

Case No. P-652-16

**BEFORE THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS  
OF THE ORGANIZATION OF AMERICAN STATES**

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SECOND REQUEST FOR HEARING ON PETITION REGARDING SYSTEMATIC VIOLATIONS OF THE AMERICAN CONVENTION ON  
HUMAN RIGHTS AND OTHER INTERNATIONAL COVENANTS AGAINST CENTRAL AMERICAN MIGRANTS IN MEXICO

*Submitted on behalf of petitioners*

Adolescentes en el Camino  
AI Justice  
Alianza Americas  
Atlas: DIY  
Bartimaeus Cooperative Ministries  
Cal-Pac Immigration Task Force of the United Methodist Church  
Churches for Action  
Casa de Esperanza  
Center for Human Rights & Constitutional Law  
Central American Resource Center, Los Angeles  
Central American Resource Center, Washington, DC  
Clergy and Laity United for Economic Justice  
Conversations With Friends  
Estancia del Migrante González y Martínez Farmworker Association of Florida, Inc.  
Florida Immigrant Coalition  
Friends of Broward Detainees  
Immigrant Defenders Law Center  
Immigration Counseling Service  
Interfaith Communities United for Justice and Peace

Justice and Compassion Ministries, United Methodist Church, Cal-Pac Conference  
La Frontera Ministries International Inc.  
La Raza Centro Legal  
La 72 Hogar-Refugio  
LatinoJustice PRLDEF  
Movimiento Migrante Mesoamericano  
National Immigration Project of the National Lawyers Guild  
North Hills United Methodist Church Mission  
Presbytery of the Pacific  
Program Group on Global Partnership, Episcopal Diocese of Los Angeles  
Red Mexicana de Lideres y Organizaciones Migrantes  
Safe Passage Project, New York Law School  
School of the Americas Watch  
Sisters of Mercy West Midwest Justice Team  
The Advocates for Human Rights  
USC-Gould School of Law International Human Rights Clinic  
Jesus Castro, and  
Gedalias Soto

*against*

United States of America and United Mexican States

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## I INTRODUCTION

On April 14, 2016, 37 non-governmental organizations and individuals petitioned this Commission to intercede on behalf of persons fleeing horrific violence in Central America's "Northern Triangle"—the states of El Salvador, Honduras and Guatemala—whom the United States of America ("United States") and the United Mexican States ("Mexico") are systematically interdicting and summarily deporting in violation of international proscriptions against the *refoulement* of refugees.

On October 6, 2016, petitioners requested the Commission convene a hearing during its 159th and 160th sessions pursuant to Articles 62, 64, 65 and 66 of the Rules of Procedure of the IACHR to receive evidence relating to the admissibility of the underlying petition, verification of the facts alleged therein, and the suitability of precautionary measures, or in the alternative, to receive evidence relating to the human rights situation of Central Americans interdicted in Mexico at the behest of the United States.

This Commission did not respond to petitioners' request for a hearing; petitioners now renew their request that this Commission turn its attention to the plight of thousands of Central Americans whose human rights the United States and Mexico continue to violate with impunity, and with increased aggression and intensity. Whether via the instant request or through other means, it is time for this Commission to address this ongoing human rights tragedy.

As fully documented in the underlying petition,<sup>1</sup> violations of human rights against Central Americans interdicted in Mexico increased dramatically with the advent of the so-called Comprehensive Plan for the Southern Border, or *Plan Frontera Sur*, in July 2014, and they show no sign of abating anytime soon. To the contrary, growing numbers of Central Americans continue to enter Mexico to escape endemic violence in the Northern Triangle countries.

