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MEXICO'S MIGRATORY POLICY REGARDING UNACCOMPANIED MINORS: OBSTACLES TO ACCESSING SERVICES & PROTECTIONS

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**Mexico's Migratory Policy Regarding
Unaccompanied Minors:
Obstacles to Accessing Services and Protections**

Project Directed by
Stephanie Leutert

A report by the
Policy Research Project on
Mexico's Migratory Policy
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The Colegio de la Frontera Norte (COLEF) participated in the project through the pioneering Research Center, which studies migration throughout Mexico and works closely with FM4 Paso Libre. COLEF's involvement in this project created the possibility to continue fostering greater understanding around migration, provide information for decision makers working on these topics, and sensitize communities regarding migration.

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Table of Acronyms

Bienestar	Ministry of Welfare, Mexico (<i>Secretaría de Bienestar, Bienestar</i>)
CNDH	National Human Rights Commission, Mexico (<i>Comisión Nacional de los Derechos Humanos</i>)
COMAR	Mexican Commission for the Assistance of Refugees (<i>Comisión Mexicana de Ayuda a Refugiados</i>)
DIF	National System for Holistic Family Development, Mexico (<i>Sistema Nacional para el Desarrollo Integral de la Familia</i>)
IFT	Federal Institute of Telecommunications, Mexico (<i>Instituto Federal de Telecomunicaciones</i>)
IIRIRA	Illegal Immigration Reform and Immigrant Responsibility Act
INM	National Migration Institute, Mexico (<i>Instituto Nacional de Migración</i>)
MS-13	Mara Salvatrucha
OPI	Childhood Protection Officials (<i>Oficiales de Protección a la Infancia</i>)
PGR	Federal Attorney General, Mexico (<i>Procuraduría General de la República</i>)
PPNNAs	Attorney General for the Protection of Girls, Boys, and Adolescents (<i>Procuraduría de Protección de Niñas, Niños y Adolescentes</i>)
PTSD	Post-traumatic stress disorder
Salud	Ministry of Health, Mexico (<i>Secretaría de Salud</i>)
SBS	Secretariat of Social Welfare, Guatemala (<i>Secretaría de Bienestar Social</i>)
SEGOB	Ministry of the Interior, Mexico (<i>Secretaría de Gobernación</i>)
SEP	Ministry of Public Education, Mexico (<i>Secretaría de Educación Pública</i>)
SHCP	Ministry of Finance and Public Credit, Mexico (<i>Secretaría de Hacienda y Crédito Público</i>)
SIPINNA	National System for the Protection of Children and Adolescents, Mexico (<i>Sistema Nacional de Protección Integral de Niñas, Niños y Adolescentes</i>)

SNDIF	National System for Integral Family Development, Mexico (<i>Secretaría Nacional del Sistema DIF</i>)
SRE	Ministry of Foreign Affairs, Mexico (<i>Secretaría de Relaciones Exteriores</i>)
STPS	Ministry of Labor and Social Welfare, Mexico (<i>Secretaría del Trabajo y Previsión Social</i>)

Foreword

The Lyndon B. Johnson School of Public Affairs has established interdisciplinary research on policy problems as the core of its educational program. A major element of this program is the nine-month policy research project, in the course of which one or more faculty members direct the research of ten to twenty graduate students of diverse disciplines and academic backgrounds on a policy issue of concern to a government or nonprofit agency. This “client orientation” brings the students face to face with administrators, legislators, and other officials active in the policy process and demonstrates that research in a policy environment demands special knowledge and skill sets. It exposes students to challenges they will face in relating academic research, and complex data, to those responsible for the development and implementation of policy and how to overcome those challenges

The curriculum of the LBJ School is intended not only to develop effective public servants, but also to produce research that will enlighten and inform those already engaged in the policy process. The project that resulted in this report has helped to accomplish the first task; it is our hope that the report itself will contribute to the second.

Finally, it should be noted that neither the LBJ School nor The University of Texas at Austin necessarily endorses the views or findings of this report.

Angela Evans
Dean

Executive Summary

This report explores the dynamics surrounding Central American unaccompanied minors in Mexico and their access to the country's protection system. Since 2009, the number of unaccompanied minors from El Salvador, Guatemala, and Honduras has increased significantly. Between 2009 and 2018, Mexican immigration officials apprehended approximately 80,000 unaccompanied minors, and hundreds of thousands more migrated through Mexico undetected. This report focuses specifically on Mexico's immigration system for unaccompanied minors who are apprehended, and these minors' ability to access legally guaranteed protections.

The report's first chapter outlines the reasons that unaccompanied minors migrate from Central America. It covers the varied and intertwined factors behind Central American migration, examining how minors may face violence or a lack of economic opportunity in their home countries, or be looking to reunite with family members in Mexico or the United States.

The second chapter details the rights of unaccompanied minors in Mexico. These rights are based in the Mexican Constitution, the Migratory Act of 2011, and the General Law on the Rights of Children and Adolescents. The chapter also outlines the administrative procedures for processing unaccompanied minors in Mexico's federal immigration system and the role of the country's 32 states.

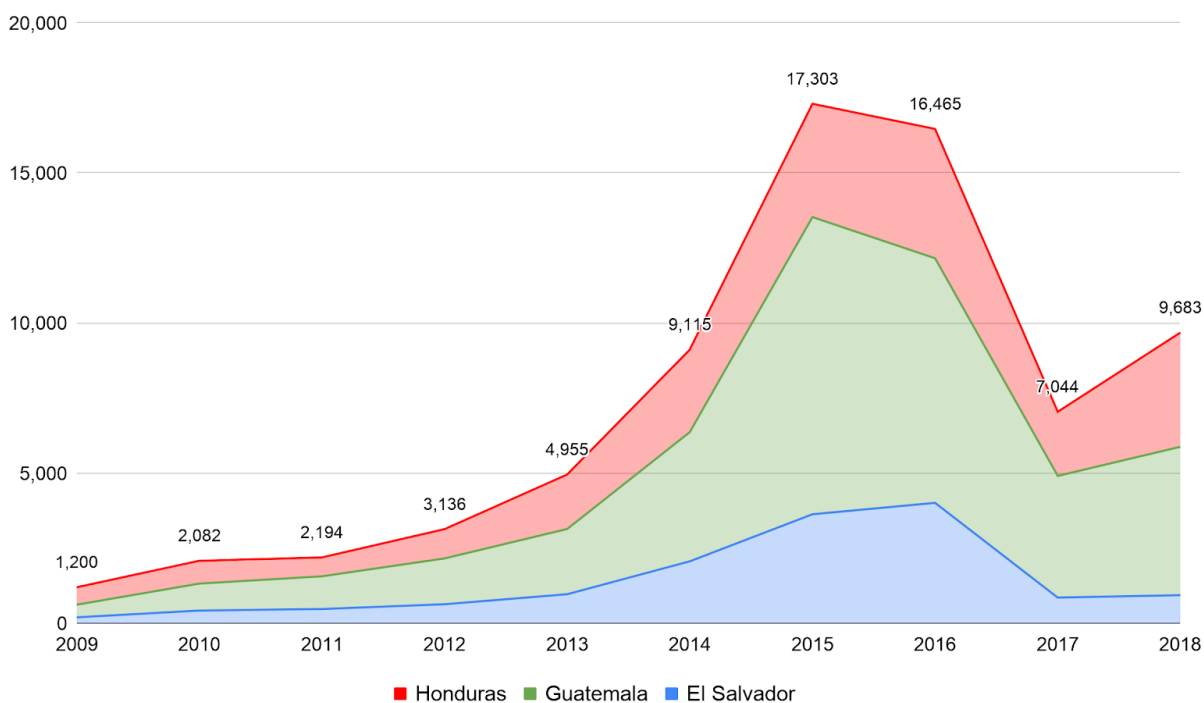
In the third chapter, the report examines the challenges and shortcomings in Mexico's federal and state systems for protecting unaccompanied minors. For example, government agencies' focus should always be on a minor's best interest and their rights. Yet, too often, minors' rights are compromised, and their best interest overlooked. Overall, the majority of Central American unaccompanied minors are deported from Mexico and do not receive any form of international protection.

Finally, this report makes several recommendations to various Mexican agencies that participate in processing or caring for unaccompanied minors. These recommendations seek to improve unaccompanied minors' access to protections in Mexico through greater efficiency measures or larger changes, including restructuring agencies. They aim to ensure that unaccompanied minors receive in practice the specific protections that are afforded to them under Mexican law.

