

# A TRAIL OF IMPUNITY

## Thousands of Migrants in Transit Face Abuses amid Mexico's Crackdown

By Ximena Suárez, José Knippen, and Maureen Meyer | SEPTEMBER 2016

REPORT



Photo: Rebecca Blackwell/AP

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Saltillo

# INTRODUCTION

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On September 3, 2016, in a public event with the United States' Republican party presidential candidate Donald Trump, Mexican president Enrique Peña Nieto commented on how essential it is for his government and for Mexico's relationship with the United States to make Mexico's southern border with Central America "more secure."<sup>1</sup> This discourse is not new. In July 2014 Mexico announced the controversial "Southern Border Program" and has since pursued policies that prioritize securing the country's Southern Border from migrants through control measures and a significant increase in detentions and deportations, ignoring concerns about the human rights of migrants and potential refugees traveling through Mexico, in particular from Honduras, El Salvador, and Guatemala.

A new assessment of the situation reveals that migration enforcement operations keep increasing, at a time when Mexican authorities have not sufficiently improved their capacity to screen migrants to detect protection concerns and to seriously investigate crimes against migrants in

transit in the country. Official data, information obtained through freedom-of-information requests, journalistic sources, and information from some of the shelters assisting migrants in Mexico reveals that 2016 may be the year with the highest number of detentions, deportations, and asylum petitions in Mexico.

The report *An Uncertain Path: Justice for Crimes and Human Rights Violations against Migrants and Refugees in Mexico*—published in November 2015 by WOLA, Fundar: Centro de Análisis e Investigación, la Casa del Migrante "Frontera con Justicia," in Saltillo, Coahuila, and six other migrant shelters and migrant rights organizations in five regions of the country—concluded that additional migration enforcement under the Southern Border Program has increased crimes and human rights violations against migrants in transit in Mexico.<sup>2</sup> Too often, Mexican authorities fail to investigate and sanction these cases. In many others, they are involved in crimes.

## CHANGES ON PAPER, SAME REALITY ON THE GROUND

Recently, Mexican authorities have adopted measures to address justice for crimes against migrants, including the creation within Mexico's Attorney General Office (*Procuraduría General de la República*, PGR) of a Unit for the Investigation of Crimes for Migrants (*Unidad de Investigación de Delitos para Personas Migrantes*, the "Unit") and the Mechanism for Mexican Foreign Support in the Search and Investigation (*Mecanismo de Apoyo Exterior Mexicano de Búsqueda e Investigación*, the "Mechanism"). The Mechanism aims to provide access to the Mexican justice system for victims who

are not in Mexico; this is especially important for family members of migrants who have disappeared or who have been kidnapped in Mexico.<sup>3</sup> Likewise, the Mexican Constitution was recently amended to incorporate the right to seek and receive asylum.<sup>4</sup>

On paper, these measures should increase protection and respect for migrants' rights. In practice, authorities have dragged their feet to make them operational and have failed to include civil society in important discussions for their proper functioning.

# MEXICO PRIORITIZES MIGRATION ENFORCEMENT

## DETENTIONS AND DEPORTATIONS REMAIN HIGH

Since the launch of the Southern Border Program, Mexico has succeeded in preventing a significant number of migrants, primarily Central Americans, from arriving in the United States. Mexican authorities report that between 2014 and July 2016 they detained over 425,058 migrants.<sup>5</sup> This high number of detentions suggests that the actual number of individuals leaving their countries of origin is much larger, particularly given the increase in the United States' apprehensions of Central Americans and the number of citizens from Northern Triangle countries (El Salvador, Guatemala, and Honduras) that are also traveling to neighboring Central American countries to seek protection.

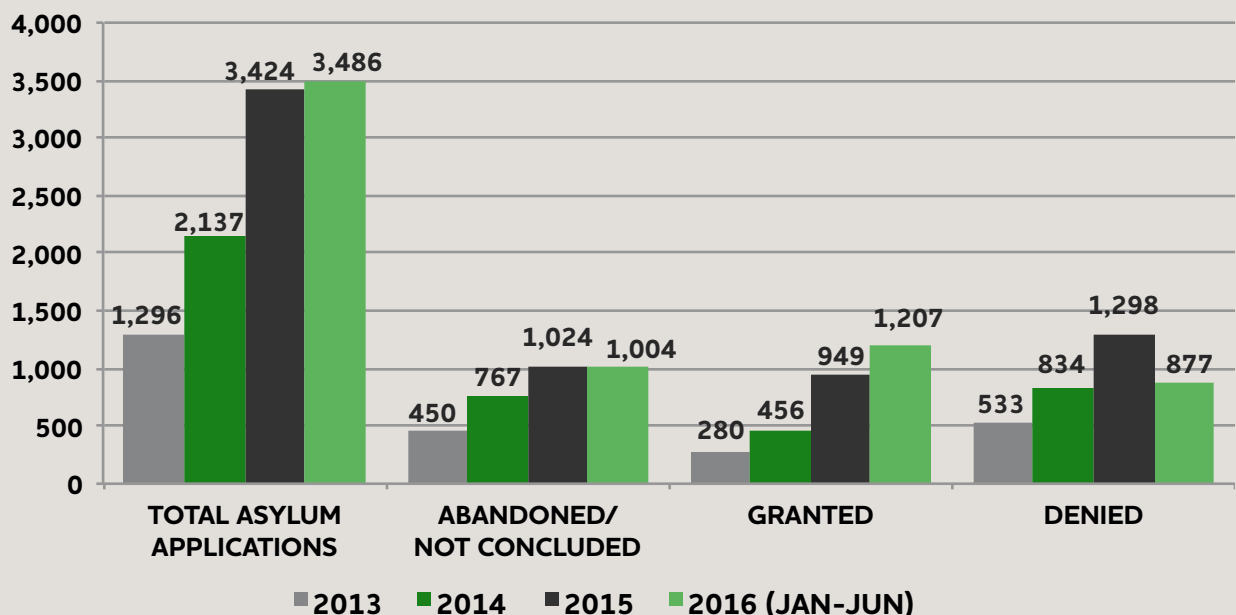
In spite of increased enforcement and the risks of the journey, Central American migrants have not been deterred. Many Central Americans are fleeing from violence, threats, and crime in their countries. Central America's Northern Triangle region is among