Tragically, women and children are disproportionately the victims of this violence. The United Nations High Commissioner on Refugees (UNHCR) has accordingly designated women and children as particularly deserving of international protection. See UNHCR, *Children on the Run: Unaccompanied Children Leaving Central America and Mexico and the Need for International Protection* (2014), available at [www.unhcrwashington.org/children](http://www.unhcrwashington.org/children) (last visited April 7, 2016); UNHCR, *Women on the Run, First-Hand Accounts of Refugees Fleeing El Salvador, Guatemala, Honduras, and Mexico* (2015), available at [www.unhcr.org/5630f24c6.html](http://www.unhcr.org/5630f24c6.html) (last visited April 7, 2016).

In a markedly pitiless response to this tragedy, beginning in mid-2014 the government of Mexico, with financial, material and technical support from the United States, exponentially increased the interdiction of Central Americans so as to prevent them from seeking refuge in the United States. Under *Plan Frontera Sur*, Mexico increased deportations to the Northern Triangle by a staggering 71 percent; it now detains and departs more Central Americans than does the United States. WASHINGTON OFFICE ON LATIN AMERICA (WOLA), *A Trail of Impunity:*

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<sup>1</sup> Available at [http://centerforhumanrights.org/PDFs/IACHR\\_PFS\\_Petition.pdf](http://centerforhumanrights.org/PDFs/IACHR_PFS_Petition.pdf).

*Thousands of Migrants in Transit Face Abuses amid Mexico's Crackdown*, September 20, 2016, available at [www.wola.org/analysis/a-trail-of-impunity](http://www.wola.org/analysis/a-trail-of-impunity) (last visited September 21, 2016).<sup>2</sup>

Voluminous evidence establishes that in prosecuting *Plan Frontera Sur*, Mexico and the United States are systematically denying Central Americans any meaningful access to international protection, no matter how compelling their need, but are instead summarily deporting thousands to jurisdictions in which they will face a clear probability of suffering violence or death. The underlying petition demonstrates that the mechanisms by which the respondent states carry out these mass deportations are essentially three:

First, the respondent governments create and condone conditions of hyper-violence and impunity in which upwards of 90 percent of Central American refugees are raped, robbed, or assaulted—often multiple times—and even murdered, as they flee even greater danger in the Northern Triangle. Not only are the unchecked crime and violence against Central Americans in Mexico clear human rights violations in and of themselves, such impunity unlawfully deters refugees from seeking international protection, which both Mexico and the United States are legally bound to confer.

Second, Mexico systematically detains interdicted Central American asylum-seekers for howsoever long as it may take to adjudicate their protection claims. The evidence shows that Mexico virtually never releases Central American asylum-seekers, but instead consigns them to

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<sup>2</sup> Even before the *Plan Frontera Sur*, this Commission voiced grave concerns over Mexico's treatment of migrants and refugees. In 2013 the Commission noted that violations of international law against migrants and refugees transiting Mexico were commonplace. INTER-AMERICAN COMMISSION ON HUMAN RIGHTS (IACHR), *Human Rights of Migrants and Other Persons in the Context of Human Mobility in Mexico*, OEA/Ser.L/V/II, Doc. 48/13, December 30, 2013. Mexico's systematic violations of human rights have only increased under the *Plan Frontera Sur*.

“migration stations” for the duration of their claims. This mass, indiscriminate administrative detention of asylum-seekers with valid protection claims and who are fleeing credible threats of persecution clearly violates international law.

Further, interdicted Central Americans report experiencing treatment and conditions in Mexico’s migrant detention facilities that are palpably inhumane. Overcrowding, poor sanitation, substandard food, and mistreatment discourage all but the most stalwart from enduring confinement long enough to see protection claims through formal adjudication.

Finally, victims and human rights defenders report rampant collusion between Mexican law enforcement officials at the local, state and federal levels, including immigration agents, with members of organized crime along the southern border that terrorize, rob, rape, kidnap and even murder migrants as they seek safe passage and asylum. Migrant shelters like “La 72” in Tenosique in the southern state of Tabasco have reported seeing a 25 percent increase in the number of migrants received in 2016, but also a 100 percent increase in the number of human rights violations (that often include acts of violence), including a 600 percent increase in the number of reports of sexual violence committed against migrants once in Mexico. In 2016, they calculated approximately 1,500 human rights violations committed against migrants they assisted, and each one was reported to local Mexican law enforcement agencies. Not a single incident that was reported was responded to by local police with any follow-up, investigation or prosecution.

