

ASSESSMENT STUDY OF THE NATIONAL MIGRATION INSTITUTE

Towards an Accountability System for Migrant Rights in Mexico

Executive Summary

Institute for Security and Democracy, A.C.



The Institute for Security and Democracy (Instituto para la Seguridad y la Democracia A.C., Insyde) is a Mexican civil society organization, leader in the design of solutions aimed at achieving the full exercise of the human right to security.

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Foreword

In the context of its tenth anniversary, the Institute for Security and Democracy (Instituto para la Seguridad y la Democracia A.C., Insyde) presents the “Assessment Study of the National Migration Institute: Towards an Accountability System for Migrant Rights in Mexico.”

It has been documented that the National Migration Institute (Instituto Nacional de Migración, INM) is an accurate representation of the precarious state of Mexico’s migration policy. The research leaves no room for doubt; the institution displays structural deficiencies that call into question its very functionality, particularly in view of the standards of the new Migration Law published in the Official Federal Gazette on May 25, 2011.

Despite the opacity surrounding the INM, the study succeeded in collecting sufficient evidence to urge regulatory redesign, the establishment of new institutional policies, the development of various protocols, and the implementation of a functioning system of accountability, oversight, and control. The research includes a counterfactual exercise that exposes, at least partly, the discrepancy and contradictions between what the INM should be and what it is.

The INM is a public entity that in many aspects has been abandoned to its fate. It lacks a career civil service that would support staff in their professional development as well as an institutional culture that is in line with the promotion and defense of human rights. Furthermore, the INM does not ensure the application of legal sanctions for administrative violations and crimes committed by its members. Its disciplinary model, in fact, leaves oversight and control in the hands of those who should be overseen and controlled. Neglect and abuse are everyday practices, and there are even signs of ties between INM personnel and organized crime. There is no doubt that we are facing a public body in an extreme state of decay.

Clearly, under the current conditions of the INM, the government of the Republic lacks a public management tool with the capacity to enforce a migration policy based on the principles of hospitality and solidarity, equality between citizens and foreign nationals, family unity and the best interest of the child, and unrestricted respect for the human rights of domestic and foreign migrants, whatever their place of origin, nationality, sex, ethnicity, age, and migration status, among others. In other words, if the institution is not restructured, the migration reform approved by Congress in 2011 will have been in vain.

A careful reading of this assessment study offers a glimpse into the conditions that endanger many migrants in Mexico. Their extreme vulnerability is the consequence of a void created by neglect, on the one hand, and of the containment of threats, on the other hand. The background of this void is not solely related to the decay of the INM, but also encompasses the weak intervention of the National Commission of Human Rights (Comisión Nacional de los Derechos Humanos, CNDH) and its counterparts in Mexico’s 32 federative entities, the severe crisis of the law enforcement and criminal justice system, the disconnect between social and development policy and the migrant population as well as the indifference towards migrants or even their open criminalization

by the media and society at large. It is true that the INM does not fulfill its legal mandate, but it is the context of political and social tolerance that makes this possible. The balance is absurd: Mexico does not offer migrants what it demands from others for its own migrants.

Insyde has held conversations with the INM for more than five years, proposing institutional improvement and offering support in achieving it. Recently some doors have been opened, though not without difficulty or without formal and informal resistance. This research, led by Sonja Wolf and coordinated by Insyde's Department of Migration and Human Rights, has been made possible in part after this tentative and fragile opening. The proposal that Insyde has made, just like many other civil society organizations and academic actors within and beyond our borders, is to put an immediate end to the breakdown of the INM and to recast its horizon of meaning, design, and functioning.

This research has been made possible by more than six years of support and accompaniment between Insyde and the Ford Foundation.

Ernesto López Portillo
Executive Director, Insyde A.C.

Introduction

Given its geographical location and economic situation, Mexico is a country of origin, destination, return, and transit of migrants. Traditionally, the emigration of Mexican nationals to the United States of America has been high on Mexico's political agenda. In recent years, however, the situation of transmigrants –many from Central America– has spurred growing interest because of the increase in migration flows and the visibility of mounting human rights violations that migrants suffer on way to the United States. The majority of those who travel through Mexico undertake their journey in search of dignified job opportunities, to flee from social violence or political persecution, or to reunite with their families. With few resources at their disposal and no permit to enter Mexico, migrants pass through the country clandestinely before eventually crossing the northern border. Given their irregular condition, they resort to precarious means of transportation and travel through inhospitable terrain, exposed to accidents and abuse by criminals as well as state agents. Historically, Mexico has strongly advocated for its citizens residing in the United States. For a long time, however, it paid little attention to the human rights of transmigrants. Instead, the focus has been directed towards the containment of migration flows in order to detect, detain, and deport undocumented migrants. In recent years, Mexico has made some regulatory advances, especially the enactment of the Migration Law and its Regulations. However, these actions have not reduced the situation of vulnerability of transmigrants. The implementation of a more humane migration management, as well as the design and implementation of a regional migration policy remain pending issues.

The Justification of the Study

The National Migration Institute is a key actor in migration management that has been marked by secrecy and opacity. This opacity contradicts the Institute's legal obligation to make its performance transparent and to report on it. At the same time, it impedes the creation of mechanisms that foster transparency, access to information, and accountability. The INM's procedures, the operation of its agents, the ports of entry, and the network of migrant detention centers remain practically outside the scrutiny of independent observers. In addition, the INM's performance follows a limited interpretation of good practices of transparency and access to information as well as of international standards for the protection of migrant rights. The limits of its discretionary performance are generally unknown to citizens, to migrants, and probably to a large part of the security forces that come to act outside their mandate. Furthermore, the regulatory, operative, and planning subsystems that migration agents and their chain of command should use to ensure an effective service remain unknown. No information has been made available regarding selection, education, training, period of service, and reliability control procedures; performance evaluation systems; and procedures for lodging complaints, all of which constitute a set of internal subsystems whose design defines the performance model and the quality of the migration service.

Even though the INM has circulars, rules, and manuals that regulate the conduct of the agents and the Institute in certain areas, the manner in which these actions are carried out, the mechanisms used to verify and evaluate their implementation as well as the formal and informal practices of the INM's public servants remain to be studied. Since the INM is the government agency mandated to apply the regulatory framework on migration and to assist migrants whatever their legal status, and given the apparent lack of a solid institutional structure as well as the existence of systematic migrant rights violations, Insyde considered it essential to undertake an in-depth assessment of the INM with a view to developing specific recommendations to improve its workings as well as the performance systems and procedures of its

agents in order to reduce the human rights violations that are being systematically committed against the migrant population passing through Mexico.

Prior studies focused on specific aspects of the INM such as its human rights performance, migrant detention centers, Beta Groups, and its budgetary priorities.¹ This publication, however, constitutes the first comprehensive study of the INM that examines different aspects of its institutional management as well as its procedures and practices in the areas of protection and assistance, migration control and verification, migrant detention, and the deportation of undocumented migrants. In this sense, the study aims to provide a comprehensive overview of what the National Migration Institute should be and what it is. It is important to add that the research was conducted independently and without the support of the INM.

The Objectives of the Study

The research sought to analyze the procedures and practices of the National Migration Institute through an evaluation of this agency's internal and external accountability systems. Specifically, it proposed to analyze the institutional management processes, the INM's legal-administrative framework as well as the procedures of protection and assistance, control and verification, migrant detention, and deportation. Additionally, the study tried to determine how and why the institutional practices deviate from the established rules. The final objective is to help increase the INM's transparency and accountability so that respect for migrant rights in Mexico may be strengthened.

The INM's internal and external accountability mechanisms have been weak, allowing agents and officials to act with a high level of discretion. The effect is that acts of corruption and abuse towards migrants can continue with impunity. The status quo will not change unless the INM conducts a far-reaching purge, recruits suitable staff, strengthens its training, and bolsters its transparency as well as its internal and external accountability mechanisms.

The purpose of this assessment study is not to analyze migration dynamics, but the institutional response to them. Nevertheless, in order to understand the practices of the INM and its public servants, it is necessary to offer some observations on migration in Mexico and the role of civil society.

The Migrants: Profiles, Routes, and Experiences

The conditions of political, social, and economic instability in their countries of origin, as well as the need for family reunification, constitute the main factors that prompt individuals to leave their country in search of better living conditions.

In order to meet that goal, some have decided to migrate from their countries of origin and settle in Mexico, others, both domestic and foreign nationals, choose to cross Mexican territory and reach the United States. This document falls within the analysis of the latter phenomenon, particularly the issue of undocumented transmigrants. As the term indicates, undocumented migrants, often wrongly labeled "illegals," are those individuals who lack documents that authorize them to enter and stay in a given country.

In Mexico, INM data on detained migrants indicate that most transmigrants come from Guatemala, Honduras, and El Salvador. As for gender and age group composition, it is estimated that the migration flow

¹ Juan Carlos Calleros Alarcón, *El Instituto Nacional de Migración y los derechos humanos de los migrantes en México* (Mexico City: CEM, INM and SEGOB, 2009); María Isabel Stoffen Cortés, *La Migración en México, sus Orígenes, Problemática Migratoria y Protección del Migrante: Caso Grupo Beta Tijuana* (Thesis presented to the National Autonomous University of Mexico, 2011); Sin Fronteras, *La detención de personas extranjeras en estaciones migratorias* (Mexico City: Sin Fronteras, 2012); Centro de Derechos Humanos "Fray Matías de Córdova," *Segundo informe sobre derechos humanos y condiciones de vida de las personas migrantes en el centro de detención de la Ciudad de Tapachula, Chiapas* (Tapachula: Centro de Derechos Humanos "Fray Matías de Córdova," 2013); Rodolfo Córdova Alcaraz, coord., *Una mirada al presupuesto del Instituto Nacional de Migración: ¿Dónde estuvieron sus prioridades durante 2011?* (Mexico City: FUNDAR, 2013).

of women and children has increased in recent years, compared to previous years when it was mostly men who migrated. These dynamics undoubtedly impact the means of transit as well as the family configurations in the places of origin and destination.

In order to achieve the goal of traveling to the United States, and given the strategies the Mexican government has implemented to prevent migration to that country, as well as the control of criminal groups over routes and means of transport, migrants have had to either explore new routes and face extreme climates, a choice that is likely to result in death; or to hire individuals that usually have ties to organized criminal groups. The latter will smuggle them and subject them to human rights violations such as human trafficking, kidnapping, extortion, torture, forced disappearance, and death.

Despite the dire consequences, migrants undertake their journey by bus, truck, and cargo train or on foot. Many accidents occur when migrants seek to board a train, evade INM operations, avoid paying the transfer fees demanded by various actors or, in the case of women, avoid being raped. These human rights violations occur not only aboard trains but also other means of transport.

To begin their transit, many migrants enter Mexico via Guatemala, cross the Suchiate River, take various routes through the country, and are expected at border-crossing points at the end of the journey.