the most violent in the world. In 2015, El Salvador's national homicide rate reached approximately 103 homicides per 100,000 people, making it the murder capital of the world.<sup>6</sup> Honduras—with a homicide rate of 57 homicides for every 100,000 people—and Guatemala—with a rate of 30 homicides per 100,000 people—also ranked among the top five most violent countries in the hemisphere.<sup>7</sup>

Confronted with increased security enforcement along Mexico's southern border, migrants and their smugglers take new and dangerous routes and modes of transportation, including by foot, crammed in trucks, and by boat.

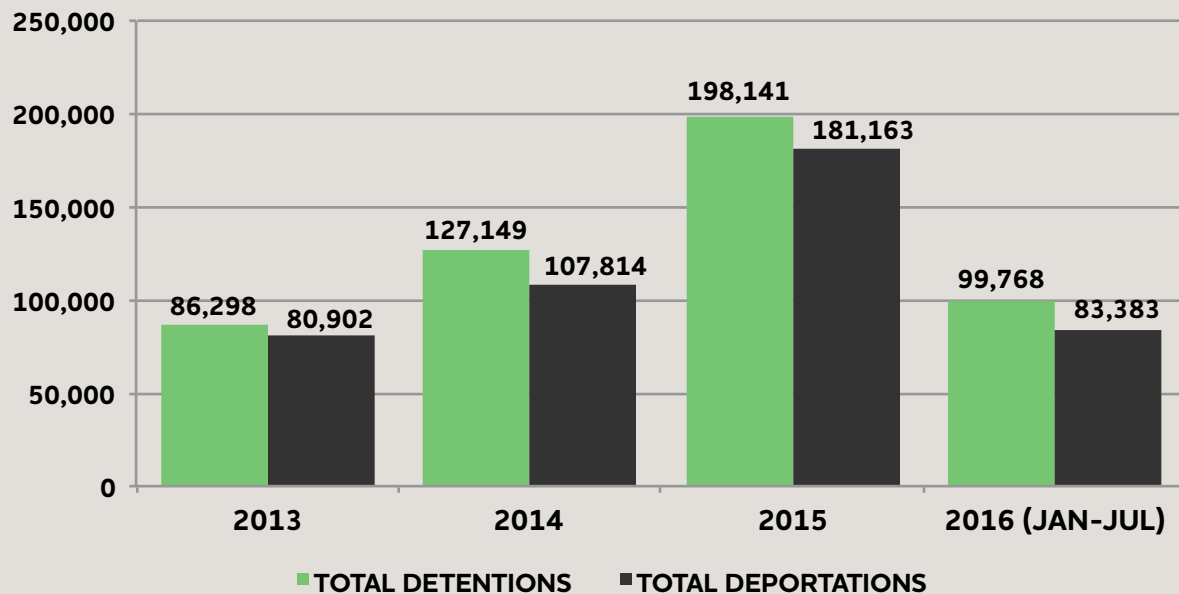
Therefore, despite the increase in enforcement operations, 2016 may be the year with the highest number of detentions, deportations, and asylum petitions in Mexico.

