

**Panel:**

**"HUMAN RIGHTS AND BOY, GIRL AND TEENAGE MIGRANTS."**

## **THE PROTECTION OF THE RIGHTS OF MIGRANT CHILDREN**

**Senator Adriana Gonzalez Carrillo**

I would like to thank the organizers for their kind invitation to participate in the International Colloquium "The Family of the Migrant Worker" to reflect with you on the phenomena of migration and the impact it has on Mexico's southern borders, with special mention of the vulnerability of thousands of boys and girls living in the region.

Without doubt, this forum will contribute to the formulation of proposals that become increasingly necessary to modernize our legal framework and more effectively protect this highly vulnerable sector of the population.

### **Introduction**

The migratory phenomenon has spread to a greater number of countries, acquiring simultaneously greater complexity. According to UN data, the world has about 175 million people living outside their country of birth, i.e. one of every 35 persons is an international migrant. The most recent data show that in 2000-2005, migrants increased by about 16 million.<sup>85</sup>

At the regional level, Latin America has become a very dynamic area in terms of migration. ECLAC data describe the particularities of those flows, where we can see that Ecuador has positioned itself as the largest supplier of illegal immigration in the

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<sup>85</sup> United Nations, Trends in total migrants stock: Revision 2005, New York, Department of Economic and Social Affairs, United Nations, 2006.

European Union. In South America the economic and political crisis and the insecurity caused by war and drug trafficking have led to the displacement of people from Argentina and Colombia; while Venezuela experiences the exodus of professional and technical cadres.<sup>86</sup>

In the case of migration occurring in the northern part of the Continent, the boundary between Mexico and the United States is the one that has received the most attention since the early nineties and where there has been more or less continuous documentation of the dangers faced there<sup>87</sup>. However, this is only a small part of the migration situation that ignores what happens in the southern border where the constant violations of human rights demonstrate the seriousness of the situation.

In this logic, Central American and Caribbean migration to the United States and Mexico emerge as one of the most complex and intense migration flows in the region. On the one hand, the geographical and socio-economic situation of our country makes it a place of origin, transit and expulsion of thousands of people seeking the American dream in search of better opportunities for themselves and their families. On the other hand, the expansion of organized crime has changed the traditional migration flows that traditionally existed between the two regions, making visible new groups of actors, including unaccompanied migrant boys and girls who have suffered the consequences of these exchanges.

Therefore, I will demonstrate that migration in the southern border of Mexico is characterized by its intensity and danger, mainly affecting migrant children, who are appearing as the victims of human rights violations, due to the absence of a legal and institutional framework with a guarantor vision that serves the best interests of the child.

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<sup>86</sup> Juan Miguel Petit, *Migration, vulnerability and public policy. Impact on children, their families and their rights, Population and Development Series*, (ECLAC, Santiago de Chile, 2003) , pp. 11-12.

<sup>87</sup> Olivia Ruiz, La migración centroamericana en la frontera sur: Un perfil del riesgo en la migración internacional, (Center For US- Mexican Studies, 2008), p.1, en: <http://repositories.cdlib.org/usmex/ruiz>

## **The Protagonists and Their Rights**

The phenomenon of migration, particularly concerning children is a phenomenon that is recently being studied and analyzed by various academic human rights institutions. Hence the establishment of concepts has become a real challenge to theorize these movements, exposing those involved and the main problems affecting their human rights.

We therefore propose using the concept of boys and girls and not that of minors because we consider it necessary to incorporate the gender perspective in order to identify the risks and dangers that children face. Most of the time, boys are subjected to forced labor and girls are victims of trafficking. Similarly, we use the concept of "unaccompanied" to distinguish the group of children who originally migrate alone from home, or with relatives or supposed relatives who are not prepared to or who are not capable of assuming the responsibility of these children.

In any case, the boys and girls, regardless of their immigration status or social condition are subjects with rights that are recognized in various international instruments, such as the Convention on the Rights of the Child<sup>88</sup>. Indeed, the Convention was signed on November 20th, 1989 and entered into effect on September 2nd, 1990. This international instrument consists of a Preamble and 54 articles that include several rights that have to do with children's right to security, freedom and equality.

