is a sort of guideline regarding cooperation: “It is important to recognize that cases involving migrants and individuals entitled to international protection span multiple countries, making coordination among them essential to ensure that people are not denied effective access to justice. In cases such as disappearances, extrajudicial executions, human trafficking, and smuggling, for example, it is impossible for migrants to pursue their cases directly; therefore, it is essential that the families be recognized as victims and that they be provided with the necessary support to pursue legal proceedings from their countries of origin”.³⁸⁶

Since 2013, Mexico has had a non-binding memorandum of cooperation with the United States that allows for the cross-border exchange of biometric data and other personal data on migrants. That agreement was updated in 2017. Guatemala, Honduras, and El Salvador have had a similar agreement since 2014. This has been denounced as a practice of externalizing US borders that infringes the privacy of migrants from the aforementioned countries and also facilitates arbitrary decisions, such as denying entry into the country or separating family groups.³⁸⁷

Functioning, role, and implementation of IT tools

There is a service “*Juicio en Línea*” (online trial) that serves as a platform that enables electronic filing of amparo petitions. Then, the “*sistema de gestión de casos en línea*” (online case management system) used by district courts and circuit courts tracks case status, deadlines, and document flows, ensuring timely scheduling of hearings and issuance of rulings. By maintaining centralized calendars and automated notifications, the SGC helps prevent procedural dismissals that could block access to asylum review.

³⁸⁴ https://www.inegi.org.mx/contenidos/programas/cnijf/2020/doc/cnijf_2020_resultados.pdf

³⁸⁵ Carbonell, Miguel (Feb. 18, 2026), “Radiografía del sistema judicial mexicano: más casos, pocos recursos y un rezago creciente”, Retrieved from: <https://diariportal.com/opiniones/radiografia-del-sistema-judicial-mexicano-mas-casos-pocos-recursos-y-un-rezago-creciente>

³⁸⁶ Supreme Court of Justice, Protocol, quoted. Retrieved from: <https://uigtsi.poderjudicialqro.gob.mx/wp-content/uploads/2020/03/7.-Personas-Migrantes-y-sujetas-de-Protección-Internacional.pdf>

³⁸⁷ Access Now at. Al, (July 27, 2023), Pronunciamiento conjunto: México, Guatemala, Honduras, El Salvador y Estados Unidos deben terminar sus acuerdos para el intercambio transfronterizo de datos biométricos de personas migrantes. Retrieved from: <https://www.accessnow.org/press-release/pronunciamiento-terminar-acuerdos-biometricos-migrantes/>

The COVID-19 pandemic accelerated the implementation of remote hearings via secure videoconference. District judges used platforms integrated with the CJF's videoconferencing infrastructure, allowing asylum seekers in detention or remote locations to participate without travel barriers. This continuity of hearings is important for urgent relief motions (suspension of removal), where physical access to court facilities may be limited.

There is also an electronic signature.

The Federal Judiciary counts on an Electronic Filing System (FIREL - Certified Electronic Signature). The FIREL (*Firma Electrónica Certificada del Poder Judicial de la Federación*) enables parties to electronically file amparo petitions, submit motions, receive official notifications, and access electronic case files. Joint General Agreement 1/2013 (SCJN, TEPJF, CJF) establishing FIREL and the electronic case file. There is also a Joint General Agreement 1/2015 regulating technological services for electronic amparo proceedings and communications.

Parties obtain a digital certificate through a 10-step procedure: downloading certificate-generation software, creating a cryptographic key pair, uploading identity documents, scheduling an in-person appointment at a certification agent, and finalizing digital-signature activation. FIREL is an electronic document that will allow you, through the Online Services Portal of the Federal Judicial Branch, to file amparo proceedings and consult electronic case files related to those proceedings and related matters, as well as receive electronic notifications.³⁸⁸

The SCJN has integrated physical files with digital versions. It is regulated in Agreement 9/2020. This agreement states: "In the Electronic System of the SCJN, parties may file and access electronic case files using their FIREL in the relevant proceedings" (Article 4).³⁸⁹ Finally, in 2024, Minister Ana Margarita Ríos Farjat's team launched Sor Juana IA, a conversational AI tool trained on draft Supreme Court rulings to simplify legal language for non-experts.³⁹⁰ The SCJN installed secure videoconferencing infrastructure across its buildings, enabling: virtual hearings for parties and attorneys located anywhere in Mexico, live streaming of Plenary sessions to promote

Implications (if any) of organizational tools (especially IT tools) in asylum access adjudication.

IT tools seem to enhance efficiency and remote access while simultaneously creating new barriers for vulnerable populations.

For example, General Agreement 12/2020 of the Federal Judiciary Council establishes the electronic case file system and remote proceedings across all federal matters, including amparo petitions challenging immigration decisions, and the *Portal de Servicios en Línea* (PSL) allows parties to file lawsuits, access electronic case files, receive digital notifications, and participate in remote hearings for all matters, including immigration and asylum-related amparo proceedings.³⁹¹ Electronic filing enables faster submission of suspension motions (*suspensión del acto reclamado*), critical in deportation cases, potentially preventing irreparable harm from premature removal. Then, it would be insightful to know if asylum seekers detained in remote migration stations or living far from court locations can file amparo petitions electronically without traveling, thus reducing costs and logistical obstacles. On the other hand, obtaining FIREL requires in-person appointments at certification agents, digital literacy, and internet access—barriers disproportionately affecting vulnerable populations. Still, it would be helpful to know if there is a special mechanism for vulnerable populations and particularly for migrants in detention.

³⁸⁸ "Su FIREL en 10 pasos", Retrieved from: <https://www.oaj.gob.mx/documentos/cartelFirel.pdf>

³⁸⁹ PJJF, Acuerdo 9/2020 26 -05 SJCN Expediente Electronico asusnodo de la SCJN. Retrieved from: <https://www.catalogoderechoshumanos.com/acuerdo-9-2020-26-05-sjcn-expediente-electronico-asusnodo-de-la-sjcn/>

³⁹⁰ Gutiérrez Jaber, Inés (September 09, 2025), "Sor Juana: inteligencia artificial que acerca las sentencias de la SCJN a la ciudadanía mexicana". TecScience. Retrieved from: <https://tecscience.tec.mx/es/educacion-y-humanismo/sor-juana-ia/>

³⁹¹ See more about E-Justice in Mexico here: <https://apps.cjf.gob.mx/dgetd/assets/PDF/ebook.pdf>

Then, the PSL operates entirely in Spanish with technical legal terminology, excluding non-Spanish speakers and those with limited literacy—categories that include many Central American asylum seekers and indigenous migrants.

Regarding virtual hearings, there are some pros and cons. Asylum seekers held in migration stations can participate in amparo hearings without requiring physical transfer to courthouses, reducing security risks and logistical burdens on authorities. Virtual hearings also ensure that asylum cases proceed even when physical access to courts is restricted. However, asylum seekers in detention may participate in virtual hearings from shared spaces within migration stations, compromising confidentiality and potentially exposing sensitive testimony (e.g., persecution narratives) to unauthorized listeners. Some disadvantages of virtual hearings include reduced solemnity and potential for coercion outside courtroom supervision. Virtual interpretation for indigenous languages or foreign dialects suffers from audio quality issues, latency, and lack of visual cues, impairing effective communication between judges and non-Spanish-speaking asylum applicants. Finally, asylum seekers without smartphones, computers, or stable internet cannot access virtual hearings. Migration stations may lack adequate technology infrastructure, forcing detained individuals to rely on officials' discretion to facilitate video connections.³⁹²

G. Management

Judicial bodies' managers and middle managers

Within the Federal Judiciary of the Federation (*Poder Judicial de la Federación*, that encompass the three judicial instances), judicial management is structured across three tiers: highest managers (strategic governance), managers (court and chamber leadership, see “collegiate courts”), and middle managers (section or division heads, see Third Instance). Their roles encompass administration, resource allocation, procedural coordination, and quality oversight of adjudication:

The highest management refers to the President of the Supreme Court and of the Federal Judiciary Council. Elected by the Supreme Court Plenary for a two-year term, it chairs the Council of the Federal Judiciary (CJF), sets strategic priorities, oversees budget approval, and represents the Judiciary before Congress and the Executive. There is also a Plenary of the Federal Judiciary Council, composed of five councillors (ministers and magistrates), it meets regularly to approve regulations, budgets, career statutes, and disciplinary policies.

Regarding Administrative Federal Courts (TFJA): Middle and senior managers are designated by the Internal Regulations of the Court and are provided for in the authorized budget (art. 42). There is no further information about how they are appointed.

Then, the TFJA in general has a president, elected for a 3-year period. The TFJA also counts on a Board of Governance and Management (*Junta de Gobierno y Administración*), which is the governing body responsible for administration, supervision, and discipline. The Board of Governance and Administration of the TFJA is composed of seven magistrates of the Tribunal: the President of the Tribunal, two magistrates of the Superior Chamber, and four magistrates of the Regional (or Specialized) Chambers. At the first ordinary session of each biennium, the Pleno General (all sitting magistrates) elects, by secret ballot and absolute majority, the six magistrates who will join the President on the Board. The President of the Tribunal serves ex officio as Board President; the other six members each serve two-year, non-renewable terms. Thus, membership on the Junta is entirely internal: magistrates nominate and elect their peers to manage administration, budgets, personnel matters, and disciplinary oversight.

Finally, the Internal Control Body is responsible for auditing and monitoring compliance within the TFJA. Article 12 of the Organic Law establishes the position of Internal Comptroller (*Contralor Interno*). The OIC is headed by an Internal Comptroller, supported by a Deputy Comptroller and technical audit staff. The Board of Governance and Administration (*Junta de Gobierno y Administración*) selects and appoints the

³⁹² Centro de Análisis de Políticas Públicas and Friedrich Naumann Foundation (s.f.), *Las audiencias judiciales virtuales en México después de la pandemia*. Retrieved from: <https://www.mexicoevalua.org/wp-content/uploads/2024/03/audiencias-virtuales.pdf>

Internal Comptroller by majority vote of its members, from among candidates who meet the qualifications for senior TFJA personnel (law degree, minimum years of professional experience, and integrity requirements).

The term of the Internal Comptroller is three years, renewable once at the discretion of the Board. The Internal Comptroller reports directly to the Board and is responsible for internal audits, disciplinary investigations, and compliance reviews across all TFJA organs.

Appointments are published in the TFJA's Agreements of the Governing Board and in the Official Gazette of the Federation, ensuring transparency of the selection process. Because the LOTFJA does not specify a public competitive procedure, appointments are essentially internal decisions by the governing Board, constrained by professional qualifications and term limits.³⁹³

Regarding the Judicial Branch, there is no manager within a first-instance court. In a way, each judge in each district court is the president of that court. Then, there is one president for each Circuit of the Collegiate Courts. Among the three magistrates of each Collegiate Circuit Court, one is elected as President for a one-year term by internal vote. They are responsible for assigning cases among the three magistrates, coordinating session schedules, overseeing the drafting of joint rulings, and representing the court in inter-institutional matters.³⁹⁴

Direct or indirect influence on asylum access adjudication

There is not sufficient evidence to assess if managers have a direct or indirect influence on asylum access adjudication.

Within collegiate courts, there is “case assignment discretion”. Under Article 24 of the Organic Law of the Federal Judiciary, each Collegiate Circuit Court (composed of three magistrates) elects a President annually who manages case assignment. Comparative research on the US Supreme Court demonstrates that assignment power is a significant source of presidential influence: “The Chief Justice decides who drafts the opinion [when in the majority]. He can assign important cases to allies or to himself, and trivial cases to adversaries”.³⁹⁵ What could be the implications for asylum cases? If a court president deprioritizes asylum-related amparos or delays scheduling hearings on suspension motions, this directly impacts whether a migrant is deported before the case is resolved—effectively denying access to justice.

Professional performance measures

There is a body to assess the performance of judges and other members. It is the Judicial Performance Evaluation Board. Since it was recently created, it is hard to assess how it can influence the decisions or independence of judges. Based on what I know, it may influence decisions due to the fact that they are linked to the political party that proposed them. I was told in an interview that in the first elections of judges, people were clearly told which candidate to vote for: political parties handled lists with names of candidates to vote for. It makes sense because it is the same with every candidate, but really, political candidates are not subject to professional performance mechanisms of assessment...so the combination can be intriguing and even dangerous.³⁹⁶

³⁹³ Available here: <https://www.diputados.gob.mx/LeyesBiblio/pdf/LOTFJA.pdf>

³⁹⁴ See: <https://www.dgej.cjf.gob.mx/paginas/informacionRelevante.htm?pageName=informacion%2FnumeroOrganos.htm>

³⁹⁵ Elizondo Mayer-Serra, Carlos, & Magaloni, Ana Laura. (2010). La forma es fondo: cómo se nombran y deciden los ministros de la Suprema Corte de Justicia. *Cuestiones constitucionales*, (23), 27-60. Recuperado en 30 de junio de 2026, de http://www.scielo.org.mx/scielo.php?script=sci_arttext&pid=S1405-91932010000200002&lng=es&tlng=es.

³⁹⁶ Eje Central (January 12, 2026), “Qué es y cómo funcionará el Organismo de evaluación del desempeño judicial del PJJF?”. Retrieved from: <https://www.ejecentral.com.mx/nuestro-eje/que-es-y-como-funcionara-el-organismo-de-evaluacion-del-desempeno-judicial-del-pjf>

H. Caseload and delays

Caseload of judicial bodies responsible for asylum access adjudication

There is a “direct” influence that will be referred to in each instance. And a general or indirect influence that concerns the Judiciary (not the TFJA) regardless of the instance, and it is connected with the evaluation criteria.

The Judicial Career Law (*Ley de Carrera Judicial*), Articles 32- 35, establishes that the Judicial Administration body (“*Órgano de Administración Judicial*”) conducts mandatory performance evaluations of all judges and magistrates. The evaluation criteria include: quantitative metrics (number of cases resolved, average resolution time, backlog reduction) and a qualitative assessment (legal reasoning quality, compliance with procedural deadlines, jurisprudential consistency). “Evaluation results will be the basis for obtaining recognition, as well as for decisions regarding permanence and, where appropriate, separation from the Judicial Career”. (art. 35).

What could be the implications for asylum adjudication? Judges evaluated primarily on case-throughput metrics may face pressure to resolve asylum amparos quickly rather than thoroughly, potentially granting fewer suspensions (which require detailed factual findings), deferring to administrative determinations by INM or COMAR to avoid appellate reversal or avoiding complex international-law analysis that slows resolution. District judges function as both adjudicators and court presidents. They manage the order of case processing, timing of hearings and resource allocation (secretaries, actuaries, interpreters). Academic analysis notes that “the form is substance”: procedural decisions about when and how cases are heard influence outcomes, particularly in time-sensitive asylum matters where delays can result in deportation before the merits are decided.³⁹⁷ In addition, courts in high-migration zones (Ciudad Juárez, Tijuana, Tapachula) may face overwhelming caseloads without additional personnel, leading to superficial review of asylum claims and denial of suspensions due to time constraints.

A state-level judicial study notes: “judges are evaluated every three years to analyse their performance [...] When evaluation is unfavourable, they are removed from office”.³⁹⁸

Please note that judges seeking promotion to magistrate must score in the top 10% of competitive examinations and maintain strong performance records. So judges may avoid controversial asylum rulings that challenge government migration policy (e.g., declaring detention unconstitutional, ordering INM to process asylum applications at airports) to maintain favourable evaluations and promotion prospects. Courts in high-migration zones (Ciudad Juárez, Tijuana, Tapachula) may face overwhelming caseloads without additional personnel, leading to superficial review of asylum claims and denial of suspensions due to time constraints.