When the above mechanisms fail, a third component of the *Plan Frontera Sur* delivers a *coup de grâce*: respondents systematically deny Central Americans any semblance of a fair

procedure by which they may prove their eligibility for asylum or other protected status in Mexico.

Underscoring this systematic flouting of international proscriptions on the *refoulement* of refugees, the UNHCR has called for “for urgent action to help hundreds of people fleeing violence in Central America ... to ensure that unaccompanied children and others receive the protection to which they are entitled...” UNHCR, *UNHCR calls for urgent action as Central America asylum claims soar* (April 5, 2016), available at [www.unhcr.org/news/latest/2016/4/5703ab396/unhcr-calls-urgent-action-central-america-asylum-claims-soar.html](http://www.unhcr.org/news/latest/2016/4/5703ab396/unhcr-calls-urgent-action-central-america-asylum-claims-soar.html) (last visited January 10, 2017).

Evidence of systematic human rights violations against Central Americans in Mexico has continued to mount:

- In October 2016, the Mexican government’s *Comisión Nacional de los Derechos Humanos* (CNDH) reported that during 2015, Mexico apprehended 36,174 migrant juveniles, nearly two-thirds of whom it unlawfully consigned to *estaciones migratorias*: *i.e.*, adult detention facilities wholly inappropriate for housing young asylum-seekers. CNDH, *INFORME SOBRE LA PROBLEMÁTICA DE NIÑAS, NIÑOS Y ADOLESCENTES CENTROAMERICANOS EN CONTEXTO DE MIGRACIÓN INTERNACIONAL NO ACOMPAÑADOS EN SU TRÁNSITO POR MÉXICO, Y CON NECESIDADES DE PROTECCIÓN INTERNACIONAL*, October 2016, at 101, available at [www.cndh.org.mx/sites/all/doc/Informes/Especiales/Informe\\_NNACMNA.pdf](http://www.cndh.org.mx/sites/all/doc/Informes/Especiales/Informe_NNACMNA.pdf) (last visited January 10, 2017). During the first six months of 2016, Mexico apprehended 19,383 juveniles, including 9,326 unaccompanied children, the vast majority of whom

were likewise detained in *estaciones migratorias* or other wholly inappropriate facilities.  
*Id.*

- The CNDH now reports having received 881 complaints of human rights violations against migrant children in the past six years. *Id.* at 241.
- In October 2016, the CNDH confirmed the prevalence of substandard conditions in Mexico's *estaciones migratorias*. CNDH, *Comunicado de Prensa DGC/263/16* (October 14, 2016), available at [www.cndh.org.mx/sites/all/doc/Comunicados/2016/Com\\_2016\\_263.pdf](http://www.cndh.org.mx/sites/all/doc/Comunicados/2016/Com_2016_263.pdf) (last visited January 10, 2017). Among other deficiencies, detained migrants and refugees are denied bedding, natural light, ventilation, hygiene, and medicines. *Id.* The *estaciones migratorias* also lack facilities for the many unaccompanied children, adolescents, and persons with disabilities Mexico is detaining pursuant to the *Plan Frontera Sur*.
- In November 2016, NGO Washington Office on Latin America (WOLA) reported that “migrants [in Mexico] are frequently victims of kidnappings and ransom demands, human trafficking, sexual assault, robbery, and even murder. Local and federal agencies are involved in these crimes, including the Federal Police and the National Migration Institute (*Instituto Nacional de Migración*, INM), the lead agencies involved in Mexico's migration enforcement efforts.” WOLA, *Migrants in Transit Face Crimes and Human Rights Abuses*, November 20, 2016, available at [www.wola.org/analysis/migrants-transit-face-crimes-human-rights-abuses-mexican-government-prioritizes-detention-deportation-protection/](http://www.wola.org/analysis/migrants-transit-face-crimes-human-rights-abuses-mexican-government-prioritizes-detention-deportation-protection/) (last visited January 10, 2017).