The conditions of vulnerability in which migrants find themselves, arise primarily from the lack of documents that would establish their identity and permit them to enter the country. However, the failure to understand undocumented migration as an administrative violation and not a crime increases the likelihood that migrants will face abuse by the authorities as well as discrimination and exclusion in transit zones. Again, this situation appears to occur because of a lack of understanding of the issue or its association with illegal acts connected to undocumented migration (human trafficking, kidnapping, robberies). A case study carried out by Insyde in Tapachula in 2008 showed that 60 percent of the population did not feel migration offered benefits; of these respondents, 36 percent believed that migrants committed crimes, 30 percent thought they encouraged gang activity, 17 percent considered them to have a corrupting influence on society, and six percent thought they destroyed homes.²

Unfortunately, this vulnerability is also reflected in existing public policies designed to address the phenomenon of migration. Since migration is considered a national security issue, the approach is rarely humanitarian. Throughout the country, migrant detention centers have been installed, but few material and human resources are allocated for those who have suffered physical harm and for the documentation of human rights violations. Furthermore, little legislative work has been carried out in clear favor of migrants. The authorities' response is often to deny violations or to blame migrants themselves for the situations they have encountered or for their limited interest in reporting abuse. Although it is true that some migrants do not report violations out of fear or a lack of interest, the question remains as to what happens with those who do. Does the state guarantee justice and reparations processes?

Migration in the Context of Organized Crime

Under the government of former President Felipe Calderón (2006-2012), two policy decisions were significant for the issue of migration. The first relates to the state policy of suppressing existing drug trafficking groups in the country; the second, undertaken one year into his administration, is linked to the decriminalization of migration and was undoubtedly a positive measure.

However, the first policy has not only been questioned in the area of migration, but also in all other aspects of the reality in the country, because it weakened the rule of law. In the case in question, the immediate consequence of the fight against drug trafficking groups was to produce a change in their

² Instituto para la Seguridad y la Democracia, *Percepciones sobre la migración en la frontera sur. Encuesta en vivienda* (Mexico City: Insyde, 2008), 4.

modus operandi. In order to maintain their structures, these groups intensified acts of violence such as kidnappings, extortion, forced disappearances, murders, human trafficking and smuggling, and, in some cases, acted in collusion with the authorities. In this regard, only 36 cases of extortion and seven cases of human trafficking have been reported to the CNDH since 2005.³

This shows that few cases are brought before the competent authorities. However, this trend is not the sole responsibility of migrants. The weakness of the justice system also affects victims' motivation to make a complaint, and recordkeeping in migrant detention centers does not indicate the authorities' interest in documenting incidents. Two reasons justify this claim: 1) psycho-social care mechanisms that would allow migrants to report violations are unknown; and 2) the available staff for psychological care is scarce. As of 2013, according to information request number 0411100022913, the INM has 29 psychologists, 20 social workers, and eight sociologists.

Even though governmental institutions have poor documentation practices, reality speaks for itself. Suffice it to recall the 72 migrants that were murdered in San Fernando, Tamaulipas, in August 2010, a case in which members of organized criminal groups were identified as the perpetrators. The events sparked outrage both domestically and abroad, and in response to calls for a better protection of migrants, the Mexican government promoted measures such as the creation of a Migration Law and the adoption of a Comprehensive Strategy to Prevent and Fight Migrant Kidnappings.

Fortunately, there are important civil society-based examples of victim documentation processes which also help in the elaboration of complaints before the Public Prosecutor's Office. Nevertheless, this work is hampered by a lack of diligence in the administration of justice. A clear example is the case of José Alberto Donis Rodríguez, a migrant placed in the *Hermanos en el Camino* shelter and who, four years ago, reported to have been robbed by agents of the Federal Investigation Agency (Agencia Federal de Investigación, AFI). However, the migrant was never asked to identify the perpetrators, and it remains unknown whether any progress was ever made in the investigation.⁴

The lack of administration of justice, that is, impunity, causes the loss of institutional legitimacy, which in turn dissuades many individuals from reporting violations. On the contrary, it encourages criminal behavior and the search for other means to increase profit.

Migration and National Security

Mexico's borders began to be considered a national security issue due to a) the United States' interest in trade liberalization and economic integration with Mexico as well as the subsequent creation of a restrictive regulatory framework on the U.S. side; b) the guerrilla presence at the southern border; c) the increase in the flow of Central American migrants to the United States, requiring transit through Mexican territory; d) the shift in U.S. immigration policy after the September 11, 2001 attacks; and e) the growing presence of members of the main street gangs of North and Central America, the Mara Salvatrucha (MS-13) and the Eighteenth Street Gang, at Mexico's southern border.

The strengthening of commercial ties began in the eighties, and in that same period, an increase in the flow of Guatemalan citizens, mostly to Mexico, was recorded. Even though their intention at the time was not to reach the United States, for its government these arrivals must have constituted a threat, since in 1986 that country adopted the Immigration Reform and Control Act (IRCA).⁵ It must also be remembered that

3 Comisión Nacional de los Derechos Humanos, *Derechos y hechos violatorios correspondientes a los expedientes de queja registrados en la Quinta Visitaduría General cuya autoridad responsable es el Instituto Nacional de Migración de la Secretaría de Gobernación*, Attachment to Memorandum No. CI/09/004/2013, March 6, 2013. Received in response to information request number 00005813.

4 Interview with José Alberto Donis Rodríguez, *Hermanos en el Camino* shelter, Ixtepec, March 5, 2013 (interview conducted in Mexico City).

5 Francisco Alba and Manuel Ángel Castillo, *New Approaches to Migration Management in Mexico and Central America* (Washington, DC:

the policy to liberalize trade at the border was considered a prelude to greater commercial integration.

Subsequently, in the nineties, the birth of the Zapatista guerrilla movement triggered the beginning of a militarization process at the southern border, and, in the government's reasoning, possibly the onset of the perceived relationship between immigration and crime. In the same decade, natural phenomena, such as Hurricane Mitch, produced a wave of migration from Central America towards the United States, encouraged partly by the Temporary Protection Status that the U.S. government grants to residents of Central American origin.

Finally, the September 11 attacks were the tip of the iceberg for greater border controls by both countries as well as greater public policy demands. These events prompted important shifts in Mexico's domestic and foreign policy, since the Mexican government came to view the southern border as sufficiently vulnerable and porous to represent internal and external threats that required increased mechanisms of surveillance and containment.

The implementation of increasingly rigid migration and law enforcement culminated in the legal recognition of the National Migration Institute as a national security agency. This requires the INM to manage migration flows from a perspective that views them as a potential threat to the national interest. The Agreement that gives this status to the Institute also mandates it to collaborate with the Center for Investigation and National Security (Centro de Investigación y Seguridad Nacional, CISEN) so that the Center may establish a National Network of Investigation that examines national security threats. All of the above has made the INM police-like and persecutory in nature, beyond other criteria.

Rigid migration enforcement has exposed migrants to multiple forms of abuse, dangers, and human rights violations. With the final –and often indispensable– objective of reaching the United States, migrants seek to circumvent controls even if that implies stepping into naturally dangerous and isolated geographical areas that lack basic infrastructure. The more clandestine the routes, the greater the dangers for migrants; however, the need to avoid controls pushes them to choose these routes.

In recent years, the presence of new organized crime networks and youth gangs has strengthened policies of persecution and control towards migrants, requiring the latter to select routes that are increasingly hazardous.

The association of Mexico's migration policy with its national security policy could have initially been the result of U.S. pressure, but it is possible that the Mexican government considers it a useful tool to maintain a degree of internal stability and to generate minimum conditions of governance.

The adoption of a migration policy that is connected to or subsumed in, the national security policy, has also produced excesses in the use of authority by migration agents, excesses in the powers and the use of force by local and federal police as well as a tendency towards opacity in the Institute's management and performance.

Migration from the Perspective of Citizen Security

As discussed above, in Mexico migration is considered a national security issue, i.e. a phenomenon that can jeopardize the security of the state. From this perspective, the objective is to maintain the integrity, stability and existence of the state, that is, to protect the form of political, social, and economic organization and to safeguard the institutional framework that gives shape to it.⁶ Human rights are subordinate to this primary objective.

Under this parameter, the focus is not on the individual, and the arbitrary use of authority is permissible in the interest of protecting the state. Therefore, it is necessary to transcend this concept and to replace it with a vision of citizen security in which individuals are the focus of the state's protection and may enjoy

Migration Policy Institute, 2012).

6 As established in Article 3 of the National Security Law.

their fundamental rights, specifically the right to physical integrity, to procedural guarantees, and to the peaceful use of property, without prejudice to other rights.

For this to happen, it is necessary to design public policies with citizen participation that guarantee the enjoyment of human rights and ensure effective responses to human rights violations.

The Inter-American Commission of Human Rights (IACHR) has established that the effective assertion of rights requires states to respect, protect, guarantee, and promote rights.⁷

States must organize the governmental apparatus and all public power structures so that they are able to legally guarantee the free and full enjoyment of human rights. This requires them to adopt the necessary measures, such as creating laws that do not exist or eliminating those that make the exercise of human rights impossible. States themselves create the obligations to comply with the necessary provisions and the responsibility for any omissions that are committed.

The Commission recognizes that states are not responsible for just any human rights violation committed within their jurisdiction, because prevention and protection depend on the knowledge of a risk situation and the real possibilities to prevent or avoid it. However, states are required to have the necessary structure for prevention and protection.

The Commission has also established that citizen security policies must be governed by the principles of participation, accountability, and non-discrimination. In addition, they must be comprehensive (encompass all human rights); intersectoral (integrate the actions, plans, and budgets of different social actors); participatory; universal (have unrestricted coverage); intergovernmental (engage state and local governments); and sustainable (include strong political consensus and social agreements).

States must simultaneously develop actions in three strategic areas: institutional, normative, and preventive.

In general, the institutional area concerns the creation of actions which strengthen the operating capacity of the state apparatus to fulfill its human rights obligations. Specifically, it refers to the human and material resources allocated to the judiciary, the Public Prosecutor's Office, public defense, police forces, and the prison system. States must develop indicators that allow them to evaluate human resources (mechanisms for selection, training, specialization, professional career service, working conditions, and salaries), equipment, and the means of transport and communication available to carry out their responsibilities.

The institutional area also refers to the capacity to implement the protocols established in the United Nations *Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power*, which contains guidelines for the access to justice and the decent and respectful treatment of victims; redress by perpetrators; the supplementary compensation by the state; and material, medical, psychological and social assistance for victims of crime and violence. Institutional capacity, in turn, relates to the provision of the necessary budget allocations.

Institutions must have technical and policy personnel trained in the various professions associated with citizen security. Staff must undergo modernization and professional development and be able to provide specialized care for children, adolescents, women, and vulnerable groups.

The normative area refers to the legal framework that needs to be adapted through each state's constitutional procedures and according to the concept of citizen security as well as the respect and guarantee of human rights as a guiding principle. Furthermore, affirmative action measures are required to reverse or change discriminatory actions even when the law guarantees equality.

The preventive area includes social, community, and situational measures that modify the social, cultural, economic, environmental or urban enabling risk factors that contribute to violence and crime. Preventive actions must be based on a cost-benefit comparison with suppressive measures of violence and crime.

⁷ Inter-American Commission on Human Rights, *Report on Citizen Security and Human Rights* (Washington, DC: Inter-American Commission on Human Rights, 2009), 13.

States must provide government structures with the necessary resources to prevent, investigate, and punish any human rights violations, seek to reinstate the violated rights, and provide compensation. Not only that, but states cannot renounce their oversight of human rights compliance by private security entities through prevention, deterrence, and suppression of crime and violence, because the legitimate use of force is the purview of the state.

The National Migration Institute is recognized as a national security agency, but from the desirable perspective of establishing the concept of citizen security within the public policy framework, it must be redesigned institutionally as well as normatively and establish effective criteria and instruments for the prevention of human rights violations.