On the other hand, although the TFJA lacks a formal performance evaluation system akin to the CJF’s Judicial Career Law, Board members and Presidents seem to informally recognize “productive” magistrates when proposing candidates for the Superior Chamber or for internal administrative posts.

Implications of caseload on asylum access adjudication

The evaluation criteria for judges, which include both quantitative metrics (number of cases resolved, average resolution time, backlog reduction) and a qualitative assessment (legal reasoning quality, compliance with procedural deadlines, jurisprudential consistency), may “invite” them to rapidly solve a writ of amparo, or avoid difficult cases.

Then, in 2024, 417 district judges handled 429 courts and over 900,000 new amparo petitions across all matters. Even if only 5–10% of these involve migration issues (INEGI estimates for 2020), each judge

³⁹⁷ Elizondo Mayer-Serra, Carlos, & Magaloni, Ana Laura. (2010), quoted.

³⁹⁸ Poder Judicial del Estado de Durango (s.f.), “Evaluación del desempeño del personal”. Retrieved from: http://tsjdgob.mx/Documentos/PERFILES_FORMAS_DE_EVALUACION.pdf

still processes roughly 100–200 migration-related amparos per year on top of civil and criminal dockets.³⁹⁹ Judges under pressure may issue generic, boilerplate orders to clear dockets, reducing the quality of legal reasoning in asylum cases.

On the other hand, video-hearings are faster, but studies in the US (gathered by a Mexican report) show that asylum seekers who had video calls (instead of in-person conferences) have better chances of being deported.⁴⁰⁰ In this manner, the same sources refer to virtual hearing evaluation reports that judges under heavy caseloads “have less time to engage substantively with each case, leading to superficial adjudication and higher reversal rates on appeal”.

With 260 Collegiate Circuit Courts and 668 magistrates in 2024, the average magistrate received 3,500 appeals annually—over 10 appeals per day, including appeals of migration-station detentions and expulsion orders.⁴⁰¹ Appeals with suspension requests require rapid scheduling; however, overloaded chambers often defer non-emergency appeals, delaying definitive rulings on asylum merits for months to years, during which migrants remain in legal limbo or detention. Uneven appellate review leads to jurisprudential fragmentation, as some circuits develop pro-asylum precedents while others default to administrative positions.⁴⁰²

Academic research on Mexican judicial administration notes that resource scarcity and lack of specialization lead to inconsistent application of international refugee law.⁴⁰³

The ratio of support personnel (Secretaries and Actuaries) to judges is approximately **20:1**, but distribution is not adjusted for migration-heavy jurisdictions. Courts in border regions—where asylum applications cluster—often lack sufficient secretarial capacity to draft suspension rulings promptly, creating a first-come, first-served backlog that disadvantages late-filed petitions.⁴⁰⁴

Delays and backlogs characterizing judicial bodies responsible for asylum access adjudication

The available information refers to the Judiciary.

District Judges received in 2024 926,000 new amparo proceedings across all subjects (civil, criminal, administrative), including migration-related challenges.⁴⁰⁵ Approximately 88% of incoming cases are disposed of annually, leaving a pending inventory of roughly 110,000 amparo cases at year-end.

Relating to Collegiate Circuit Courts (*Tribunales Colegiados de Circuito*), only in 2024, 309,000 appeals were filed, inclusive of appeals against district amparo rulings. Circa 82% of appeals are resolved per year, leading to 75,000 pending appeals across 260 Collegiate Courts at year end. The average time to resolution is eleven months from appeal filing to final decision. Suspension requests in migration cases are usually heard within 30–45 days when treated as urgent, but non-suspension appeals can wait up to one year.⁴⁰⁶

³⁹⁹ Censo Nacional de Impartición de Justicia Federal 2020 (2020). Retrieved from:

https://www.inegi.org.mx/contenidos/programas/cnijf/2020/doc/cnijf_2020_resultados.pdf

⁴⁰⁰ Centro de Análisis de Políticas Públicas and Friedrich Naumann Foundation (s.f.), *Las audiencias judiciales virtuales en México después de la pandemia*. Retrieved from: <https://www.mexicoevalua.org/wp-content/uploads/2024/03/audiencias-virtuales.pdf>

⁴⁰¹ Consejo Federal de la Magistratura (2024), *Anexo Estadístico*. Retrieved from

https://www.dgej.cjf.gob.mx/resources/anexos/2024/graficas/intro_2024.pdf

⁴⁰² “Durante el año estadístico que se reporta, los Tribunales Colegiados de Circuito tuvieron un ingreso de 418,445 asuntos (incluyendo ingresos por acuerdo), que sumados a los 252,930 que existían inicialmente, resultan en una carga de trabajo de 671,375 asuntos, de los cuales egresaron 393,256 (incluyendo egresos por acuerdo)”

⁴⁰³ Rosales Cervantes, Guillermo. (2023). Situación de espera, burocracia y acceso a la protección legal: el caso de las personas migrantes por la frontera sur de México. *Revista pueblos y fronteras digital*, 18, e105. Epub 14 de abril de

2023. <https://doi.org/10.22201/cimsur.18704115e.2023.v18.658>

⁴⁰⁴ Consejo Federal de la Magistratura (2024), *Anexo Estadístico*. Retrieved from

https://www.dgej.cjf.gob.mx/resources/anexos/2024/graficas/intro_2024.pdf

⁴⁰⁵ Ibidem.

⁴⁰⁶ Ibidem.

Finally, the Supreme Court: approximately 4,800 direct review matters (specially protected amparo direct review, constitutional controversies, unconstitutionality actions) arrived at the court in 2024, but just 3,853 were admitted. There were, in addition, around 900 cases coming from the previous year. Then, from 1 December 2023 to 30 November 2024, the Full Court resolved 479 cases, the First Chamber 1,868, and the Second Chamber 2,009. Pending cases by the end of 2024: 1,697.⁴⁰⁷

Implications of backlog and delays in asylum access adjudication

High-volume dockets coupled with limited support staff (one judge supported by an average of 20 secretaries/actuaries) drive judges to issue summary rulings and prioritize older cases, delaying urgent protective relief pleas by migrants for weeks or months. It is probably a key issue for pushbacks, where time really matters.

Finally, extended Supreme Court review delays the unification of jurisprudence on asylum access and may cause lower courts to operate without binding high court guidance on critical refugee law issues.

I. Influence of judicial or quasi-judicial bodies on access to asylum

Impact of case law in the field of asylum access adjudication on legislation

Judicial rulings primarily shape the interpretation and implementation of existing laws, strengthen the legal framework, and enforce constitutional limits on legislative action, rather than consistently generating entirely new legislative acts.

The Supreme Court of Justice of the Nation (SCJN) adopted a criterion in 2019 regarding the deadline stipulated in Mexican legislation for submitting applications for recognition of refugee status (*Amparo en Revisión 353/2019*). This criterion mandated that the exception for applications presented late (extemporaneously) must be interpreted by considering the vulnerability of the applicants and the governing principles, in order to favour the broadest protection of their fundamental rights. This interpretative action significantly affects how the law (specifically related to eligibility requirements) is administered.

The SCJN addressed the issue of access to the Unique Population Registry Key (CURP) for asylum seekers.⁴⁰⁸ The Court ruled that Article 59 of the Migration Law allows for various interpretations, and the preferred interpretation should be one that grants the right to request the CURP to all individuals applying for refugee status. This decision ensures access to essential economic, social, cultural, and environmental rights by interpreting the existing Migration Law in conformity with inter-American standards.

Probably the most visible impact of case law on legislation is regarding the detention of children and adolescents. Following work carried out by the Unit for Migration Policy, Registration and Personal Identity (UPMRIP) and the COMAR, with support from other institutions, legislative mechanisms were created for modifications to the Migration Act and the Law on Refugees, Complementary Protection and Political Asylum in the area of migrant children. These reforms, which were approved in both legislative chambers and published in November 2020, guarantee the rights and principles established in the General Law on the Rights of Children and Adolescents. The impetus for these changes included the need to harmonize laws and prohibit the detention of migrant children by the National Migration Institute (INM).⁴⁰⁹ The long-standing scrutiny by human rights organizations and the Judiciary on the rights of NNA in detention provided a background for these legislative efforts.

⁴⁰⁷ Supreme Court of Justice (2024), Report. Retrieved from: <https://www.scjn.gob.mx/informedelabores/pjf/pdf/informe-anual-de-labores-2024.pdf>

⁴⁰⁸ Supreme Court of Justice, *File 114/2020*, judgment of Sept. 22, 2021.

⁴⁰⁹ “To harmonize the Law on Refugees, Complementary Protection, and Political Asylum and the Migration Law with the General Law on the Rights of Children and Adolescents, the Migration Policy, Registration, and Identity Unit (UPMRIP) of the Ministry of the Interior (SEGOB), through working groups that include the Mexican Commission for Refugee Assistance (COMAR) and with the support of the National Migration Institute (INM) and the Secretariat for the Comprehensive

Finally, the case law did impact on the time limit for detention. In *case 388/2022*, the court ruled that the legal term for detention (15 days) was unconstitutional. There is a previous case from a Collegiate Court (78/2022).

Impact of case law in the field of asylum access adjudication on asylum policies

Case law directly challenges core state policies related to detention and border management, particularly policies aimed at deterrence or containment:

The Supreme Court of Justice of the Nation (SCJN) established a pivotal criterion in 2023 by ruling that the maximum period of detention and lodging in migrant stations is thirty-six hours. After this period, individuals subject to a migratory process must continue it in freedom. This directly restricts the period of administrative detention, which is a major policy tool for border control. See cases TCC 78/2022 and Amparo 388/2022 (Supreme Court).

Earlier judicial actions pronounced against the detention of asylum seekers, asserting that it should be the exception, not the norm. This shift, welcomed by the Inter-American Commission on Human Rights, led to the implementation of the tripartite “Alternatives to Lodging” (or “Alternatives to Detention”, SEM) program starting in July 2016, involving the National Migration Institute (INM), the Mexican Commission for Refugee Assistance (COMAR), and UNHCR. This institutional effort temporarily provided alternative housing for thousands of asylum applicants.⁴¹⁰

Judicial review confirmed that the internal execution of the bilateral migration policy (such as the Migrant Protection Protocols, or MPP/“Remain in Mexico” (*Quédate en México*) is susceptible to constitutional control. The SCJN ruled that a civil association had the legitimate interest to challenge the government’s migration policy internally. Critically, the Court determined that the State incurred administrative omissions in protecting the rights of migrants, particularly children and women, waiting in Mexico under the MPP. As a result, the Court ordered the Mexican state to generate adequate guidelines for this population. It is the Amparo 302/2020.

The SCJN adopted a decision in 2019 (*Amparo en Revisión 353/2019*) stipulating that the exception concerning late applications for refugee status must be interpreted by considering the vulnerability of the applicants. This interpretation forces administrative authorities to favour the broadest protection of fundamental rights when evaluating admissibility requirements.

Judicial pronouncements strengthen the right to due process. The SCJN underscored the obligation of the Mexican State to assign a public defender to people in migrant stations. The availability of legal assistance, often facilitated by organizations like the Federal Institute of Public Defence (IFDP) and UNHCR, is crucial because the administrative recourse provided by the law (the *recurso de revisión* before COMAR) is considered generally ineffective or an “illusory resource” due to COMAR acting as both judge and party. Case analysis suggests that applicants who secure legal representation have a higher rate of being recognized as refugees.⁴¹¹

Protection of Children and Adolescents (SE-SIPINNA), has created the necessary mechanisms for the corresponding legislative amendments. In March 2020, both UPMRIP and COMAR discussed the issue in an open parliament forum with legislators. The amendments to various Articles of the Migration Law and the Law on Refugees, Complementary Protection, and Political Asylum regarding migrant children were approved by both legislative chambers, published in the Official Gazette of the Federation on November 11, 2020, and will enter into force 60 days later. The amendments guarantee the rights and principles established in the General Law on the Rights of Children and Adolescents and its Regulations.”. https://www.oas.org/es/sadye/documentos/MIRPS_ReporteAnual_2020.pdf

⁴¹⁰ In April 2017, Mexican judges ruled against the detention of asylum seekers, stating that it should be the exception, not the rule. In coordination with UNHCR, the INM and COMAR also launched a program in 2016 offering “alternatives to accommodation” (accommodation being the euphemism the INM uses for detention). This allows for temporary conditional release so that many asylum seekers can await decisions on their status in border communities. WOLA, 2017, quoted.

⁴¹¹ Supreme Court of Justice (2023), *Cuadernos de Jurisprudencia*. Retrieved from: <https://transparencia-ciudadana.scjn.gob.mx/sites/default/files/page/2025-09/cj-no20-personas-migrantes-y-sujetas-a-proteccion-internacional.pdf>

Impact of case law in the field of asylum access adjudication on executive practices

Some decisions had a major impact.

The deadline to submit an asylum application was identified as a procedural barrier. The SCJN issued a judgment in 2019 (*Amparo en Revisión 353/2019*) stipulating that the exception concerning late applications for refugee status must be interpreted by considering the vulnerability of the applicants. This interpretation forces administrative authorities to favour the broadest protection of fundamental rights when evaluating admissibility requirements.

Detention is a barrier itself, and Mexican courts have ruled on the Maximum Duration of Migration Detention. The Supreme Court of Justice of the Nation (SCJN) established a pivotal criterion in 2023 by ruling that the maximum period of detention and lodging in migrant stations is thirty-six hours. After this period, individuals subject to a migratory process must continue it in freedom. This directly restricts the period of administrative detention, which is a major policy tool for border control. See cases *TCC 78/2022* and *Amparo 388/2022* (Supreme Court).

Previously, and also about detention, the Supreme Court struck down as unconstitutional the provision of the Migration Law (art. 111) allowing indefinite administrative detention of irregular migrants until their migratory status is resolved. In *Amparo en Revisión 275/2019* (First Chamber, SCJN), the Court granted relief against the same Art. 111, emphasizing that indefinite detention “constitutes a sanction disguised as an administrative measure” and directly chills migrants from exercising their right to judicial review.⁴¹²

In another case, the court held that any deprivation of liberty exceeding the 36-hour maximum under art. 21 Const. must be strictly exceptional and, whenever feasible, substituted by alternative measures. The decision stressed that automatic, open-ended detention “inhibits effective judicial protection” and conflicts with international standards calling for alternatives to detention (e.g., reporting requirements, bond, electronic monitoring) when the risk of flight or non-compliance can be managed otherwise. It is *Amparo 388/2022*.⁴¹³

Based on these cases, it can be concluded that case law impacts asylum policies by enforcing strict constitutional limits on state actions and mandating due process guarantees within the asylum system. Judicial rulings serve as a mechanism of constitutional and conventional control, often setting a “minimum floor” (“*piso mínimo*”) for standards that administrative authorities must follow. A key intervention involves imposing strict temporal limits on border and migration detention policies. Furthermore, judicial action mandates essential due process, such as the obligation of the State to assign a public defender to people in migrant stations and ensures that existing legislation is interpreted to grant all individuals applying for refugee status the right to request the Unique Population Registry Key (CURP), thereby assuring access to economic, social, cultural, and environmental rights.

Regarding the procedure for refugee status, the SCJN stipulated that legal exceptions concerning late applications must be interpreted considering the vulnerability of the applicants to ensure the broadest protection of their fundamental rights, thereby imposing a humanitarian standard on administrative criteria. Moreover, the courts intervene in border management policies, exemplified by the SCJN’s ruling on the internal execution of the US Migrant Protection Protocols (MPP), where the Court found the Mexican State had incurred administrative omissions in protecting migrants and ordered the authorities to generate adequate guidelines. These jurisprudence developments are explicitly recognized as tools that strengthen the legal framework and can modify the course of public policies in favour of individuals requiring international protection.