## **Best Interests of the Child**

Article 3 of the Convention states: "In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration" and refers to the level of well-being enjoyed by children. Such well-being is associated with the particularities of each child, for example, age, maturity, presence or absence of parents, the environment in which the child has

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<sup>88</sup> Adopted and opened to the signature and ratification by the General Assembly in its resolution 44/25, November 20th, 1989. Ratified by Mexico in 1990.

grown up in, life experience, etc. Precisely because each case is unique, it is difficult to give a general definition of the best interests of each child, so this must be determined by taking into account the characteristics of each individual case.

In this regard, General Comment No. 6 of the Committee on Children's Rights is very clear warning that "all powers of government (executive, legislative and judicial) are required to enact legislation, create administrative structures, and articulate research activities, information, data collection and comprehensive training necessary to protect minors who are unaccompanied and separated from their family.

"Determining the best interests of the child requires a clear and thorough evaluation of the identity of the child and, in particular, his nationality, his upbringing, ethnic and cultural background (...) as well as evaluation of his vulnerabilities and special needs for protection. This assessment must be conducted in an atmosphere of friendship and security by professionals who take into account age and gender. In any case, "the appointment of a competent guardian as expeditiously as possible is a basic procedural guarantee for the respect of the best interest of minors, who are unaccompanied and separated from their families, and can help the child to engage into some process of obtaining asylum or other processes of administrative or judicial type".

From that perspective, we consider that the principle of protecting the best interests of the child places them as subjects with full rights, in the measure that decisions taken by third parties must take into account the damages that can affect their development. This is a considerable improvement regarding approaches that question whether boys and girls have basic rights, such as the right to a dignified life, to preserve their identity, to continue their education, to enjoy the highest attainable standard of health, to rest and be at leisure, and to express their ideas.

While it is true that it is within the family context, surrounded by love and security, where children can achieve greater well-being, there are many cases, such as that of unaccompanied migrant boys and girls who flee from their countries because of the situation of widespread violence in their social and family environment. Hence, beyond defending the integrity of families, the principle of protecting the child's best

interest makes it possible to protect those boys and girls whose families violate their rights together with the possibility of building a healthier life, emotionally and physically.

## **The Southern Border: the Realities of Unaccompanied Migrant Children in the Southern Border**

The southern border of Mexico is 1.138 km long and corresponds to the shared territory of the states of Campeche, Chiapas, Tabasco and Quintana Roo, of which 962 km border with Guatemala and 176 km border with Belize. Due to the many geographic, socio-cultural, economic and political realities in that area, it is not possible to establish a heterogeneous migration profile, although it can be said that ports and permanent settlements, such as Ciudad Hidalgo in Chiapas, and Tecun Uman in Guatemala, show a strong contrast with those depopulated areas, covered with natural flora and even without clear or fixed international boundaries<sup>89</sup>.

Without a doubt the first stage of the Mexico's migration situation with the Central American region has a historical explanation. In the early eighties, Guatemala suffered a civil war that led to the displacement of Guatemalans, caused by the government's political and social violence, and by that of guerrilla groups. As a result, Guatemalans took refuge in our country to seek protection for their lives and those of their families<sup>90</sup>.

However, migration between the two regions intensified and the area was transformed into a magnet for labor, with the agricultural boom in crops such as coffee, soybean cultivation, banana, sugarcane and mango<sup>91</sup>. In the same way, the freight train, built in 1908 to connect the fertile agricultural areas of Chiapas and Guatemala with markets inside Mexico, prompted another kind of international mobility. The railroad introduced a means to move within the country and to the United States, being the principal means used by the majority of undocumented

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<sup>89</sup> *Ibid.*, p. 4

<sup>90</sup> Edith Kauffer Michel, "Refugiados guatemaltecos y conformación de la frontera sur de Chiapas en los años ochenta", en Philippe Bovin (coord.), *Las Fronteras del Istmo, Fronteras y sociedades entre el Sur de México y América Central*, (Centro de Investigaciones y Estudios Superiores en Antropología Social, 2003), p. 126.