The Institute displays historical institutional weaknesses because of the way in which it was created. Yet, it must not sidestep the modernization and professionalization it requires and which can begin with changes to the migration procedures, especially the elimination of their persecutory nature and their refocusing on the strictly administrative dimension of migration flows.

The Inter-American Court of Human Rights has stressed that in the area of migration the following processes must be considered: the illegal deprivation of liberty; the guidelines governing detention conditions; the rules of due process; the guarantees of legal defense against deportation; and undocumented migrants' access to basic social rights.

Overview of the National Migration Institute

The National Migration Institute was created by the Decree published in the Official Federal Gazette on October 19, 1993 in order to substitute the Directorate General of Migration Services of the Secretariat of the Interior (Secretaría de Gobernación, SEGOB). Its creation is the product of both Mexico's foreign policy and the need for regulation and control in migration matters.⁸ Although at the time the General Population Law was issued the most significant matter was demographic reorganization and not migration, in the 1980s several events reoriented Mexican policy:⁹

- The enactment in the United States of the 1986 Immigration Reform and Control Act (IRCA).
- The entry of Central Americans seeking refuge from the civil wars in the isthmus.
- A drive towards trade liberalization and, finally, the economic integration of North America after the 1982 economic crisis in Mexico.

The Directorate General of Migration Services was authorized to exercise the powers enshrined in the then-current General Population Law which regulated phenomena with an impact on the population, such as migration. The trend towards decentralization, and the public's demand for better state services, might have been the reason behind the creation of the INM and the subsequent elimination of the Directorate General of Migration Services.

The most important changes that the INM has undergone include its designation as a national security agency on May 18, 2005 and the change of legal framework, since in 2011 it began to be regulated by the Migration Law.

Currently, the INM is tasked with the planning, implementation, control, oversight, and evaluation of migration services as well as the coordination with other Federal Public Administration agencies that have responsibilities in migration matters (Article 19 of the Migration Law). In order to achieve these objectives, the President of the Republic appoints a Commissioner as head of the INM. The power that is thus vested in the INM Commissioner has in practice hampered relations with the Under-Secretariat for Population,

8 Decree that creates the National Migration Institute as a decentralized technical body, answerable to the Secretariat of the Interior.

9 Francisco Alba and Manuel Ángel Castillo, *New Approaches to Migration Management in Mexico and Central America* (Washington, DC: Migration Policy Institute, 2012).

Migration and Religious Affairs (Subsecretaría de Población, Migración y Asuntos Religiosos, SPMAR) which is responsible for the migration policy and whose head is also appointed by the President of the Republic.

In order to fulfill the stated objectives, migration regulation grants Federal Delegations a great deal of autonomy in their internal functioning. For this reason, the management style in each one of them varies, and the Delegations have become fiefdoms over which headquarters has little control.

Today, the INM is a public institution of enormous size due to both the number of its staff and its geographical presence. As of March 14, 2013 it had a total of 5,875 authorized positions,¹⁰ 346 Delegations and Sub-Delegations (both Federal and Local) throughout the country, and it is responsible for migration control in 191 international transit areas, including 65 international airports, 67 deep-water ports, and 59 land-border crossings.¹¹ This last figure excludes countless checkpoints that the INM maintains in the interior of Mexico.

This geographical dispersion made it impossible to study the implementation of procedures in a large number of places. Therefore, the research focused on analyzing the institutional management, the established procedures as well as the implications of the absence of specific protocols, and the practices of the INM and its agents in key sites along the migrant route. In this sense, the study constitutes a first approach to the INM's institutional and migration management and will serve as a discussion document on the performance of the institution and its public servants as well as on the creation of an accountability system that can improve INM agents' respect for migrant rights.

The Theoretical Framework: Accountability

Accountability acquires particular importance in law enforcement agencies such as the INM, because their agents can commit various kinds of abuse, either due to their role in implementing restrictive state policies or due to factors such as poor management, incompetence, corruption or prejudice, among others. An effective and rights-respecting migration management by the INM should be closely linked to the application of accountability in order to ensure, for example, that abuses committed during control operations and migrant detention are punished and that the possibility of their recurrence is reduced.

It is precisely the experiences that over the years have occurred in different parts of Mexico that have helped shape concerns about migration, security, and human rights, thus justifying an accountability approach. The potential for abuse, inefficiency or corruption usually lies in the broad discretion with which agents operate as well as in the limited visibility surrounding their everyday decisions. The concerns that are raised by these factors increase when a state agent has the power to detain and restrain individuals and, in doing so, may jeopardize their physical, mental, and emotional integrity.

Much of the work of federal migration agents entails actions that require a quick yet subtle reaction, but are difficult to define or prescribe *a priori*. For example, how much force is justified in the administrative arrest of a migrant? In practice, an agent is required to calculate, in real time, factors such as a person's body type, their likely intention, the possibility that they might be carrying arms (especially if the purported migrant turns out to be a trafficker or a criminal), and the consequences of a possible evasion of arrest. Even if the INM's legal-administrative framework offered some partial behavioral guidelines, in real life these leave agents to act based on their experience and common sense, that is, with a wide margin of discretion.

Furthermore, the operational hierarchy is not present when agents take decisions or actions, which is why records of their actions must be kept. However, the manner and frequency in which this occurs varies from place to place. Similarly, it is difficult to trace their interventions when agents do not report

¹⁰ *Notas y Estadísticas Actuales*. Working Report Submitted by the Commissioner of the National Migration Institute to the Committee on Migration Affairs of the House of Representatives in April 2013, 9.

¹¹ *Ibid.*, 8.

actions that they are required to report or when they simply refrain from acting, for example when they let undocumented migrants through in exchange for a bribe.

Given the limited visibility and external scrutiny surrounding much of the work of the INM's public servants, the challenge is to 'examine, oversee, and bureaucratize the existing discretion' so that the Institute's personnel will –on a day by day basis– do what it is required to do.¹² Accountability refers precisely to a series of mechanisms that regulate the exercise of discretion and limit poor performance, illegality, and the failure to perform duties.¹³ In other words, the exercise of discretion needs to comply with a series of institutional and social controls.

Accountability implies the existence of evaluation and accountability mechanisms as elements of modern administrative systems which allow middle and senior management to be aware of their subordinates' actions and results as well as of the areas that require changes or strengthening. The operation of effective accountability mechanisms is necessary so that the INM, migrants, and the general public can be sure that agents do not abuse their discretionary powers. It must be emphasized that accountability does not simply entail the punishment of the Institute's rogue elements, but also seeks to facilitate the development of mechanisms that will enable the INM to become a learning institution and to increase its resources, effectiveness, and legitimacy.

Pioneering experiences in the field suggest that the most successful strategies are not the ones that focus on a single source, but that entail the creation of accountability systems in which the institution (in this case, the National Migration Institute) is both subject and object.¹⁴ This means that internal evaluation and the reform of values, systems, tactics, and procedures need to complement external oversight.

Inevitably, accountability is based on information about what is meant to be evaluated. It is imperative to detect how and where misconduct arises so that accountability mechanisms can focus at least on the most serious or common scenarios. Internal Affairs Units are required to collect information of this kind in order to carry out their investigations. However, integrity and quality controls are essential to such accountability mechanisms because of the sensitive nature of peer-to-peer investigations. The recruitment of Internal Affairs Unit personnel is a critical issue that varies from case to case. Methods include the recruitment of academy students, the offer of incentives that attract experienced agents, and the design of career paths that include a spell in Internal Affairs as a promotion requirement.

External oversight bodies are especially relevant, because they constitute a bridge between the evaluated agency and the society that receives information about the findings and recommendations issued by these independent bodies. Internal controls might be evaluated based on their capacity to detect, punish, and prevent misconduct by migration agents. External mechanisms, for their part, might be deemed justifiable and successful in light of different criteria. For example, if the ultimate objective of the citizen complaints process is compensation or restitution, a legal and adjudicative model –on a case-by-case approach– might be most appropriate. However, if a complaint were considered to be a symptom of an administrative problem within the migration authority, the focus would rest on an analysis of what the complaints reveal and on the dissemination of the findings to help restructure the agency. On the other hand, documentation itself may help create a record of detected misconduct. In view of the different options that are available, it is difficult to identify a model of external oversight. However, international experiences suggest that some combination of internal and external controls is not only desirable, but also necessary.¹⁵

Accountability seeks to detect and help eradicate misconduct of any kind. Even so, in law enforcement agencies a use-of-force evaluation is especially important. The latter, according to experts in the field, must meet three objectives: achieve restraint in an agent's use of force and reduce third-party damage; ensure

12 Robert Varenik, coord., *Accountability. Sistema policial de rendición de cuentas* (Mexico City: Insyde, 2005), 25.

13 Ibid., 25.

14 Ibid., 31.

15 Ibid., 38.

that agents have the necessary instruments to perform effectively in difficult situations; and guarantee agent safety.¹⁶ Chapter 1 of this assessment study will present some thoughts on a more effective accountability of the INM.

The Methodological Tools

The research was conducted between March 2012 and July 2013. It adopted a qualitative approach which permitted exploring the dissociation between the INM's procedures and practices. The study that resulted from this research is exploratory in nature, since publicly available information about the Institute and the actions of its public servants is often scarce. In this sense, access to information is also hampered, because official documents about the Institute's work are often classified on grounds of likely harm to INM operations or national security.

The research was based on four methodological tools: information requests, semi-structured interviews, visits to migrant detention centers, and an analysis of primary and secondary sources, including quantitative data. A total of 264 information requests were submitted to 26 government agencies, 69 percent of which were addressed to the INM. The number of requests includes those submitted to human rights bodies in Guatemala, El Salvador, and Honduras in order to obtain migrant testimonies that might give insight into unlawful acts committed by INM agents and officials. However, given the dysfunctional nature of information access systems in Central America, no usable information was obtained. Similarly, 71 appeals were brought before the Federal Institute of Access to Information and Data Protection (Instituto Federal de Acceso a la Información y Protección de Datos, IFAI) against the classification of information or the lack of quality of the responses. The appeals argued why the IFAI should order that the information be made publicly available and were developed based on the Transparency Law, IFAI criteria, and information retrieval related to the request. Some of the appeals that were decided in favor of Insyde concerned matters such as national security, user satisfaction surveys, the INM's documentary regulations, the INM organizational and procedural manuals, and the audit reports of the INM's Office of Internal Oversight (Órgano Interno de Control, OIC).

Additionally, in 11 states 140 semi-structured interviews were conducted with public servants of the INM and other government agencies, Beta Group coordinators, staff of the CNDH and the State Commissions of Human Rights (Comisiones Estatales de Derechos Humanos, CEDH), academics, human rights defenders, and journalists. Some of the interviewees were selected based on their knowledge and experience of the subject, others were located through snowball sampling, because some information about the practices of INM public servants may be considered sensitive and obtaining it requires a certain level of trust. Many of the interview requests made to officials were either rejected or went unanswered, for example in the cases of the Under-Secretary of Population, Migration and Religious Affairs, Mercedes del Carmen Guillén Vicente, and the Commissioner of the National Migration Institute, Ardelio Vargas Fosado. Similarly, 47 interviews were conducted with migrants (adults and minors of both sexes) detained in the visited migrant detention centers (those in Oaxaca and Nuevo León held no migrants at the time of the visit). The purpose of the interviews carried out with migrants was to learn about the treatment and conditions in these facilities. Overall, the interviews sought to gather multiple perspectives in order to provide a comprehensive, nuanced, and empirically-substantiated analysis of the National Migration Institute.