⁴¹² Supreme Court of Justice, File 275/209, quoted.

⁴¹³ Supreme Court of Justice, File 388/2022, quoted.

J. Judicialization of politics

Based on the selected sources, conflicts concerning access to asylum exist between the executive branch and the judiciary, primarily revolving around the Executive's enforcement policies that restrict access to protection versus the Judiciary's role in enforcing constitutional and human rights standards, due process, and legal access.

The conflict manifests not always through explicit public criticism by the Executive against the courts, but rather through the Judiciary's consistent role in overturning, reinterpreting, or scrutinizing the legality and constitutionality of executive actions and migration policies that deny or severely restrict access to asylum.

The Supreme Court of Justice of the Nation (SCJN) has intervened to subject major migration policies implemented by the Executive (primarily the Ministry of Interior/INM/COMAR) to constitutional control, often finding administrative omissions or ordering specific protective action.

The SCJN ruled on the internal execution of the bilateral migration policy known as the “Remain in Mexico” (*Quédate en México*) program. The Court determined that this policy was susceptible to constitutional control in its internal application. Critically, the SCJN found that the responsible Executive authorities (including the Secretariat of Government, Secretariat of Foreign Relations, and the National Migration Institute (INM) had incurred in administrative omissions by failing to guarantee the rights of migrants, particularly women, children, and adolescents, waiting in Mexico. The Court ordered the Executive authorities to issue and publish adequate guidelines in the Official Gazette for the reception and protection of these individuals. The fact that a non-governmental organization had the legitimate interest to challenge the government's migration policy in court itself highlights the judicial check on executive policy formulation and execution.

Judicial pronouncements impose obligations on the administrative branch, such as requiring the State to assign a public defender for people in migrant stations. The judicial system, through the *amparo* process, is deemed the last resort after individuals exhaust administrative appeals against asylum denials, appeals that are generally seen as illusory because the administrative authority (COMAR) acts as “judge and party” in reviewing its own negative decisions. The need for judicial intervention, therefore, arises directly from perceived deficiencies and conflicts of interest within the Executive’s administrative adjudication process.

Executive agencies like the National Migration Institute have often failed in practice to respect due process. For instance, despite the SCJN’s eventual ruling to ensure access to the Singular Population Registry Key (CURP) for asylum seekers, the initial administrative decisions (from which judicial intervention arose) often denied this access based on restrictive interpretations of the Migration Law.

Restriction or expansion of the jurisdiction or competence

There is no specific jurisdiction or competence on migration or asylum matters.

However, the most recent modification to the jurisdiction of the Judiciary was made in 2024. The sources detail a recent legislative effort (a constitutional reform published on September 15, 2024, as discussed in the SCJN 2024 Annual Report) that contained radical provisions affecting the judicial structure. These proposals included ordering the conclusion of the mandate of all judges, magistrates, and ministers currently in office, establishing that all federal and local judges and magistrates would be chosen by popular vote, decreasing the number of SCJN members from eleven to nine and dictating that the Court would function solely in Pleno (Full Bench), implying the disappearance of the Salas (Chambers) and disappearing the Federal Judiciary Council (CJF) and replacing it with a disciplinary tribunal and a new administrative body.⁴¹⁴

⁴¹⁴ <https://www.scjn.gob.mx/informedelabores/pif/pdf/informe-anual-de-labores-2024.pdf>

Ways to influence policy outcomes

Their influence is chiefly indirect and operates via jurisprudence, non-binding protocols, and administrative guidelines rather than formal rule-making powers.

In 2021, the SCJN issued its Protocol for Judging Cases Involving Migrants, a non-binding guide clarifying how judges should apply constitutional and international protection norms (e.g., presumption in favour of suspension, *suplencia de la queja* / substitution of the complaint, intercultural perspective). Although lacking statutory force, the Protocol has been widely disseminated through the SCJN's digital platforms and internal training, effectively harmonizing lower court practice and signalling to the legislature and executive the Court's expectations for humane, rights-centred asylum proceedings.

Through *Amparo en Revisión* 388/2022, 275/2019, and 444/2021, the SCJN declared indefinite administrative detention of asylum seekers unconstitutional and ordered adoption of alternatives to detention (e.g., periodic check-ins, surety bonds). These rulings compelled the Migration Law (*Ley de Migración*) reforms of 2021 to incorporate maximum detention limits and non-custodial measures, demonstrating the Court's capacity to drive legislative change via constitutional review.

The SCJN directly subjected the execution of the US Migrant Protection Protocols (MPP), or the "Remain in Mexico" program, to constitutional control. The Court ruled that the Mexican government had incurred in administrative omissions in protecting migrants (especially children and women) under the policy and ordered authorities to generate adequate guidelines. The fact that an association dedicated to human rights defence had a legitimate interest in promoting a constitutional trial (*amparo*) to challenge this policy highlights the judiciary's role in politically sensitive executive decisions.

Influence on policy outcomes in practice

Based on desk research, the Judiciary does influence policy outcomes in practice, but to a limited extent.

One of the most critical policy interventions is the curtailment of migration detention. The SCJN ruled that the maximum period of detention and lodging in migrant stations is thirty-six hours, after which individuals must continue their process in freedom. Furthermore, the Court declared portions of Article 111 of the Migration Law unconstitutional because statutory detention periods lasting fifteen business days (*quince días hábiles*) and sixty business days (*sesenta días hábiles*) violated requirements for reasonableness, necessity, and proportionality. However, it is clear from NGOs' reports that migration detention lasts more than 36 hours.⁴¹⁵

The Judiciary reinforces administrative due process by requiring the State to assign a public defender to people in migrant stations. It also ruled that the Migratory Administrative Procedure is a manifestation of the State's punitive authority, meaning that the right to an adequate defence is non-waivable. This ruling (in File 465/2022) actually had an impact in practice, and the Mexican State organised a public service of legal defenders that has achieved some success.⁴¹⁶

Assessment of the judicialization of politics in the country

Some sources suggest that Mexico exemplifies the same judicialization trends as experienced throughout Latin America, where, since the 1980s, courts have become increasingly politically important. Latin American courts are asserting rights not effectively guaranteed by the executive or legislature, leading citizens to more frequently resort to courts to resolve issues that were previously reserved for the political

⁴¹⁵ E.g. WOLA, 2022.

⁴¹⁶ "The IFDP combats immigration detention by filing Amparo lawsuits and requests for suspension of immigration detention, through which they have secured the release of a growing number of people—in July 2021 alone, they obtained the release of 32 people from the immigration detention center in Mexico City. Additionally, they have persuaded several federal judges to declare immigration detention for more than 36 hours unconstitutional. While these rulings are not legally binding, the IFDP's work in central Mexico is promoting legal precedents that could lead to the detention being declared unconstitutional. In conjunction with UNHCR, they are developing strategies to leverage these precedents." Source: <https://www.asiloamericas.org/mexico-defensa-legal/>

sphere. As with many other Latin American countries, the Mexican Supreme Court had been perceived as historically subservient to the executive, corrupt, and ineffective. Since the 1994 judicial reforms, however, the Court has adopted a more active role, taking controversial positions and garnering public attention in an unprecedented manner for judicial review and rights cases.⁴¹⁷

The sources consulted assign a fundamental role to the Supreme Court, in particular, in limiting public power within the State itself. The Judiciary is responsible for ensuring that the regulations governing the Mexican democratic State are in line with the Constitution, as well as with the international treaties to which Mexico is a party.⁴¹⁸ And the constitutional mandate and the labour of the SCJN are viewed as essential for upholding the Constitution and acting as the ultimate arbiter of many important conflicts between powers or between citizens and authority. However, it is also noted that the Supreme Court has paid too much attention to political conflicts and elite litigation and has relegated to the background issues that really matter to the majority of citizens.⁴¹⁹

So, by 2010, the SCJN had not achieved consistent and broad levels of public confidence, which changes over time and often remains lower than the level of lack of confidence. The Court is criticized for focusing too much attention on political conflicts and elite litigation, relegating matters truly important to the majority of citizens to a second plane.⁴²⁰ A few years before, scholars had observed that in Latin America, judicial reflection had shifted “from the dependence of the judicial branch on political power, to the form in which the judicial branch intervenes and processes political conflicts”—i.e., from politicization of justice to judicialization of politics.⁴²¹

Interestingly, the SCJN directly subjected the execution of the US Migrant Protection Protocols (MPP), or the “Remain in Mexico” program, to constitutional control. The Court ruled that the Mexican government had incurred in administrative omissions in protecting migrants (especially children and women) under the policy and ordered authorities to generate adequate guidelines. The fact that an association dedicated to human rights defence had a legitimate interest in promoting a constitutional trial (*amparo*) to challenge this policy highlights the judiciary's role in politically sensitive executive decisions. The Supreme Court actually deals with two insightful questions: 1. Does a civil association dedicated to the defence of human rights have a legitimate interest in bringing an *amparo* action and thereby challenging the Mexican government's migration policy? 2. Can the federal executive's migration policy be subject to constitutional review through an *amparo* action? The answer was positive.

III. OTHER ACTORS IN ASYLUM ACCESS ADJUDICATION

A. Bodies of the executive branch in asylum access adjudication

Two specialized bodies from the Executive Branch are involved in asylum access adjudication: the INM and the COMAR.

The COMAR (*Comisión Mexicana de Ayuda a Refugiados*, Mexican Commission of Aid for Refugees) is the Mexican Commission for Refugee Assistance (COMAR), the governmental institution assigned to the Secretariat of the Interior (SEGOB), responsible for processing and deciding asylum applications in Mexico, as well as granting refugee status or complementary protection. COMAR is responsible for the

⁴¹⁷ Reid, Rebecca, “Human Rights and Court Activism in the Mexican Supreme Court”. *Open Judicial Politics* 3e, vol. 2. Retrieved from: <https://open.oregonstate.edu/oijs3e-vol2/chapter/human-rights-court-activism/>

⁴¹⁸ Pérez Bravo, quoted.

⁴¹⁹ Elizondo Mayer-Serra, Carlos, & Magaloni, Ana Laura. (2010). La forma es fondo: cómo se nombran y deciden los ministros de la Suprema Corte de Justicia. *Cuestiones constitucionales*, (23), 27-60. Retrieved from: http://www.scielo.org.mx/scielo.php?script=sci_arttext&pid=S1405-91932010000200002&lng=es&tlng=es.

⁴²⁰ Mayer-Serra and Magaloni, 2010, quoted.

⁴²¹ Ansolabehere, Karina. (2005). Jueces, política y derecho: particularidades y alcances de la politización de la justicia. *Isonomía*, (22), 39-63. Retrieved from: http://www.scielo.org.mx/scielo.php?script=sci_arttext&pid=S1405-02182005000100003&lng=es&tlng=es

entire refugee process, from the reception of applications to decisions on these, as well as the registration process and issuing certificates.⁴²²

Despite Mexico becoming one of the main global recipients of asylum applications, COMAR is a much smaller agency than the INM. Its capacity has been constantly overburdened and underfunded.⁴²³

Due to this scarcity, COMAR relies heavily on external support, with UNHCR (United Nations High Commissioner for Refugees) serving as its main financial partner, covering most operational costs and, until recently, employing 230 of its 361 employees through outsourcing.⁴²⁴ COMAR operates through central offices in Mexico City and locations in at least ten other places in the country, but it does not have a permanent presence at airports or border crossings.⁴²⁵

Finally, Mexico's refugee system has been overwhelmed by the enormous growth in applicants. The budget for the refugee authority, the Mexican Commission for Refugee Assistance (COMAR), which is separate from the INM, has not kept pace, and it has a growing backlog of refugee status applications. In 2021, it received more than 130,000 but only processed 38,005. UNHCR pays for many basic operating costs, including two-thirds of staff salaries. UNHCR contributed \$4.5 million in 2021. The federal government contributed just over \$2 million. State governments provide free space for some offices and refugee centres.⁴²⁶

Regarding asylum, the INM (*Instituto Nacional de Migración*, National Immigration Institute) is in charge of receiving applications in cities where the COMAR counts on NO offices. It also issues a regular status once a decision on the asylum application is made.

In general, the National Migration Institute (INM) is the federal government body, also assigned to the SEGOB, responsible for the regulation, execution, control, and supervision of migration in the country.

The INM is a considerably large institution, with over 6,000 employees (in 2024)⁴²⁷ and operations in 499 locations nationwide, including 53 migration detention centres (*Estaciones Migratorias*) used to temporarily house foreign nationals in irregular migratory situations; not all of them will be operational by 2024.⁴²⁸ In 2023, only 17 stations were functioning, and the opening of "Centres for Migrant Integration" was announced.⁴²⁹

Its main functions include: supervising arrivals at border points, granting visas (such as the Humanitarian Visitor Card, TVRH), and, critically, expelling or deporting the majority of detained irregular migrants.

⁴²² Sánchez Montijano and Roberto Zedillo Ortega (2022), "Migration in Mexico: complexities and challenges". UNDP LAC PDS n. 30. Retrieved from: <https://www.undp.org/sites/g/files/zskgke326/files/2022-10/PNUDLAC-working-paper-30%20Mexico-EN.pdf>

⁴²³ Center for Gender and Refugee Studies (2023), "Far from Safety: dangers and limits to protection for asylum seekers transiting through Latin America". Retrieved from: <https://cgrs.uclawsf.edu/en/our-work/publications/far-safety-dangers-and-limits-protection-asylum-seekers-transiting-through>

⁴²⁴ "COMAR officials said existing funding is insufficient even for basic operational expenses; they rely heavily on outside support. UNHCR provided US \$4.5 million in 2021, twice as much as the Mexican government. UNHCR pays for the buildings COMAR uses in some cities and covers office supplies like paper and printer ink. Until recently, UNHCR employed 230 of COMAR's 361 staff through an outsourcing agency. This caused problems since outsourced staff cannot perform some basic tasks like signing official documents". Source: Human Rights Watch, 2022. Retrieved from: <https://www.hrw.org/news/2022/06/06/mexico-asylum-seekers-face-abuses-southern-border>

⁴²⁵ "La COMAR tiene oficinas centrales en la Ciudad de México, así como oficinas en el sur y el norte del país (dos en Chiapas y una en los respectivos estados de Tabasco, Veracruz, Coahuila, Nuevo León, Baja California y el estado central de Jalisco)". WOLA, 2022.