Chapter 1: Central American Migration in Mexico

Since 2010, there have been increasing numbers of minors—defined as anyone under the age of 18—migrating out of Central America and into Mexico. From 2009 to 2018, approximately 80,000 unaccompanied minors were apprehended by Mexican migration officials and hundreds of thousands more migrated through Mexico undetected. In 2016, Mexican apprehension numbers hit their peak, with almost 4,000 minors detained across the country. Since then, however, the numbers have decreased dramatically, likely due to a lower apprehension rate rather than a lower rate of migration.¹

Figure 1
Mexican Apprehensions of Unaccompanied Minors (2009-2018)¹

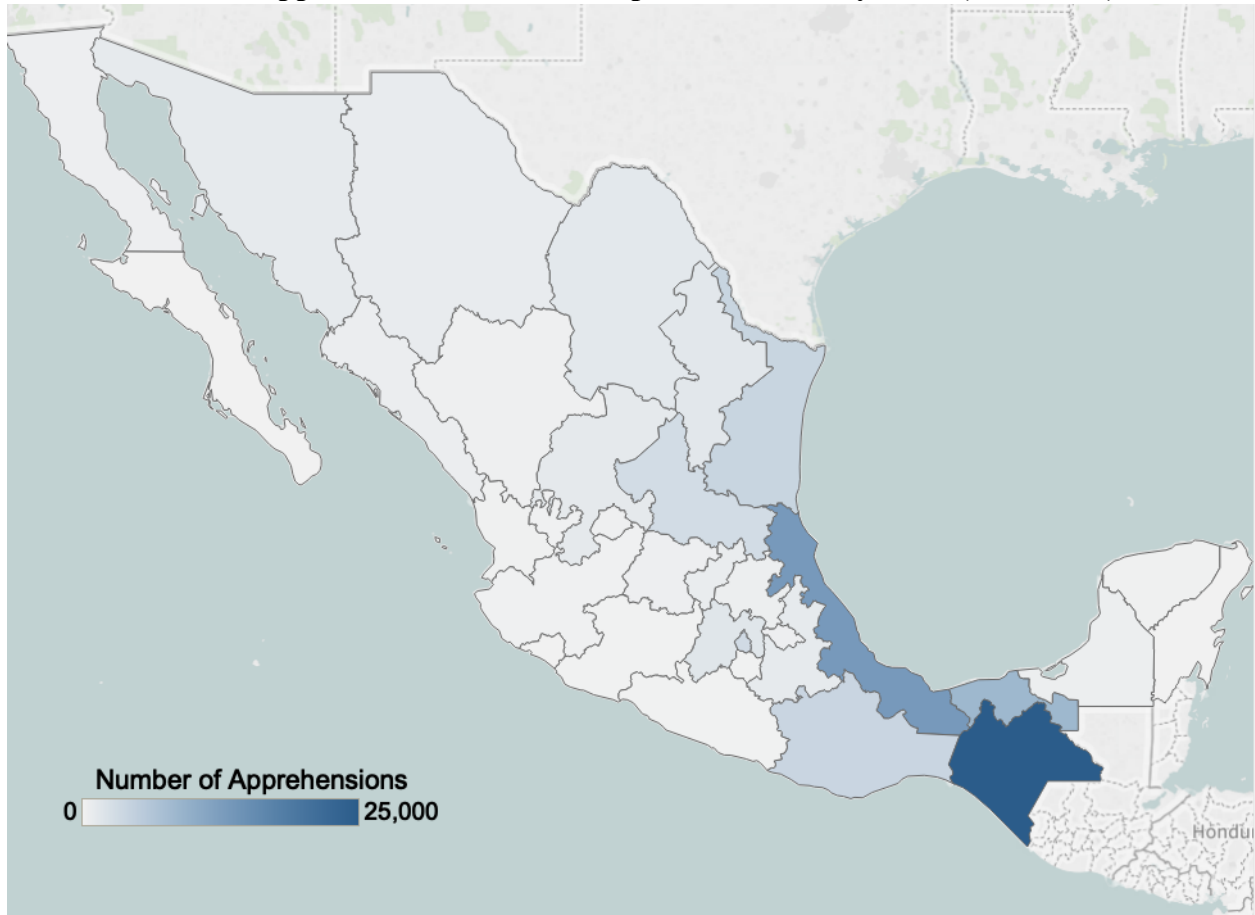


Source: SEGOB Data

Apprehensions of unaccompanied minors occur in every state across the country. However, the southern states of Chiapas, Tabasco, and Veracruz made up a combined 62.5 percent of all unaccompanied minor apprehensions.² Figure 2 shows the locations of these apprehensions for the years 2009 to 2018 and Appendix 1 includes the apprehension numbers for the top five Mexican states.

¹ During the same time frame, the numbers of unaccompanied minors arriving at the U.S. border has remained relatively steady, with around 50,000 apprehensions each year.

Figure 2
Mexican Apprehensions of Unaccompanied Minors by State (2009-2018)³



Source: INM Transparency Request

These unaccompanied minors follow several demographic trends. Since 2009, at least 95 percent of the minors come from three countries: El Salvador, Guatemala, and Honduras (known as the Northern Triangle), with more than half aged 16 or 17.² There has also been an increasing number of female minors, making up approximately one quarter of apprehensions over the past five years.⁴ Additionally, some of these minors are indigenous. In the case of Guatemala, the country's Secretariat of Social Welfare (*Secretaría de Bienestar Social*, SBS) has reported that 95 percent of minors returned from Mexico and the United States were from primarily Mam and K'iche' communities in the Departments of Quetzaltenango, Totonicapán, San Marcos, and Huehuetenango.⁵

Over the past decade, the number of unaccompanied minors migrating from Central America has increased due to a lack of economic opportunity and violence in the region.⁶ Some of these unaccompanied minors migrate seasonally across the border to take agricultural jobs in southern Mexico. While others emigrate to escape economic and socio-political realities created by decades

² Twenty percent were under the age of 14.

of violence in Central America or to reunite with family members. These situations have led these minors to increasingly seek asylum in the countries where they arrive.³⁷

Violence and Displacement

In El Salvador and Guatemala, a legacy of civil wars and chronically weak post-war governments have created an opening for organized crime to proliferate and exploit local populations.

In 1954 in Guatemala, President Jacobo Árbenz, a democratically elected leader, angered foreign investors by instituting a land reform program that U.S. leaders viewed as too similar to communism. In response, the United States launched an undercover coup, installing a brutal military regime that spent the subsequent decades enacting a scorched earth campaign against rebel groups and committing genocide against vast swaths of the population. By the time the country's Civil War ended in 1996, the Guatemalan government's campaign had left 200,000 dead, displaced more than 1.5 million internally, and prompted between 800,000 and 1.5 million Guatemalans to flee to Mexico and the United States.⁸

Similar to Guatemala, El Salvador's government had continuously promoted the interests of an elite group at the expense of the majority of the population. By 1970, 70 percent of the country's farmable land was in the hands of 1 percent of the population, and wealth was also heavily concentrated in the top 20 percent.⁹ In response, in the early 1970s, protests began to break out. By 1981, rebel groups had formed and consolidated into a unified rebel force. For the next 12 years, the country was racked by civil war, with El Salvador's government employing many of the same brutal tactics that occurred in Guatemala. More than one million Salvadorans fled the country, most of them traveling to the United States or Mexico.¹⁰

As people fled the violence in the Northern Triangle, many arrived in the United States and particularly in southern California. By 1990, over 700,000 Salvadorans had settled mainly in Los Angeles, along with cities in New York and Maryland. These migrants were segregated into impoverished neighborhoods, where young people were at risk from the local gangs. Many young people from El Salvador joined the 18th Street Gang (Barrio 18) looking for protection. Meanwhile, other young Salvadorans created their own gang, the Mara Salvatrucha (MS-13). Since then, the rival gangs have fought for territorial control both in the United States and across Central America.¹¹

In 1996, the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) expanded the definition of an aggravated felony and subsequently the list of deportable offenses. It also sped up the deportation process in some cases. The result was that more people, including gang members, qualified for deportation, and thousands were sent back to Central America in the following years.¹²

These deported gang members arrived in El Salvador only a few years after the country's Civil War had ended in 1992. Many had minimal ties to their home countries and gang involvement

³ From 2013 to 2017, asylum requests by unaccompanied minors in Mexico increased by 433 percent, from 30 to approximately 160 requests. The 40 applications in 2018 represent a significant drop, but COMAR did not provide numbers for the entire year.

provided them with a community.¹³ These gangs—which had once been highly centralized in Los Angeles—soon spread throughout Central America via new recruitment efforts. As they grew, MS-13 and the 18th Street Gang incorporated some of the region’s established gangs into their structure, and other gangs quickly adopted their better organized and disciplined rules and style. Other factors also contributed to MS-13 and the 18th Street Gang’s growth, including weak governmental institutions, high levels of poverty, the breakdown of family units due to economic hardship, the presence of illegal drug trade, and underpaid and poorly equipped security forces.¹⁴

Today, the Northern Triangle of Central America is one of the world’s most violent regions with high levels of impunity. The majority of crimes in the region tend to be attributed to MS-13 and the 18th Street Gang.¹⁵ In 2015, the violence reached its highest level since El Salvador’s Civil War.¹⁶ In all three countries, the governments lack the capacity to adequately protect citizens or prosecute the perpetrators. In 2011, a World Bank report noted that in Honduras, a mere 1.6 percent of the 63,537 criminal complaints resulted in a conviction.¹⁷

Young people are particularly at risk of gang violence in Central America. Boys face recruitment into gangs under threat of violence against their family members, while girls are at risk for sexual assault and abuse by gang members.¹⁸ Both MS-13 and the 18th Street Gang often induct children and teenagers into their ranks from a young age (10 to 12 years old).¹⁹ Gangs use children and adolescents in a variety of illegal activities, such as acting as lookouts, selling drugs, and soliciting extortion payments, because their age makes them less likely to be suspected by the police.²⁰ No mechanisms exist in Central America to protect minors from being forcibly recruited by gangs, and recruitment is often seen as a delinquency issue rather than one of minors in need of protection.

Policymakers have regularly made attempts to crack down on youth involvement in gangs. These attempts have come in the form of anti-gang campaigns, such as Iron Fist (Honduras and El Salvador, 2003), Super Iron Fist (El Salvador, 2006), Plan Zero Tolerance (Honduras), Plan Escoba (Guatemala), and the Salvadoran Law of the Prohibition of the Maras, Gangs, Criminal Associations and Organizations (*Ley de Proscripción de Maras, Pandillas, Asociaciones y Organizaciones de Naturaleza Criminal*, 2010). The influence of gangs, however, is so pervasive that for many residents of these countries it is impossible to escape their activities and the policies have limited effects.