Finally, between September and November 2012 an Insyde researcher visited 11 INM migrant detention centers. Insyde requested access to the migrant detention centers in Tapachula (Chiapas), Oaxaca (Oaxaca), Tenosique (Tabasco), Acayucan (Veracruz), Nuevo Laredo (Tamaulipas), Saltillo (Coahuila), Ciudad Juárez (Chihuahua), Hermosillo (Sonora), Tijuana (Baja California), Iztapalapa (Federal District), Tlaxcala

¹⁶ Ibid., 45-46.

(Tlaxcala) and Monterrey (Nuevo León). These centers were selected because of their location in key states along the migrant route since time and resource constraints made it impossible to visit all of them. The study incorporates the findings of these visits and of the interviews conducted with migrants and staff at the above centers.

The Structure of the Study

The first chapter introduces the theoretical framework of the research, explaining the concept of accountability and examining international, regional, and national accountability mechanisms that make it possible to obtain information about the INM's work. The second chapter analyzes the Institute's legal-administrative framework, beginning with the General Population Law and its Regulations (applicable before the enactment of the new regulatory framework), the Migration Law and its Regulations as well as the SEGOB's Internal Regulations. Afterwards, some of the INM's key organizational and procedural manuals are analyzed. The third chapter offers an historical glimpse at the Institute's evolution, starting with its emergence from the now extinct Directorate General of Migration Services and discussing the INM's designation as a national security agency. The fourth chapter examines the INM's institutional management, reviewing issues such as personnel recruitment and selection, training, salary structure and promotions, the system of oversight and control of on-duty personnel, the disciplinary model, reliability controls, and internal accountability mechanisms, among others.

The fifth chapter examines migrant protection and assistance programs, including the *Paisano* Program, the Human Repatriation Program, the Beta Groups, the Child Protection Officers, the Comprehensive Strategy to Prevent and Fight Migrant Kidnappings, and assistance for migrant victims of crime and maiming. The sixth chapter analyzes migration control and verification, discussing the use of force and INM operations. The seventh chapter investigates the conditions and treatment in INM migrant detention centers. The eighth chapter examines the deportation of undocumented migrants, focusing on the cases of Central American and Cuban citizens. The study finishes by presenting a series of conclusions about INM procedures and practices as well as a series of recommendations designed to strengthen the Institute's professionalization, accountability, and respect for migrant rights.

Conclusions and Recommendations

This assessment study has analyzed the procedures and practices of the National Migration Institute. The research, though constrained by the limited access to information, sought to offer a general overview of the institution and its personnel. Some aspects require further clarification, but more conclusive results are unlikely to be obtained unless the INM is open to serious efforts to understand its internal operations and to determine how the Institute's activities contribute to migrant rights violations in Mexico. Still, the findings contained in this report reveal important patterns about the legal framework and five thematic areas: institutional management, migrant protection and assistance, migration control and verification, migrant detention, and the deportation of undocumented migrants.

Civil Society

Civil society organizations have played an important role both in reporting the deficiencies and absence of the state and in compensating for them by providing the goods and services that the state does not provide. This has also proved true in the context of migration. Civil society organizations need to pursue a broader agenda to strengthen government agencies and the regulations under which they operate. Ideally, the organizations should cooperate and coordinate with their peers as well as with the authorities that are able to change government agencies and regulations, instead of competing and fighting for the ownership of public space that can and must be shared.

Migration and National Security

Mexico's migration policy began to be framed as a national security issue when the borders started to be viewed as sufficiently vulnerable and porous to represent a potential threat to the stability of Mexico and its northern neighbor. This stance resulted in increasingly rigid controls that placed transmigrants in greater danger, even though the objective was to impede undocumented migration. The Mexican government must shift towards a perspective of citizen security and establish institutions capable of guaranteeing it.

Migration and Citizen Security

A society like Mexico, with an incipient democracy, needs to aspire to a different concept of security that puts people at the center, and demand the design of institutions that allow citizens to carry out their daily lives with the lowest level of threats to their personal integrity, civil rights, and enjoyment of their property. Making this concept a reality in Mexican public policy requires reforms in three areas simultaneously: institutions, regulations, and prevention. A first step would be to ensure that the Institute's procedures are no longer subject to persecution and police-like criteria.

The Legal Framework

With the enactment of the Migration Law, the legal framework has undergone several changes in the area of migrant regulation. However, general legal provisions that had been issued under the General Population Law remain in effect. Their disadvantage is that their human rights protection is not as extensive as that enshrined in the Migration Law. For example, no updates have been made to the *Agreement Regulating*

Personal Appearance and Uniform Use of Public Servants Assigned to the National Migration Institute, published in 2001; the *Agreement Recognizing the National Migration Institute as a National Security Agency*, published in 2005; the various Delegating Agreements authorizing the Under-Secretary of Population, Migration and Religious Affairs and the Commissioner of the National Migration Institute (August 20, 2008) to conduct migration proceedings and exercise various powers under the General Population Law and its Regulations; and the Agreements creating the Beta Groups.

The issuance of the Migration Law constitutes a great step forward in the protection of migrant rights. Among its advantages are the division of powers among migration authorities (the Secretariat of the Interior, the National Migration Institute, and the Secretariat of Foreign Affairs), the recognition of the rights and duties of migrants, migration procedures, and the implementation of the migration policy. However, the great disadvantage of the Migration Law is that it remains rooted in an ideology of sovereignty and security, which constitutes a barrier to the effective protection of migrants.

On the other hand, the Regulations of the Migration Law are very detailed, yet the migration proceedings sometimes lack clarity. Its many issues include the formulation of the migration policy, the professionalization and certification of personnel, international transit points, migration control, family unity, the stay of foreigners in national territory, migrant protection, the assisted return of migrants, and migration procedures (verification, checks, detention, deportation), among others.

In order to clarify some points that are addressed with insufficient depth in the Regulations, and to prevent any misinterpretations, the Secretariat of the Interior has issued several Agreements, such as the *Agreement Defining the Structure, Organization, and Operation of the Citizens' Council*, the *Agreement Issuing the Guidelines for Migrant Protection*, or the *Agreement Issuing the Operating Rules for the Migrant Detention Centers of the National Migration Institute*. Even though these Agreements address certain issues in greater depth than the Regulations, they contain errors that must be rectified. Most importantly, however, these Agreements must be governed by the *pro persona* principle that is characteristic of a human rights protection regime. Similarly, some points contained in the Regulations are not addressed by the Agreements, such as the role of the Federal Police, which makes interpreting the Regulations even more difficult.

The Agreements issued after the enactment of the Migration Law must be constantly updated, because all reforms to the Migration Law and its Regulations need to be reflected in them. The failure to do so could violate migrant rights.

The Internal Regulations of the Secretariat of the Interior must also be closely examined since they are the only text that outlines the structure of the INM and the responsibilities of its Directorates General. The powers of the migration authorities are scattered throughout the Migration Law and its Regulations; however, many of these provisions are compiled and synthesized in the Internal Regulations of the SEGOB. Another difficulty in understanding the responsibilities of migration personnel is the dispersion of information about their powers and duties throughout the Law, Regulations, and Agreements. Even if these powers cannot be consolidated into a single article, when reference is being made any one of them, it is necessary to identify the source since the current arrangements hinder comprehension.

Institutional Management

Personnel Recruitment. The National Migration Institute has job profiles and publishes –infrequently– calls for applications to fill certain positions. However, appointments among middle and senior management have traditionally been political in nature, resulting in the hiring of unsuitable candidates based on family and party ties, among others. The lack of transparency in staff selection and appointments contributes to the recruitment of individuals who may be neither qualified for their position nor have the necessary

commitment with migrant rights. Hiring unsuitable individuals is serious in any circumstance, but it is even more serious at the level of middle and senior management as it undermines institutional and migration management. The recruitment of personnel with the academic credentials and work experience that the posts require, along with certain improvements in training and more effective internal controls, would significantly help reduce the incidence of misconduct within the INM.

Training. To date, the INM lacks both a migration training academy and an initial training program. Consequently, there is no personnel training prior to entering service, but once hired, staff are given an introduction to the Institute and offered training on different subjects. Moreover, the criteria for accessing training courses are not well-defined. Even worse, with certain exceptions the INM administers no proficiency exams; instead, participants evaluate the training courses through a brief survey. Accordingly, it is impossible to know what the staff have learned, and the possible knowledge gaps could ultimately affect the quality of the work they perform. The INM thus lacks a tracking system that would help determine how or to what extent participants apply what they learned to their daily work. There is also no training strategy to enable a consistent selection among the many internal and external training offers or to provide staff with the knowledge they need, rather than simply meeting numerical targets for participants and courses. The absence of an initial training program, as well as the current inadequacies in the training offered, constitute some of the most serious weaknesses that affect the INM. For all these reasons, the Institute has developed neither a human rights culture nor an organizational culture that reflects the highest professional and ethical standards.

Salaries and Promotions. An analysis of the salary structure reveals that the salaries that INM public servants receive are highly asymmetrical. Whereas an Area Director receives a net monthly salary of at least MX \$31,693.80 and a Director General receives a net monthly salary of at least MX\$73,833.94, a “B” Class Federal Migration Agent receives a mere MX\$7,372.05 as a net monthly salary. In 29 of the 41 job titles that exist in the INM (70.73 per cent), the net monthly salary is below the average (MX\$25,434.81) of all salaries paid at the INM. Given these circumstances, the financial situation of ground-level staff, who have important responsibilities in the treatment of migrants and often work in difficult, if not dangerous, conditions, is much more challenging than that of officials who are paid for their management, coordination, and decision-making abilities. Low salaries –together with the recruitment of unsuitable personnel, weak training, deficient reliability controls, and ineffective sanctions– foster corruption among public servants. They encounter ample opportunities to profit from migrants in different parts of the country and in different processes, such as the hiring of staff or services, entry and regularization procedures, migrant protection activities or migration control and verification operations. To be sure, low salaries do not necessarily make individuals corrupt and, conversely, higher salaries do not prevent corruption entirely. In fact, over the years, cases of corruption have occurred at all levels, from federal migration agents to Directors General. Although a systematic salary increase may be economically difficult for the Federal Public Administration, it is feasible –and indeed necessary– to improve the working conditions of INM’s ground-level staff and to rethink the promotions system. Currently, promotional movements tend to entail lateral rather than upward mobility. In other words, a promotion typically involves a transfer to a more comfortable and less dangerous place, but at the same level. Consequently, from their arrival to their departure from the Institute for retirement or other reasons, ground-level staff work with almost no possibility of gaining access to positions offering greater responsibility and pay. Such a situation does not encourage these workers to excel at their jobs.

Sanctions. The sanctions system establishes the types of and grounds for the disciplinary measures applicable to INM public servants. In practice, however, the sanctions in detected cases do not go beyond

the termination of employment. Although misconduct should be investigated and punished accordingly, without exception, generally the necessary investigations are not conducted and the personnel concerned is simply terminated. While the number of cases that warrant sanctions is unknown, the number of individuals that have actually been punished in the history of the INM for human rights violations or other wrongful acts is insignificant. Similarly, it has been argued that unionization represents a barrier to the dismissal of individuals who are guilty of misconduct and should be terminated. Even though the National Workers Union of the SEGOB provides its members with legal defense when necessary, unionization cannot constitute an obstacle to any investigations and sanctions that should be initiated. The fact that the INM prefers its trusted personnel to resign or change their place of assignment instead of dismissing them, allows the Institute to avoid lengthy labor disputes (during which posts are not considered vacant) or severance pays. However, an extremely serious effect of this practice is that misconduct goes unpunished. Thus, individuals who resign may take up employment in other public institutions and, needless to say, this impunity encourages the recurrence of some improprieties within the INM.