⁴²⁶ Human Rights Watch (June 6, 2022), "Mexico: Asylum Seekers Face Abuses at Southern Border". Retrieved from: <https://www.hrw.org/news/2022/06/06/mexico-asylum-seekers-face-abuses-southern-border>

⁴²⁷ Montes, Rafael (December 27, 2023). "Durante año electoral en México y EU, INM recibirá 7.2% más de presupuesto". Retrieved from: <https://www.telediario.mx/nacional/inm-recibira-incremento-presupuestal-para-2024>

⁴²⁸ Osorio, Víctor (March 26, 2024), "Operan sólo 21 de 53 estaciones migratorias". Retrieved from: <https://www.reforma.com/operan-solo-21-de-53-estaciones-migratorias/ar2779684>

⁴²⁹ INM (May 2023), "Asegura INM tener espacios para 6 mil migrantes". Retrieved from: <https://www.inm.gob.mx/gobmx/word/wp-content/uploads/2023/05/Tarjeta-Migratoria-160523.pdf>

Officially, it is in charge of “implementing the migration policy based on principles of respect and safety of the migrant and national persons involved”.⁴³⁰

Although the INM is legally obliged to inform individuals about their right to seek asylum and to collaborate with COMAR, its agents are frequently criticized for operating under a national security focus that prioritizes containment. INM agents, though unauthorized, dissuade migrants from seeking asylum by prejudging their claims or threatening prolonged, indefinite detention (which the Judiciary has sought to limit). In a report, many persons mention situations as the following: “*They detained me on Friday. On Monday, the immigration agent arrived. She took us up to the second floor. She told us, “You have two options here: deportation or COMAR. The best thing for you to do is request voluntary deportation, because if you request COMAR you could be here from 90 days to three years waiting for a decision. And apart from that, you need to wait for your visa. You’re going to waste a lot of time that way. Why don’t you just go back to your countries?” -Emiliano, 51, Venezuela*”.⁴³¹

In fact, the INM staff has faced systemic problems of corruption and abuse, leading a former Commissioner to dismiss 3,000 agents and administrative personnel between 2013 and 2016. In 2021, 68 criminal proceedings started against personnel from the INM; according to the same source, there were no criminal charges (“*denuncias penales*”) between 2006 and 2012; there were 56 between 2014 and 2018 (President Peña Nieto); and the mentioned 68 from 2019 to 2021.⁴³² By 2019, there was a general recognition of the existence of corruption within the INM.⁴³³

Finally, it is worth mentioning that the INM has increasingly relied on support from the National Guard, a security force made up of members of the Armed Forces. This has strengthened migration control operations substantially.⁴³⁴

Involvement, efforts, and interests that executive bodies display

In proceedings before the TFJA (administrative courts), the INM has exhibited significant procedural negligence, particularly in administrative and nullity trials (*juicios de nulidad*). In one specific nullity trial before the Sala Regional del Golfo, the INM’s federal delegate in Veracruz did not contest the lawsuit filed against them and failed to provide the administrative file (*expediente administrativo*). Consequently, the court deemed the facts the plaintiff sought to prove as true.⁴³⁵

The INM, as the primary enforcement and detention authority, is the most frequently challenged entity. Its behaviour in legal proceedings reflects both a persistent defence of its administrative actions and notable deficiencies in compliance and procedure. The INM frequently utilizes legal mechanisms to challenge rulings against it. The sources confirm that the INM interposes resources of revision (appeals) against unfavourable judgments. For example, in the landmark case concerning the Migrant Protection Protocols (MPP, or “Remain in Mexico”), the INM was one of the challenged authorities, and it was the *Secretaría de Gobernación* (SEGOB), under which the INM falls, that interposed an “*adhesive*” revision (cross-appeal) against the district judge’s decision. In another case, the INM’s Director of Attention to Procedures had its resolution negated by the Supreme Court, which ordered the INM to set aside the decision and issue a new one.

⁴³⁰ Official Website: <https://www.gob.mx/inm/que-hacemos>

⁴³¹ Human Rights Watch (June 6, 2022), “Mexico: Asylum Seekers Face Abuses at Southern Border”. Retrieved from: <https://www.hrw.org/news/2022/06/06/mexico-asylum-seekers-face-abuses-southern-border>

⁴³² “Prevalece corrupción en el Instituto Nacional de Migración”, *El Economista*, April 07 2021. Retrieved from: <https://www.eleconomista.com.mx/politica/Prevalece-corrupcion-en-el-Instituto-Nacional-de-Migracion-20210406-0139.html>

⁴³³ Carabaña, Carlos (s.f.), “Si no pagas no pasas. El negocio ilegal de los agentes de migración con la ilusión de millones por el sueño americano”. Retrieved from: <https://investigaciones.nmas.com.mx/corrupcion-inm-si-no-pagas-no-pasas/>

⁴³⁴ Sánchez Montijano and Roberto Zedillo Ortega (2022), “Migration in Mexico: complexities and challenges”. UNDP LAC PDS n. 30. Retrieved from: <https://www.undp.org/sites/g/files/zskgke326/files/2022-10/PNUDLAC-working-paper-30%20Mexico-EN.pdf>

⁴³⁵ Pérez Bravo, quoted.

Detention. Then, despite judicial rulings, particularly those stemming from *amparos* filed by civil society organizations, the INM demonstrates resistance to implementation. *Amparos* filed to protect the life and health of migrants in **detention** during the COVID-19 pandemic obtained favourable resolutions, but these were systematically violated by Mexican authorities, mainly the INM and the federal government. This pattern of non-compliance undermines the purpose of judicial protection.⁴³⁶

Pushbacks. Regarding COMAR, when third parties (NGOs, UNHCR) attempt to defend applicants at risk of immediate deportation, COMAR exhibits a lack of immediate collaboration. Under the invoked principle of confidentiality, COMAR refuses to provide information that would corroborate a persons refugee or applicant status and does not take action to defend them against the risk of return. Instead of collaborating to ensure protection, COMAR adopts a passive attitude, despite being the authority responsible for protecting refugees.⁴³⁷

Role of executive bodies and their implications in asylum access adjudication

COMAR is involved in asylum access adjudication in two main ways: in systematically denied administrative appeals against decisions of no recognition of refugee status, and in an active involvement in legal proceedings after that. And it is the same within the INM. This is why the administrative appeal is deemed ineffective.⁴³⁸ Data analysis shows that nearly 80% of these internal administrative appeals confirm the original denial. This systemic failure essentially compels claimants to bypass the administrative process and seek judicial protection through the Amparo Trial or Contentious Administrative Trial (before the TFJA).⁴³⁹

The SCJN has explicitly analysed cases where COMAR was a defendant authority. For instance, in a case involving the collective recognition of refugee status for children in migrant caravans, both the INM and COMAR interposed resources of revision against the district judges decision that had granted the *amparo*. In another case, where COMAR denied refugee status to a minor, both the claimant and COMAR interposed resources of revision.

On the other hand, it is worth noticing the relation between COMAR practices (particularly delays) in general and (risk of) pushbacks and detentions and, thus, legal actions to deal with COMAR's failure. COMAR's internal practices—such as conducting eligibility interviews without personnel specialized in minors, failing to provide documentation promptly,⁴⁴⁰ or not keeping proper records of abandoned cases—often form the basis for successful legal challenges in the Judiciary, forcing judicial bodies to order procedural nullity or reinstatement of rights.

Then, the INM. The INM is the principal challenging authority in migration cases, focusing on detention, enforcement, and documentation. The INM's adversarial position and documented non-compliance significantly influence judicial bodies. The majority of the 325 administrative sentences studied by the TFJA (administrative courts) involve acts emitted by the INM, confirming its role as the most judicially

⁴³⁶ Red Regional de Protección (2020), *Situación de los derechos humanos de las personas en movilidad humana en México y el norte de Centroamérica*. Retrieved from: <https://asylumaccess.org/wp-content/uploads/2020/12/Informe-CIDH-Red-Regional-de-Proteccion.pdf>. See also: Asylum Access Mexico Report on Detention. <https://asylumaccess.org/wp-content/uploads/2021/09/informe-investigacion-atd.pdf>

⁴³⁷ IMUMI et. al. (2023), “El principio de no devolución” Report, quoted.

⁴³⁸ Ortega, 2022, quoted.

⁴³⁹ Universidad Iberoamericana Ciudad de México (2019). *Temas del Procedimiento administrativo para el reconocimiento de la condición de refugiado*. Retrieved from: https://programadh.iberomex.mx/assets/documents/Ibero-2019-Informe-REP-LEGAL_v3.pdf

⁴⁴⁰ “La Comar está obligada a certificar que una persona es solicitante de asilo y está siguiendo un procedimiento. Esta constancia también protege al solicitante de asilo de la deportación, pues el INM la exige para emitir la Tarjeta de Visitante por Razones Humanitarias (TVRH), que facilitará su acceso a servicios sociales en el país. Sin embargo, a pesar de que los procedimientos de asilo son largos, la Comar se tarda incluso varios meses en emitirla, dependiendo el lugar donde se solicite asilo, dada su poca capacidad operativa. Con esto se deja a los solicitantes de asilo desprotegidos frente a la deportación y, además, se obstaculiza su acceso al empleo y a servicios de salud, entre otros, especialmente en tiempos de pandemia, a pesar de que la constancia no es un documento de tránsito ni autoriza la estancia regular de la persona.” Ortega Velázquez, 2022. retrieved from: <https://archivos.juridicas.unam.mx/www/bjv/libros/14/6671/12.pdf>

scrutinized authority. The INM's acts (like detentions, fines, and denial of document changes) are inherently negative—aimed at the non-recognition of a right (“*encaminados al no reconocimiento de un derecho*”)—which drives litigation. The INM is a key defendant authority in major constitutional cases, such as those related to the Migrant Protection Protocols (MPP), detention limits, and illegal checkpoint operations.⁴⁴¹ According to the same source, in cases where INM failed to present evidence, administrative judges (TFJA) have compensated for the INM's legal failings by applying international human rights instruments, such as the SCJN's own *Protocolo de actuación* and advisory opinions from the Inter-American Court of Human Rights (IACtHR), to compel a favourable resolution for the migrant.

B. International or regional organizations

The largest international organization involved in asylum access adjudication in Mexico is the UNHCR. In particular, the UNHCR is the largest external financial and personnel contributor to Mexico's asylum apparatus. It specializes in asylum.

According to one source, “COMAR officials said existing funding is insufficient even for basic operational expenses; they rely heavily on outside support. UNHCR provided US \$4.5 million in 2021, twice as much as the Mexican government. UNHCR pays for the buildings COMAR uses in some cities and covers office supplies like paper and printer ink. Until recently, UNHCR employed 230 of COMAR's 361 staff through an outsourcing agency. This caused problems since outsourced staff cannot perform some basic tasks like signing official documents.⁴⁴² Interestingly, by 2022, the United States remained the largest donor to UNHCR in Mexico, providing nearly US\$39 million in assistance in 2021; through the State Departments Bureau of Population, Refugees, and Migration, additional support has been provided to COMAR and international organisations operating in Mexico.⁴⁴³

In Mexico, UNHCR plays a critical role in strengthening the country's asylum system by providing technical assistance and protection guidance (including the 10-Point Plan on mixed migration flows)⁴⁴⁴

In addition, UNHCR has historically been vital for staffing COMAR, providing personnel through outsourcing. As of late 2021, UNHCR financed the direct employment of most COMAR staff, having previously employed 230 of COMAR's 361 employees through outsourcing.⁴⁴⁵ Pursuant to the same source, the UNHCR implements core programs like the Local Integration Program (PIL), which relocates recognized refugees to cities in central and northern Mexico and assists them with housing and work, having relocated over 18,000 people since 2016. UNHCR also provides direct humanitarian assistance, including cash-based interventions (CBI), to asylum seekers to cover basic needs, such as rent, during the lengthy COMAR procedures.

Finally, UNHCR holds crucial collaboration agreements with the federal judiciary, notably the *Instituto IFDP*, established via a framework agreement to coordinate efforts to provide free legal advice, representation, and access to justice for asylum seekers, refugees, and stateless persons. UNHCR also guides judicial capacity building and training for federal public defenders.⁴⁴⁶

Regarding the IOM, it implemented a pilot program in 2022 to help non-refugee families in Tapachula obtain legal status, relocate to central Mexico, and find work and housing.⁴⁴⁷ IOM also collaborates in the

⁴⁴¹ Pérez Bravo, quoted.

⁴⁴² Human Rights Watch (June 6, 2022), “Mexico: Asylum Seekers Face Abuses at Southern Border”. Retrieved from: <https://www.hrw.org/news/2022/06/06/mexico-asylum-seekers-face-abuses-southern-border>

⁴⁴³ WOLA, 2022, quoted.

⁴⁴⁴ Marco Integral Regional para la Protección y Soluciones (2020), III Informe Anual del Marco Integral regional para la protección y soluciones. Retrieved from: https://www.oas.org/es/sadye/documentos/MIRPS_ReporteAnual_2020.pdf

⁴⁴⁵ WOLA, 2022, quoted.

⁴⁴⁶ Asilo Americas: “Mexico: Defensa Legal” (s.f.). Retrieved from: <https://www.asiloamericas.org/mexico-defensa-legal/>

⁴⁴⁷ Human Rights Watch (June 6, 2022), “Mexico: Asylum Seekers Face Abuses at Southern Border”. Retrieved from: <https://www.hrw.org/news/2022/06/06/mexico-asylum-seekers-face-abuses-southern-border>

MIRPS framework (Comprehensive Regional Framework for Protection and Solutions). The IOM specializes in migration.

Involvement, efforts, and interests that international and regional organizations display

The involvement of UNHCR and the International Organization for Migration (IOM) in asylum access adjudication in Mexico is extensive but differentiated. UNHCR's role is central and systemic, focused on mitigating governmental failures, supporting legal defence, and building capacity, while IOM's involvement is primarily geared toward regularization and integration pathways for specific groups.

UNHCR's involvement is characterized by structural support, financial aid,⁴⁴⁸ and strategic legal engagement to bolster the Mexican asylum system.⁴⁴⁹ As it was also mentioned, UNHCR also provides a framework for legal aid, by promoting the signature of an agreement with the Federal authorities to have a free legal aid service for migrants and asylum seekers.⁴⁵⁰ There are also partnerships with *Universidad Veracruzana*, *Universidad Panamericana*, and pro bono law firms.⁴⁵¹

Regarding detention, for instance, there is a “program” to release asylum seekers from detention, implemented by the National Institute of Immigration (INM), the COMAR, and UNHCR. However, it remains an informal and discretionary practice without clear and public criteria, and at the end of 2020, it became subject to additional limitations.⁴⁵² Mexico, pursuant to UNHCR, is one of the identified countries to work on alternatives to detention.⁴⁵³

The primary explanation for the high level of UNHCR's involvement, especially its financial and operational contributions, could be the systemic inadequacy and lack of funding allocated by the Mexican state to its asylum system. In the words of UNHCR, “since 2018, the Mexican Commission for Refugee Assistance (COMAR) has been able to increase its asylum application processing capacity by four times with support from UNHCR. The digitalization of its archive and the adoption of biometric recognition technology are among the main achievements to improve efficiency in 2023. Despite these improvements, COMAR's budget remained insufficient, limiting its ability to process claims and support refugee integration”.⁴⁵⁴

According to one source, “Mexico is a country whose asylum legal framework, in theory, is among the world's most inclusive and protective of asylum seekers. In recent years, Mexico has made significant legislative improvements to adapt to the new hemispheric migration patterns. In addition, around 70% of asylum applications in Mexico are resolved favourably, granting refugee status to most applicants. However, despite the good intentions of Mexican legislators and the high approval rate of asylum applications, the administrative authorities in charge of reviewing asylum applications are underfunded and face a growing number of asylum applications.”⁴⁵⁵

⁴⁴⁸ Human Rights Watch (June 6, 2022), “Mexico: Asylum Seekers Face Abuses at Southern Border”. Retrieved from: <https://www.hrw.org/news/2022/06/06/mexico-asylum-seekers-face-abuses-southern-border>

⁴⁴⁹ UNHCR (May 16, 2019), “Personas solicitantes de asilo contarán con apoyo de la defensoría pública en México”. Retrieved from: <https://www.acnur.org/noticias/comunicados-de-prensa/personas-solicitantes-de-asilo-contaran-con-apoyo-de-la-defensoria>

⁴⁵⁰ Asilo Americas: “Mexico: Defensa Legal” (s.f.). Retrieved from: <https://www.asiloamericas.org/mexico-defensa-legal/>

⁴⁵¹ UNHCR (March 18, 2010), “México: ACNUR y sus socios capacitan a red de defensores en materia de asilo”. Retrieved from: <https://www.acnur.org/noticias/historias/mexico-acnur-y-sus-socios-capacitan-red-de-defensores-en-materia-de-asilo>

⁴⁵² Martínez, Diana; Carreño, Carolina and Alvares, Elizabeth (2022), “Hope in efforts to End Detention of People seeking Asylum in Mexico”. Retrieved from: <https://reliefweb.int/report/mexico/hope-efforts-end-detention-people-seeking-asylum-mexico>

⁴⁵³ UNHCR (s.f.), Detención. Retrieved from: <https://www.acnur.org/detencion>

⁴⁵⁴ UNHCR (2024), “Mexico, hope of a new home”. Retrieved from: <https://www.acnur.org/mx/sites/es-mx/files/2024-10/UNHCR%20Mexico%20Annual%20Report%202023.pdf>

⁴⁵⁵ Castellanos-Canales, Arturo (March 15, 2023), Mexico's asylum System: Good in Theory, Insufficient in Practice”. FORUM. Retrieved from: <https://forumtogether.org/Article/mexicos-asylum-system-good-in-theory-insufficient-in-practice/>

Despite this source, it is hard to separate the legal framework or the “theory” from the harsh reality. The Constitution does recognise a right to asylum, but it is barely enforceable, and the right exists alongside a large militarization project, automatic detention, and systemic pushbacks.