<sup>91</sup> Ruiz, *Op. cit.*, p. 5.

Central American immigrants in order to go further north into Mexico or the United States<sup>92</sup>.

One of the most visible effects of this was the increase and diversification of migration flows on the southern border, the most important being: 1) local border residents who cross the border for family, economical or labor reasons, 2) temporary agricultural workers in agricultural sectors such as cane, bananas, coffee and papaya, 3) domestic workers, 80% of them minors, and 4) workers from the service sector, such as construction, tourism, trade or restaurant industry<sup>93</sup>.

We can then say that on the southern border, Central American migration flows are persistent and diverse, according to the local activities that attract international migrants as they move into the region, or according to the conditions in which these incursions occur, and the diversity of actors involved in the transfer, stay, etc<sup>94</sup>.

However, the intensity of this activity on the southern border, that went unnoticed for a long time in Mexico, became apparent thanks to two events. On the one hand, the terrorist attacks of September 11, 2001, generated adverse reactions to strangers, while on the other, governments recognised the need for increased security at the borders of the countries receiving migrants. Thus, the people's desire for mobility to seek alternatives and the existence of restrictive immigration policies, led to the creation of spaces for illegality, such as the appearance of the industry of the "coyotes" or "polleros" that bring migrants in clandestinely<sup>95</sup>.

On the other hand, the increasing flow of migrants in this area began to create a crisis scenario for the migrant family, because the transfer of the whole family, in search of new perspectives, brings with it the need to install themselves in a new hostile environment, where family members, including women and children, live in a highly vulnerable situation, which affects the respect of their human rights"<sup>96</sup>.

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<sup>92</sup> *Ibid*, p. 6.

<sup>93</sup> Sin Fronteras, 2005, p. 7

<sup>94</sup> Rodolfo Casillas, La trata de mujeres, adolescentes, niñas y niños en México: Un estudio exploratorio en Tapachula Chiapas, (CIM, INMUJERES, INAMI, México, 2006), p. 30.

<sup>95</sup> Petit, *op. cit.*, p. 11.

<sup>96</sup> *Ibid*

Indeed, groups of boys and girls begin to emerge in situations of vulnerability in international migration, either because of family reunification, ie the father and mother are in a country other than where the children are, or as an option to change their current living conditions. In both cases, the loss of family ties "increases the likelihood of not receiving the same health care, food or adequate protection against all forms of violence, including the risk of forming criminal gangs or becoming victims of organized crime"<sup>97</sup>.

Unfortunately, the fact that this migrant group of unaccompanied migrant minors has only recently been identified, is reflected in the lack of information and statistics that can allow the establishment of a comprehensive diagnosis in order to guide the formulation of legislative solutions and public policies to address the situation of unaccompanied migrant boys and girls.

### **Migrant Boys and Girls: a Group in a Vulnerable Situation**

Indeed, a couple of decades ago, migrant boys and girls were not a significant group in number. However, observing their increased presence in immigration detention stations in recent years, the seriousness of the problem has become evident.

According to the Colegio de Michoacán, about 40% of immigrants detained in immigration detention centers are Mexican youths from about 14 to 17 years old, most of them unaccompanied. Some data from the Regional Delegation in Chiapas of the National Migration Institute, show that more than 2,468 minors were detained in 2008.

Some studies consider that they are part of a regional migration flow to the south-southeast of Mexico, where their main destination is the city of Tapachula, Chiapas. They come mostly from Guatemala, especially from Huehuetenango, San Marcos, Quetzaltenango, Guatemala (Capital), Totonicapan, Escuintla and Retalhuleu. Others come from Honduras, El Salvador, Ecuador, Brazil, Cuba, Nicaragua, Peru,

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<sup>97</sup> Dr. Norberto I. Liwski, Migraciones de niñas, niños y adolescentes bajo el enfoque de derechos, (Instituto Interamericano del Niño, la Niña y Adolescentes, OEA, 2006), p. 2.