Two key measures are implemented to create and maintain some integrity standards within the INM: staff rotation and reliability controls. Rotations are conducted very frequently, in some locations even on a bi-weekly basis, in order to counter corruption. However, regular rotation is ineffective, not only because it undermines the professional development of the institution and its staff, but also because the rotation –and not the removal– of corrupt individuals does nothing more than spread corruption throughout the Institute. The Center for Evaluation and Reliability Control is recent and still requires more equipment and personnel. Therefore, reliability control tests are not carried out with the necessary diligence. However, a more important limitation is the mechanization of polygraph tests due to the need to carry out a large number of tests in a short period of time. Specific tests that would assess the risks inherent to certain areas and places of work in the country are not performed and, thus, the quality of the controls is lowered. Consequently, many of the test results are inconclusive, and the INM cannot be certain that it has suitable personnel. Additionally, legal loopholes allow existing public servants to remain in their positions –at the discretion of their superiors– even if they fail part of the tests.

Oversight. Currently, the National Migration Institute lacks an oversight system that would enable headquarters to learn about events taking place in the 32 Federal Delegations or allow middle and senior management in the Delegations to be aware of the actions their subordinates take with or without authorization. Supposedly, the Delegates themselves can exercise the necessary controls, since these positions are purportedly given to individuals of high integrity who have the power to verify and ensure that procedures are duly followed. However, the possibility to do so inevitably depends on the ability and judgment of the Delegates. The Delegates, in turn, are not necessarily aware of the actions their subordinates take or fail to take at different times of the day, since they are not required to report all their activities and, additionally, they could engage in illegal activities without third parties realizing it. Likewise, Delegates may lack suitability and integrity, evidence of which is the fact that several of them have been accused of corruption. If a problem occurs within the chain of command, most likely the proper procedures will not be followed nor will the necessary measures to fully investigate and punish misconduct be taken. Commissioners, meanwhile, have frequently been distant from the reality in the Delegations and have often learned of certain events, such as migrant kidnappings, from the press. They have no other choice but to visit the Delegations to speak with the same agents that may have been responsible for the events under investigation. The absence of an effective oversight system is one of the biggest weaknesses of the National Migration Institute and largely contributes to the impunity of corruption and migrant rights violations.

Internal Controls. The INM has two types of internal control mechanisms, the Office of Internal Oversight (OIC) and the Internal Affairs Unit, created by the SEGOB's 2012 Internal Regulations. The OIC can carry out investigations as well as audits and receive complaints. However, it has very few personnel, all of whom are based in the Federal District, which makes their work in the Delegations difficult. Similarly, it does not conduct proactive investigations and instead depends on other agencies for information about potential misconduct before it will commence its own investigations into a matter. If these agencies, which include the CNDH, for whatever reason do not provide information to the OIC, the latter has no way to find out about the facts in question. As a result, certain events would not be investigated, much less punished. Audits have proven to be fundamental in revealing that, in different administrative units of the INM and in different parts of the country, existing weaknesses in oversight and internal controls have allowed practices such as personnel recruitment based on family connections, payment for services for which no contract has been awarded, the irregular issuance of immigration cards, deficient recordkeeping for domestic and international transfers as well as deficiencies or irregularities in migrant detention centers. The latter include poor recordkeeping, which results in inadequate control over the individuals entering migrant detention centers and facilitates extortion, as well as the absence of preventive measures to safeguard and protect the facilities.

Complaints boxes located across different sites in the Federal Delegations so that migrants –documented or undocumented– may submit complaints or suggestions are scarce. The letters that the OIC does receive come mostly from the Delegation offices that migrants go to in order to carry out some administrative procedure. Few messages are received from migrants held in migrant detention centers due to the limited educational levels of some of these individuals and –more frequently– due to a lack of interest in reporting abuse and fear of retaliation. Likewise, since OIC staff do not travel outside of the Federal District to collect complaints, the Delegates themselves must deliver them. This can lead to the elimination of certain complaints and the submission of only those that are most favorable to the OIC.

The Internal Affairs Unit is –as of late July 2013– still in the process of being created and has therefore not commenced operations. The Unit will complement the work of the OIC since it has the power to oversee the processes performed by different INM areas with the goal of detecting irregularities committed by public servants; to bring complaints and hold hearings before the appropriate authorities; to receive complaints and reports of misconduct by INM public servants; to require and obtain information from the different INM departments; to submit periodic reports to the Secretariat or the Under-Secretariat of Population, Migration and Religious Affairs. Only time will tell if the Unit will effectively contribute to the investigation and punishment of INM public servants guilty of misconduct.

The Lack of Effective External Controls. INM accountability may take place through governmental institutions (such as the IFAI, the ASF, and the CNDH) as well as through civil society and the media. The existence of effective accountability mechanisms is necessary not only to understand the state of public management, but also to prevent the abuse of power and to influence the development and strengthening of public institutions. The relative autonomy of external control mechanisms makes better accountability possible. Autonomous bodies, in turn, require certain institutional controls to fully comply with their duties and responsibilities; civil society plays a fundamental role in their creation.

The CNDH has sufficient legal and material resources to promote the protection of human rights as well as tools to sanction public servants for violating these rights. The Commission and the Fifth Rapporteur's Office, however, need to strengthen their management through more personnel and clear and accessible procedures to resolve investigations of human rights violations. As with other constitutionally or officially autonomous bodies, there can be alternative methods for choosing senior officials that would guarantee impartial performance with a forward-looking vision. However, new methods of selection alone will not guarantee impartiality and objectiveness unless they are accompanied by quality controls over candidate

profiles for these positions and by control mechanisms to ensure better accountability of senior officials.

Civil society organizations (CSO) that work for the protection of migrants pursue three routes to demand INM accountability: visits to migrant detention centers, information requests, and contributions to citizen participation bodies such as the INM's Citizens Council and the SEGOB's Advisory Council on Migration Policy. Visits to migrant detention centers are requested to carry out human rights monitoring, provide legal advice, and deliver workshops. However, few organizations have sufficient staff and technical capacities to conduct systematic work in migrant detention centers. Additionally, their attempts to intervene on behalf of detained migrants have often been hampered by INM-imposed access restrictions to the facilities and/or to the migrants themselves.

The INM's Citizens Council, created only recently, is still in need of regulation. That is why it is currently severely limited in its ability to impact migration policy, to propose specific actions in the area of human rights, to invite the participation of civil society, and to enter into agreements with the states. Most severely limiting the Council is the lack of a policy clearly delineating how its opinions may impact changes to the regulatory framework and the INM's reach; therefore its views may be easily forgotten. Furthermore, the Advisory Council on Migration Policy is also limited to only submitting proposals to the Under-Secretariat of Population, Migration and Religious Affairs, which has the power to hear and dismiss its proposals as long as such decision is supported and justified. However, the proposals issued by this Council to the Under-Secretariat still have a long way to go in order to achieve an amendment of the guidelines regulating the INM since the Under-Secretary has the discretion to disregard them.

Journalists have different sources of information about the INM, including information requests, interviews, press bulletins, and leaks. Information requests are considered the safest manner to obtain data on the INM's performance. However, they only allow petitioners to learn about the Institute's formal procedures and not the informal practices that prevail in it. The best information that is leaked can be found in the local media, since they are able to obtain more detailed information on the actions of INM public servants. However, local media have less of an impact than the national media, since they put pressure on local officials and their audience is much smaller.

Transparency and Access to Information. The INM's transparency policy is a policy of non-transparency. The Institute issues press releases when it decides to communicate dramatic actions such as migrant rescue operations or personnel purges. However, it withholds as much information as possible, often on grounds of national security. No proactive disclosure strategy exists. The existence of the Transparency Obligations Portal (Portal de Obligaciones de Transparencia, POT) helps in disseminating information about the INM, but the search is difficult because of the opacity that characterizes the system.

The INM maintains practices that hinder ready access to information and that appear to lack the archival standards and resources needed to guarantee this right. The INM's inclusion in the country's System of National Security is used to justify its opacity and seems intended more to hide deficiencies in institutional performance than to protect information that could endanger the security of the Mexican state. If the INM favored the principle of maximum disclosure, it would generate trust in its performance and would probably be legitimized; or rather, it would permit criticism and analysis aimed at improving and strengthening the areas in which deficiencies exist. Ultimately, transparency and openness allowing public access to information is an opportunity, not a threat.

Even though Insyde was unable to obtain through information requests all of the information it sought, nor with the level of detail required, exercising this right forced the agencies to improve the quality of their information, and the appeals filed required them to respond more effectively to prevent adverse resolutions that could jeopardize the image of the institution and reveal poor performance. This shows that institutions can be strengthened when used; the same applies to the exercise of rights. The right of access

to information is a right for all individuals, not just Mexicans. The institutional response depends on the enforceability of this right. We must aspire to make the quality of information increasingly better and truly accessible for all, and in order to achieve this, it is necessary to exercise our legitimate right.

The Generation of Studies and Statistics. The Center for Migration Studies (Centro de Estudios Migratorios, CEM), which was recently relocated from the INM to the SEGOB's Migration Policy Unit, has gradually grown both in its structure and its functions. It has a library that provides valuable information for independent researchers as well as a strong capacity for research and the production of statistics. However, limited resources and a legal mandate that makes the INM responsible for foreign nationals and the repatriation of Mexicans have meant that the CEM adopts a quantitative approach to the study of migration, using the administrative data that the INM generates. As a result, qualitative research on the subject has been marginalized.

The availability of quantitative information presents various difficulties: 1) at times the data were unintelligible; 2) the information was not presented uniformly within the same organization, making comparisons difficult; 3) in the case of human rights violations or explanations of the causes of certain events, the information was very general, preventing in-depth analysis and classifications; 4) in most cases, no methodological explanation was given for how and under what criteria the data were gathered, which makes it difficult to determine their data; and 5) some institutions reported different statistics in the matter. All these aspects undoubtedly have had an impact on the ability to obtain a thorough analysis of core migration issues.

Archives. The archives of the National Migration Institute consist of three sections: the historical archive, the procedural archive (which contains personal and administrative files); and the combined archive (the interface between the historical and procedural archives). Even though digitalization of the archives has progressed, protecting the documents from exposure to the elements and from infrastructural problems that prevail in certain locations, they are no longer freely accessible. The handling of the INM archive greatly depends on the work of the personnel responsible for its classification and preservation. At the same time, poor management and personnel turnover in each area affect the administration of the archives. In many cases staff lack the expertise required for archival management. These circumstances are detrimental to the access to information about the INM's activities.

Migrant Protection and Assistance

The Paisano Program. The *Paisano* Program, aimed at providing assistance to Mexican citizens residing in the United States that visit their country of origin at certain times of the year, offers services such as telephone assistance through a call center; an increase of tax-exemptions; and a directory of institutions (the *Paisano Guide*) that offer services to travelers. Traditionally, the Program has existed more in the discourse of officials than in reality. As the audits carried out by the Office of Internal Control indicate, the *Paisano* Program has not been free of mismanagement. However, it is fundamentally an administrative program and therefore does not display the level of corruption and abuse that characterizes foreign national entry and regularization processes as well as migration control and verification operations.