**[FIGURE 1] ASYLUM REQUESTS IN MEXICO**



Source: <http://bit.ly/2ctMS3x>

**[FIGURE 2] MIGRANT DETENTIONS AND DEPORTATIONS IN MEXICO**



Source: <http://bit.ly/2d8BnwY>

## INCREASED MIGRATION ENFORCEMENT

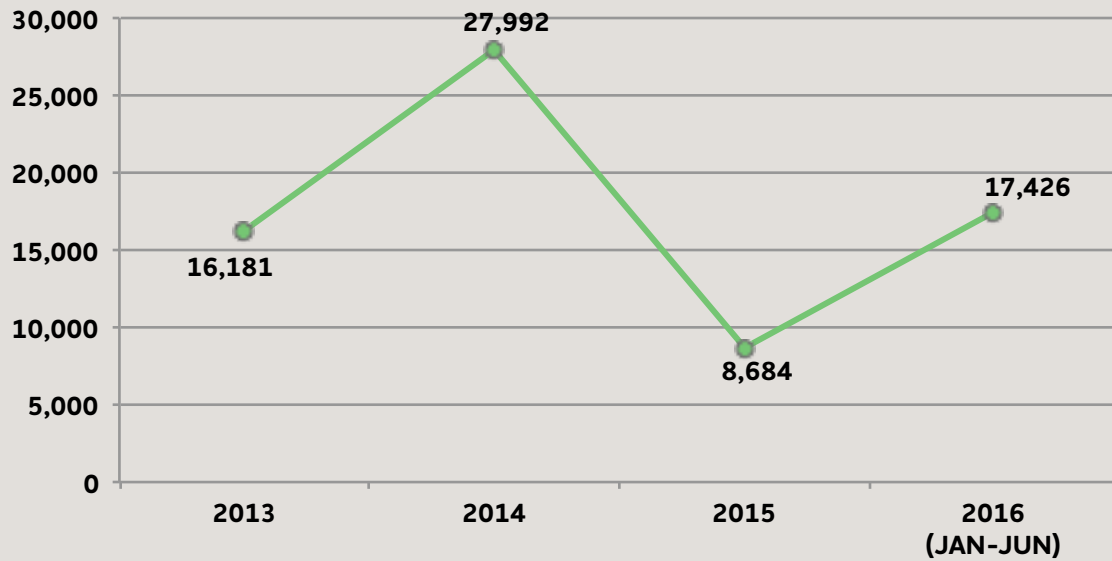
Mexico has been able to contain migration flows through its southern border region by increasing migration enforcement, including increased patrols along the train route and areas where migrants travel, controversial raids in remote places, and an increase in mobile and stationary checkpoints—all of which have led to a sharp increase in detentions.

At the same time, Mexico has failed to increase its capacity to screen cases to detect migrants who could qualify for protection, returning many people back to the dangerous situations from which they fled. The lack of transparency in asylum procedures, misinformation from agents, bureaucracy, and lengthy waiting periods, have kept many migrants in detention centers for months and have led others to desist their asylum requests out of desperation. Approximately 30 percent of migrants that applied for protection between 2014 and April 2016 abandoned their applications or have not concluded them.<sup>8</sup>

Migration operations (*operativos de revision migratoria*) and raids to detain migrants and present them to migration authorities have been on the rise throughout Mexico since 2014. Operations to detain migrants along the railways of the cargo trains known as “The Beast” (“*La Bestia*”)—used by many migrants as means of transportation to get to the United States—have also increased.<sup>9</sup>

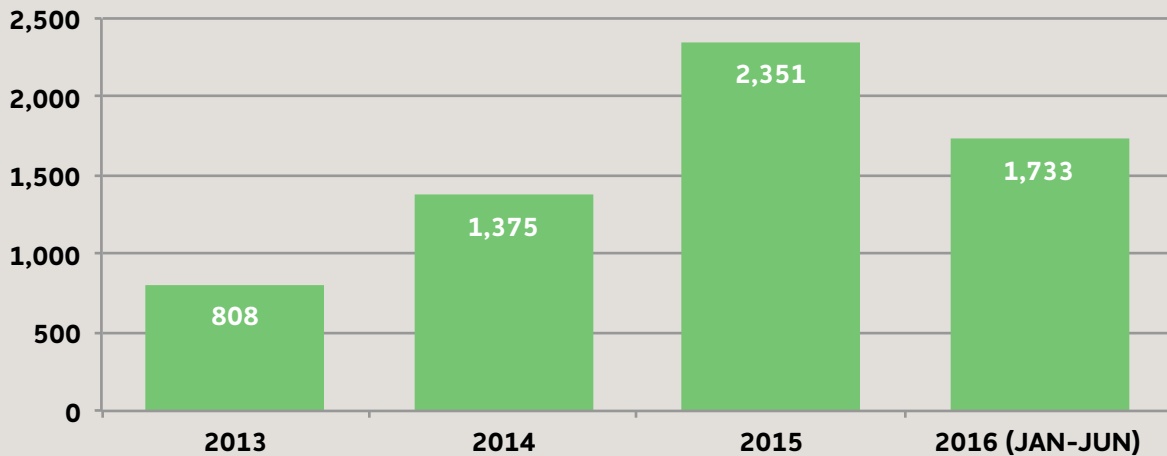
Mexican authorities have also implemented other measures to prevent migrants from reaching the United States. For instance, the Mexican government recently revoked the permit of the private company operating the cargo train, explaining that new and better security measures must be implemented along its route, including drones, surveillance equipment, walls, and other sophisticated mechanisms that would further impede migrants from riding on the train.<sup>10</sup>

**[FIGURE 3] MIGRATION ENFORCEMENT OPERATIONS CONDUCTED IN MEXICO**



Source: <http://bit.ly/2cRihvY>

**[FIGURE 4] MIGRANTS DETAINED ALONG THE RAILWAYS OF "LA BESTIA" TRAIN**



Source: Responses to information requests



## FAILURE TO IMPROVE THE GOVERNMENT’S CAPACITY TO SCREEN CASES

Mexico has recently amended its Constitution to acknowledge the human right to seek and receive asylum. This reform should impact the conditions and procedures for seeking asylum and other forms of protection in Mexico. To date, however, many obstacles remain.