Chile. We find them working in different informal trade activities and various services, such as sweet vendors, shoe shiners, windshield cleaners, or car caretakers<sup>98</sup>. Others are forced into prostitution or forced to participate in activities related to organized crime in its various manifestations.

The risks suffered by migrant boys and girls are various for as they travel alone, they are more likely to be exposed to drugs, suffer abuse or rape, to fall in trafficking networks. In the case of girls, they may be victims of sexual exploitation and forced prostitution at the hands of organized groups of human trafficking. Therefore, with increasing urgency, we need to have clear policies and procedures that ensure the protection of unaccompanied migrant boys and girls, and respect for their human rights, and protect them from the the risk of being captured by criminals and perpetrators. In addition, these children have greater difficulty in accessing medical, educational and recreational services given that their priority is survival, and not welfare.

The reporting of these violations, however, is few and far between. During 2007 and 2008, the Fifth General Inspectorate of the National Commission on Human Rights received 615 complaints about alleged violations of human rights of migrants. Of these, 67 were human rights violations of boys and 41 of girls and in most of these, the National Institute of Migration is stated as the first offending agent. In second place, comes the Ministry of Foreign Affairs because of its lack of consular assistance and, thirdly, the Republic's Attorney General's Office and the Ministry of Public Security. Other officials cited to a lesser extent are the Ministries of Public Security in the States, the Mexican Navy, the Mexican Commission for Aid to Refugees, municipal governments and police, the Ministry of National Defense, among other agencies.

The common feature of these complaints is that children are not separated from adults during detention, often medical care is not provided to them even when it is clear that they need it and complaints are made of violations during the process, regarding abuse of immigration authorities and grave breaches concerning the physical and psychological integrity of the minors detained.

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<sup>98</sup> Casillas, *op.cit.*, p. 37.

Some examples from the major recommendations emitted by the Inspector must suffice to illustrate this. For example, the case of scavenging on the landfill of Tapachula (Recommendation 25 / 2007) resulted in one of the toughest recommendations of the National Commission on Human Rights on issues relating to the rights of children. Hundreds of undocumented foreign children and adults entered the municipal garbage dump of Tapachula in order to collect objects that could be resold. Their situation has led to many media reports that showed the high risk to their health posed to them by this activity. In addition, the Landfill was acting as a center of contact between boys of Guatemalan origin, who worked selling gum, candy and cigarettes, as shoeshiners, windshield cleaners, and even as beggars, and were exposed to sexual and labor exploitation that went unnoticed by the authorities of the State of Chiapas.

However, much of the effort aimed at reporting the abuse committed against migrants, particularly against unaccompanied boys and girls, has been possible thanks to the work of organized civil society groups. This is the case of the network of shelters that are located in selected cities on the southern border, on both the Central American and the Mexican side. It is enough to mention the work done at the Casa del Migrante<sup>99</sup> that receives migrants going to the United States and where, in addition to receiving food, company and shelter, migrants are warned of the threats and risks that they may experience when entering Mexico. Or the "Jesus the Good Shepherd" Shelter where the poorest are given shelter, as well as migrants mutilated by train accidents, or victims of trafficking, or of forced prostitution, or even older people who have been abandoned, who are sick or terminally ill<sup>100</sup>.

### **Windows of Vulnerability: Some Proposals to Protect Migrant Boys and Girls**

In Mexico, the three conditions of being a country of origin, destination and transit of migrants makes it a country with a special obligation to design better mechanisms in

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<sup>99</sup> Interview with Rev. Father Ademar Barilli, director of the Casa del Migrante, Tecún Umán, Guatemala, on Saturday January 24, 2009.

<sup>100</sup> Interview on Thursday January 22, 2005 with migrants from the Shelter and with the Shelter's director Olga Sánchez García, 2005 National Human Rights Prize Winner, Tapachula Chiapas.

this field. Until recently, there was virtually no public policy that directly addressed the issue of unaccompanied migrant children, both Mexican nationals who migrate to the U.S., and Central Americans who migrate to Mexico with the aim of staying in this country, or of reaching the United States, to work, to meet up with their families and, in general, to seek a better future.