Thus, the involvement and efforts of the UNHCR can also be understood in the context of the US foreign policy. US externalization policies (Migrant Protection Protocols, Title 42, bilateral agreements) drove increased asylum claims in Mexico (172% growth 2018-2019), prompting UNHCR to scale up assistance. As one source notes: “Most MPP returnees stay close to the US-Mexico border so they can report periodically to a port of entry, as required, to get new US Immigration Court paperwork and renew their FMMs. Although these regions are extremely violent, the financial costs and dangers associated with travel back and forth to the border regions mean there are few other options”.⁴⁵⁶ So, there were literally thousands of people living in precarious conditions all along the Northern border.

In spite of the expansion that the UNHCR has in the Northern border, in terms of geographic differences, the UNHCR mostly concentrates its efforts in Tapachula (southern border). 60% of asylum claims are processed in Chiapas (Tapachula).

IOM’s mandate in Mexico does not include direct involvement in asylum adjudication, but it works on building capacity and in emergencies.⁴⁵⁷ No evidence in reviewed sources indicates IOM directly trains COMAR adjudicators, provides legal representation to asylum seekers, or engages in strategic asylum litigation. Some sources refer to the IOM having a role in “collaborative pushbacks” or “forced transfers”: “Other asylum seekers subjected to MPP have been transported throughout the country by the Mexican government and the International Organization for Migration, including to areas near the Mexico-Guatemala border”.⁴⁵⁸

Role of international or regional organizations and their implications

UNHCR’s guidelines and standards are frequently integrated into the Mexican legal framework by the federal Judiciary. Probably the most cited in legal cases is the “Guidelines on the criteria and standards applicable to the detention of asylum seekers and alternatives to detention (2012)” (*File 353/2019; File 07/2022*). Different “Conclusions” of the Executive Committee of the UNHCR were usually quoted: Conclusion 15 (1979), Conclusion 93 (2002), Conclusion 100 (2004).

Interestingly, the UNHCR provided the Prologue to the Supreme Court of Justice of the Nation (SCJN)’s “*Cuadernos de Jurisprudencia*” (Jurisprudence Notebooks) on migrants, asylum seekers and human rights.

Apparently, the collaboration arose from a framework agreement between the SCJN and UNHCR, signed to strengthen the protection of migrants and refugees through legal precedents grounded in a human rights approach. There is another document jointly produced.⁴⁵⁹

In relation to the involvement of experts, the UNHCR commits to organizing workshops, training sessions, roundtables, and other forums to strengthen the capacity of federal public defenders (*asesores federales*) specialized in international protection and to develop joint protection strategies with the Federal Institute of Public Defence (IFDP). UNHCR also actively channels (*canaliza*) individuals who require legal

⁴⁵⁶ _Asylum Access (s.f.), Recommendations from Mexican Civil Society Organizations to the Biden-Harris Administration. Retrieved from: <https://asylumaccess.org/wp-content/uploads/2020/12/Recommendations-from-Mexican-CSOs-to-Biden-Harris-Administration.pdf>

⁴⁵⁷ IOM (s.f.), Mexico, retrieved from: <https://onu-mexico.onu.org.mx/oim/>

⁴⁵⁸ Asylum Access (s.f.), Recommendations from Mexican Civil Society Organizations to the Biden-Harris Administration. Retrieved from: <https://asylumaccess.org/wp-content/uploads/2020/12/Recommendations-from-Mexican-CSOs-to-Biden-Harris-Administration.pdf>

⁴⁵⁹ Supreme Court of Justice (2025), *Apuntes para la defensa de los derechos humanos de personas solicitantes de refugio*. Retrieved from: <https://www.scjn.gob.mx/derechos-humanos/sites/default/files/Publicaciones/archivos/2026-01/solicitantes-de-refugio.pdf>

advice and representation to the IFDP for protection recognition, *amparo* suits (to challenge administrative/jurisdictional decisions), and migration documentation.⁴⁶⁰

No information was found regarding the collection of evidence.

C. NGOs and bar associations

NGOs and legal clinics are highly engaged in asylum access adjudication. In fact, most of the legal decisions arose from cases litigated by those entities: much of the case law would not exist if it weren't for their litigation.

The following organizations are documented as providing legal expertise, representation, direct assistance, or engaging in strategic litigation and advocacy related to asylum processing, often in collaboration with government bodies or international organizations. There are at least 83 civil organizations involved in migration and asylum matters.⁴⁶¹

Organization Name	Country/Region of Operation	Brief description
ACLU Border Rights Center	US/Mexico border	Thanked for support/advocacy. Challenged the Migrant Protection Protocols (MPP) program in federal court.
Aldeas Infantiles	Mexico	Involved in a pilot program for alternative care/detention for migrant children.
American Civil Liberties Union (ACLU)	US/Mexico border	Challenged the Migrant Protection Protocols (MPP) program in federal court.
American Friends Service Committee (AFSC)	Mexico (Latin America & Caribbean Office)	Provides support/services to migrants in southern Mexico. Participates in the GAM-PAB group focusing on asylum and protection.
Amnistía Internacional (Amnesty International)	Global, focus on Mexico/US border	Known for documenting violence and advocating for migrant rights.
Apostólicas del Corazón de Jesús	Mexico	Signatory of a document related to border monitoring.
Asylum Access México	Mexico	Works to improve due process and access to justice for refugees. Provides legal accompaniment/advice. Documented issues with the asylum system. Part of the Red Regional and GAM-PAB.
Ayuda para el Progreso	Belize	Civil society partner organization.
Borderland Immigration Council	US/Mexico border	Thanked for support/advocacy.
Casa Alianza	Honduras/Mexico	Part of the Red Regional. Involved in a pilot program for alternative care/detention for migrant children in Mexico.
Casa del Migrante de Ocotepeque	Honduras	Part of the Red Regional of civil society organizations.
Casa del Migrante de Saltillo — Frontera con Justicia, A.C.	Mexico (Coahuila)	Involved in the promotion and defence of the human rights of migrants. Part of the GAM-PAB group.
Casa del Migrante Misión Scalabrini	El Salvador	Part of the Red Regional of civil society organizations.
Casa del Migrante Scalabrini	Mexico	Part of the Red Regional of civil society organizations.
Casa del Migrante San José – Esquipulas	Guatemala	Part of the Red Regional of civil society organizations.

⁴⁶⁰ Asilo Americas: “Mexico: Defensa Legal” (s.f.). Retrieved from: <https://www.asiloamericas.org/mexico-defensa-legal/>

⁴⁶¹ García Zamora and Gaspar Olvera (2020), quoted.

Catholic Charities of Las Cruces	US/Mexico border	Thanked for support/advocacy.
Centro de Derechos Humanos Digna Ochoa	Mexico	Signatory of a document related to border monitoring.
Centro de Derechos Humanos Fray Matías de Córdoba, A.C. (CDH Fray Matías)	Mexico (Chiapas)	Core organization providing services and documentation in Southern Mexico. Part of the Red Regional and GAM-PAB group. Provides legal assistance.
Centro de Derechos las Víctimas la Violencia Minerva Bello	Mexico	Signatory of a document related to border monitoring.
Coalición Internacional contra la Detención (IDC)	Global, Network	Develops models for alternatives to detention (ATD). Part of the GAM-PAB group. Involved in pilot program for migrant children ATD.
Coalición por los Derechos Humanos de los Inmigrantes (CHIRLA)	US/Mexico border	Provides services to migrants in southern Mexico. Signatory of a document related to border monitoring.
Comisión Mexicana de Defensa y Promoción de los Derechos Humanos (CMDPDH)	Mexico	An organization specializing in the defence of human rights. Provides accompaniment in COMAR proceedings and engages in strategic litigation. Part of the GAM-PAB group.
Consejo Danés para Refugiados (DRC)	Mexico/Central America	Collected data on asylum seekers in Tapachula.
Consejo Noruego para Refugiados (NRC)	Central America	Part of the Red Regional. Assisted with registration and documentation tours in Panama.
Cruz Roja de Belice	Belize	Civil society partner organization.
Derechos Humanos Integrales en Acción	Ciudad Juárez, Mexico	Human rights group that monitors and collects declarations of harm. Thanked for support/advocacy.
El Buen Pastor	Ciudad Juárez, Mexico	Shelter operator organization addressing the vulnerability of asylum seekers.
FM4 Paso Libre	Mexico	Provides legal advice.
Formación y Capacitación (FOCA)	Mexico	Provides services to migrants in southern Mexico. Signatory of a document related to border monitoring.
Foro Migraciones	Mexico	A network of civil associations, human rights centres, shelters, and migration-linked houses in Mexico.
Fundar	Mexico	Involved in evaluating the effectiveness of the investigation and prosecution of crimes against migrants.
Fundación para la Justicia y el Estado Democrático del Derecho	Mexico	Involved in evaluating the effectiveness of the investigation and prosecution of crimes against migrants.
Haitian Bridge Alliance	US/Mexico	Conducted research on anti-Black racism and language barriers faced by Haitian migrants in Mexico.
Hermanos en el Camino	Mexico (Oaxaca)	Involved in evaluating the effectiveness of the investigation and prosecution of crimes against migrants.
Hope Border Institute	El Paso, Texas/Mexico border	Faith-based research and policy group that monitors MPP court proceedings. Thanked for support/advocacy.
Iniciativas para Desarrollo Humano A.C. (IDEHU)	Mexico	Provides services to migrants in southern Mexico. Signatory of a document related to border monitoring.

Instituto para las Mujeres en la Migración (IMUMI)	Mexico	Provides services to migrants. Involved in research on anti-Black racism. Thanked for support/advocacy.
International Rescue Committee (IRC)	Global, focus on Northern Mexico	Alerts on dangers faced by asylum seekers in Northern Mexico.
Kaltsilantik	Mexico	Signatory of a document related to border monitoring.
La 72 Hogar-Refugio para Migrantes	Mexico (Tenosique, Tabasco)	Provides shelter and support. Document abuses and the situation of asylum seekers. Signatory of a document related to border monitoring.
Las Americas Immigration Advocacy Center	US/Mexico border	Thanked for support/advocacy.
Médicos del Mundo – Francia (MdM)	Mexico	Signatory of a document related to border monitoring.
Niños en Necesidad de Defensa (KIND)	US/Mexico	NGO specialized in child protection, coordinating reunifications of unaccompanied minors.
Otros Dreams en Acción (ODA)	Mexico	Civil society organization focusing on integration frameworks.
PLAN El Salvador	El Salvador	Partnered with CICR and EDUCO to provide humanitarian aid.
Programa Casa Refugiados, A.C. (PCR)	Mexico	Provides humanitarian assistance and local integration support. Part of the GAM-PAB group.
Red Jesuita con Migrantes	Guatemala	Part of the Red Regional of civil society organizations.
Red Migrante Sonora	Mexico (Sonora)	Involved in evaluating the effectiveness of the investigation and prosecution of crimes against migrants.
Redodem (Red de Documentación de las Organizaciones Migrantes)	Mexico (Network)	Network managing shelters, conducting documentation of violence.
Scalabrinianas Misión con Migrantes y Refugiados – SMR	Mexico	Part of the Red Regional of civil society organizations.
Servicio Jesuita a Refugiados (JRS) México	Mexico (Tapachula)	Provides services to migrants. Collected data on asylum seekers in Tapachula. Part of the Red Regional.
Sin Fronteras, I.A.P.	Mexico	Contributes to the promotion, protection, and defence of human rights for migrants and asylum seekers. Provides legal advice. Part of the GAM-PAB group.
Southern Poverty Law Center	US/Mexico border	Challenged the Migrant Protection Protocols (MPP) program in federal court.
Una Mano Amiga en la Lucha contra el SIDA	Mexico	Provides services to migrants in southern Mexico.
WOLA (Washington Office on Latin America)	US/Mexico/Central America	Leading research and advocacy organization promoting human rights. Collaborated on several reports regarding migration enforcement and asylum systems.

Then, the following entities, primarily associated with universities, are cited for their involvement in providing legal services, research, and analysis critical to asylum adjudication and strategic litigation:

Academic/Clinic Name	Affiliation/Location (as specified in sources)	Role/Involvement
Clínica Jurídica para Personas Refugiadas	Universidad Iberoamericana	Provides free legal advice, representation, and engages in advocacy and strategic litigation. Successfully obtained an <i>amparo</i> freeing a migrant from

“Alaide Foppa” (CJR)	(UIA), Ciudad de México	detention.
Programa de Asuntos Migratorios (PRAMI)	Universidad Iberoamericana (UIA), Ciudad de México	Provides services to migrants in southern Mexico. Signatory of a document related to border monitoring. Appears to be linked to the work of the legal clinic.
Center for Gender & Refugee Studies (CGRS)	UC Hastings (part of US legal academic infrastructure)	Provides legal expertise, training, and resources; litigates to expand refugee protections. Challenged the MPP program. Conducted research on Black/Haitian migrants in Mexico.
National Autonomous University of Mexico (UNAM)	Mexico	Legal Clinic on Migration

Involvement, efforts, and interests of NGOs and bar associations

The extensive involvement of NGOs and legal clinics may be primarily seen as a direct consequence of the overwhelming demands placed on Mexico’s asylum system, coupled with the state’s resource deficiencies and the specialized legal expertise needed to navigate these conditions. NGOs and legal entities display multifaceted involvement, ranging from direct legal representation to humanitarian relief, monitoring, and advocacy.

Firstly, they provide direct legal and procedural Assistance. NGOs such as Asylum Access México (AAMX), *Sin Fronteras*, and the *Clínica Jurídica para Personas Refugiadas “Alaide Foppa”* (CJR) provide free legal advice, assistance, and representation to people seeking international protection.⁴⁶² More interestingly, organizations engage in strategic litigation to challenge systemic failures and strengthen the Mexican asylum framework. Most of the cases arriving at the Supreme Court were handled by NGOs or a cluster of NGOs.