Support from the UN Refugee Agency (UNHCR) and increased efforts by shelters and other organizations to accompany potential refugees with their protection requests has been a positive development. Though the number of asylum applications keeps growing, the capacity of Mexican authorities to properly screen cases and process

them has not significantly improved.

The number of people recognized as refugees or granted some form of protection in Mexico is shockingly low when compared with the total number of migrant apprehensions. Mexican authorities detained 425,058 migrants between 2014 and July 2016. In the same period, the Mexican Commission for Refugee Assistance (*Comisión Mexicana de Ayuda a Refugiados*, COMAR), the agency responsible for screening and processing refugee claims, only resolved 6,933 asylum applications. From these, COMAR granted asylum in just 2,982 cases.<sup>11</sup>

**[TABLE 1] MIGRANT DETENTIONS VS. ASYLUM REQUESTS GRANTED**

	2013	2014	2015	2016 (JAN-JUN)
TOTAL DETENTIONS	86,298	127,149	198,141	86,288
DETENTIONS OF CENTRAL AMERICANS	80,757	119,714	179,618	75,429
ASYLUM APPLICATIONS COMPLETED	846	1,370	2,400	2,317
ASYLUM APPLICATIONS GRANTED	280	546	949	1,207
ASYLUM APPLICATIONS GRANTED TO CENTRAL AMERICANS	214	414	878	1,149

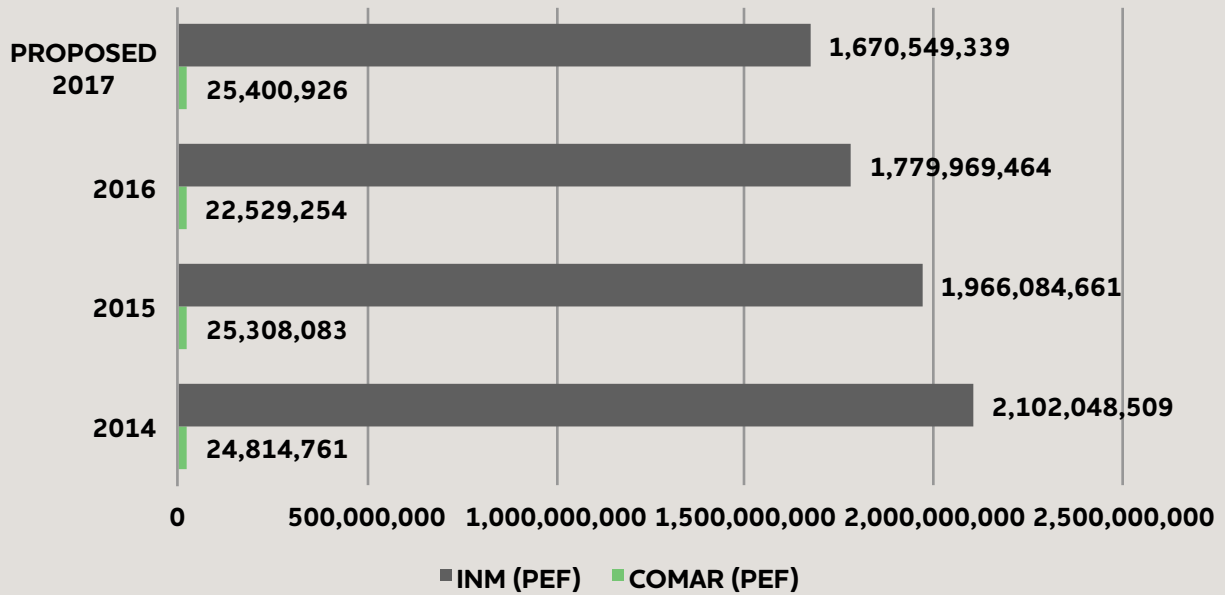
Source: <http://bit.ly/2d8BnwY>; <http://bit.ly/2ctMS3x>

Guaranteeing that institutions and officers have the capacity to properly screen cases for protection is fundamental. Yet, Mexico’s commitment to ensure such capacity is called into question given that COMAR’s budget has not increased at a sufficient pace to properly process all the protection and refugee claims, especially when compared with the budget of Mexico’s National Migration Institute (*Instituto Nacional de Migración*, INM), the institution in charge of migration enforcement operations.

As shown in the table below, Mexico has prioritized migration enforcement to address migration flows, over the proper screening of cases eligible for protection.<sup>12</sup>

Apart from asylum, migrants who have been victims of a crime in Mexico, as well as unaccompanied minors, and a few others may be eligible to receive a humanitarian visa, which grants them temporary residential status in the country.<sup>13</sup> Requests for these visas and the number granted are on the rise.