## **Institutional Response**

The specific context of immigration policy in Mexico comes from an old law whose implementation can be traced back to the decade of the nineteen thirties. Historically, at least until the nineties, Mexico displayed the policy of “no policy” to organize the flow of undocumented migration. Only some legal and institutional background of importance in the context may be mentioned. This is the case of the Political Constitution of the United Mexican States that in Article 4 states that children have the right to satisfy their needs for food, health, education, and recreation for their integral development. In another case, the Regulations of the General Population Law Article 217 provides that the Interior Ministry will sponsor, in coordination with the Ministry of Foreign Affairs and the National DIF, agreements with State governments and with the State System for the Integral Development of the Family, to establish mechanisms for the collaboration and coordination in carrying out actions for the benefit of returning migrant children to their countries to guarantee the rights conferred upon them by law.

In addition, the Law for the Protection of the Rights of Boys, Girls and Adolescents states that they have the right to be afforded protection and help in all circumstances, to be attended to before adults in any situation, to receive the guarantee that their survival and development be ensured in the best possible way, to respect them without any discrimination and to live under conditions that allow their physical, mental, material, spiritual, moral and social welfare. This order also speaks of the right to health, not to be deprived of their family of origin, the right to rest and play, to freedom of thought, to state opinions and not be subjected to cruel, inhuman or degrading treatment. Other laws containing similar provisions are the Mexican Social Assistance Act.

However, in the case of institutional responses to the growing number of unaccompanied boys, girls and teenagers in our country, the policies implemented are of very recent data.

One of the first major initiatives in this area was the Interinstitutional Programme for the Border Child Care. This was, in fact, the first program of its kind in Mexico. Since 1996 it has been coordinating the activity of the National Migration Institute and the National System for Integral Family Development (DIF) in joint actions for the benefit of boys, girls, young migrants, and repatriated Mexicans and foreigners. Moreover, both agencies signed a Cooperation Agreement on June 11, 2007 to guarantee the full exercise of the rights conferred by Mexican and international law, as well as establishing strategies to provide humanitarian and comprehensive aid.

According to this agreement, both institutions agreed to work on the training of immigration staff at the National Institute of Migration and on the rights of migrant children and on the coordination of actions between the State and Municipal DIF Systems of the northern and southern border regions in order to implement strategies for the care and prevention of the infant population during migration processes.

In this context, on July 12th, 2007, another vanguard instrument was signed, one that the other Border States should seek to imitate. This is the Specific Agreement between the National Migration Institute, the National DIF and DIF Chiapas to establish a partnership to provide temporary shelter to foreign children and adolescents migrants in the border area of the State.

Through this instrument, the Government of Chiapas through the State Committee for Monitoring and Surveillance of the Rights of Children and Adolescents called the consulates of El Salvador, Guatemala and Honduras to hold regular meetings to carry out joint actions for the benefit of boys, girls and adolescent migrants, repatriated Mexicans and foreigners in order to guarantee the full exercise of their rights and provide comprehensive care immediately.

This Agreement enumerates the commitments made by the various governmental and international instances for a close cooperation of support to migrant children -

defined as foreign boys and girls, who having crossed the southern border of Mexico, entered and are in national territory- and also of those children who are seeking refugee status - defined as any girl or boy, whether alone, or accompanied by their parents or any other person, who asks for immigration status as Nonimmigrant Refugee as provided in the General Population Act and in its Regulations.

Since its establishment, the program has been drawing an ambitious agenda of work in order, among other things, to develop a formal plan of care for foreign migrant children in the southern border, to create a single information system at a national level to guarantee the localization of migrant children throughout the whole process, and to establish a process of reintegration of repatriated minors to their home community, with shared responsibilities among countries. It also aims to establish the homologation of criteria in the region to make the procedures for the receiving and returning of minors to their countries a state policy, and not a temporary or *ad hoc* mechanism, and by our example continue to demand that the U.S. provide shelters to attend migrant children in that country and set up safety committees and vigilance on the implementation of the Convention on the Rights of the Child on the Southern Border.