The Human Repatriation Program. The Human Repatriation Program aims to receive Mexicans repatriated from the United States and to reincorporate them into their communities with development options. The actors collaborating in the Program include agencies from the three levels of government, civil society organizations, and international organizations. Together they provide guidance and referral services in

the four states on Mexico's northern border to help migrants obtain food, clothes, shelter, medical care, telephone access, training, and job offers as well as transportation to their communities of origin or their current residence.

Traditionally, the Program has had a very limited budget for the amount of repatriated citizens. An even greater challenge is the lack of jobs in the communities of origin of the deportees, many of whom had left these places because of precarious economic conditions. Additionally, a large number of those that have been recently deported were living in the United States for many years and are not interested in reintegrating into their communities of origin. At the heart of the problem of repatriated Mexican migrants lies the absence of a return and community reintegration policy.

The Migrant Protection Groups (Beta Groups). The Beta Groups emerged from an armed police group created to prevent attacks on undocumented Mexican migrants seeking to enter the United States. Eventually, the Beta Groups became the INM's humanitarian arm, empowered to provide guidance to undocumented migrants, perform search and rescue missions, provide social and humanitarian assistance as well as legal advice, and receive and refer complaints. The importance of the Beta Groups lies in the fact that they have provided humanitarian assistance and saved the lives of many migrants. However, they have experienced a series of constraints that raise questions about their effectiveness and impact. First, Beta Group members come from the three levels of government, including federal agents and individuals delegated by states and municipalities. The participation of the three levels of government is meant to optimize the use of resources, but at the state or municipal levels this allows for the entry of individuals with military or police backgrounds into the Beta Groups. Second, in spite of their various powers, the activities of the Beta Groups tend to focus on guidance, rescue operations, and humanitarian assistance. Their members are reluctant to receive and refer complaints about human rights violations in order to avoid retaliation and conflicts with agents of the INM or other institutions.

Third, besides being deployed only on the southern and northern borders as well as on the Gulf coast, these groups have limited material and human resources. Fourth, the presence of organized crime in certain areas of the country in some way impedes their work, especially patrols as well as search and rescue missions. Generally speaking, the performance of the Beta Groups depends to a great extent on the personal commitment of their members and particularly that of the Coordinators. While some make efforts to maximize the impact of their work, others do not do what they are obliged to do. Even though the nature of their work leaves little margin for corruption, the Beta Groups have not been free from irregularities or from collusion with organized crime. In general terms, the protection of migrant rights needs to go beyond the actions of a single entity and permeate all processes of migration management. Likewise, a detailed study should be conducted to determine whether the redesign of the Beta Groups is needed and whether they ought to remain within the INM or be separated from it.

The Child Protection Officers (OPIs). The Child Protection Officers (Oficiales de Protección a la Infancia, OPIs) constitute a specialization in migration that is designed to provide enhanced care for unaccompanied migrant children and adolescents. That is to say, in contrast to the Beta Groups, the OPIs are federal migration agents and not a special group. When appointing OPIs, the INM looks for agents with a background in social work or an interest in working with children, either of which is essential to performing their duties effectively. However, the criteria for selecting candidates do not seem to be clearly defined. Training is brief, and it currently does not include spending time with minors in shelters of the National System for Comprehensive Family Development (Sistema Nacional para el Desarrollo Integral de la Familia, DIF). In addition, some agents have expressed that they do not have the institutional support they need to put in practice what they have learned. The OPIs are limited in number and are unable to provide coverage in all of the migrant

detention centers in the country. Their performance is variable, apparently because they lack the capacity or the will to follow-up properly on the situation of children staying in DIF shelters. In some places the Officers are not on the DIF premises regularly, even less so for children with prolonged stays. The fact that OPIs exercise migration control on behalf of the Mexican government which seeks to expel undocumented migrants, but at the same time provide protection, is an obvious contradiction that prevents the OPIs from gaining the minors' trust. This incongruity suggests that these functions should be separated. Moreover, OPI responsibilities should be part of the training all migration agents receive so that they fully appreciate the needs of the migrant population with which they work.

The Comprehensive Strategy to Prevent and Fight Migrant Kidnappings. This Strategy was launched after the massacre of 72 migrants in the Tamaulipas municipality of San Fernando in August 2010. It comprises five lines of action whose implementation requires the strengthening of the participating entities (the SEGOB, the INM, the Secretariat of Public Security [Secretaría de Seguridad Pública, SSP], the CNDH and the Public Prosecutor's Office [Procuraduría General de la República, PGR]). The *Framework Agreement on Cooperation to Prevent and Fight Migrant Kidnappings*, which forms the basis of the Strategy, establishes the commitments between the parties. The document also creates a taskforce to monitor and assess the different activities, but does not set out the indicators required for this purpose. Even though the INM's Directorate of Migration Control and Verification has a list of indicators assessing adherence to the commitments the Institute assumed under the Framework Agreement, the few criteria listed are mostly quantitative and fail to measure all aspects of the commitments. Almost three years after it was first announced, the *Comprehensive Strategy to Prevent and Fight Migrant Kidnappings* has made very little progress and has been limited to actions that are meaningless in the absence of monitoring (such as agreements) and actions that should have been taken anyway (such as the publication of legal documents, training, information sharing, and the distribution of leaflets). To date, it has yet to be demonstrated what the Strategy has added to the protection of migrants and to the assistance to victims of crime.

The Humanitarian Visa. The humanitarian visa, granted to victims or witnesses of crime, is valid for one year and enables recipients to continue to participate in criminal proceedings. To date, few visas have been requested and granted, and the time needed for the approval process varies considerably between the different Federal Delegations. The small number of humanitarian visa applications made so far seems to demonstrate that migrants are largely uninterested in obtaining this document to legalize their stay. This could be due to a lack of interest in pursuing complaints, limited knowledge of the visa's existence, the complexity of the process, or migrants' need or urgency to leave the country and return to their places of origin. However, it was also revealed that, rather than granting humanitarian visas, the INM prefers to issue exit permits that are valid for two weeks and do not give individuals sufficient time to properly follow-up on their complaints. Other difficulties arise from the fact that without the support of the CSO, it is very difficult for migrants to obtain a humanitarian visa. Furthermore, when the Public Prosecutor's Office closes the case, migrants lose their status as victims and their life plan becomes uncertain. A more effective regularization would enable migrants to find not only housing or work more easily, but would also strengthen their social Support network.

Migration Control and Verification

The Use of Force. To date, the National Migration Institute lacks a protocol regulating the use of force by its public servants. According to the INM, this omission is due to the fact that its agents are not authorized to carry and use weapons or any type of equipment to restrain individuals. However, at the heart of the issue lies confusion between the use of weapons and the use of force. The latter refers not only to lethal

and non-lethal force, but also to non-physical or psychological force, which includes verbal or physical persuasion (such as brandishing a baton), threats to use physical or other types of force, and factors such as the demeanor and attitude of the agent or the number of agents present.

In the course of different control and verification actions, including detention and deportation, agents have ample opportunity to resort to the use of violence against migrants and to harm them, even if unintentionally. During operations, for which the INM may request the collaboration of other institutions, even though the terms of this collaboration are in practice unclear, other state agents authorized to carry and use firearms can act, for example the Federal Police. The latter can also intervene to contain security incidents such as riots, aggressions against personnel or attempts to escape detention. Because in these scenarios migrants may suffer harm or injury, it is alarming that the INM has not designed a protocol to regulate the use of force and give its agents criteria of conduct.

Operations. One of the main points of agreement between the interviewees was the need to identify the operations and procedures in which greater migrant rights violations occur. It is acknowledged that, throughout the years, the use of violence in migrant arrests has been constant: until 2008 the use of weapons during operations was frequent, whereas now physical force (blows; pushing and shoving) is used. There are contrasting opinions on acts of corruption such as bribery: for some interviewees, the existence of corruption is clear and is what makes possible human trafficking and kidnapping; for others, what exists is not corruption, but a lack of action and clarity in the protocols that would make it possible to fight against these phenomena.

Extortions. Interviewees who believe that corruption exists expressed that INM agents collude with organized crime to profit from the use and transportation of migrants. Many accounts concur that agents hand migrants over to different cartels that pay certain amounts of money, depending on the nationality and sex of the migrant.

According to the interviewees, one of the reasons for these developments lies in the lack of control and oversight of what happens locally within each one of the Delegations. However, some agents do not seem to display integrity or empathy with the situation of migrants. It needs yet to be determined whether the low salaries that agents receive lead them to engage in extortion, collaborate in migrant trafficking or kidnapping, and accept bribes. It is also possible that many of the agents act under threats from criminal groups. Yet, the literature clearly recognizes the need to provide individuals with positive incentives to prevent them from deviating from their obligations, for example salaries, training, and the existence of long-term time horizons.

Migrant Detention

Conditions. Because of their designation as national security installations, migrant detention centers are prison-like in nature due to both their physical appearance and the rules that govern them. A few years ago the INM stopped fitting out temporary holding space as migrant detention centers and began to significantly improve the conditions in others. However, these changes do not necessarily entail a better treatment of migrants. To the contrary, deficiencies still prevail both in the implementation of procedures and in the services offered to individuals in different areas, from food to medical services. Depending on the results of the operations, migrant detention centers can at times be overcrowded. A sudden increase in the detainee population in turn affects the hygiene in the installations, including the cleanliness of floors and bathrooms as well as the conditions of mattresses and blankets. The habitual lack of information about the duration of their stay and the deportation process leads migrants to feel uncertainty and frustration, thus contributing to different kinds of security incidents. Containing these incidents can be complicated

because of the absence of a protocol regulating the use of force by migration agents. Equally critical is communication in emergencies, since at night migrants are locked in cells with doors that do not open automatically, but instead require a key.

Treatment. The treatment of migrants depends to a great extent on individual performance and the number of agents and officials working in the migrant detention centers. Similarly, it is influenced by the duration of the detention, as its prolongation creates a sense of boredom and frustration for the detainees. Over time, issues such as limited telephone access, the little variety in food, and the shortage of recreational activities are experienced more intensely. The most serious deficiency concerns medical care since many migrant detention centers have no permanent medical service. Additionally, there are gaps in psychological and psychiatric care as well as weaknesses in the detection and treatment of withdrawal symptoms. Furthermore, when kits with basic hygiene items are in short supply, laundry detergent is supplied for personal hygiene use, despite its potentially harmful effects on the skin. It is to be welcomed that, unlike most migrant detention centers, the facility in Ciudad Juárez has a laundry service. The availability of this service might be less feasible in busier migrant detention centers, but it would offer migrants health and hygiene benefits, since they would not be constantly surrounded by wet clothes.

Harmful and Illegal Practices. In the migrant detention centers the occurrence of harmful, if not illegal, practices is common and is largely due to the hiring of unsuitable staff, low salaries, and the lack of oversight and control of on-duty personnel. Although the *Operating Rules for the Migrant Detention Centers* prohibit any sort of commercial activities in these facilities, the acquisition –by direct purchase or by request– of different products such as coffee, water, sodas, popcorn, cookies, chewing gum, chips, cigarettes, and phone cards is allowed. Thus, objects that could endanger human lives are brought onto the premises, for example cigarettes which could be used to start fires. In addition, INM staff and migrants profit from the sale of products inside the migrant detention centers, taking advantage of many individuals' poor knowledge of local prices or the fact that migrants are required to buy telephone cards in order to make calls. In certain migrant detention centers, such as that of Acayucan, migrants of different nationalities, especially Cubans, purchase products through the cleaning staff and sell them to other migrants at much higher prices. A complementary arrangement has INM agents pick up the money that family members of detainees send through Western Union or MoneyGram. Since migrants do not know what fees these companies charge, they are also unaware whether the agents are keeping a part of that money for themselves. Moreover, drug sales, particularly in the migrant detention center in Iztapalapa, are common. Likewise, in several migrant detention centers cases of extortion –alleged or proven– by INM personnel have been reported. Citizens from countries that are farther from Mexico are more likely to be victims of attempted or actual extortion, since they are willing to pay large sums of money to avoid both deportation and the need to repeat a very long journey.