- WOLA further reports that the Mexican government continues to “prioritize[] detention and deportation over protection,” and that “the number of people recognized as refugees or qualifying for some form of protection in Mexico is shockingly low when compared with the total number of apprehensions.” *Id.* Although it recently announced it will increase the number of asylum officers from 15 to 44 nationwide, Mexico is simultaneously proposing to *cut* funding for the *Comisión Mexicana de Ayuda a Refugiados* (COMAR)—the nation’s refugee adjudication agency—for 2017 by some six percent, despite doubling the interdiction and deportation of migrants. *Id.*<sup>3</sup>
- The U.S. Department of State was recently compelled to release documents under the Freedom of Information Act revealing that early U.S. funding for the *Plan Frontera Sur* surpassed \$86 million. Email and attachment, “Mexico: UAC Cooperation,” July 22, 2014, *available at* [www.centerforhumanrights.org/PFS\\_Petition/DOS\\_Docs\\_116&118.pdf](http://www.centerforhumanrights.org/PFS_Petition/DOS_Docs_116&118.pdf) (last visited January 10, 2017). Official State Department documents further disclose that Mexico’s government “has identified an additional \$87.2 million in requirements...,” *id.*, and that the U.S. knows or should know of the systematic violations of human rights associated with Mexico’s prosecution of the *Plan Frontera Sur*. *See, e.g.*, Email from R. Morgan

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<sup>3</sup> Even were Mexico to maintain COMAR’s funding at current levels, it would spend an astonishing 471 times more to interdict and deport migrants than it would on adjudicating claims for international protection. Animal Político, *Migración triplica su gasto, pero deja a migrantes detenidos en condiciones precarias* (March 11, 1016), *available at* [www.animalpolitico.com/2016/03/migracion-triplica-su-gasto-pero-deja-a-migrantes-detenidos-en-condiciones-precarias/?utm\\_source=Hoy+en+Animal&utm\\_campaign=6af1c10cdb-ga&utm\\_medium=email&utm\\_term=0\\_ae638a5d34-6af1c10cdb-392928349](http://www.animalpolitico.com/2016/03/migracion-triplica-su-gasto-pero-deja-a-migrantes-detenidos-en-condiciones-precarias/?utm_source=Hoy+en+Animal&utm_campaign=6af1c10cdb-ga&utm_medium=email&utm_term=0_ae638a5d34-6af1c10cdb-392928349) (last visited January 10, 2017).

(Mexico City) to DOS Office of Mexico Affairs, January 7, 2016, *available at* [www.centerforhumanrights.org/PFS\\_Petition/DOS\\_Doc\\_766.pdf](http://www.centerforhumanrights.org/PFS_Petition/DOS_Doc_766.pdf) (last visited January 10, 2017) (characterizing WOLA report on human rights violations against migrants and refugees as "the best synopsis of NGO complaints...").

In sum, it is evident that the United States and Mexico are denying the vast majority of Central Americans any realistic chance of receiving asylum or other protection in Mexico and are instead subjecting thousands to near-automatic detention and *refoulement* in clear violation of both the American Declaration and the American Convention on Human Rights.

II THIS REQUEST MEETS ALL REQUIREMENTS OF ARTICLES 62, 64 AND 65 OF THE RULES OF PROCEDURE OF THE IACHR.

Pursuant to Article 62, this Commission may hold a hearing to "receiv[e] information from the parties with respect to a petition or case being processed before the Commission, ... precautionary measures, or general or particular information related to human rights in one or more Members States of the OAS."

Article 64, provides that in conducting hearings on petitions the Commission may receive "oral or written presentations by the parties relative to new facts and information ... [regarding] admissibility; ... the verification of the facts; the merits of the matter; ... or any other matter pertinent to the processing of the petition or case."