Few victims ever report the crimes, due to the normalization of violence, widespread lack of trust in authorities, and fear of revenge from the gangs. For example, in Honduras, young women murdered by gangs have been found with stones in their mouths, indicating that they were killed for talking to the police or for talking to family or friends about gang activity.²¹ When people do report the crimes, corrupt police officers may hand the complaint’s information over to gang members, increasing the risk of retribution. In the vast majority of cases, violence goes unreported and unpunished. As a result, people are forced to flee their countries to save their lives.²²

Sexual- and Gender-Based Violence

Widespread sexual- and gender-based violence is another factor that drives young people from their homes in Central America.²³ In El Salvador, the first sexual experience of 28.5 percent of

⁴ Since 2015, there has been a decline in crime rates in El Salvador.

surveyed women was nonconsensual.²⁴ In Guatemala, a new case of sexual violence is reported every 46 minutes, with the actual rate likely higher due to underreporting.²⁵ These high rates of sexual violence are related to a hyper-masculine culture pervasive among gangs—a culture that is itself a reflection of the patriarchal values commonly held in Central America—and victim blaming.²⁶

Some sexual- and gender-based violence is related to gang activity. Gang members harass young women or force them to become “gang girlfriends,” where they are forced into sexual activity with multiple gang members. Having a gang girlfriend is considered a reward for status within the organization. The women themselves have little choice in the matter, as gang members frequently threaten the woman’s family members if she refuses. At the same time, gang girlfriends risk punishment or even death if they are seen interacting with other men. Thus, these women are put in an impossible position and enter relationships that put them at high risk of violence in exchange for some small promise of safety. In an effort to avoid attracting the attention of gang members, young women may choose not to attend school or avoid leaving their homes.²⁷

This dynamic illustrates how gang violence has second-order effects that become difficult to quantify. A young woman who migrates to escape becoming a gang girlfriend may have a hard time making a case for refugee status. She may never have been forced into a gang relationship, nor have been persecuted as a member of a protected class, but her freedom of movement, her education, her job prospects, and even her family relationships are all threatened by the gang’s presence. Her life in her home country is dangerous by default, even when a direct threat is lacking.

Apart from the gangs’ presence, young women may flee their countries to escape other forms of violence. In some cases, young women face sexual harassment and sexual-based violence from family members. In 2007, child sexual abuse rates in Guatemala, El Salvador, and Honduras were 4.7 percent, 6.4 percent, and 7.8 percent, respectively.²⁸ The legacy of violence from colonial and military rule and civil wars—along with the proliferation of weapons that are still in circulation across the region—have made force and fear pervasive elements of day-to-day life in Central America and created a “high tolerance” for violent behavior.²⁹ Moreover, traditional attitudes in these regions lead to gender-based discrimination, which also serves to support and normalize violence against women.³⁰

There are often structural issues that block children and families from seeking or achieving justice. These issues include officials that discourage reporting gender-based violence, ineffective investigations, a long judicial process without protection for victims, and scarce interpreters for indigenous people.³¹ Without protection in their home countries, young people may migrate to seek safety after experiencing violence or out of fear of assault.³²

Economic Instability

Many Central American migrants, including unaccompanied minors, leave their home countries due to a lack of economic opportunity.³³ The region’s economic malaise is rooted in its history, as colonialism concentrated wealth and property in the hands of an elite group. In Guatemala, corporate colonialism defined the mid 1800s through the 1920s, when huge commercial banana growers consolidated enormous amounts of property.³⁴ Elements of Guatemalan society, primarily

Spanish descended elites, welcomed and reinforced the domination of the economy by white immigrants and foreign companies.³⁵

A similar situation played out across the rest of the region. In El Salvador, the country's transition from Spanish colony to independent nation in the early nineteenth century failed to shift power away from a tiny ruling elite. This elite soon dominated a booming coffee industry, with productive coffee growing land concentrated in the hands of a few hundred families, who also influenced Salvadoran politics.³⁶ Meanwhile, in Honduras, the concentration of wealth and property among U.S. fruit companies helped replicate the same pattern of inequality.³⁷

In the 1980s, economic inequality in the region was exacerbated when the International Monetary Fund required that Central American countries undergo structural economic adjustments as part of recovery efforts amid an economic crisis. These structural economic adjustments granted significant loans to Central American countries in exchange for refocusing their national economies on production and trade. The market opening and need to compete globally led to mass production and large-scale agriculture, transforming rural, agricultural economies made up of small farmers. These farmers could no longer compete with global prices and the small family farms that historically provided the foundation for local communities began to disappear.³⁸ This shift to international competition also made Central American countries vulnerable to economic downturns. For example, in the late 1990s, the drop in global coffee prices put many Salvadoran agricultural wage-earners out of work. To this day, in some parts of Guatemala, local economies remain entirely dependent on coffee production and are vulnerable to market shocks.³⁹

Today, the Northern Triangle remains caught in a situation of low economic development. Overall, Guatemala's economy continues to be dependent on agriculture, with farming and livestock providing more than half the jobs in rural areas and making up more than a fifth of the total economy.⁴⁰ In 2015, more than 53 percent of Guatemalans were living in poverty, and this rate has been increasing steadily since 2006, despite positive economic indicators over the past decade.⁴¹ In particular, the country's indigenous Maya population—which makes up half of the national population—faces continued exclusion and discrimination.⁴²

El Salvador has also experienced a similar situation of stagnation, particularly in rural areas. The country's main export is coffee, which had a drop in global prices in the late 1990s and early 2000s. These price shocks led many Salvadorans to return to subsistence farming, putting their household incomes below the country's median levels. Unsurprisingly, the country's main source of income growth has been from remittances, which are sent back from relatives who are mostly in the United States. Under such circumstances, rural families often make the economic decision to send a family member to the United States.⁴³

Similarly, Honduras is the third-poorest nation in the Western Hemisphere and has the most unequal income distribution in Latin America.⁴⁴ A small wealthy class maintains power through connections with foreign corporations, the military, or large-scale agriculture, while the majority of the population lives in poverty and engages in subsistence farming.⁴⁵ Since the 1990s, the country's maquila sector began to attract more Hondurans to urban areas, and starting in 2006, income inequality began to decrease.⁴⁶ However, a 2009 coup changed the country's trajectory. In the two years following the coup, 100 percent of all real income gains went to the wealthiest 10

percent of the population.⁴⁷ Meanwhile, between 2008 and 2012, unemployment more than doubled and the number of people working full time but making less than the minimum wage went from 28 to 43 percent.⁴⁸ Currently, the economy is weak and depends on remittances from the more than a million Hondurans living abroad, mainly in the United States.⁴⁹

Seasonal Labor

For centuries, families, adults, and unaccompanied minors from El Salvador, Guatemala, and Honduras have migrated to southern Mexico to seek temporary work.⁵⁰ Until 1824, the southern Mexican state of Chiapas was part of Guatemala's territory. From that date onward, the historical, cultural, family, and commercial ties between Chiapas and Guatemala extend across national boundaries and make this stretch of land a highly fluid border.

Guatemalans have the longest tradition of migration to Mexico. Since the colonial period, indigenous people from Guatemala have migrated to the Soconusco region of the state of Chiapas to work in the cultivation and harvest of crops such as cacao, coffee beans, sugarcane, and bananas.⁵¹ Similar to adults, minors also participate in this agricultural labor and migrate seasonally to Mexico to harvest sugarcane and coffee. In particular, the labor of young people between the ages of 4 and 12 years old is enlisted in tasks that require fine motor skills, such as picking coffee and cleaning crops. This seasonal migration is a lauded social activity in which families entrust their future household survival and well-being in the paid labor of young people.

Yet Central American indigenous children and adolescents do not only work in agriculture. Minors also work in Mexican homes as domestic workers and sell candies and cigarettes on the streets in southern Mexican border cities such as Tapachula, Chiapas. This transnational labor migration is one of Central American families' multiple household survival strategies, with children and youth fulfilling social expectations and meeting economic needs. It is not uncommon for adolescents in their mid- to late-teens to migrate without their parents to Mexico to work and send money home. Even in these situations—where minors are acting fairly autonomously—they are considered unaccompanied minors.

Chapter 2: Mexico’s Protection System for Unaccompanied Migrant Children and Adolescents

Mexico’s federal government has a legislative base and institutional structure to protect the rights of all migrants, including those of unaccompanied minors. Broadly, there are three levels of federal law that are relevant for addressing unaccompanied Central American minors. The first is the Mexican Constitution (*Constitución Federal de los Estados Unidos Mexicanos de 1824*), which provides a broad framework for human rights protections, including for foreign children and adolescents. The second body of law concerns irregular migrants and details specific rights and migratory procedures for unaccompanied minors. The third level of law concerns the rights of children and adolescents within Mexico, including for foreign children. Taken together, these laws form the framework for Mexico’s protection system for unaccompanied minor migrants.

Mexican Constitution

The Mexican Constitution provides the overarching legal framework for protecting individuals’ human rights and the basis for all other laws and policies. The Constitution entitles all individuals in Mexico—including foreigners—the right to a discrimination-free environment, the right to education, the right to healthcare, the right to a healthy environment, and the right to shelter.⁵² The Constitution also includes the right of any person to seek refugee status in Mexico, although it does not detail the cases in which refugee status should be granted or denied.⁵³

Particularly for the rights of minors, the Constitution states that the government “will safeguard and comply with the principle of doing what is in a child’s best interest.”⁵⁴ This best interest of a child is a principle that appears in every Mexican law referencing unaccompanied migrant children, namely the 2011 Migratory Act (*Ley de Migración*) and the 2014 General Law of the Rights of Children (*Ley General de los Derechos de Niñas, Niños y Adolescentes*). However, the concept of ‘best interest’ is vague and not fully realized. At best, it provides an aspirational guidepost for how to develop policies for unaccompanied minors.