Alternatives to Detention. In Mexico, the debate over alternatives to migrant detention is still new. Given that undocumented migrants, upon entering the country irregularly, are not committing a crime but an administrative violation, they should not be deprived of their liberty. However, instead of being an exception, migrant detention has become the norm in Mexico. The legal concept of custody permits private actors, such as civil society organizations or consuls, to house undocumented migrants provided certain requirements are met. However, these requirements are usually too burdensome to allow for a more widespread use of private custody. Currently, the Migration Law only establishes alternatives to detention in cases of unaccompanied migrant children and adolescents. Under the leadership of IDC Americas, a pilot program is being implemented to ascertain whether alternatives to migrant detention are feasible in a transit country like Mexico. If so, it would be possible to advocate for the application of alternatives not only

for children and adolescents, but also for other categories of migrants such as pregnant women and asylum or refugee seekers.

The Deportation of Undocumented Migrants

The Lack of External Monitoring. Similar to migration control operations, deportations are usually hidden from public view. Consequently, little empirical information is available on the treatment of migrants following their departure from migrant detention centers. Although the Human Rights Ombudsman of Guatemala used to monitor repatriations on the Mexico-Guatemala border, this monitoring ceased after budget cuts forced this office to focus on deportations from the United States. This gap suggests that there is an urgent need for a monitoring mechanism by public or private human rights bodies.

The Treatment of Migrants. Based on migrant testimonies, human rights defenders report that INM agents take personal effects from deportees as they leave the detention facilities. Interviews with migrants also reveal that deportations take place right after individuals have been discharged from hospitals and still find it difficult to walk. Even though there are many known cases of abuse, usually migrants do not file formal complaints, partly for fear of retaliation.

Extortions. A remarkably persistent problem is the extortion of economically better-off undocumented migrants, usually of Cuban, Chinese or Indian nationality. After entering migrant detention centers, they are offered an exit permit in exchange for very substantial payments. Those who are unable to pay what is demanded of them are deported. Migration restrictions that impose more onerous requirements for foreigners of certain nationalities make corruption easier at this stage in the administrative process.

A Regional Migration Policy

While the National Migration Institute will need to make changes to aspects of both institutional and migration management so that its actions may be more transparent and the treatment of migrants more rights-respecting, the issue of migration goes far beyond the actions of the INM. The governments of Central America and Mexico will need to foster community development so that migration becomes an option, but not a necessity for a better standard of living. The government of the United States of America, for its part, will need to develop a migration policy which manages both to satisfy labor demands and to allow foreign nationals in search of job options to settle in that country in a dignified and secure manner.¹⁷ In this context, the United States has the opportunity to invest fewer resources in border security, which has already heavily increased in recent years, and to divert more resources towards institutional strengthening (for example, a migration training academy in Mexico) or towards community development in Central America.¹⁸

Unless there are changes in the status quo of migration policy and its associated focus on national security, the pressure on Mexico—especially on the INM—to stop the flow of undocumented migrants through detection, detention, and deportation will not subside. If we add to this—in the case of the INM—the lack of procedures in certain areas (such as the use of force), the current deficiencies in personnel recruitment and training, low salaries for ground-level staff, migration restrictions that do nothing but foster corruption,

¹⁷ Demetrios G. Papademetriou, Doris Meisner and Eleanor Sohnen, *Thinking Regionally to Compete Globally: Leveraging Migration & Human Capital in the U.S., Mexico, and Central America* (Washington, DC: Migration Policy Institute and Woodrow Wilson Center, 2013).

¹⁸ Adam Isacson and Maureen Meyer, *Beyond the Border Buildup: Security and Migrants Along the U.S.-Mexico Border* (Washington, DC: WOLA, 2012).

and weak oversight and control mechanisms, it is unlikely that the performance of INM public servants will improve, to the detriment of migrants.

General Recommendations:

1. Stop viewing migration from a national security perspective and move the focus towards a citizen security framework. Additionally, lift the declaration which converted the National Migration Institute into a national security agency.
2. Promote a restructuring of the National Migration Institute to strengthen its internal management and procedures.
3. Redirect budgetary spending within the National Migration Institute into its professional development, rather than into operations in the interior of the country.
4. Create a civilian oversight agency over the National Migration Institute to expand and strengthen its accountability mechanisms in order to promote the INM's professional development and respect for migrant rights.
5. Expand access to information and increase transparency so that all citizens can learn about the administrative and operational activities of the National Migration Institute and may, when necessary, promote institutional and procedural reforms.
6. Develop oversight and control mechanisms that enable middle and senior management in the National Migration Institute to learn about their subordinates' actions and possible omissions and, when appropriate, to take the necessary preventive and/or corrective measures.
7. Strengthen the internal communication and coordination of the National Migration Institute so that administrative and operational procedures are followed and carried out in compliance with the regulatory framework.
8. Professionalize and harmonize the processes of recruitment, selection, and appointment of public servants of the National Migration Institute so that all staff have the levels of education, experience, and integrity that their work demands.
9. Establish an initial training program and develop existing training programs to ensure that personnel are well-qualified from the moment of joining the National Migration Institute and that proficiency tests are administered to its agents and officials.
10. Create a protocol regulating the use of force by migration agents and provide the necessary training to ensure that National Migration Institute personnel are adequately trained in conflict prevention and management.
11. Increase and facilitate access to the migrant detention centers of the National Migration Institute so that more individuals and organizations, including journalists, can inspect the installations and interview migrants about the treatment and conditions within such facilities.

Specific Recommendations:

To the National Migration Institute

Institutional Management:

1. Annually update all organizational and procedural manuals to ensure all organizational and migration processes are properly carried out.
2. Create and implement all protocols that are required to improve the services provided to migrants and to guarantee full respect of their rights. Immediately design a protocol regulating the use of force by INM personnel to ensure that the criteria of conduct in potentially conflictive situations are not left to the discretion of public servants.
3. Publish all organizational and procedural manuals to make INM management more transparent.
4. Widely disseminate the legal-administrative framework of the INM among all its personnel to ensure they are aware of and know how to apply established procedures.
5. Unify criteria of conduct and reduce the margins of discretion of the Federal Delegations to afford migrants the legal security they are entitled to under the law.
6. Redirect budget spending within the National Migration Institute so that fewer of its resources are spent on operations in the interior of the country and more on the Institute's professional development and its work at points of entry and in administrative offices.
7. Revise the job profiles of agents and officials at all levels and undertake recruitment in strict accordance with their terms to ensure that all staff have the academic credentials and work experience as well as the moral and ethical standards that their position requires.
8. Recruit INM staff among graduates of career fields related to migration and human rights, rather than police backgrounds, so that the INM can become the administrative entity it should be and does not develop the vision and actions of a police institution.
9. Abstain from recruiting staff based on personal relations, family ties or political connections in order to eliminate favoritism within the INM.
10. Establish a professional career service to ensure the INM has professional staff and the frequency of personnel turnover is reduced.
11. Establish a migration training academy that provides initial and continuous training to ensure all current and future public servants of the INM have the necessary knowledge from the moment of joining the Institute. If a lack of resources impedes the creation of such an academy, a similar project to the International Law Enforcement Academy (ILEA) in San Salvador might be considered. Initially, that academy was financed by the United States, and subsequently the host country assumed the operational costs.

12. Sign agreements with public and private institutions to expand the number of installations and instructors so that training can be delivered in different regions of the country, travel costs be reduced, adequate facilities exist for the specialized courses that INM agents and Beta Group members require, and teaching staff is increased.
13. Revise the training program to ensure the academic offer is progressive.
14. Establish objective criteria for the selection of participants in order to give all personnel equal opportunity to take courses that reflect their interests and needs and that allow them to develop their career plan.
15. Create and implement a training strategy in order to establish a coherent academic offer and develop a human rights culture within the INM.
16. Create and administer, without exceptions, proficiency exams to all participants of initial and continuous training courses in order to determine the level of competencies acquired.
17. Establish and implement a training course tracking system to ascertain how agents and officials apply their acquired knowledge to their daily work.
18. Establish measures that improve the economic situation of ground-level staff and dignify workplace conditions in order to compensate for low salaries and encourage employees to strive for excellence.
19. Strengthen the promotions system so that promotions cease to entail almost exclusively lateral mobility and involve primarily upward mobility. When senior-level positions become available, give preference to qualified internal candidates over external candidates. Furthermore, transform the promotions system to cover all levels and allow federal migration agents to rise to Commissioner of the Institute.
20. Carry out specific reliability controls and administer them, without exception, to all agents and officials for admission, retention, and promotions in order to reduce discriminatory attitudes, criminal behavior, and conduct in violation of human rights.
21. Actively collaborate with the Office of Internal Control and the Public Prosecutors' Offices to investigate, prosecute, and impose administrative or criminal sanctions on public servants who have committed acts of corruption, crimes, or human rights violations.
22. Design and implement a sanctions system to provide strong sanctions which go beyond the removal of one's duties. Additionally, publish the details of each sanction, including the name of the public servant and the acts committed, in order to counter impunity and restore credibility and confidence in the INM.
23. Stop viewing the unionization of INM workers as a barrier to their termination. If public servants have committed illegal acts or human rights violations, actively collaborate with the investigative agencies to build cases against these employees.
24. Design and implement an oversight system which permits effective control of on-duty personnel, regardless of their duties and place of assignment so that middle and senior management are aware, at all times, of their subordinates' actions and, when necessary, can take the appropriate measures.

25. Ensure that all INM personnel, without exception, wear their uniform during working hours. Have surnames sewn into the uniforms so that individuals who have interacted with public servants can identify them by their name.
26. Guarantee, regardless of structural changes, that the Office of Internal Control in the INM has the appropriate number of personnel required to function effectively.
27. Design and implement a more comprehensive accountability system to enable effective collaboration between internal and external accountability mechanisms. Establish a civilian oversight body that monitors and evaluates, in an impartial and independent manner, the INM's performance in all its dimensions and publishes its findings in order to strengthen the Institute's management.
28. Increase and improve indicators to allow more reliable quantitative and qualitative evaluations of both INM personnel and programs.
29. Improve collection and storage of quantitative and qualitative data to expand and deepen the analysis of migration dynamics, migrant abuse, and the actions of the National Migration Institute.
30. Allow satisfaction surveys, which are conducted annually in different places of operation of the INM, to be conducted by an external entity in order to guarantee the impartiality of the findings.
31. Consider the creation of a transparency platform –subject to due protection of personal data– that allows interested third parties to monitor the detention and deportation proceedings of migrants held in detention facilities.
32. Professionalize INM archives –through the recruitment of specialized personnel, the gradual digitalization of records, and improvements in the classification and conservation of records– in order to optimize archival management.
33. Facilitate public consultation of the INM's archives to make the Institute's institutional and migration management more transparent.