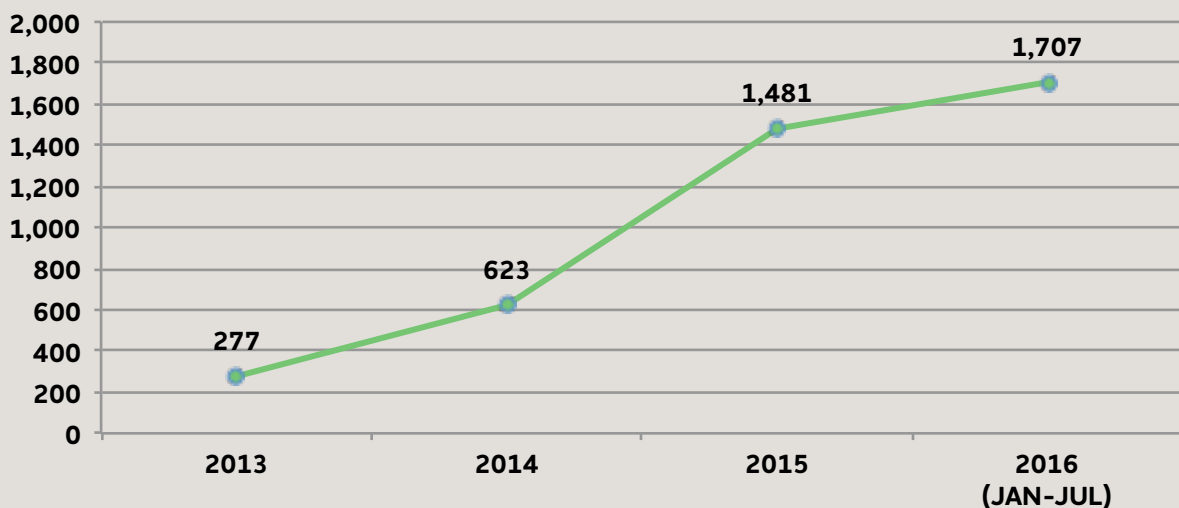
**[FIGURE 5] COMAR BUDGET VS. INM BUDGET  
IN MEXICAN PESOS**



Note: The budget assigned to the INM reached a historical peak in 2014 and has since been decreasing. The INM’s annual spending, however, has increased in recent years. The INM generates its own revenue through visa and residency permit fees, leading to this difference between the INM’s assigned budget and its annual spending. In 2014, the INM spent MXN\$3,548,500,000, and in 2015, MXN\$4,143,000,000—the highest amount in the INM’s history.

Source: <http://bit.ly/2d4iUp5>

**[FIGURE 6] HUMANITARIAN VISAS GRANTED IN MEXICO**



Source: <http://bit.ly/2d8BnwY>

# FAILURE TO GUARANTEE JUSTICE

## FOR CRIMES AND HUMAN RIGHTS VIOLATIONS AGAINST MIGRANTS

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Mexico's Southern Border Program has increased human rights violations and crimes against migrants during migration operations. Migrant shelters throughout the country continue to document kidnappings, extortions, robberies, and other abuses, many at the hands of corrupt officials.

As previously mentioned, on December 18, 2015, the Mexico's Attorney General's Office established two bodies to investigate crimes committed against or by migrants in the country.<sup>14</sup>

The Investigation Unit is tasked with investigating and prosecuting federal crimes involving migrants as victims or as the accused. The Mechanism for

Mexican Foreign Support is a coordination body that allows migrants and migrants' families based outside of Mexico, primarily the United States and Central America, to access the Mexican justice system abroad through Mexican embassies and consulates, without needing to travel to Mexico to follow up on criminal investigations.

The creation of the Unit and the Mechanism are welcomed. However, authorities have failed to ensure that they are properly functioning and fulfilling the task of sanctioning crimes against migrants. The Unit and Mechanism face two fundamental shortcomings.

- **Lack of resources to investigate crimes against migrants.** Mexico's Attorney General appointed the head of the Investigation Unit nearly three months after its creation. While the Unit is already functioning, it lacks the staff and resources to investigate the 129 cases received to date. As of September 2016, the Unit only had five prosecutors (*agentes del Ministerio Público*) and two investigative police officers on staff. This means that, on average, each prosecutor is in charge of the investigation of 25 cases and each investigative police officer, 64 cases.<sup>15</sup>

So far, the draft operational guidelines (*lineamientos*) for the Unit and the Mechanism that the Attorney General's Office has developed have not included input from victims aimed at ensuring serious investigations. Notably, the guidelines have not yet addressed migrants' and migrants' families concerns that they have access to criminal investigations conducted in Mexico.

- **Lack of results in the investigation of crimes against migrants.** Most of the 129 cases under investigation within the Unit are for false imprisonments (illegal confinement of one individual against his or her will, "*privación ilegal de la libertad*"). However, the criteria used to classify crimes is not clear, nor it is clear why the Unit is not investigating cases of disappeared migrants.

The lack of resources and delays in issuing the operational rules have prevented the Unit from fully focusing on the investigation of crimes against migrants. It is, therefore, too soon for a definitive assessment of its performance. However, the failure to provide the Unit with adequate resources and the lack of results in the investigations could call into question the seriousness of its future work.