2011 Migratory Act

In 2011, Mexico’s legislature passed the federal Migratory Act to regulate the entry and departure of Mexicans and foreigners into and from Mexican territory.⁵⁵ The law defines the rights of all migrants, including access to education services, medical care, and the ability to move freely throughout the country regardless of immigration status. It gives foreigners the right to due process, specifically the right to file complaints related to human rights violations, and the right to information regarding refugee status in Mexico, including access to a translator.⁵⁶ The law also upholds the 2008 amendment to the 1974 General Population Law (*1974 Ley General de Población*) that decriminalized unauthorized migration in Mexico and turned it into an administrative infraction.⁵⁷

For unaccompanied minors, the 2011 Migratory Act establishes the framework for their care and well-being. The Migratory Act reiterates the concept of a child’s best interest as a primary consideration for whether a migrant child should be able to obtain temporary or permanent

Mexican residency, demonstrating again that this concept is the crux of Mexico's protection system for migrant children and adolescents.⁵⁸ The legislation designates the National System for Holistic Family Development (*Sistema Nacional para el Desarrollo Integral de la Familia*, DIF) as the governmental entity in charge of unaccompanied minors' general welfare.⁵⁹

The Migratory Act also outlines the procedures for when an unaccompanied migrant child or adolescent is apprehended by the National Migration Institute (*Instituto Nacional de Migración*, INM), the country's immigration enforcement agency. In this scenario, INM personnel who are trained in the protection and rights of children—known as Childhood Protection Officials (*Oficiales de Protección a la Infancia*, OPIs)—are tasked with assessing the minor to determine his or her best interest.⁶⁰ This interview should include information about the unaccompanied minor's parents or legal guardians, why the minor is separated from them, risks that the minor may face in their home country or in Mexico, and if they were the victim or witness of a crime.⁶¹ If the OPIs determine that the unaccompanied migrant child or adolescent requires international protection or if the minor requests refugee status, then INM must immediately notify the Mexican Commission for the Assistance of Refugees (*Comisión Mexicana de Ayuda a Refugiados*, COMAR), the agency in charge of determining whether someone qualifies for refugee status.⁵

Lastly, the 2011 Migratory Act establishes humanitarian visas (*vistante por razones humanitarias*) as a component of Mexico's protection system. INM grants foreigners the lawful status of 'visitor for humanitarian reasons,' commonly known as a humanitarian visa, if a foreigner falls under one of three categories: 1) victims or witnesses of a crime; 2) unaccompanied minors; or 3) those who requested political asylum, refugee status, or complementary protection but have not yet received a final decision.⁶² Regarding the second category, INM provides humanitarian visas to unaccompanied migrant children and adolescents when an OPI determines that this status is in the unaccompanied child or adolescent's best interest.⁶³

2014 General Law on the Rights of Children and Adolescents

The 2014 General Law on the Rights of Children and Adolescents (*Ley General de los Derechos de Niñas, Niños y Adolescentes*) establishes the rights of all minors in Mexico. The General Law on the Rights of Children and Adolescents outlines three guidelines: 1) The federal government must ensure a comprehensive human rights perspective while developing policies; 2) The federal government must consider all relevant factors that contribute to a child's safety when developing protection policies; 3) The federal government shall develop transparent methods for evaluating these policies' implementation.⁶⁴ The General Law requires states and municipalities to develop their own protection systems modeled on the national framework, with local executive secretaries that coordinate activities with the national secretary.

This General Law also sets up the National System for the Protection of Children and Adolescents (*Sistema Nacional de Protección Integral de Niñas, Niños y Adolescentes*, SIPINNA). SIPINNA is a coordination system that develops the country's children protection system, provides trainings and programs, and maintains a database documenting the activities of DIF offices.⁶⁵ The SIPINNA

⁵ Implementation of the Migratory Act, Art. 174.

⁶ The Migratory Act also states that humanitarian visas may be issued to foreigners who do not fall under one of the listed categories but who have a humanitarian cause that makes their admission into Mexico necessary.

coordinator is the executive secretary, who develops trainings and programs promoting children and adolescents' rights.⁶⁶

Table 1
SIPINNA Structure

Members	SIPINNA Elements
<ol style="list-style-type: none"> 1. The President of Mexico 2. Secretary of the Interior (<i>Secretaría de Gobernación, SEGOB</i>) 3. Secretary of Foreign Affairs (<i>Secretaría de Relaciones Exteriores, SRE</i>) 4. Secretary of Welfare (<i>Secretaría de Bienestar, Bienestar</i>) 5. Secretary of Finance and Public Credit (<i>Secretaría de Hacienda y Crédito Público, SHCP</i>) 6. Secretary of Health (<i>Secretaría de Salud, Salud</i>) 7. Secretary of Public Education (<i>Secretaría de Educación Pública, SEP</i>) 8. Secretary of Labor and Social Welfare (<i>Secretaría del Trabajo y Previsión Social, STPS</i>) 9. Head of the National System for Integral Family Development (<i>Secretaría Nacional del Sistema DIF, SNDIF</i>) 10. Governors of the 32 states 11. Attorney General (<i>Procuraduría General de la República, PGR</i>) 12. President of the National Human Rights Commission (<i>Comisión Nacional de los Derechos Humanos, CNDH</i>) 13. President of the Federal Institute of Telecommunications (<i>Instituto Federal de Telecomunicaciones, IFT</i>) 14. Civil society representatives 	<ol style="list-style-type: none"> 1. National DIF System 2. Executive Secretary 3. Deputy Attorney General for the Protection of Children (<i>Procuraduría Nacional de Protección de Niñas, Niños y Adolescentes, PPNNA</i>) 4. Consultative Council of the National System 5. The 32 State SIPINNAs 6. The 32 State Executive Secretaries 7. The 32 State PPNNAs 8. The 1,125 Municipal SIPPINAs 9. The 1,125 Municipal Executive Secretaries 10. The 1,125 Municipal PPNNAs

Role of States in Federal Protection Laws

Mexican migratory law is concentrated at the federal level but provides a role for state and local governments to protect unaccompanied migrant children. The 2011 Migratory Act requires the executive branch to gather input from state governments when developing Mexican migratory policy.⁶⁷ The General Law on the Rights of Children and Adolescents sets up a national system of coordination that includes the state governors as members and requires states and municipalities to develop their own protective systems modeled on the national framework. These local executive secretaries are supposed to coordinate activities with the national secretary. The law also tasks specialized prosecutors within the national and state DIF systems with representing unaccompanied minors.

Currently, only 20 of Mexico's 32 states have state-specific migratory laws and not a single state law defines a minor's best interest.⁶⁸ This is significant because state laws dictate how each state-level DIF and Attorney General for the Protection of Girls, Boys, and Adolescents (*Procuraduría de Protección de Niñas, Niños y Adolescentes*, PPNNAs) implement their federal obligations. These state migratory laws were often created in response to Mexican nationals migrating abroad, not foreign migrants in transit through Mexico, and are more focused on their responsibilities to Mexican migrants.⁶⁹ Yet, state laws dictate how each state-level DIF and PPNNAs implement their federal obligations toward not just Mexican minors but also those from Central America and beyond.

Federal Immigration Agencies

Generally, the process of assessing and deciding what is in an unaccompanied migrant child or adolescent's best interest relies on a complex interaction between multiple government agencies at the federal, state, and municipal levels. The DIF system is the government entity that is responsible for minors' safety and well-being. INM is Mexico's federal migration enforcement agency and is often the first point of government contact with unaccompanied minors. INM often works in tandem with the DIF system during unaccompanied minors' migration proceedings. COMAR also interacts with unaccompanied migrant children who are seeking international protections.

The National DIF System

The National DIF System is a decentralized governmental organization that administers public welfare programs in Mexico, and is the entity assigned to providing protection services to unaccompanied minors.⁷⁰ It was founded in 1977 by the wife of Mexico's president and since then it has been symbolically run by the spouse of the president. The system functions in large part as a liaison and a research institution, with its legal mandate allowing it to carry out education and job training, operate social assistance centers (the official name of DIF shelters), and maintain a national database tracking child welfare services provided in Mexico.⁷¹ At the federal level, DIF is composed of a board, an organizational head, and various departments organized into directorates based on broader themes, such as food and community development or management and strategic development.⁷² As of 2016, there were 19 directorates.⁷³

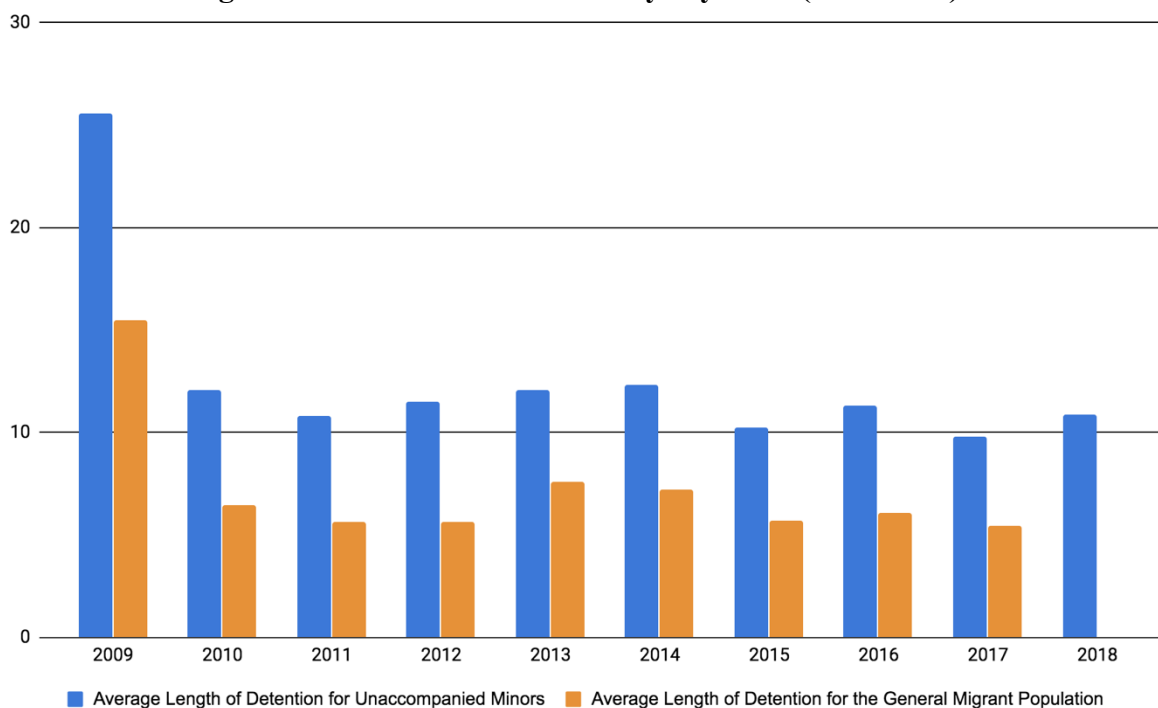
The Organizational Statute for the National DIF (*Estatuto Orgánico del Sistema Nacional Para el Desarrollo Integral de la Familia*) sets out 36 powers. Fourteen of those powers limit the National DIF's role to "promoting" or "celebrating" policy goals at other institutions. While another two provisions call on the National DIF to "recommend" or "propose" courses of action for the state. For example, DIF may propose social assistance programs to the Ministry of Health (*Secretaría de Salud*, Salud) and recommend the establishment of social assistance agencies in municipalities.⁷⁴ However, the Ministry of Health and cities make the final decision on whether or not to establish the recommended programs. DIF may also conduct studies on social assistance.⁷⁵ These soft powers give DIF the power to influence policy via knowledge-sharing and recommendations.