Protection and Assistance:

34. Establish objective criteria for the selection of Child Protection Officers to ensure that suitable candidates obtain this specialization.
35. Include, in the medium and long term, OPI courses in the training of all migration agents to achieve a generalized improvement in the care for vulnerable groups.
36. Consider recruiting external candidates who have specialized training in the treatment of vulnerable groups and can dedicate themselves exclusively to their accompaniment for as long as necessary.
37. Revise the current deployment of the Migrant Protection Groups (Beta Groups) to ensure their members are working in those areas of the country where their assistance is most needed.

38. Ensure that Beta Group members meet the established profile so that protection agents show, without exception, a commitment to migrant rights.
39. Ensure that Beta Group members do not discourage human rights complaints by migrants.
40. Undertake an impact study of the Beta Groups to analyze their possible redesign and the desirability of their future within the INM. Specifically, assess their incorporation into Civil Protection and –in the medium and long term– their possible disappearance as progress is being made with the design and implementation of a less restrictive migration policy and with the improvement of security conditions in Mexico, since the Beta Groups only respond to the need of undocumented migrants to travel clandestinely and in high-threat areas.
41. Actively collaborate with other Mexican government agencies in the prevention and suppression of crimes against migrants.
42. Ensure that the Federal Delegations neither discourage humanitarian visa applications nor give preference to the issuance of exit permits. Ensure recipients of humanitarian visas find all the social and institutional support they need to follow-up on their cases and develop a life plan.

Migration Control and Verification:

43. Clarify the criteria of conduct of the security forces that participate, upon request by and under the command of, the INM in migration enforcement actions so as to minimize possible abuses against migrants.
44. Stop migration control operations in the interior of the Republic and limit migration checks to the country's points of entry in order to halt persecutions and reduce migrant rights violations.

Migrant Detention:

45. Increase access both to migrant detention centers and to detained migrants in order to make the management of these facilities more transparent and permit the unrestricted conduct of human rights monitoring, legal advice, and journalistic work.
46. Reduce, as much as possible, the duration of migrant detention so that individuals who have committed an administrative violation and not a crime, are not unnecessarily deprived of their liberty. Streamline transport between migrant detention centers to reduce detention times.
47. Convert, in the short and medium term, migrant detention centers into larger facilities to give detainees more recreational space.
48. Ensure that detained migrants are given timely and adequate information about their detention times and deportation proceedings to reduce uncertainty and possible conflicts.
49. Ensure that detained migrants receive legal defense, if they so wish, so that they can defend themselves against the administrative proceedings they face.

50. Ensure migrants are properly informed of their right to request asylum or refuge and are not discouraged from making such applications so that they receive all the protection afforded to them by law.
51. Ensure that migrants have sufficient telephone access. Whenever possible, allow them one free telephone call and permit them to receive calls in order to reduce the purchase of telephone cards. In this context, seek private company sponsorship to diminish the financial burden on both the INM and migrants.
52. Standardize migrant care criteria so that services provided in all migrant detention centers have the same quality standards.
53. Ensure –by recruiting specialized personnel and/or signing agreements– the quality and continued availability of medical services so that migrants receive the medical care they require.
54. Ensure that medical examinations are carried out thoroughly to detect and adequately treat sickness, disease, withdrawal symptoms, and other medical conditions in order to afford patients the required treatment and to avoid aggressive behavior by those affected.
55. Guarantee the availability of medications, including those painkillers that might be required by maimed migrants, and ensure medications are not about to expire.
56. Guarantee –by recruiting specialized personnel and/or signing agreements– the availability of psychological and psychiatric care to individuals with mental health problems, migrant victims of crime, and maimed migrants whenever such treatment is required.
57. Actively collaborate with public and private entities to ensure that maimed migrants receive prosthetics during their stay in Mexico.
58. Collaborate with public and private institutions in the development of alternatives to migrant detention so that, in the medium and long term, migrant detention is no longer the norm and becomes an exception.

Deportation:

59. Ensure that sick or maimed migrants who are not in optimal health are not returned to their countries of origin.
60. Guarantee that INM public servants do not abuse migrants in any way after their departure from migrant detention centers.

To the Secretariat of the Interior

61. Immediately clean up the public security forces so that state agents protect all people within Mexican territory, especially the most defenseless ones, instead of attacking them.

- 62. Ensure that security forces –through prevention and investigation, not direct attacks on criminal groups– reduce crime and violence throughout Mexican territory, including migrant routes.
- 63. Consider police deployments outside of public and private shelters that give refuge to migrant victims or witnesses to crime to ensure said facilities have sufficient security.
- 64. Assist, through the Migration Policy Unit, in the creation of a regional migration policy that involves the United States, Mexico, and Central America in order to define a coherent, comprehensive and more humane approach towards migration.
- 65. Increase the quantity and quality of academic research in the Center for Migration Studies of the Migration Policy Unit, through the production of more qualitative studies as well as agreements with academic institutions and civil society organizations, to broaden and deepen scientific knowledge about migration in Mexico and the migration authorities.

To the Secretariat of Foreign Affairs

- 66. Assist –through the respective Under-Secretariats– in the creation of a regional migration policy for the United States, Mexico, and Central America, with the medium and long-term goal of achieving a more humane migration policy and management which is more in accordance with labor needs in the region.
- 67. Assist in the protection of migrant rights in Mexico, regardless of migrants' legal status, instead of merely defending the Mexican state against alleged human rights violations.

To the National System for Comprehensive Family Development

- 68. Strengthen cooperation between the National System for Comprehensive Family Development and the Child Protection Officers to create more effective protection for vulnerable groups.
- 69. Actively collaborate in the development of alternatives to migrant detention so that –in the medium and long term– migration detention becomes an exception and undocumented migrants can await the outcome of their situation in more dignified places.

To the National Commission of Human Rights

- 70. Act in an independent manner and place commitment to human rights above political and/or personal agendas.
- 71. Act less like a human rights bureaucracy that puts emphasis on the receipt of complaints and the issuance of recommendations, and act more like an authentic human rights body that investigates and reports migrant rights violations in a more proactive manner.
- 72. Ensure new hires have not committed unlawful acts or human rights violations in the exercise of their duties in other institutions.

- 73. Increase the number of personnel, especially in the field offices, in order to augment the number of visits made to migrant detention centers and the number of interviews conducted with migrants.
- 74. Improve the collection and storage of data on migrant rights violations in order to respond in a timely manner to information requests, detect patterns in human rights violations, and publish –through reports and general recommendations– analyses of such abuses.
- 75. Publish a greater number of reports and general recommendations about migrant rights violations as well as INM actions to allow a better understanding of the situation of migrants and the Institute's performance.
- 76. Increase collaboration with the State Commissions of Human Rights to improve the monitoring of migrant rights both in the migrant detention centers and other places of operation of the INM.
- 77. Augment collaboration with civil society organizations to broaden and strengthen human rights monitoring in migrant detention centers and to improve the protection and care for migrants.

To the State Commissions of Human Rights

- 78. Revise job profiles in order to ensure the individuals who interview and/or provide services for migrants have the necessary knowledge and skills.
- 79. Stop viewing migration as a federal issue that is solely the responsibility of the National Commission of Human Rights and play a greater role in the matter in the respective jurisdictions.
- 80. Increase coordination with the National Commission of Human Rights and with civil society organizations to broaden and deepen human rights monitoring both in the migrant detention centers and other places of operation of the INM.

To the National Center of Certification and Accreditation

- 81. Modernize the national model of reliability controls to allow for the evaluation of specific risks, reduce the number of inconclusive test results, and ensure that public institutions have suitable personnel.

To the Public Prosecutor's Office

- 82. Strengthen investigative capacities and carry out effective investigations which succeed in reducing impunity in cases of migrant rights violations.
- 83. Investigate money transfer companies to apprehend individuals who make illegal collections and to reduce extortion of migrants.

To the National Security Council

84. Lift the INM's designation as a national security agency to increase the transparency of its institutional and migration management, including access to migrant detention centers, and to allow migration policy and management to be implemented from a perspective of citizen security.

To the Public Health System

85. Interpret the Migration Law in a comprehensive manner and cooperate with other public and private institutions in order to provide migrants with all the necessary medical, psychological, and psychiatric care, including prosthetics for migrants who were maimed during their transit through Mexico.

To the Public Administration Agencies and Entities at all Levels

86. Improve collection and storage of quantitative and qualitative data to broaden and deepen the analysis of migration in Mexico, migrant abuse, and institutional actions.
87. Strengthen inter-institutional collaboration to improve migrant protection and care.

To the President of the Republic

88. Construct more comprehensive and effective security and development policies that permit a sustainable reduction of crime and violence, and provide more dignified job and education opportunities so that migration becomes a right and does not remain a necessity.

To the Congress of the Republic

89. Adopt a political position that is much more determined, proactive, and informed regarding the promotion and respect of migrant rights.
90. Establish clear criteria that facilitate access to migrant detention centers in order to expand and deepen human rights monitoring and legal advice in such centers.
91. Reduce migration restrictions in order to minimize the corruption that can occur in migrant entry and regularization processes.

To the Academia

92. Increase and deepen research –using innovative methods– about the actors of migration and the actions of the migration authorities.
93. Research the effectiveness of reliability controls applied in the National Migration Institute.

To Civil Society Organizations

94. Achieve financial consolidation in order to recruit and retain qualified staff, develop institutional professionalization, and maximize the impact of work.
95. Overcome ideological and advocacy-related divisions in order to increase collaboration among actors with similar ideas, consolidate the political voice, and strengthen migrant protection and care.
96. Strengthen research and advocacy capacities to improve the capacity for proposals and dialogue with the authorities.
97. Improve the capacity to collect, store, and disseminate quantitative and qualitative data about migrant rights violations to support complaints and reports brought before the CNDH and the Public Prosecutor's Office.
98. Expand and increase –through peer collaboration– human rights monitoring both in the migrant detention centers in the Mexican Republic and in other places of operation of the INM in order to increase knowledge about the treatment of migrants in the processes of protection and assistance, migration control and verification, migrant detention, and deportation.
99. Make greater and better use of the right of access to information in order to obtain –through information requests and appeals– more information about INM actions.
100. Have organizations with expertise in transparency, accountability, and access to information provide training to other organizations to enable them to utilize the entire process of access to information in the best possible way.
101. Expand awareness activities in Mexican society around the issue of migration in order to increase political pressure on the authorities and generate the political will necessary for a more rational and humane migration policy and management.

The production of the **Executive Summary** of the **Assessment Study of the National Migration Institute** was completed in digital form in Mexico City on January 29, 2014.

The National Migration Institute (Instituto Nacional de Migración, INM) is a key actor in migration management that has been marked by secrecy and opacity. This opacity contradicts the Institute's legal obligation to make its performance transparent and to report on it. At the same time, it impedes the creation of mechanisms that foster transparency, access to information, and accountability. Since the INM is the government agency mandated to apply the regulatory framework on migration and to assist migrants whatever their legal status, and given the apparent lack of a solid institutional structure as well as the existence of systematic migrant rights violations, Insyde A.C. considered it essential to undertake an in-depth assessment of the INM with a view to developing specific recommendations to improve its workings as well as the performance systems and procedures of its agents in order to reduce the human rights violations that are being systematically committed against the migrant population passing through Mexico. This publication constitutes the first comprehensive study of the INM that examines different aspects of its institutional management as well as its procedures and practices in the areas of protection and assistance, migration control and verification, migrant detention, and the deportation of undocumented migrants.

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