**[TABLE 2] CASES UNDER INVESTIGATION BY MEXICO'S NEW UNIT FOR MIGRANTS**

FALSE IMPRISONMENT	96
ABUSE OF AUTHORITY	9
KIDNAPPING	4
HUMAN TRAFFICKING	3
FAILURE TO ADMINISTER JUSTICE	3
EXTORTION	3
HOMICIDE	2
ORGANIZED CRIME	2
RAPE	2
SEXUAL ABUSE	2
USE AND FALSIFICATION OF DOCUMENTS	1
SUICIDE	1
INJURIES	1
TOTAL	129

Source: <http://bit.ly/2d8BnwY>

## IN FOCUS:

# JUSTICE FOR CRIMES AGAINST MIGRANTS IN COAHUILA

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The work of migrant shelters in Mexico is of the utmost importance in advocating for and defending migrants' human rights. Migrant shelters represent the first line of defense for vulnerable migrants. They provide food, temporary refuge, clothes, and medical attention. They also document crimes and human rights violations against migrants. In many cases, migrant shelter personnel

throughout Mexico have been harassed and threatened as a result of their work.

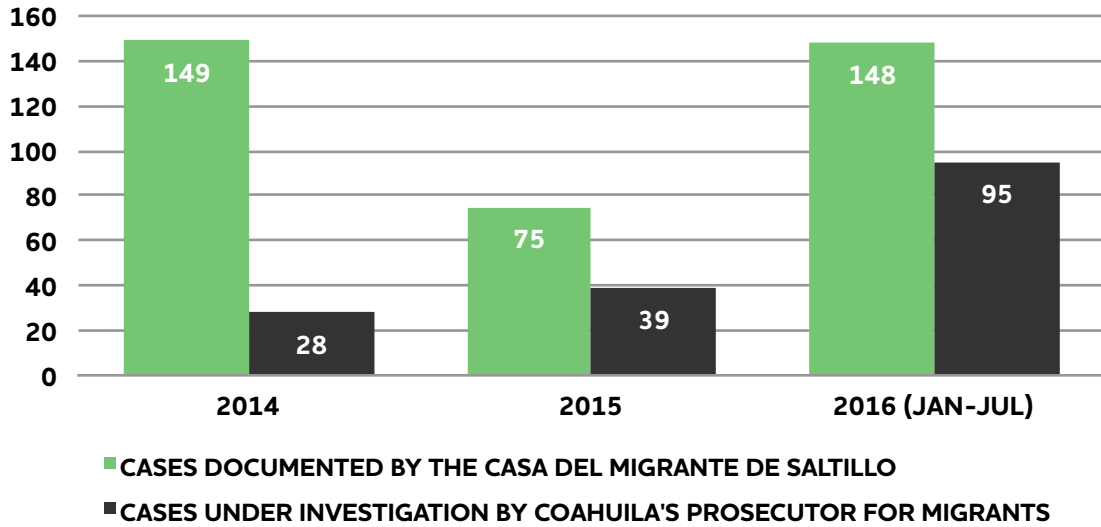
In a recent visit to the migrant shelter Casa del Migrante "Frontera con Justicia," in Mexico's northern state of Coahuila, we documented measures that authorities have taken to investigate crimes against migrants. However, many challenges remain, including:

- **A persistent pattern of abuse by police forces and the criminalization of migrants.** In 2016, Coahuila's state human rights commission issued recommendations in at least two cases of abuses against migrants. One case involved the arbitrary detention and abuse against nine migrants by members of the Saltillo municipal police in 2014 for allegedly "altering public order and begging."<sup>16</sup> The other case involved the arrest of two migrants by members of the Coahuila state police, also in 2014, after accusing them of possessing arms and drugs, presenting the migrants to local media as "criminals", and obtaining a forced confession of crimes from one of them.<sup>17</sup>
- **Lack of results.** In June 2016, Coahuila's Special Prosecutor's Office for Crimes Against Migrants was replaced by a General Office that investigates crimes against migrants and other offenses. As of August 15, 2016, authorities had presented charges against a perpetrator in only one of the 162 cases of reported crimes.<sup>18</sup>
- **Crimes against migrants keep increasing.** 2016 is on its way to become the year with the highest number of reported crimes against migrants in the state of Coahuila since 2013.

By comparing the number of crimes documented by the migrant shelter in Saltillo and the cases that authorities in Coahuila