The National, State, and Municipal DIF authorities are charged with housing unaccompanied minors and are specifically instructed to keep children and adolescents in facilities that are separate from adults.⁷⁷ All unaccompanied minors that Mexican immigration authorities apprehend must be transferred to a DIF shelter while their migratory status is being resolved.⁷⁷

Unaccompanied minors in DIF shelters may express their intention to claim for asylum. In this case, DIF should inform INM, who subsequently informs COMAR, so that qualified minors can apply for and receive the appropriate protections. Services are administered by local DIF organizations that operate autonomously and are overwhelmingly funded by local taxes.⁷⁸

Generally, minors in DIF custody are unable to leave the shelters while INM resolves their migratory status. This can be challenging because these minors are frequently detained for more than a week. Since 2010, the average length of detention for unaccompanied minors has remained relatively constant at between 10 and 12 business days. This represents a decline from 2009, when the average detention length was over 25 business days, possibly due to the 2008 decriminalization of irregular migration. Figure 3 shows the average length of detention (in business days) for unaccompanied minors and the general migrant population by year.⁸

Figure 3
Length of Detention in Business Days by Year (2009-2018)⁹ ⁷⁹



Source: INM Transparency Request

⁷ The National DIF runs five shelters in Mexico City. All other DIF shelters are run at the state or municipal level.

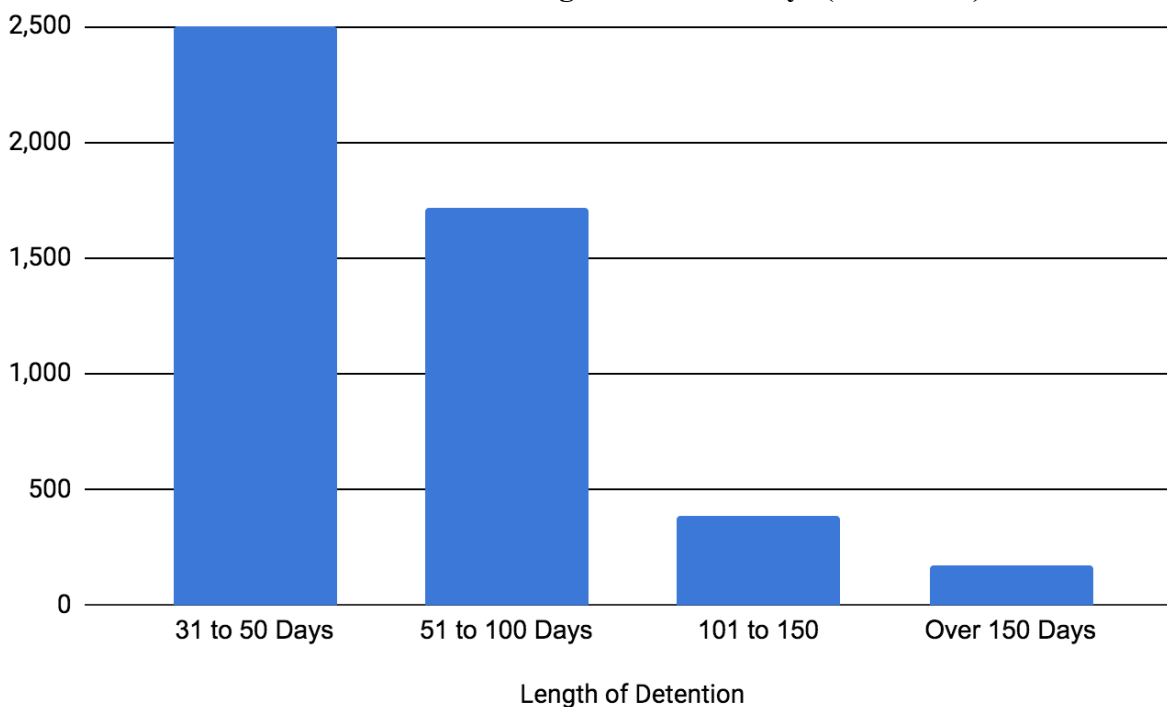
⁸ The length of detention of unaccompanied minors includes their time in INM detention centers as well as DIF shelters. The length of detention of the general migrant population only includes time spent in INM detention centers.

⁹ The average length of detention for the general migrant population for 2018 is not included, because of INM's limited apprehension data for that year.

The demographics of Central American unaccompanied minors did not affect detention times. From 2009 to 2018, unaccompanied minors from El Salvador, Guatemala, and Honduras were all detained for approximately 11 business days. Similarly, there was not a significant difference in detention lengths by age or gender. However, during this time period, unaccompanied minors were consistently detained longer than the general migrant population. This discrepancy may be due to the additional steps in unaccompanied minors’ immigration processes, such as transferring the minor to a DIF shelter or providing additional screening.

Generally, unaccompanied minors are not detained for extended periods of time, but there are exceptions. Between 2009 and 2018 approximately 6 percent of unaccompanied minors, representing 4,770 minors, were detained for longer than 30 business days. This prolonged detention may lead to increased traumatization and cause depression, anxiety, post-traumatic stress disorder (PTSD), or suicidal ideations. Figure 4 shows the cases where unaccompanied minors were detained for more than 30 business days.

Figure 4
Cases of Detention Exceeding 30 Business Days (2009-2018) ⁸⁰



Source: INM Transparency Request

DIF shelters generally house unaccompanied minors until they are deported. This means that from a migration enforcement perspective, allowing unaccompanied minors to leave these shelters could increase the risk that they run away. However, closed-door detention facilities can also cause negative effects for minors. The lack of freedom within DIF shelters results in children experiencing high stress levels. Detained children show signs of PTSD, and suffer from insomnia, nightmares, depression, and anxiety, which can manifest in violence against themselves or others.⁸¹

Attorney General for the Protection of Girls, Boys, and Adolescents (National PPNNA)

According to Article 92 of the General Law on the Rights of Children and Adolescents, the Deputy Attorney General for the Protection of Children and Adolescents (PPNNA) is the body in charge of determining and facilitating unaccompanied minors' legal guardianship in Mexico.⁸² The PPNNAs are the administrative units of the National, State, and Municipal DIF System, in charge of protecting and restoring the rights of girls, boys, and adolescents. They are also responsible for representing minors' interests in legal and administrative proceedings. PPNNAs are the only institutions that can legally represent unaccompanied minors during their administrative procedures, and these minors do not have the option of obtaining any other form of legal guardianship.

PPNNAs have the responsibility to protect all children in their jurisdictions, not solely unaccompanied minors. The PPNNAs main areas of action are representing minors in legal matters; supervising the proper functioning of the social assistance centers and updating a national registry of these centers; detecting violations of minors' rights, determining special protection measures, drawing up plans for restoring these rights, and coordinating the plans' execution; promoting the rights of girls, boys, and adolescents and; requesting that other institutions implement protection measures in cases of imminent risk to a child's life, integrity, or freedom.

COMAR

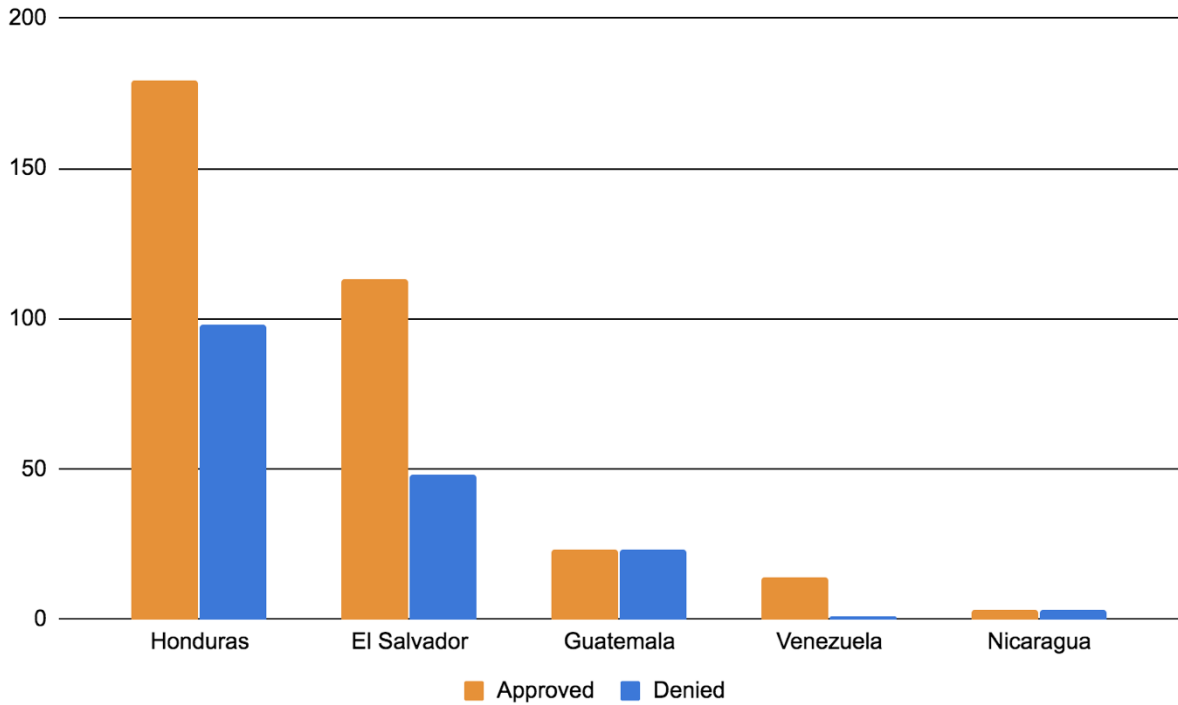
One of Mexico's central protection mechanisms for unaccompanied migrants is the right to seek refugee status. The 2011 Law of Refugees, Complementary Protection, and Political Asylum outlines the refugee process in Mexico, stating that any foreigner who enters Mexican territory has the right to seek refugee status.⁸³ For unaccompanied migrant children and adolescents who seek refugee status, the first step is an interview with a COMAR representatives to determine the child or adolescent's best interest.⁸⁴ COMAR may request the intervention of DIF, who will house the child in a specialized shelter to meet his or her needs.⁸⁵