However, with the intention of broadening the scope of these programs and providing specific care for children and unaccompanied teenagers the first session of the Interinstitutional Roundtable on Children and Unaccompanied Teenagers and Women Migrants was held on March 30th, 2007. This Committee, comprising representatives of the Ministry of Interior, the Ministry of Foreign Affairs, the National Commission on Human Rights, the International Organization for Migration, the Ministry of Social Development, UNICEF, ACNUR, COMAR and, of course, the National DIF System, operating under the technical secretariat of the National Migration Institute.

The purpose of this mechanism was, as it was then announced, to discuss the situation and the problems associated with this vulnerable sector of population, during detention by the National Institute of Migration, or in an irregular situation in the country, in addition to defining actions to address the issue from a holistic

perspective and take useful measures in providing care to unaccompanied minors and women migrants.

The Bureau called itself a "strategic inter-agency body" to exchange information between the different authorities and agencies and to coordinate specific policies, to recommend others at various levels of government, and to provide proposals to the Interinstitutional Program for the Border Child Care.

One of the most relevant proposals of this Committee has been to implement a *Model for the protection of boys, girls, and unaccompanied teenagers* in order to develop a program for their care and their detection, to prompt canalization to the center of care for unaccompanied migrant children to their own network of shelters in the DIF.

For the purpose, this model provides for the creation of an "Officer for the Protection of Infancy" (OPI). At first, 180 Federal Immigration Agents who met a certain profile were selected nationwide. According to information provided by the National Institute of Migration (interview with INM officials, December 14th, 2008) the OPI's received training in emotional literacy, communication with boys, girls and youth migrants, international protection, care in crisis, rights of children, ill-treatment, violence and abuse prevention, as well as consular notification and processing of records. With support from various international organizations such as OIM, COMAR, ACNUR and UNICEF, two workshops have been given to date on comprehensive training for all officers. There are already OPI's operating at the point of repatriation for migrant children at both the northern border and the southern border, and at different migration detentions stations.

The key responsibilities of these officers include 1) assessing the need for the international protection of children either as victims of violence, or as seeking shelter or simply in their migrant status, 2) performing the appropriate consular notification, 3) admitting them to the appropriate shelter, according to their age, nationality and place of detention, 4) assigning a guardian to accompany the migrant minor, 5) providing counseling, 6) ensuring their rights are respected and 7) where appropriate, arranging their return home according to the protection of the best interests of the child.

Under this model, the National DIF System created modules for the care of boys, girls and young repatriated migrants traveling alone. In these modules a psychological and social assessment is enacted, the migrants are given access to food, health and education, the families are located and their reunification is supported, except in cases contrary to the best interests of the child. To date there are 7 modules in the northern border. However, modules are still waiting to be installed in the migratory detention stations in Tapachula, Acayucan, La Ventosa and Tenosique on the southern border.

Progress has been noted, however, in the Unique Information System for boys, girls and youth migrants and repatriates. Through this System - which will methodologically and technically homologate the information available to the DIF, the National Migration Institute and the Ministry of Foreign Affairs, there will be reliable and complete statistical data to monitor migrant children from the process of repatriation until their reintegration into their communities of origin.

In addition, the National Migration Institute has been signing agreements to expand the scope and depth of these measures of protection. Thus on September 17th, 2008 an agreement arose with UNICEF in which both bodies are working on the drafting and implementation of a reference manual to operate this model of protection in a perception survey, in more Training courses for OPI's and other mechanisms to ensure that migrant children and repatriated children may be in communication with their families. NEXTEL has recently covered all the costs of the installation of free telephone lines in the migration detention centers.

In the third report submitted by Mexico before the Committee on the Rights of the Child, the Committee congratulated "our country for the establishment in 2002 of the Program of protection and assistance to unaccompanied minors in refugee status of the Memorandum of Understanding on a safe and dignified repatriation "(op. cit., 2006, paragraph 60. 15). However, it expressed concern about the large number of unaccompanied migrant boys and girls that are repatriated to their countries of origin, without the State being able to take all the necessary measures to protect the best interests of the child, providing shelter, recognising their refugee status and ensuring their social reintegration. (Ibid, paragraph 61, p. 16)

The Committee also made clear its concern about "the extent of sexual exploitation, trafficking and abduction of unaccompanied migrant children as well as the absence of effective legislation to address this problem." (Ibid, paragraph 64, p. 17).