Then, organizations like WOLA, Human Rights Watch (HRW), and members of the Human Rights Monitoring and Observation Collective for Southwest Mexico (COMDHSM) actively monitor and document human rights violations, abuses, and deficiencies in the asylum system.⁴⁶³ They advocate for crucial policy changes, including increasing the national budget for COMAR, expanding COMAR’s presence, ensuring legal alternatives to detention, and improving institutional coordination to prevent deportation.⁴⁶⁴

On the other hand, some NGOs also provide humanitarian aid. Even when it is not directly connected with asylum adjudication, this aid is crucial because the Mexican government often lacks mechanisms to provide accommodation for asylum seekers. Shelters offer basic services such as food, lodging, and medical/psychological attention. In Tapachula, where government support is insufficient, UNHCR, in coordination with civil society organizations, provides cash assistance (CBI) to help eligible asylum seekers.⁴⁶⁵

Role of NGOs and bar associations and their implications

The role of NGOs and university clinics in influencing court rulings concerning migrants and asylum seekers is significant, often serving to challenge administrative practices, establish legal precedents, and provide essential legal representation in a system marked by structural deficiencies.

⁴⁶² IMUMI et. al., 2023, quoted; Ortega, 2022, quoted.

⁴⁶³ Carbonell, Ana Paula (September 04, 2025), “Migrar bajo asedio: la migración forzada en México en un año marcado por la violencia y la restricción”. La Verdad Juárez. Retrieved from: <https://laverdadjuarez.com/2025/09/04/migrar-bajo-asedio-la-migracion-forzada-en-mexico-en-un-ano-marcado-por-la-violencia-y-la-restriccion/>

⁴⁶⁴ IMUMI et. al., 2023, quoted.

⁴⁶⁵ WOLA, 2017, quoted.

Firstly, NGOs play a crucial role in bringing the case before the courts and in providing legal aid. Otherwise, the rulings would not be possible. NGOs and legal clinics actively engage in litigation, primarily through the *juicio de amparo*, to challenge administrative delays, detentions, and negative resolutions.

Secondly, the successful representation provided by legal defence bodies has set relevant judicial precedents that have served to improve the homologation of legal criteria applied nationally with international standards. In a crucial ruling regarding the 30-day deadline for filing an asylum claim, the SCJN addressed the legality of the measure. The court ruled that the rule must be interpreted to account for the applicant's vulnerability, requiring only a "minimum standard" of coherence to justify a late filing, rather than requiring strict, rigorous, or conclusive proof of impossibility. This interpretation, favouring the applicant due to their vulnerable status, alleviates an excessive and disproportionate burden of proof.

University departments (like the UIA) and academics engage in analysis of migration issues. For example, studies developed from universities have analysed the coherence and quality of COMARs resolutions, often highlighting systemic failures like the inadequacy of telephonic interviews or the ineffective nature of the administrative review recourse.

Organized or formal involvement of civil society, apart from NGOs

The work performed by civil society organizations and academia, stemming from their research and direct experience, is often highlighted as essential for developing effective programs and policies. They are viewed as crucial partners for interinstitutional coordination, offering their knowledge on the needs and vulnerabilities of people in movement. The Center for Gender & Refugee Studies (CGRS), for instance, litigates and uses regional and international human rights mechanisms to advance refugee law and policy.⁴⁶⁶

Many of the reports cited in this document were prepared by consortia of organizations.

D. Supranational courts

The rulings and standards established by supranational courts, particularly the Inter-American Court of Human Rights (IACHR Court or Corte IDH) and the Inter-American Commission on Human Rights (IACHR Commission or CIDH), have had a demonstrable and significant influence on the Mexican judiciary's approach to migration and asylum barriers, guiding both the Supreme Court of Justice of the Nation (SCJN) and legal experts in interpreting domestic law to align with international human rights standards. In *Amparo en Revisión 7/2020* concerning NNA in migrant caravans, for instance, the SCJN exclusively relied on international standards to define state obligations. The Court emphasized that Mexican authorities have an obligation to adopt adequate collective measures for children, taking into account their particular vulnerability, to ensure they can achieve refugee status and receive adequate protection and assistance.

About pushbacks. The principle of *non-refoulement* (non-return) is a foundational obligation recognized in Mexican legislation and international treaties. Violations of this principle, carried out through border rejections or mass deportations without due process, are denounced as widespread. While the sources⁴⁶⁷ describe the systematic failure to uphold *non-refoulement* by administrative authorities (such as the INM), the judiciary has been directed by international law to enforce this core principle. The legal framework for asylum dictates that deportations or assisted returns must not be carried out to the country of origin or

⁴⁶⁶ Center for Gender and Refugee Studies, 2023. Report: Far from Safety: Dangers and Limits to Protection for Asylum Seekers Transiting through Latin America, quoted.

⁴⁶⁷ IMUMI et. al. , 2023, quoted. See previous version here: <https://imumi.org/wp-content/uploads/2023/09/El-Principio-de-No-devolucion.pdf#:~:text=Es%20el%20principio%20fundamental%20que%20se%20desprende,amenazas%20a%20su%20vida%20o%20su%20libertad.>

residence for those who have sought asylum or the recognition of refugee status, and the principle of *non-refoulement* must be observed.⁴⁶⁸

Regarding Detention. Supranational jurisprudence has been critical in challenging the widespread practice of mandatory and prolonged immigration detention in Mexico, which is often implemented in an automatic manner as a means of controlling migratory flows.⁴⁶⁹ Only in 2024, detentions increased by 200%.⁴⁷⁰ During 2025, the increase was 266%.⁴⁷¹

The SCJN has invoked constitutional and international standards to drastically limit the maximum duration of immigration detention. In the case of *Amparo en Revisión 388/2022* (and related cases), the SCJN addressed the constitutionality of the detention periods outlined in Article 111 of the Migration Law (which established up to 15 or 60 working days of detention). The SCJN, in aligning its criteria with constitutional principles (specifically Article 21, which limits administrative arrests to 36 hours), ruled that statutory periods exceeding constitutional limits constitute an indirect restriction of the right to effective judicial protection

In relation to Procedural barrier: deadline. Applying the principle of granting the broadest protection of fundamental rights and considering the vulnerability of asylum seekers, the SCJN issued a compliant interpretation, ruling that the applicant should not be required to prove (demonstrate the certainty of) external causes that prevented the timely submission of the application. The SCJN granted the writ of amparo and ordered the administrative authority to accept the application without considering the lack of proof of an external cause of delay.

In addition, in *Amparo en Revisión 400/2020*, the SCJN found that the omission of authorities to provide specialized legal representation and comprehensive evaluation (including specialized interviews) to unaccompanied NNA seeking asylum violated their rights of access to justice and the principle of the superior interest of the child. The need for specialized legal advice and representation for asylum seekers, including minors, has been established by the IACHR Court in cases like *Pacheco Tineo vs. El Estado Plurinacional de Bolivia* and *Vélez Loo vs. Panamá*.

E. Other actors

Since 2020, the Federal Institute of Public Defence (*Instituto Federal de Defensoría Pública -IFDP*) has been providing legal aid in airports and detention centres. Its presence is not clear in other locations.

IV. THE SOCIO-POLITICAL CONTEXT

A. Migratory routes and entry points

Mexico has the unusual distinction of being a country of origin, destination, and transit for migrants.

Main migration routes towards the country since 2010

Taking 2010 as the starting period, the main migration routes can be described as follows.

⁴⁶⁸ REDODEM (s.f.), “Violaciones al principio internacional de no devolución en México”. Retrieved from: <https://redodem.org/violaciones-al-principio-internacional-de-no-devolucion-en-mexico/>

⁴⁶⁹ “México, país en AL con mayor sistema de detención migratoria”, IBERO, May 06, 2022. Retrieved from: <https://prensa.iberomx.com/es-MX/nota/mexico-pais-en-al-con-mayor-sistema-de-detencion-migratoria-experta>. See also: “Se disparan detenciones de migrantes en México”, February 08, 2025. Retrieved from: <https://dossierpolitico.com/2025/02/08/se-disparan-detenciones-de-migrantes-en-mexico/>

⁴⁷⁰ Vaquero Simancas, Jorge (July 09, 2024), “México acelera más de un 200% la detención de migrantes”, El País. Retrieved from: <https://elpais.com/mexico/2024-07-09/mexico-acelera-mas-de-un-200-la-detencion-de-migrantes.html>

⁴⁷¹ Cabadas, María (June 15, 2025), “Crecen 266% detenciones de migrantes en Mexico”. El Universal. Retrieved from: <https://www.eluniversal.com.mx/nacion/crecen-266-detenciones-de-migrantes-en-mexico/>

During 2010-2014, migration routes to Mexico were characterized by relatively predictable patterns. The main flows originated from the "Northern Triangle" of Central America - Honduras, Guatemala, and El Salvador, following well-established terrestrial corridors that took advantage of existing geography and infrastructure. The main routes were organized into three principal corridors: the **Pacific Corridor** (crossing Guatemala toward Chiapas, continuing along the Mexican Pacific coast), the **Gulf Corridor** (from Guatemala toward Tabasco and subsequently through Veracruz toward the north), and the **Central Corridor** (internal routes connecting multiple Mexican states. Railroad infrastructure, known as "*La Bestia*" (The Beast), constituted the backbone of these routes, despite the enormous risks it posed for migrants. The train represented the primary means of transport for those lacking resources for safer options.⁴⁷²

A fundamental change occurred with the implementation of the Comprehensive Southern Border Program (PIFS), the "*Programa Frontera Sur*" in July 2014. This program represented a Mexican response to US pressure regarding the humanitarian crisis of unaccompanied minors at the US southern border.⁴⁷³

This program generated multiple structural changes: (i) Detentions increased by 79% during the program's first year, extending migratory controls to practically the entire national territory, (ii) Migrants were forced to use more dangerous and less travelled paths, exponentially increasing their vulnerability to organized crime and adverse geographical conditions; (iii) Although more than 50% continued using trains, there was a 9% increase in alternative means, including long walks through inhospitable areas.

Starting in 2015, migration routes experienced unprecedented diversification. Venezuela emerged as the principal country of origin by 2022, representing 22% of events involving persons in irregular migratory situations.⁴⁷⁴ This migration followed complex routes, using the Darién Route (From Venezuela, passing through Colombia, the dangerous crossing of the Darién Gap in Panama, continuing through Central America toward Mexico. Then, there are extracontinental migratory flows toward Mexico. Events involving African persons increased from 3,089 in the fourth quarter of 2022 to 10,105 in the first quarter of 2023, a 227% increase.⁴⁷⁵ Finally, 2022 presented the highest number of events involving persons in irregular migratory situations ever recorded in Mexico: 444,439 events. This figure continued growing, reaching 782,185 in 2023 and establishing a new record of 360,146 events in just the first quarter of 2024.⁴⁷⁶

Finally, due to the US Policy, particularly through the program "Remain in Mexico" and, in general, for the "devolution policy", it is also possible to hold that Mexico is a receiving country. It receives or "keeps" all people in the US waiting lists and also all people (Guatemalans, Hondurans, etc.) forcedly removed from the US.

The routes have changed over time. The first map is of the period 2001-2005; it can be found here: <http://www.revistascisan.unam.mx/Voices/pdfs/9605.pdf>. The second map was built in an academic Article; it includes other maps based on NGOs' reports and newspapers.⁴⁷⁷

⁴⁷² REDODEM (Red de Documentación de las Organizaciones Defensoras de Migrantes) (2016), *Migración en tránsito por México: rostro de una crisis humanitaria internacional*. Retrieved from: https://imumi.org/file/2024/10/Informe_REDODEM.pdf

⁴⁷³ WOLA, 2017, quoted. Also: REDODEM, 2016.

⁴⁷⁴ IOM, 2022. Report on Mexico. Retrieved from: <https://mexico.iom.int/sites/g/files/tmzbd11686/files/documents/2023-03/Perfil%20Migratorio-%20Boletin%20Anual%202022%20%283%29.pdf>

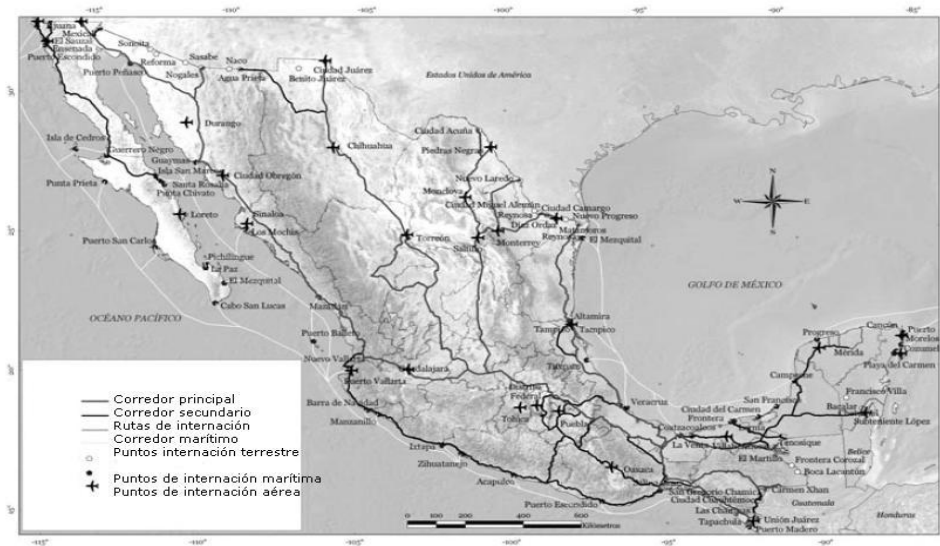
⁴⁷⁵ IOM, 2022, quoted.

⁴⁷⁶ IOM, 2022, quoted.

⁴⁷⁷ Llanos Reynoso, Luis Felipe. (2023). Routes of Migrants Passing Through Mexico: Analysis from Graph Theory. *Migraciones internacionales*, 14, rmiv1i12581. Epub 15 de febrero de 2023. <https://doi.org/10.33679/rmi.v1i1.2581>

* MAPA

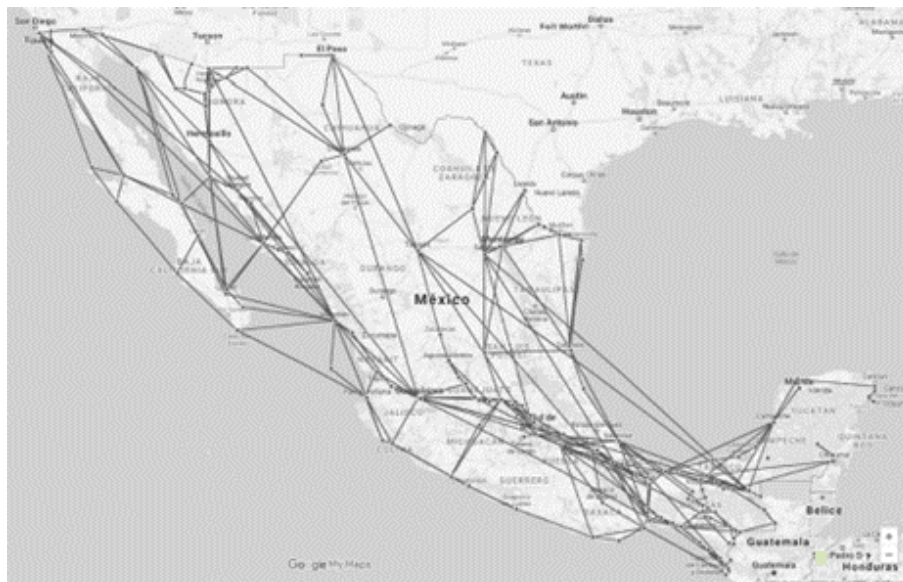
Principales rutas de los centroamericanos transmigrantes
y otras nacionalidades en México, 2001-2005



Base cartográfica: INEGI. Carta topográfica 1: 1,000,000. CONABIO. México imagen desde el espacio. Mosaico 2002 de imágenes Modis sin nubes del satélite Terra, sobre un modelo digital de terreno.
Proyecto: Presente y Futuro de los centroamericanos transmigrantes en México.
Responsable del proyecto: Rodolfo Casillas R.
Autores: Leticia Gerónimo Mendoza y Rodolfo Casillas R.