COMAR grants refugee status to foreigners for three primary reasons. First, it provides protection to foreigners who have a well-founded fear of being persecuted based on their race, religion, nationality, gender, belonging to a particular social group, or political opinion, and are located outside of their country of origin and cannot or do not wish to use the protection in their country. Second, it grants protections to foreigners who have fled their home country because their life, security, or liberty have been threatened by generalized violence, foreign aggression, internal conflicts, massive violation of human rights, or other situations that greatly disturb public order. Third, it allows for protections of foreigners in Mexico who, due to changed circumstances in their home country or activities carried out during their time in Mexico, have well-founded fears of being persecuted for the aforementioned reasons.⁸⁶

From 2013 to 2018, 519 unaccompanied minors applied for refugee status, and COMAR granted protection to 334 of these minors. Honduran and Salvadoran minors made up 84 percent of applications from unaccompanied minors and 88 percent of recognized refugees.⁸⁷ Unaccompanied minors from Guatemala were less likely to apply for refugee status than minors

from Honduras and El Salvador, and less likely to be approved for refugee status.¹⁰ Figure 5 shows the number of applications for refugee status by the unaccompanied minor’s country of origin and the final case resolution.

Figure 5
Results of Unaccompanied Minors’ Refugee Applications by Nationality (2013-2018)⁸⁸



Source: COMAR Data

¹⁰ This may be because unaccompanied minors from Guatemala are more likely to be migrating for economic reasons, therefore are less interested in applying for refugee status, and less likely to be accepted when they do.

Chapter 3: State Level Policies for Unaccompanied Migrant Children and Adolescents

Although migration is a federal issue, Mexico's 32 states play a significant role in the country's protection system. Each state has its own DIF system and set of policies for addressing unaccompanied minors, which vary greatly from one state to another. This is most evident in two specific areas: 1) the number of DIF shelters for unaccompanied minors in each state, and 2) the number of programs that each state offers for migrant children and teens.

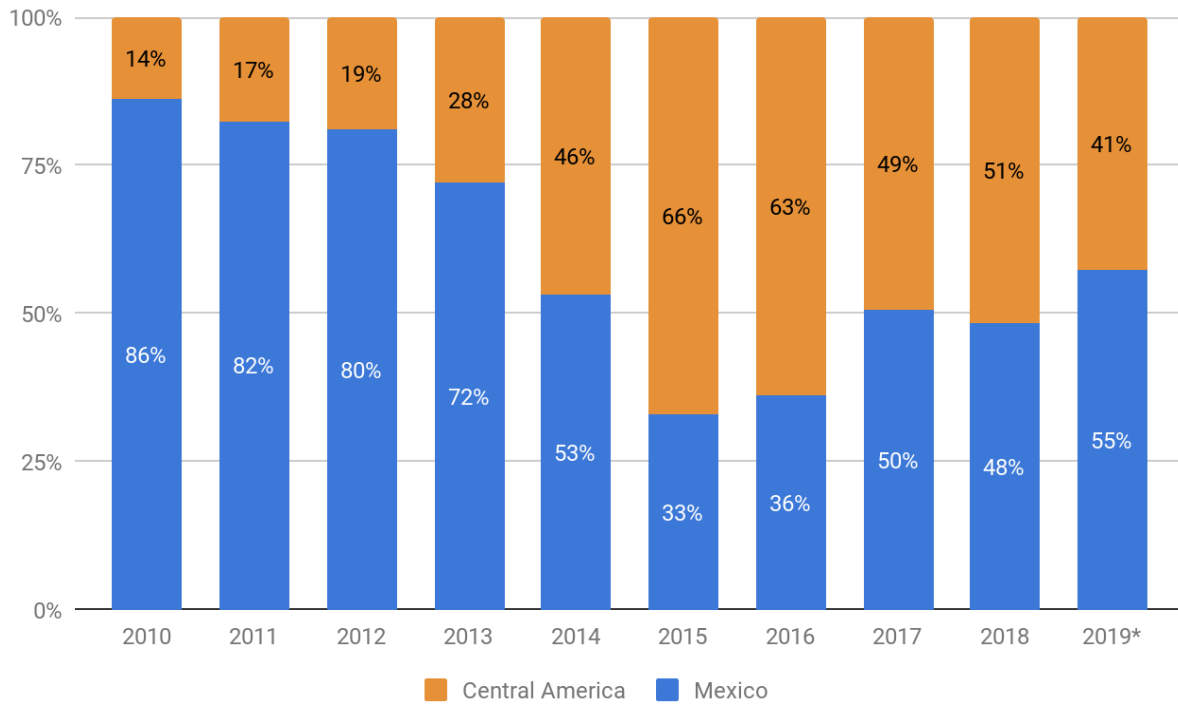
DIF Shelters for Unaccompanied Minors

Federal law requires that state and local DIFs set up shelters for unaccompanied minors. Yet the number of shelters in each state and their capacity varies dramatically. These shelters were often initially set up to house Mexican unaccompanied minors after they were deported from the United States. Today, these shelters also serve foreign unaccompanied minors.

To estimate the breakdown of unaccompanied minors in DIF shelters, this report uses INM apprehension data for Central American unaccompanied minors and repatriated Mexican unaccompanied minors. According to Mexico's legal framework, both groups should be housed in DIF shelters: Mexican minors until they can be returned to their homes and Central Americans until INM resolves their migratory status. Using this methodology, since 2010, the percent of Central American unaccompanied minors in Mexico's protection system has increased. In 2015, 66 percent of minors in DIF shelters were Central Americans. Since then, that percentage has decreased, but is still higher than its level in the early 2010s.¹¹

¹¹ Central American unaccompanied minors may be undercounted, since they are not always transferred to DIF shelters and instead remain in INM detention centers.

Figure 6
Composition of Unaccompanied Minors in DIF Shelters by Nationality^{89 9012}



Source: INM Data

In responses to transparency requests, DIF shelters in 24 of Mexico’s 32 states reported having a capacity of 2,235 minors.⁹¹ By comparison, from 2010 to 2018, there were an average of 20,210 unaccompanied minors in need of DIF housing every year, including both Central American unaccompanied minors and repatriated Mexicans.⁹² However, this discrepancy does not necessarily indicate an inadequate amount of shelter space, since minors generally only stay in the DIF shelters for a few days or a little over a week. Figure 7 shows the location and capacity of DIF shelters in Mexico.

¹² The 2019 data only covers January and February. Data on INM apprehensions of unaccompanied minors outside of El Salvador, Guatemala, and Honduras is not included.

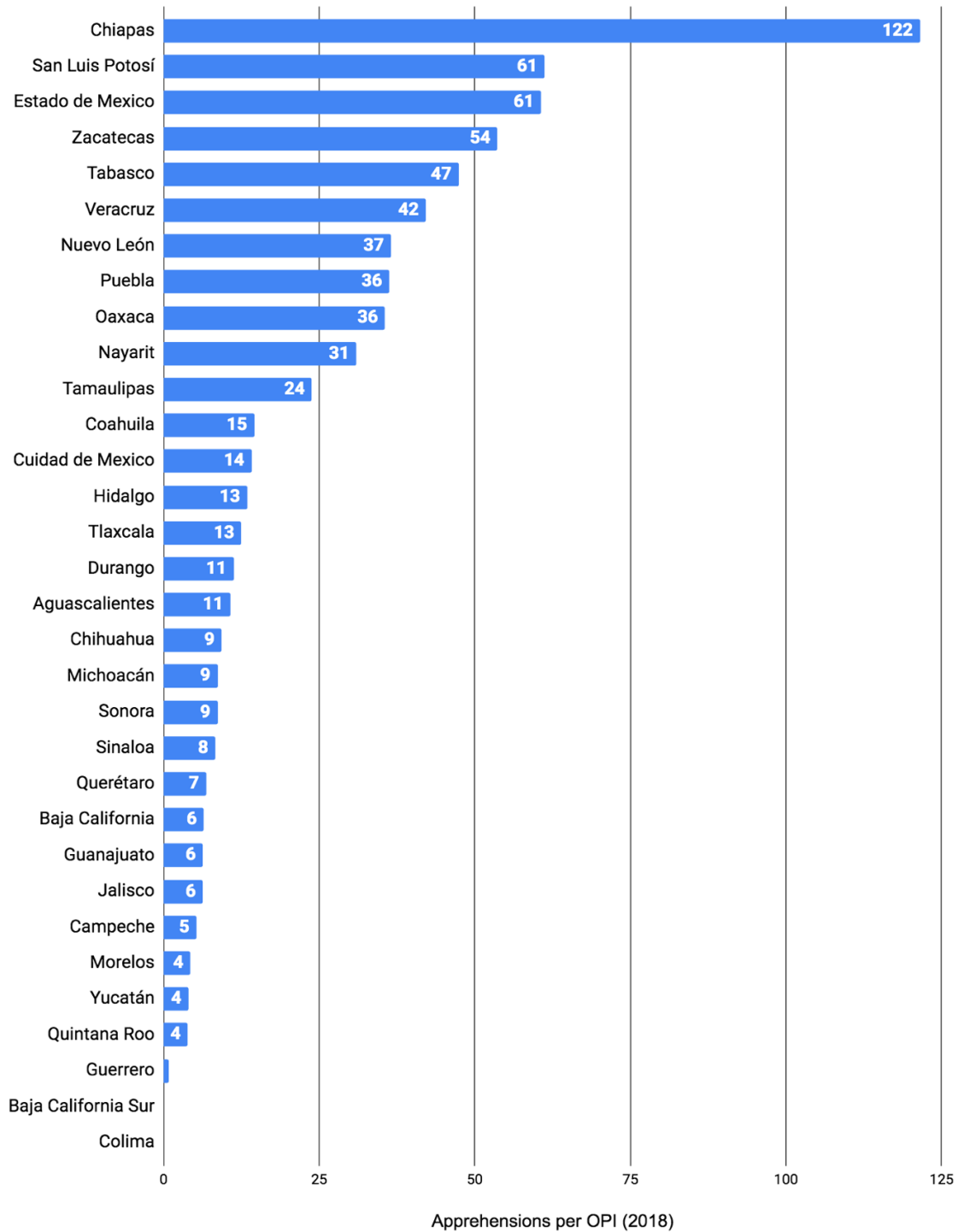
Figure 7
Distribution of DIF Shelters in Mexico⁹³