Should the Commission grant a hearing, petitioners propose to present new facts and information concerning the interdiction and *refoulement* of Central Americans in violation of, *inter alia*, Article XXVII of the American Declaration, which provides: "Every person has the right, in case of pursuit not resulting from ordinary crimes, to seek and receive asylum in foreign territory, in accordance with the laws of each country and with international

agreements.” Petitioners also propose to present new evidence demonstrating that Mexico’s recent measures to improve the treatment of Central American asylum-seekers have wholly failed to bring the state into substantial compliance with international proscriptions against the *refoulement* of refugees.

This evidence will support the admissibility of the underlying petition, as well the need for prompt precautionary measures to ameliorate irreparable injury while the Commission adjudicates the underlying petition, including the Commission’s recommending that the Government of Mexico allow representatives of reputable non-governmental organizations reasonable access to migration stations so that they may inform detainees of their rights respecting asylum and other international protection and monitor the treatment and conditions detainees experience during detention. *See generally, Sin Fronteras, Detención Sin Excepción: 15 Años de Monitoreo de la Situación de los Derechos de las Personas Privadas de su Libertad en Estaciones Migratorias de México*, November 2016, at 104, available at [sinfronteras.org.mx/docs/inf/inf-detencion-sin-excepcion.pdf](http://sinfronteras.org.mx/docs/inf/inf-detencion-sin-excepcion.pdf) (“urgent challenges to address include the open and regular participation of an increased number of civil organizations to monitor detention centers [which will require] the INM to grant facilities for access, an exercise of transparency for public scrutiny.”).

Among the new evidence petitioners propose to present is testimony from the following experts:

- Fray Tomás González Castillo, Founder and Director, Albergue de Migrantes “La 72”, Tenosique, Tabasco, Mexico.
- Marta Sanchez Soler, President, Movimiento Migrante Mesoamericano, Mexico City, Mexico.

- Padre Alejandro Solalinde Guerra, Founder and Director, Albergue Hermanos en el Camino, Ixtepec, Oaxaca, Mexico.

III IF THE COMMISSION DECLINES TO HOLD A HEARING ON THE UNDERLYING PETITION, IT SHOULD GRANT PETITIONERS A HEARING OF A GENERAL NATURE PURSUANT TO ARTICLE 66.

Article 66 provides that the Commission may hold a hearings of a general nature on the human rights situation in one or more States, or on matters of general interest, ...”

Although petitioners urge the Commission to grant a hearing on their underlying petition, should the Commission decline to do so it should alternatively hold a hearing of a general nature on the systematic violations of human rights against Central Americans seeking refuge in Mexico.

Petitioners’ purpose in appearing before the Commission pursuant to Article 66 will be to present testimony and evidence demonstrating the systematic interdiction and *refoulement* of Central Americans in and from Mexico at the behest of the United States in violation of, *inter alia*, Article XXVII of the American Declaration.

In summary, the information petitioners propose to furnish will include (1) evidence of increasing levels of criminal violence targeting Central American refugees and effective impunity therefor; (2) evidence that Central Americans are routinely and unlawfully incarcerated so as to deter them from pursuing asylum claims; and (3) evidence that Mexico provides Central Americans wholly inadequate process by which they may establish eligibility for international protection.

This evidence will also demonstrate the need for the Commission to recommend that the Rapporteurships on the Rights of Migrants, Women, Children, and/or Persons Deprived of

Liberty promptly undertake to monitor the human rights situation of Central Americans in Mexico and make visible violations of their rights.

The approximate time required for the presentation of such evidence is two hours; participants will include the expert witnesses identified above, in addition to the testimony of interdicted Central American asylum-seekers.

#### IV CONCLUSION

For the foregoing reasons, the Commission should grant a hearing on petitioners' underlying petition. In the alternative, the Commission should grant petitioners a hearing of a general nature on the systematic violations of interdicted Central American's human rights.

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Respectfully submitted.

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