* Ilegibilidad de origen.

Datos de la proyección. Proyección: Cónica Conforme de Lambert
Falso Este: 2,500,000
Falso Norte: 0
Meridiano Central: -102
Latitud de Origen: 12
Paralelo Standar 1: 17.5
Paralelo Standar 2: 19.5
Datum: NAD 1927
Esterioide: Clarke: 1866



Main entry points in the country since 2010

The main entry points for migrants and asylum seekers into Mexico since 2010 are predominantly along the southern land border with Guatemala, although air entry points have also become critical areas for enforcement and access denial.

1. Southern Border. Mexico and Guatemala maintain 10 official ports of entry since 2014. Main Guatemala Border Crossings are Ciudad Hidalgo-Tecún Umán (Suchiate River crossing) - the busiest southern crossing processing 40,000 daily crossings⁴⁷⁸ Talismán, Ciudad Cuauhtémoc-Las Champas, Carmen Xhan, Frontera Corozal, El Ceibo, Tabasco, Unión Juárez and Suchiate II. There are several informal border crossing points, mostly by the river.

In a lesser extent, the southern border also includes the Mexican-Belizean border. The main Belize Border Crossing is Chetumal-Santa Elena (*Subteniente López crossing*) with both old pedestrian bridge and new vehicular bridge.

The main entry “Localities or Areas” at the Southern Border is **Tapachula, in Chiapas**. This city, located just inland from the Mexico-Guatemala border, is identified as the principal point of arrival for a significant portion of migrants and asylum seekers arriving by land.⁴⁷⁹ Then, crossing often occurs irregularly between official ports of entry, such as wading across the Suchiate River, which separates Mexico and Guatemala (near Ciudad Hidalgo, Chiapas). Ciudad Hidalgo is specifically mentioned as a location on the border between Mexico and Guatemala, near Tapachula, which is a frequent crossing point.⁴⁸⁰ Other relevant cities are (i) Tenosique, Tabasco: This city is approximately 65 kilometres (about 40 miles) from the border with Guatemala and is recognized as a key part of the migratory route, particularly along the Gulf Coast corridor; (ii) Comitán, Chiapas: Located near the Pacific coast route, this area, like Tapachula, has seen increased checkpoints and Federal Police presence under enforcement policies.

2. **Air Entrances**. The main Air Entry “Localities/Areas” is the Aeropuerto Internacional de la Ciudad de México (AICM), in Mexico City. Actually, Mexican immigration authorities operate an area similar to a detention centre at the Mexico City airport, known as “Las Agujas”. Other relevant airports for asylum seekers are: the Cancún Airport (in Quintana Roo) and “El Bajío” (in Guanajuato).⁴⁸¹

Mexico has 54 official detention centres.⁴⁸² Half of them are located in Southern Mexico.

In Tapachula, Chiapas, the “Estación Migratoria Siglo XXI” is one of the largest immigration detention centres in Mexico, with a capacity to accommodate 960 people. It is frequently mentioned as a centre where asylum seekers are detained. Then, in Acayucan, Veracruz, is located the “Estación Migratoria Acayucan”, another major centre with a high capacity, able to accommodate 836 people. Other relevant migration detention centres are located in Villahermosa, Tabasco (Estación Migratoria de Villahermosa), Palenque, Chiapas, and Tenosique, also in Tabasco.

However, by 2024, the Mexican government reported that only 21 out of 54 were actually functioning: all others were closed in 2023. A newspaper reported that “the measure was adopted following the fire that occurred on 27 March 2023 at the Ciudad Juárez (northern border) immigration station, in which 40 people lost their lives”.⁴⁸³

⁴⁷⁸ Border Crossing Hub, “Ciudad Hidalgo and Tecún Umán Border Crossing”. Available here:

<https://bordercrossinghub.com/ciudad-hidalgo-tecun-uman-border-crossing/>

⁴⁷⁹ WOLA, 2022, quoted.

⁴⁸⁰ WOLA, 2022; also Human Rights Watch, 2021, quoted.

⁴⁸¹ III Informe Anual del Marco Integral Regional para la Protección y Soluciones MIRPS 2020.

⁴⁸² Official information: <https://www.gob.mx/inm/prensa/inm-informa-de-trabajos-de-transformacion-en-estaciones-migratorias-para-no-repeticion-de-hechos-como-el-de-cd-juarez-el-27-de-marzo-2023#:~:text=De%20las%2054%20estaciones%20migratorias,carga%20vigente%20de%20los%20extintores>.

⁴⁸³ Osorio, Victor (March 26, 2024), “Operan sólo 21 de 53 estaciones migratorias”. Reforma. Retrieved from: <https://www.reforma.com/operan-solo-21-de-53-estaciones-migratorias/ar2779684>

Implications that migratory routes towards the country have on how judicial institutions

The migratory routes towards and through Mexico are intensely militarized, dangerous corridors defined by systemic institutional and criminal violence. Yet, the Judiciary has not condemned pushbacks or detentions. Three situations connect these irregular routes with how the Judiciary assesses the barriers.

Because asylum seekers must take clandestine migration routes to evade the INM, they often fail to file their asylum applications within the statutory 30-day period after entry.⁴⁸⁴ This practical reality forced the Judiciary to intervene to prevent the rule from becoming an absolute legal barrier. The Supreme Court of Justice did not declare that the deadline (an identified procedural barrier) was not legal, but it stated that it should be more flexible (case 5, File 353/2019).

On the other hand, migration controls are commonly extended in the Mexican territory. The nature of the migratory route, which is largely undocumented, leads to discriminatory checks. The SCJN has been required to assess the legality of migration verification processes on the national territory. The Court ruled that the authority's power to check documentation does not by itself violate the right to equality or non-discrimination.⁴⁸⁵ However, the judicial standard demands that these faculties must not be based on racial profiles. This sets a human rights boundary on the enforcement mechanisms used on the transit routes, which are notorious for arbitrary detention and extortion.

Finally, when US policies like the Migrant Protection Protocols (MPP) forced asylum seekers to wait in dangerous northern cities (the endpoint of the transit route), the SCJN intervened. The Court determined that the State had administrative omissions because it failed to establish “adequate guidelines” (“*lineamientos adecuados*”) and publicize them to guarantee protection for migrants entering Mexico due to these US policies.⁴⁸⁶ This confirms that the Judiciary must ensure the state regulates its territory in a way that respects the principle of non-refoulement, particularly along the vulnerable transit corridor.

Implications of country entry points on what happens in judicial institutions

There is not enough information available to assess this point.

B. Composition and spatial distribution of forced migration population

Implications on what occurs in judicial institutions

According to information provided by UNHCR, the total number of asylum applications amounts to 172,237, while the number of recognized refugees is 168,518.⁴⁸⁷ Pursuant to the same source, Hondurans, Venezuelans and Salvadorians are the three top nationalities among recognised refugees, while Haitians, Cubans, “others” and Hondurans are among the top “asylum seekers” nationalities.

The UNHCR’s reports by 2021 indicate roughly 50% of asylum seekers are female, including pregnant women and single mothers, with the balance being male adults. In 2021, over 25,000 children (*menores de edad*) filed asylum claims. Finally, Family groups constitute approximately 20% of applicants, often including single-parent households fleeing gender-based violence or gang threats.⁴⁸⁸

On the other hand, due to the high number of asylum seekers and the low operational capacity of COMAR (only 19 trained staff in 2020) and lack of COMAR presence nationwide, interviews—including those for NNA—are frequently conducted by telephone rather than in person.⁴⁸⁹

⁴⁸⁴ CGRS Report, 2023. Retrieved from: <https://cgrs.uclawsf.edu/en/our-work/publications/far-safety-dangers-and-limits-protection-asylum-seekers-transiting-through>

⁴⁸⁵ Supreme Court of Justice, File 275/2019, judgment of May 18, 2022.

⁴⁸⁶ Supreme Court of Justice, File 302/2020, ruling of October 26, 2022.

⁴⁸⁷ UNHRC, (s.f.), Operational Data Portal: Mexico. Available here: <https://data.unhcr.org/en/country/mex>

⁴⁸⁸ UNHCR (2021), Protection and solutions in the Pandemic. Retrieved from:

<https://www.acnur.org/sites/default/files/legacy-pdf/6261d3ab4.pdf>

⁴⁸⁹ Ortega, 2022, quoted.

There is a connection between the lengthy administrative proceedings and the “amparos” before the courts. Since the administrative system is severely underfunded and facing a massive backlog, this results in extensive delays in resolution—sometimes up to a year, despite a legally mandated 45-day period. This systemic failure forces applicants to rely on complex judicial processes, such as the amparo trial (*juicio de amparo*), to protect their fundamental rights and challenge administrative inaction or denials.⁴⁹⁰

In addition, the large number of persons and, thus, cases, severely limits the capacity of civil society and *pro bono* organizations to provide legal counsel, leaving many applicants unable to navigate the complicated administrative and judicial procedures.⁴⁹¹

On the other hand, the Supreme Court has taken into account the situation of the persons on the road to set lighter standards to overlook the 30-day deadline to submit an asylum application. In fact, the SCJN addressed the legality of the 30-day deadline for filing an asylum claim, ruling that the legal standard must be interpreted to account for the applicant’s vulnerability (requiring only a “minimum standard” of coherence to justify late filing), rather than imposing an excessive burden of proof (File 353/2019).

Regarding vulnerable populations, the significant presence of vulnerable groups, particularly women and Children and Adolescents (NNA), necessitates judicial criteria that mandate a differentiated protection approach.⁴⁹² The Supreme Court takes into consideration these vulnerabilities in several cases, e.g., in *File 07/2020*, the SCJN established that authorities must implement special measures, including providing specialized legal representation and conducting differentiated interviews, and that the failure to do so violates the rights of access to justice and the best interest of the child (*interés superior de la niñez*). Judicial rulings have also obligated the authorities to document unaccompanied NNA as “visitors for humanitarian reasons” during the determination process, as legal uncertainty endangers their lives and integrity.

Regarding nationality, one source states that COMAR may grant protection to many Hondurans, Venezuelans, and Salvadorans, “while rejecting most applicants from Haiti, saying they do not qualify as refugees.”⁴⁹³

Finally, displaced persons, including migrants and asylum seekers, are concentrated along the southern and northern borders of Mexico, with specific urban areas and central regions acting as hubs for transit, detention, and asylum processing. This distribution is highly dynamic and often dictated by Mexico’s role as a primary transit country to the United States (US), as well as deliberate containment and internal migration policies.

The overwhelming concentration of asylum seekers and migrants occurs in the southern states of Mexico, particularly Chiapas and Tabasco, which serve and have also served as the primary entry points from Central America.⁴⁹⁴ Tapachula, Chiapas, is the single most important administrative bottleneck, frequently described as a “city-jail” due to containment policies. On average, over 66 percent of people who applied for asylum in Mexico in 2021 and 2022 did so in Tapachula, Chiapas.⁴⁹⁵ This Mexican state generally concentrates the highest number of asylum applications, accounting for 58% of total COMAR cases

⁴⁹⁰ Ortega, 2022, quoted.

⁴⁹¹ Iberoamericana University, 2019, quoted. Retrieved from: https://programadh.iberu.mx/assets/documents/Ibero-2019_Informe-REP-LEGAL_v3.pdf

⁴⁹² WOLA, 2022, quoted.

⁴⁹³ CGRS, 2023. Far from Safety: Dangers and Limits to Protection for Asylum Seekers Transiting through Latin America - Center for Gender and Refugee Studies. Retrieved from: <https://cgrs.uclawsf.edu/en/our-work/publications/far-safety-dangers-and-limits-protection-asylum-seekers-transiting-through>

⁴⁹⁴ Castillas (2008), *Las rutas...* retrieved from: https://www.scielo.org.mx/scielo.php?script=sci_arttext&pid=S1870-75992008000100007. See also: Martínez et. Al (2015), *Trazando Rutas...* retrieved from: https://www.scielo.org.mx/scielo.php?script=sci_arttext&pid=S0188-76532015000100006

⁴⁹⁵ CGRS (2023), *Far from Safety: Dangers and Limits to Protection for Asylum Seekers Transiting through Latin America*. Retrieved from: <https://cgrs.uclawsf.edu/en/our-work/publications/far-safety-dangers-and-limits-protection-asylum-seekers-transiting-through>

between 2018 and November 2020.⁴⁹⁶ As it was mentioned, conditions in Tapachula are described as dire, leading to shelter overcrowding, scarcity of jobs, and lack of access to basic services like healthcare, often forcing people to live in the streets. Asylum seekers frequently feel unsafe there due to the proximity to the Guatemalan border and the presence of criminal groups they fled.

Then, other states on the southern and southeastern routes are critical entry and detention points, such as Tabasco (Tenosique, Villahermosa). For example, in 2016, the National Migration Institute (INM) detained 10 percent of migrants in Tabasco, compared to 43 percent in Chiapas, and Veracruz (Acayucan, Coatzacoalcos, Nautla, Puerto Veracruz) is another high-volume region for retention and detention.⁴⁹⁷

On the other hand, central Mexico, particularly Mexico City (CDMX), represents a significant site for both settling and obtaining protection⁴⁹⁸, with a high concentration of bodies (COMAR, NGOs). The central office of the Federal Public Defender (IFDP), which provides legal services to migrants and asylum seekers, is also located in Mexico City. In addition, the main air entrance (Benito Juárez Airport) is also in CDMEX.

Finally, the northern border states serve as the final staging ground for migrants attempting to cross into the US, a phenomenon exacerbated by US policies like the Migrant Protection Protocols (MPP, or “Remain in Mexico”).⁴⁹⁹

On certain occasions, the government has “moved” populations to “avoid overcrowding”, including backlogs due to large numbers of people submitting applications in the same city. There is a file about this “moving” (*File 198/2024*). In general, Mexican authorities utilize internal transfers and “internal devolutions” (deportations), which manipulate the distribution of migrants, often sending them back toward the south to hinder their journey north. The practice of the National Migration Institute (INM) includes arbitrary and indiscriminate transfers of migrants and asylum seekers from the centre and north of the country to southern states, specifically to make it difficult for them to return to the northern border under precarious conditions. This policy of containment leads to overcrowding and inadequate conditions in the south.⁵⁰⁰

C. Political and public debate in the country

Relevance of the topic in political debate

During elections, “access to asylum” was neither a flagship promise nor a polarizing campaign topic. When referenced, it was nested in broad development/security rhetoric or reactive positioning to US politics, not as a sustained rights-based agenda. Mexico’s relationship with the United States has historically been marked by a variety of issues that cut across trade in its many forms, territorial control, and a long list of other topics. However, migration has always been the most persistent issue, a source of dispute and discourse between the two countries. For Americans, but also for Mexicans, unlike any other issue that they may admit needs to be discussed with their peers in order to resolve controversial or mutually interesting matters—especially at the legal level—the management of migration is considered, in each of these countries, an internal issue associated with sovereignty and even with national security, which precludes any kind of debate involving authorities of a third country.⁵⁰¹

⁴⁹⁶ Asylum Access Mexico, 2021, quoted.

⁴⁹⁷ WOLA, 2017, quoted. Asylum Access Mexico, 2021, quoted.