Source: DIF Transparency Requests

States also exercise discretion over the number of officials working within these shelters. As of 2018, there were 352 OPIs working within INM. States with the highest number of OPIs include Chiapas (31), Mexico City (44), Tamaulipas (24), Veracruz (27), and Chihuahua (24).⁹⁴ In 2013, Human Rights Watch found that roughly 40 percent of unaccompanied minor apprehensions occurred in Chiapas, but only 6 percent of OPIs were assigned to the state.⁹⁵ In the following five years, the situation didn't change significantly. In 2018, some 34 percent of unaccompanied minors were apprehended in Chiapas, but only 9 percent of OPIs were assigned to the state.⁹⁶ Figure 8 illustrates the number of unaccompanied minors apprehended for every OPI assigned to the state. OPIs in Chiapas—the state with the highest number of unaccompanied minor apprehensions—also face the largest workload.

Figure 8
Apprehensions of Unaccompanied Minors per OPI by State (2018)⁹⁷



Source: INM Transparency Request

State Level Programs for Unaccompanied Minors

States vary in the services that they offer to unaccompanied migrant minors. Most states do not provide additional programs for the migrant population beyond what is required by federal and state laws. Even fewer states offer programs specifically targeted to unaccompanied minors. State programs that are available to Central American unaccompanied minors typically consist of providing additional shelters, basic necessities (such as shoes and clothing), and educational or cultural activities. For example, the state of Nuevo León has a program that is focused on providing unaccompanied minors with clothing and backpacks to help facilitate their safety while migrating. Table 2 documents programs that are accessible to unaccompanied migrant minors.¹³

Table 2
State Programs for Unaccompanied Minors

State	Programs/ Services	Description	Start Date	Analysis
Mexico City	Hospital, Intercultural & Migrant Assistance Program	This program is designed to provide financial assistance and advice to migrants regarding where to receive basic services and legal support. It is also intended to provide assistance to non-profit and private organizations that work with migrant populations.	2018	This program is not specifically for unaccompanied minors. Instead, it is intended to benefit the entire migrant population. There is no information on specific services or the number of migrants who have utilized this program.
Chiapas	Director for the Protection of Chiapanecos Abroad and Migrants	This is a state department that provides economic support to non-profit organizations that assist migrants and also provides legal advice to migrants.	---	There is no information on the non-profit organizations that this department has assisted or information on how many migrants have received its legal services.
Chihuahua	Attention Program for Vulnerable Groups	This program provides free workshops on photography and theater to migrants and other vulnerable populations.	2018	The program is available to all vulnerable populations, including migrants. No information could be found on how many migrants have participated in this program.

¹³ If a state is not listed, no information could be found through state agency websites or by contacting state agencies directly.

Coahuila	On the Way Home, Care for Migrant Children	This program is focused on safely reunifying migrant and repatriated children with their families and communities of origin.	All three programs are included in the 2017-2023 State Development Plan	Each of these programs is provided through the state DIF system and is included in the State Development Plan. However, there is no information on the number of children who have benefited from these programs and each program's official start date.
	House for Children of Coahuila	This shelter is intended to provide physical, educational, and psychological services to at-risk adolescents between the ages of 0 to 8.		
	House for Adolescents of Coahuila	This shelter is intended to provide physical, educational, and psychological services to at-risk adolescents between the ages of 9 and 17.		
Guanajuato	Prevention and Attention to Minors in Migratory Situations	This program was created to combine all public and private initiatives for entities working with minors and migration. The program focuses on quickly and safely repatriating minors, providing temporary housing, and organizing talks and workshops to educate the public about issues related to unaccompanied minors.	2013	Between 2013 and 2017, this program has provided services to 526 unaccompanied minors (foreign and Mexican). However, there is no information on the number of beneficiaries after 2017.
Jalisco	Support and Assistance Services for Families in Vulnerable Conditions	This program is designed to provide housing, food, clothing, and other basic needs to vulnerable families.	2014 to 2018	This program is for all vulnerable populations but does not provide information on who has participated in the program.
Nuevo León	Additional DIF Shelters	Beyond the official state and municipal DIF shelters, DIF has also established additional shelters throughout the state.	---	These shelters expand overall shelter capacity by 35,000 individuals. However, it is unclear which shelters are specifically for unaccompanied minors, since these shelters are for all vulnerable populations.
	Temporary Shelters	These temporary shelters have been constructed throughout the state to provide additional housing.	Updated as of January 2019	

	Strategy of Attention	This program aims to develop a network of transit shelters for children and adolescents to receive shoes, outerwear, and backpacks, in order to facilitate their safe return to their place of residence.	2014	The program's goals were laid out in a 2014 report. However, there was no additional information regarding how many unaccompanied minors were assisted through this program.
Oaxaca	Regional Assistance to Vulnerable Groups	This program provides medical services to vulnerable groups. Also connects vulnerable populations to other social programs.	2018	There is no information on how many people have utilized this program.
	Prevention and Attention to Boys, Girls, and Adolescents Who Are at Risk of Homelessness	This program provides food, orientations, workshops, and recreational activities to children and adolescents.	2018	This program is intended to raise awareness and provide assistance to minors who are at risk of living on the street. This program is intended for all vulnerable minor populations.
Querétaro	Coordination of Legal Assistance to Shelters	This program provides legal services to children and adolescents who remain in shelters.	---	It is not clear if this service is available to migrants. There is no information on how many children have received legal assistance through this program.
Quintana Roo	House of Temporary Assistance to Adolescents at Risk	This program provides temporary residential care to children and adolescents without parental care in order to protect their rights.	January to December 2017	This program is not specifically for migrants and there is no information on how many minors participated in the program.
Tabasco	Module of Assistance to Unaccompanied Migrant Minors	This program is designed to provide unaccompanied minors with protection and the ability to exercise their rights. Specifically, the program provides food, lodging, basic equipment, psychological care and social work services for minors.	---	There is no information on when the program started and who is the coordinating body.

Tamaulipas	Unaccompanied and Vulnerable Migrant Minors	This program's goal is to develop a search platform for unaccompanied minors. It also attempts to promote greater protections for minors throughout the legal system.	---	There is no information on the implementation of any official search platform. Nor are there any documents that demonstrate the program's efforts to support unaccompanied minors.
	Unaccompanied Migrant Teenagers and Children	This program focuses on unifying families by attempting to discover the root causes of migration.	---	This program is designed for both national and foreign migrants. There is no information on beneficiaries or the program's time span.
	Centers of Attention to Border Minors	This program is designed to address the needs of unaccompanied minors and repatriated minors in order to reintegrate them in their places of origin.	---	There is no information provided on the number of minors who have participated in this program.
	Casa Hogar for Boys and Girls	This program is designed to provide housing to minors who have been mistreated or abandoned. The program provides protection and assistance to facilitate rehabilitation, security, and development.	---	There is no public information on this program. The program description states that the target population consists of minors (up to the age of 18) that have been abandoned, mistreated, or abused.
	House of Migrants	This program provides six shelters to house and provide food to migrants.	---	The program's website claims that the six shelters have the ability to house 600 migrants. However, there is no information on how many migrants have accessed these shelters.

Chapter 4: Structural Challenges Within the Federal and State Systems

Although the 2011 Migratory Act and the 2014 Law on the General Rights of Children and Adolescents are designed to protect migrant children and youth, unaccompanied minors still encounter a range of challenges when trying to access Mexico's federal and state protection systems. These include structural barriers, such as a lack of resources within Mexico's federal agencies, and a lack of support to inform and guide unaccompanied minors through the country's legal system. Additionally, unaccompanied minors may also face stereotypes, which automatically link them to violence and gangs and further complicate their ability to access protections.

Best Interest Assessment

The first challenge for unaccompanied minors is establishing their best interest. According to the Mexican Constitution, the Migratory Act, and the General Law on the Rights of Children, a child or adolescent's best interest assessment is a central component of the country's protection system. This assessment determines whether an unaccompanied minor will receive some form of protection.⁹⁸ However, these assessments are not always carried out as legally required.