## **Immigration Authorities with a Human Rights Vision**

The National Migration Institute has made efforts to protect the rights of unaccompanied migrant boys and girls. Proof of this is that it has signed agreements with the DIF System and with the consulates to respect and protect the rights of this clearly vulnerable group. However, in this section we want to make some additional proposals that will undoubtedly contribute to the better performance of the immigration authorities and, therefore, to the effective exercise of the rights of children.

First of all, we want to point out that there is a notorious lack of systematic organization of information on unaccompanied migrant minors who enter Mexico and who are detained by the authorities. In fact, the type of information that the INM currently has, does not identify the migratory status of these children, if they are repeated offenders, or have been victims of kidnappings, forced labor or human trafficking networks, etc. Therefore, we believe that for statistical and diagnostical purposes, but also to better identify the victims situation, immigration officers must systematically complete a form with the children's personal information, remembering at all times the principle of confidentiality, and noting all the additional information that can help illustrate the status of the child. This should be done in order to identify repeated offenders, victims and most important, to identify family members who are in the immigration station or in some other shelter, provided it is in the best interests of the boy or the girl to proceed towards family reunification.

For all the boys and girls, family reunification should be a priority, either in the host country or in their country of origin. However, if this does not suit the best interests of the boy or girl, or if it were not possible within a certain time, other medium or long term solutions should be sought, such as foster homes, adoption and recognition of refugee status. However, today in Mexico, despite the historical tradition of welcoming asylum seekers, unaccompanied migrant boys and girls from Central

America are not eligible to receive immigration status<sup>101</sup>. There, should therefore be greater coordination between the agencies in charge, specifically the COMAR and the INM in order to recognize the refugee status of unaccompanied migrant boys and girls, if it be in their best interests, if they so request it, and if repatriation should represent a serious threat to the integrity and the enjoyment of their rights.

### **Greater Involvement of the DIF System**

It is desirable that the DIF System -the entity that deals with family matters in Mexico - should be much more involved in the protection of migrant minors, even more so than the immigration authorities. According to an ACNUR report on repatriation procedures from Mexico to different Central American countries, it is clear that the main responsibility for the care of this vulnerable group falls into the responsibility of the counterpart institutions of the DIF here, namely, in Honduras, the Honduran Institute for Children and Families (IHNFA), in El Salvador, the Salvadorenian Institute for the Integral Development of Children and Adolescents (ISNA), and in Guatemala, the Undersecretary for the Protection Shelter and Family Rehabilitation of the Social Welfare Secretariat, institutions that coordinate the actions of care and protection of migrant minors.

To a large extent this reflects the fact that it is necessary to provide a different treatment to migrant children not only because they are migrants but because they are boys and girls in need of protection. It would be desirable that the DIF System took the lead in the operation of this policy, with its own autonomous criteria, that of course, are different from the criteria operated by any other immigration authority in the world.

### **New Immigration Law**

The complexity of migration flows on the southern border, our triple conditions of being a country origin, destination and transit of migrants, the need to show example to the United States regarding the situation of hundreds of thousands of undocumented Mexicans who cross the border annually in that country, as well as

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<sup>101</sup> Interview with the Consuls of Guatemala and El Salvador on Saturday January 24, 2009, Tapachula Chiapas.

the basic need for safety, welfare and infrastructure, all demand that Mexico make an effort not only to update an out of date Act like the current Population Law, but to that it develop a new Immigration Law. This should reflect not only the legal and conceptual advances in human rights in recent years, but should also lay the groundwork for a new, more humane, modern immigration polic in tune with the need to ensure better opportunities for development in the south and southeast region. Necessarily, this new design of legislation and immigration policy will need to incorporate an entire chapter on the issue of migrant boys and girls that makes authorities responsible and points to a mechanism of protection and, where appropriate, to a repatriation system that fully meets the latest developments of the international law of human rights.