⁴⁹⁸ WOLA, 2022, quoted. Also: Willers (2022), Negotiating Survival. Retrieved from: <https://www.cogitatiopress.com/socialinclusion/Article/view/5739/5739>

⁴⁹⁹ Sanchez Montijano and Zedillo Ortega (2022), *Migration in Mexico complexity and challenges*. Retrieved from:

<https://www.undp.org/sites/g/files/zskgke326/files/2022-10/PNUDLAC-working-paper-30%20Mexico-EN.pdf>

⁵⁰⁰ WOLA 2022, quoted. REDODEM 2016, quoted. Also: Human Rights Watch (2022), Report retrieved from:

<https://www.hrw.org/news/2022/06/06/mexico-asylum-seekers-face-abuses-southern-border>

⁵⁰¹ Calderón, L. (2015), La migración como eje de la relación México-Estados Unidos. Retrieved from: <https://ru.micisan.unam.mx/handle/123456789/21706>

Between 2010 and 2024, Mexico underwent notable political transformations through four different presidencies — each reflecting a unique ideology, policy focus, and approach to migration. Migration has consistently been a central issue for Mexico, given its dual role as a country of origin, transit, and destination for migrants, especially from Central America.

From 2006 to 2012, Felipe Calderón Hinojosa of the *Partido Acción Nacional* (National Action Party- PAN) focused primarily on national security and combating organized crime, yet migration remained an important aspect of his foreign and domestic agenda. His administration emphasized protecting Mexican migrants in the United States, particularly following stricter US immigration laws such as Arizona’s SB1070. Calderón strengthened Mexico’s consular network to defend migrant rights abroad and cooperated with US authorities on border security. However, internally, his migration policy was restrictive toward Central American migrants, often exposing them to detention and abuse amid militarized border enforcement.

From 2012 to 2018, Enrique Peña Nieto, *Partido Revolucionario Institucional* (Institutional Revolutionary Party -PRI), pursued a modernizing agenda through the “*Pacto por México*” (Pact for Mexico). While economic reforms dominated his tenure, migration policy gained attention following the 2014 migration crisis, when thousands of Central American children arrived at the US–Mexico border. Peña Nieto launched the “*Programa Frontera Sur*” (Southern Border Program), ostensibly to protect migrants but effectively reinforcing border controls and increasing deportations from Mexico. International organizations and human rights groups criticized his government for failing to safeguard migrants from extortion, kidnapping, and violence, despite rhetorical commitments to human rights. For Peña Nieto, scholarly evaluations of his period emphasize the Special Migration Program and border management responses (e.g., Plan Frontera Sur), but again not asylum access as an electoral wedge issue. The caravans at the end of his term produced operational stress and public debate, yet the frame remained management and security rather than asylum guarantees in campaign discourse.⁵⁰²

From 2018 to 2024, Andrés Manuel López Obrador (AMLO) of *Movimiento Regeneración Nacional* (National Regeneration Movement- MORENA) adopted a markedly different tone. He promoted a humanitarian and development-based vision of migration,⁵⁰³ rooted in the idea that “people migrate out of necessity, not by choice”.⁵⁰⁴

López Obrador’s 2018 platform did not include migration or borders as core planks; migration surfaced reactively to Trump’s xenophobic discourse and later to the caravans, rather than as a proactive electoral theme detailing asylum policy or access guarantees. Analyses of the 2018 campaign documents underline the omission of migration and asylum, noting only generic poverty references and no border focus, which signals low programmatic centrality before taking office.⁵⁰⁵ His government launched programs such as “*Sembrando Vida*” (Sowing Life) and “*Jóvenes Construyendo el Futuro*” (Youth Building the Future”) in Central America, aimed at addressing migration’s root causes through job creation and reforestation.⁵⁰⁶ However, AMLO also faced strong US pressure under the Trump administration, resulting in a controversial 2019 agreement that led Mexico to deploy the National Guard to curb northbound

⁵⁰² Durán, J. (2019), POLÍTICA MIGRATORIA: entre el discurso, la práctica y la coyuntura. Foro Internacional (FI), LIX, 2019, núm. 3-4, cuad. 237-238, 1021-1047.

⁵⁰³ See official declarations: <https://amlo.presidente.gob.mx/presidente-refrenda-postura-de-atencion-a-las-causas-de-la-migracion/>

⁵⁰⁴ López, Marco (October 21, 2023), “La gente migra por necesidad: AMLO”. El Heraldo de Tabasco. Retrieved from: <https://oem.com.mx/elheraldodetabasco/mexico/la-gente-migra-por-necesidad-amlo-19801501>

⁵⁰⁵ Guillén López, T. (2024), Políticas y procesos migratorios en México. La alineación con Estados Unidos. Retrieved from: <https://journals.openedition.org/cal/18837>

⁵⁰⁶ See official declarations: <https://www.gob.mx/sre/prensa/mexico-s-international-cooperation-projects-combat-forced-migration-in-central-america-and-the-caribbean?idiom=en>

migration.⁵⁰⁷ His policy thus oscillated between compassionate rhetoric and strict enforcement, reflecting the tension between sovereignty and US bilateral demands.⁵⁰⁸

In 2024, Claudia Sheinbaum Pardo, also from MORENA, was elected president, becoming Mexico's first woman president. Her administration, beginning in October 2024, inherited both AMLO's social policies and the ongoing challenge of balancing humanitarian principles with border control.⁵⁰⁹ As a former scientist and technocrat, Sheinbaum has signalled a continuation of AMLO's regional cooperation model, focusing on addressing inequality and violence as drivers of migration. She aims to work closely with Central American governments and the United States to develop sustainable migration frameworks, while emphasizing human rights and gender-sensitive policies for migrant protection.

Relevance of the topic in public debate

The issue of asylum in Mexico has gained significant relevance in public debate, but its visibility has been most pronounced during critical junctures and media crises, rather than as a consistently central axis of the national agenda. Evidence from the sources indicates that asylum and protection for refugees only become salient in public discussion when they intersect with other situations—such as the arrival of caravans, pressure from the United States, or episodes of border violence—and are strained by policies of control and border securitization.⁵¹⁰

The migrant caravan, as it was mentioned in Part 1 of this report, was a moment of high visibility. The phenomenon of Central American migrant caravans since 2018 has greatly increased the visibility of asylum in the national debate, transforming Mexico from a country of transit into a potential refuge and destination for thousands of people. Media, civil society, and political actors expressed both support and opposition, leading to social polarization regarding the granting of asylum versus reinforcing migration control.⁵¹¹ The same source highlights that asylum enters the political agenda primarily when linked to negotiations or disputes with the United States or to spectacular humanitarian crises that transform the border into a media and political epicentre.

Recent governments (at least until 2020, according to the source), in their rhetoric, have emphasized a human rights-based approach and international cooperation, committing themselves to guaranteeing access to asylum. In practice, however, policies have shifted between phases of openness—such as the issuance of humanitarian visas in 2019—and phases of control and containment, driven by US pressure and the enhancement of a national security logic.⁵¹² The “Remain in Mexico” (MPP) program and the deployment of the National Guard exemplify the contradiction between the official discourse of protection and the reality of containment and militarization at the southern border.⁵¹³

⁵⁰⁷ See for example: Páramo, Arturo (March 28, 2019), “Legítima, crítica de Trump por las caravanas de Migrantes: López Obrador”. *Excelsior*. Retrieved from: <https://www.excelsior.com.mx/nacional/legitima-critica-de-trump-por-caravanas-de-migrantes-lopez-obrador/1304398>

⁵⁰⁸ Bobes, V.C. (2019), De las puertas abiertas al «ya noson bienvenidos» El giro de la política migratoria mexicana. *Nueva Sociedad* nro. 284. Retrieved from: <https://biblat.unam.mx/hevila/Nuevasociedad/2019/no284/7.pdf>

⁵⁰⁹ SWI Swissinfo (January 03, 2025), “Sheinbaum afirma que atienden a todas las caravanas migrantes pero ya no llegan a EEUU”. Retrieved from: <https://www.swissinfo.ch/spa/sheinbaum-afirma-que-%22atienden-a-todas-las-caravanas%22-migrantes-pero-ya-no-llegan-a-eeuu/88672269>

⁵¹⁰ Espín Ocampo, J. (2021). Las caravanas... Retrieved from: <https://www.unisci.es/wp-content/uploads/2021/02/UNISCIDP55-7ESPIN.pdf>

⁵¹¹ Iturralde (2020), Atrapados en busca de asilo. Retrieved from: <https://www.scielo.br/j/remhu/a/BGPROXktSDR6qfJ7tvbJZFf/?format=html&lang=es>

⁵¹² García, R., Gaspar, S. y García, P. (2020) Las políticas migratorias en México ante el cambio de gobierno (2018-2024). *Si Somos Americanos. Revista de Estudios Transfronterizos*, 20(2), 186-208. doi: 10.4067/S0719-09482020000200186.

⁵¹³ Ortega Ramírez and González Gámez, (2017) (In)seguridad, derechos y migración. La Guardia Nacional en operativos migratorios en México. IUS. Revista del instituto de Ciencias Jurídicas de Puebla, México. Nueva Epoca, Vol. 15 num. 47, pp. 157-182.

Relevance of the topic in public opinion

Regarding the Caravans, for instance, polls reported by the media show that this change in scale and visibility increased social rejection of the entry of migrants and asylum seekers, with restrictive attitudes doubling in 2018-2019.⁵¹⁴ Thus, some sources refer to public opinion is polarized, especially in transit and destination regions, and is susceptible to stigmatization and xenophobic discourse, reinforced by overcrowded shelters and security concerns.⁵¹⁵

Implications that political debate and public opinion have on what occurs in judicial bodies

It is possible to hypothesise that visible crises, such as the sight of children and families walking as part of the caravan, have triggered many of the human rights-based decisions from the Supreme Court. For example, in the file 382/2015 (dated 2 March 2016), the court dealt with the right to the truth of disappeared migrants' relatives. It was directly connected with a massacre in Tamaulipas that had made visible, in a very brutal way, the violence (and the impunity for that) migrants faced.

D. Corruption

Corruption is a pervasive and systematic factor that actively intervenes in and significantly restricts migrants' and asylum seekers' access to protection and justice throughout Mexico. This corruption manifests primarily as extortion and abuse perpetrated by state agents and organized crime groups, often working in collusion.⁵¹⁶ This collusion is difficult to dismantle.⁵¹⁷

Sources also highlight that the migratory corridor is characterized by high levels of impunity and violence, abuse of authority, corruption, and impunity. Precisely, the lack of investigation and sanctioning of such abuses facilitates their repetition. In addition, corruption along the routes serves to exploit vulnerable migrants financially and forces them into dangerous, controlled territories. There is a "payment for passage" (*derecho de paso*), pursuant to which migrants are frequently subjected to (illegal, of course) payments to "pass". These fees are collected either by governmental agents or by criminal actors (assault, robbery). Thus, it is presumed that the majority of the total remittances sent to migrants in transit through Mexico are ultimately destined to cover these illegally demanded "*derechos de paso*". Paying these undue fees also allows migrants to transit with minor risks.⁵¹⁸ Finally, migrants and traffickers are reported to have adapted to coercive policies by "bribing police and migration agents" (*sobornando a los agentes policiales y de migración*) to let them pass.⁵¹⁹

Several sources also highlight that the increase in "migration checkpoints" (*retenes migratorios*) along the routes creates opportunities for agents of the INM, state and local police, and military forces to carry out extortion and abuses.⁵²⁰

⁵¹⁴ Espín Ocampo, 2021, quoted.

⁵¹⁵ García Zamora and Gaspar Olvera, quoted.

⁵¹⁶ CGRS, 2023, Far from Safety: Dangers and Limits to Protection for Asylum Seekers Transiting through Latin America. Retrieved from: <https://cgrs.uclawsf.edu/en/our-work/publications/far-safety-dangers-and-limits-protection-asylum-seekers-transiting-through>

⁵¹⁷ WOLA, 2017, quoted.

⁵¹⁸ In the original source: "Contar con la liquidez necesaria para cubrir una etapa determinada del trayecto es una doble garantía: puede cubrir la distancia o trayecto deseado y le da una garantía de vida. Esas erogaciones incluyen el <<derecho de paso>> que, de manera irregular de acuerdo con la ley pero regular debido a la práctica consuetudinaria, cobran agentes gubernamentales (corrupción) o actores sociales (asalto, robo, prestación de algún servicio, adquisición de alimentos, medicamentos u otro bien necesario). Hacer pagos indebidos le significan al migrante poder transitar con riesgos menores. Dado lo extendido de la práctica, cabe la presunción de que la mayor parte del total de las remesas para el traslado o paso por México se destinan a cubrir los <<derechos de paso>> exigidos de manera ilegal". Castillas, R. (2008), "Las rutas...". Retrieved from: https://www.scielo.org.mx/scielo.php?script=sci_arttext&pid=S1870-75992008000100007

⁵¹⁹ WOLA, 2017, quoted.

⁵²⁰ WOLA 2017, 2022; REDODEM, 2016.

Regarding detention centres, at least one report (issued by the National Human Rights body) refers to the situation of abuses, violence (including sexual violence), bad treatments, and even torture.⁵²¹ Agents use detention conditions as a deterrent, threatening asylum seekers that they would face “an indeterminate prolongation of their detention” (“*una prolongación indeterminada de su detención*”) if they sought refugee status.⁵²² Corruption within detention centres leads to immediate influence over the applicants decision to continue or withdraw their asylum claim, but it is difficult to see how it may impact decision-making. Agents pressure detainees with threats— “either you give me what you bring, or I take you back again, or I put you in jail” (“*o me das lo que traes o te llevo para atrás otra vez o te meto preso*”)—or by threatening with an indeterminate prolongation of their detention.⁵²³ This systematic pressure causes individuals to “desist from their claims” (“*desistir de sus trámites*”). It may impact on withdrawing, so judges do not have a case to decide on.

In certain states (like Nuevo León and Chiapas), there are practices where migratory authorities “allegedly confiscate and break the documents of asylum seekers” (“*presuntamente autoridades migratorias confiscarían y romperían documentos de personas solicitantes de la condición de refugiado*”).⁵²⁴ Regarding the migration authority, it has been mentioned that the lack of strict adherence to the law and due process by INM, which is supposed to coordinate with COMAR, allows for illegal practices, such as the failure to issue the necessary Visitor Cards for Humanitarian Reasons (TVRH) to asylum seekers, despite being legally obliged to do so.⁵²⁵

Regarding the Judiciary itself, no source suggests that there is corruption in asylum access adjudication in Mexico. There are failures, arbitrariness, and validation of certain practices (e.g., COMAR understands the person has abandoned her/his claim even when it knows the person was forced to return), but, apparently, no corruption.

E. Other socio-political factors

The double or even triple position of Mexico regarding human mobility is a factor to take into account: it is a country typically of emigration, but recently also of transit and destination. Migration is a central topic in bilateral conversations between the US and Mexico, and so Mexico needs to deal with the defence of its nationals abroad (in Mexico) with the pressures from the US regarding transits.

⁵²¹ CNDH Mexico (2019), Report on Detention Conditions. Retrieved from:

<https://www.cndh.org.mx/sites/default/files/documentos/2019-11/Informe-Estaciones-Migratorias-2019-RE.pdf>

⁵²² Ortega, 2018, quoted; also Asylum Access Mexico (2021), Informe Sobre Alternativas a la Detención, quoted; Ortega, E. (2022), El régimen contemporáneo de asilo en México, quoted.

⁵²³ WOLA, 2022, quoted. Also: Ortega, 2022, quoted.

⁵²⁴ IMUMI et. al., 2023, quoted.

⁵²⁵ Ortega, 2022, quoted.