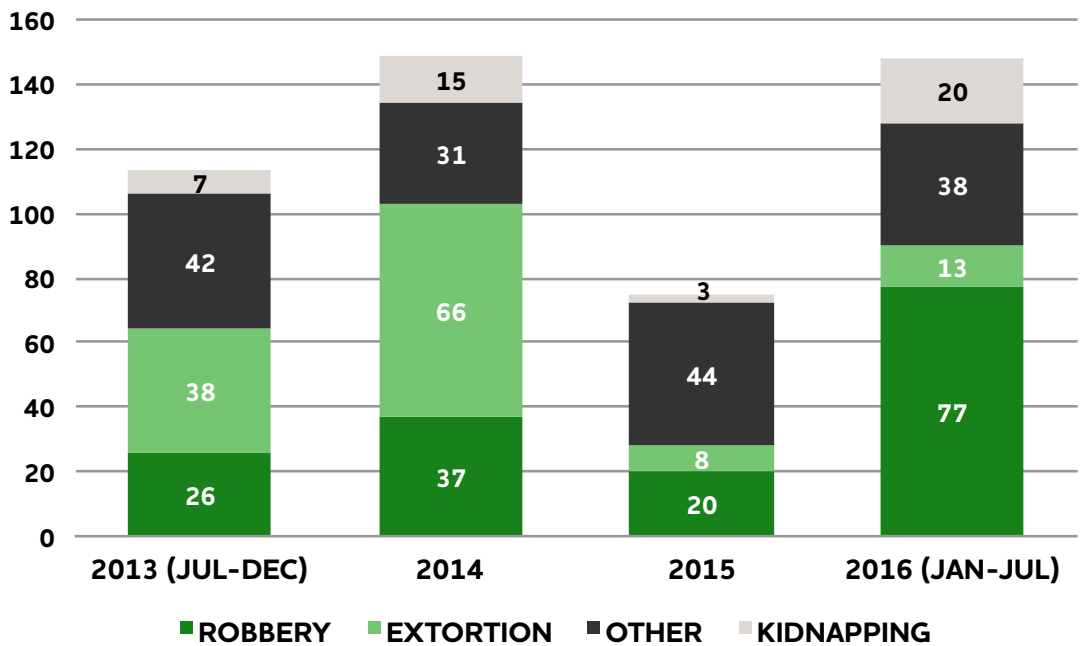
are actually investigating, it is clear that an important number of crimes against migrants in Coahuila are never investigated or punished.

**[FIGURE 7] CRIMES AGAINST MIGRANTS DOCUMENTED VS. INVESTIGATED**



Source: Casa del Migrante de Saltillo

**[FIGURE 8] CASES DOCUMENTED BY THE CASA DEL MIGRANTE DE SALTILLO**



Source: Casa del Migrante de Saltillo

# RECOMMENDATIONS

- **Mexico must increase its capacity to screen and detect cases of migrants who could qualify for some form of protection, and ensure their right to seek and receive asylum.** While the Mexican government has increased its capacity to detain and deport migrants, it has not significantly improved its capacity to screen migrants, especially in detention centers, for protection concerns, in spite of the increase in asylum requests and humanitarian visa applications. Institutions and authorities must guarantee that migrants can exercise their right to seek and receive asylum. Authorities should end practices that discourage migrants from seeking protection, such as providing misinformation or failing to provide information to migrants and refugees in detention centers, excessive bureaucracy, and lack of transparency. Mexico must also improve the quality, consistency, and reliability of public information regarding migrant detentions and asylum applications, and be transparent about the reasoning for granting or denying protection.
- **Mexico's new institutions to investigate crimes against migrants must address victims' concerns and conduct effective investigations.** The measures adopted by Mexican authorities to investigate crimes against migrants have so far fallen short. The creation of special offices and mechanisms for criminal investigations of crimes against migrants will not be sufficient unless authorities commit to providing them with the financial, technical, and human resources needed to seriously investigate crimes against migrants.
- **The United States should support the investigation of crimes against migrants in Mexico.** Given the transnational nature of many crimes against migrants, the United States should look for ways to expand cooperation with Mexican authorities in investigating and sanctioning these crimes and share best practices in the investigation of crimes of this nature. Through the Department of State's Bureau of Population, Refugees, and Migration, the United States should also continue to support efforts to strengthen Mexico's capacity to detect vulnerable migrants and refugees, and screen for protection concerns.

# NOTES

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<sup>1</sup> Presidencia de la República, “Mensaje a medios de comunicación,” Sep. 3, 2016, <https://www.youtube.com/watch?v=kpbC96H0maA>.

<sup>2</sup> A network of organizations in Sonora (“Red Migrante Sonora:” Kino Border Initiative, in Nogales, Centro de Recursos para Migrantes, in Agua Prieta and Centro Comunitario de Atención al Migrante y Necesitado, or CCAMYN, in Altar); Albergue de Migrantes “Hermanos en el Camino” in Ixtepec, Oaxaca; “La 72, Hogar—Refugio para Personas Migrantes” in Tenosique, Tabasco; “Un Mundo, Una Nación” in Apizaco, Tlaxcala; and migrants’ human rights defender, Irazú Gómez.

<sup>3</sup> WOLA, “New Institutions in Mexico Could Expand Justice for Migrants,” May 3, 2016, <https://www.wola.org/analysis/new-institutions-in-mexico-could-expand-justice-for-migrants/>.

<sup>4</sup> Diario Oficial de la Federación, *Decreto por el que se reforma el párrafo segundo del artículo 11 de la Constitución Política de los Estados Unidos Mexicanos*, Aug. 15, 2016, [http://www.dof.gob.mx/nota\\_detalle.php?codigo=5447903&fecha=15/08/2016](http://www.dof.gob.mx/nota_detalle.php?codigo=5447903&fecha=15/08/2016).

<sup>5</sup> Instituto Nacional de Migración, Estadísticas, Sep. 2016, [http://www.politicamigratoria.gob.mx/es\\_mx/SEGOB/Boletines\\_Estadisticos](http://www.politicamigratoria.gob.mx/es_mx/SEGOB/Boletines_Estadisticos).

<sup>6</sup> WOLA, “Five Facts about Migration from Central America’s Northern Triangle,” Jan. 15, 2016, <https://www.wola.org/analysis/five-facts-about-migration-from-central-americas-northern-triangle/>.

<sup>7</sup> David Gagne, “2015 Latin America Homicide Round-up,” *InSight Crime*, Jan. 14, 2016, <http://www.insightcrime.org/news-analysis/insight-crime-homicide-round-up-2015-latin-america-caribbean>.

<sup>8</sup> Comisión Mexicana de Ayuda a Refugiados, Estadísticas generales, Sep. 2016, [http://www.comar.gob.mx/work/models/COMAR/Resource/267/6/images/ESTADISTICAS\\_2013\\_A\\_06-2016\\_act.pdf](http://www.comar.gob.mx/work/models/COMAR/Resource/267/6/images/ESTADISTICAS_2013_A_06-2016_act.pdf).

<sup>9</sup> Manuel Ureste, “Se disparan las detenciones de migrantes en vías del tren; van más de 1,700 capturas en este año”, *Animal Político*, Aug. 31, 2016, <http://www.animalpolitico.com/2016/08/detenciones-migrantes-vias-tren/>. Responses to freedom-of-information requests from Mexico’s INM: 0411100022515, 0411100047916, and 0411100048016; responses shared by Manuel Ureste.

<sup>10</sup> Manuel Ureste, “Con cámaras, brigadas de seguridad privada y drones, así planea México blindar a La Bestia”, *Animal Político*, Aug. 30, 2016, <http://www.animalpolitico.com/2016/08/camaras-brigadas-seguridad-drones-asi-planea-mexico-blindar-la-bestia/>.

<sup>11</sup> Comisión Mexicana de Ayuda a Refugiados, Estadísticas generales.

<sup>12</sup> Mexico’s Executive Branch submitted its 2017 Draft Budget of Expenditures to the Chamber of Deputies, which shall be approved no later than November 15, 2016. The current draft gives the INM MXN\$104.9 million less than in 2016; COMAR’s budget increases by MXN\$2.9 million compared to 2016. It remains to be seen whether the draft will be approved with these assigned amounts.

<sup>13</sup> Article 52, Section V of Mexico’s Migration Law: [http://www.diputados.gob.mx/LeyesBiblio/pdf/LMigra\\_210416.pdf](http://www.diputados.gob.mx/LeyesBiblio/pdf/LMigra_210416.pdf). See also: Article 137 of the Regulations to the Migration Law: [http://www.diputados.gob.mx/LeyesBiblio/regley/Reg\\_LMigra.pdf](http://www.diputados.gob.mx/LeyesBiblio/regley/Reg_LMigra.pdf)

<sup>14</sup> Diario Oficial de la Federación, *Acuerdo A/117/15 por el que se crea la Unidad de Investigación de Delitos para Personas Migrantes y el Mecanismo de Apoyo Exterior Mexicano de Búsqueda e Investigación y se establecen sus facultades y organización*, Dec. 18, 2015, [http://www.dof.gob.mx/nota\\_detalle.php?codigo=5420681&fecha=18/12/2015](http://www.dof.gob.mx/nota_detalle.php?codigo=5420681&fecha=18/12/2015).

<sup>15</sup> Procuraduría General de la República, *Cuarto*

*Informe de Labores de la Procuraduría General de la República*, <http://www.gob.mx/pgj/documentos/cuarto-informe-de-labores-de-la-procuraduria-general-de-la-republica?idiom=es>.

<sup>16</sup> Comisión de los Derechos Humanos del Estado de Coahuila de Zaragoza, *Recomendación 3/2016*.

<sup>17</sup> Comisión de los Derechos Humanos del Estado de Coahuila de Zaragoza, *Recomendación 9/2016*.

<sup>18</sup> Response to information request 00715916 to Coahuila's Attorney General's Office.



## ABOUT THE ORGANIZATIONS

**CASA DEL MIGRANTE DE SALTILLO “FRONTERA CON JUSTICIA”, AC**, in Saltillo, Coahuila, Mexico, provides comprehensive humanitarian assistance and legal services to migrants, and documents cases of human rights violations and crimes committed against migrants.

**FUNDAR, CENTRO DE ANÁLISIS E INVESTIGACIÓN, AC**, is a civil society organization based in Mexico City, Mexico that works toward a substantive democracy.

**WOLA (WASHINGTON OFFICE ON LATIN AMERICA)** is a research and advocacy organization that promotes human rights in the Americas.

## ABOUT THE AUTHORS

Ximena Suárez is WOLA’s Associate for Mexico. José Knippen is a migration project coordinator at Fundar. Maureen Meyer is WOLA’s Senior Associate for Mexico and Migrant Rights.

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