First, there is not always sufficient personnel to complete these best interest assessments. Within INM, OPIs have the responsibility to carry out these assessments, but there are not always enough OPIs for the number of unaccompanied minors. Additionally, OPIs are not solely responsible for child protection, and are also responsible for other duties within INM that may inhibit them from providing these assessments.⁹⁹ Without screening from officials who are trained in child and adolescent development and responses to trauma, unaccompanied minors may not be properly assessed for international protection needs. This may result in unaccompanied minors being deported back to a country where they will not be safe.

Overall, many children receive delayed or incomplete best interest assessments, and in some cases are never screened. In a 2013 UNHCR survey of some 270 detained unaccompanied minors, more than 70 percent of boys and 80 percent of girls had not met with child protection officials.¹⁰⁰ Similarly, in 2015, Human Rights Watch interviewed detained unaccompanied minors in eight Mexican states and many interviewees reported that they had never received a best interest assessment.¹⁰¹ These responses indicate that best interest assessments were either not occurring or that the unaccompanied minors did not fully understand when they occurred. There is no recent data on best interest assessments, but INM data that shows the majority of unaccompanied minors regularly being detained for short periods of time and then deported raises concerns about the adequacy of existing screening processes.¹⁰²

DIF Shelter Challenges

The lack of resources throughout the DIF systems—at the national, state, and municipal levels—represents another challenge for unaccompanied minors. This system is responsible for guaranteeing unaccompanied minors' rights and providing them with a range of protections.¹⁰³ However, the DIF system is not focused exclusively on protecting foreign migrant children and

serves a broad spectrum of high-risk populations within Mexico. Therefore, DIF does not always have sufficient resources to properly assist unaccompanied migrant minors.

One particular challenge is providing appropriate housing to unaccompanied minors. Mexican law requires that unaccompanied minors be housed in DIF shelters, so that they receive more child-focused services.¹⁰⁴ However, some shelters do not have sufficient capacity, and others do not receive minors over the age of 12. This means that certain minors end up staying in INM detention centers for longer periods of time.¹⁴ In 2016, the Mexican Human Rights Commission surveyed all 132 DIF shelters in Mexico and found that 41 only received children under the age of 12. In areas where these are the only shelters, adolescents between the ages of 13 and 17 may be left without adequate protections.¹⁰⁵

DIF Legal Framework

DIF's decentralized institutional structure also poses another challenge for unaccompanied minors attempting to access Mexico's protection system. Currently, there is an uneven allocation of resources at the state and local levels, and National DIF does not have the ability to set enforceable standards or transfer significant resources to state or local DIFs.¹⁰⁶ Instead, National DIF may set policies regarding social welfare programs but has no legal authority to implement or enforce them. National DIF's materials are generally billed as non-mandatory guidelines, such as, a technical guide for personnel who work with children in shelters.¹⁰⁷ However, there are no enforceable standards that apply to all shelters.

This is particularly concerning for non-Mexican unaccompanied minors. Mexican cities have limited resources and may be under pressure to serve their constituents over foreign migrants. Therefore, complete local control over programming and spending may result in a de-prioritization of unaccompanied minors needs, including access to legal representation and applications for asylum.

Processing Through COMAR

COMAR's limited resources and personnel is another challenge for unaccompanied minors. Currently, Mexico also does not provide minors with legal representation in refugee recognition proceedings. This means that they must complete the application on their own.¹⁰⁸ Some unaccompanied minors receive help from NGOs or other civil society organizations, but the majority do not receive any assistance. This lack of legal support constitutes a significant barrier to Mexico's protection system.

Additionally, there are significant delays in COMAR's refugee application process. Applications are supposed to be adjudicated within 45 business days, with one possible 45-day extension. However, processing times have recently been closer to one year. This can lead to unaccompanied minors abandoning their claims, since they do not want to wait in closed door DIF shelters for that length of time. In 2018, 19 percent of refugee applications submitted by unaccompanied children

¹⁴ In some states, such as Chiapas and Veracruz, there are DIF shelters that are solely for migrants. However, not all states have that option.

were abandoned.¹⁰⁹ This may also help explain the low numbers of unaccompanied minors who apply for and receive refugee status.

Structural Challenges at the State Level

Unaccompanied minors face specific challenges at the state level, such as accessing education, healthcare, and legal services. Many states lack the institutions or policies to guarantee unaccompanied minors' rights as outlined in federal laws. As previously mentioned, only 20 of Mexico's 32 states have their own migratory laws, and only 27 states have state-specific laws to protect children and adolescents.¹¹⁰ Not only are there differences among state policies but there is also a variation in the number of state-run programs for unaccompanied minors. This has led to a protection system that is unable to provide equal and comprehensive protection to minors throughout Mexico.

Challenges in Reaching Unaccompanied Minor Populations

Regardless of whether protections are available, unaccompanied minors that are not in INM or DIF custody may refrain from attempting to access Mexico's protection system. One challenge is a pervasive fear and distrust of government officials, which can prevent unaccompanied minors from approaching Mexican institutions. In a 2014 UNHCR study, 48 percent of surveyed unaccompanied Central American minors experienced violence in their home countries, including violence inflicted by state actors.¹¹¹ In light of such experiences, migrating children and teens may already be disinclined to trust authorities, outweighing their desire to take advantage of state and federal services.¹¹²

Meanwhile, there are other unaccompanied minors who have no desire to access services or seek protections even when they are aware of them. These unaccompanied minors often intend to reunite with a family member or friend in the United States.¹¹³ Given that Mexico is not their final destination, the unaccompanied minors may have little interest in accessing services that would prolong their journey. These minors do not see the services in Mexico as offering any substantial benefit in their journey to the United States and do not attempt to access them

Chapter 5: Recommendations

Clarify Procedures for Best Interest Determinations

Although the 2014 General Law on the Rights of Children and Adolescents establishes a framework to ensure comprehensive protection for children regardless of their migratory status, this framework does not always work in practice. There is little clarity regarding different institutions' roles and responsibilities, particularly for establishing a minor's best interest. Without clear legislation or guidance, government agencies can act in ways that do not adequately protect unaccompanied migrant children and adolescents' rights.

Steps Forward:

- SIPINNA—as the main institution in charge of minors' welfare—should clarify what factors need to be considered when conducting a best interest assessment. Based on these factors, SIPINNA should create a standard definition of a child's best interest that could be applied at a national level.

Some elements that should be included in a minor's best interest assessment are the minor's age and maturity; mental, emotional, and physical health; sexuality and gender identity; and opinion and wishes (if old enough to capably express a preference). The assessment should also consider the need for a stable home environment: preservation of a family/community environment and maintenance of personal relationships; and the right of the minor to health and education. Lastly, the best interest assessment should seek to guarantee the minor's right of non-discrimination; promote the minor's effective integration and development; and minimize risks that any change in material or emotional situation may cause to the minor's personality and future development.

- Once SIPINNA establishes a standard best interest definition, it needs to be incorporated across Mexico's protection system for unaccompanied minors. This implementation should involve multidisciplinary teams with individuals from INM, COMAR, DIF, PPNNA, and civil society organizations.

Restructure and Fund PPNNAs

When an INM official apprehends an unaccompanied minor, the PPNNA within the DIF system becomes the minor's legal guardian and is responsible for guiding the minor through Mexico's legal processes.¹¹⁴ However, PPNNAs do not always have enough staff to follow each unaccompanied minor's case, and unaccompanied minors cannot obtain any other legal guardian. This situation means that unaccompanied minors do not always receive adequate legal support.¹¹⁵

Steps Forward:

- PPNNAs should receive sufficient funding in order to have the adequate number of staff and resources to appropriately serve unaccompanied minors.
- PPNNAs at the state level—and when necessary at the municipal level—should create special legal units for unaccompanied migrant minors. These departments should be staffed with lawyers who specialize in migratory issues.

- When feasible, PPNNAs should establish official agreements with civil society organizations to share legal representation responsibilities.
- In the long-term, PPNNAs should look to become decentralized institutions that are independent from the DIF system. This would free PPNNAs from some administrative restrictions and allow for more independence with funds and resources.

Reform and Reallocate Childhood Protection Officers

Since 2010, Chiapas has been the Mexican state with the highest number of unaccompanied minor apprehensions, accounting for between 30 and 45 percent of total apprehensions each year. However, as of 2018, the number of Childhood Protection Officers, or OPIs, in Chiapas constituted only 9 percent of Mexico’s total. This means that OPIs in Chiapas are responsible for over ten times more unaccompanied minors than an OPI in an average Mexican state.¹⁵ Additionally, these OPIs are not always working with unaccompanied minors, but also performing other duties within INM.

Steps Forward:

- INM should assign OPIs to each state in proportion to the number of apprehended unaccompanied minors in that state. Table 3 compares the number of OPIs per state in 2018 with how many OPIs would be needed for proportional distribution (given 2018 apprehension numbers). However, every state should have at least one OPI.
- While proportional distribution of OPIs would benefit unaccompanied minors across Mexico, INM should prioritize increasing the number of OPIs in Chiapas. To achieve proportional distribution, Chiapas would need to add an additional 101 OPIs, which is more than any other state.
- INM should conduct yearly evaluations in order to ensure that the number of OPIs remain proportional to unaccompanied minors’ apprehension levels in each state.
- OPIs should prioritize care for unaccompanied minors among their many responsibilities. INM should create incentive structures for OPIs to benefit from this focus on conducting unaccompanied minors’ best interest assessment and allow them to flexibly transfer some of their additional responsibilities for periods of time.

¹⁵ This calculation is based on 2018 data. Durango and Aguascalientes represent the median states. Both states had approximately 11 unaccompanied minor apprehensions per OPI.

Table 3
OPI Distribution by State¹¹⁶

State	Number of OPIs (2018)	Proportional Distribution of OPIs	Difference
Chiapas	31	132	101
Veracruz	27	40	13
Tabasco	20	33	13
Mexico City	44	22	-22
Oaxaca	17	21	4
Tamaulipas	24	20	-4
Nuevo León	9	12	3
San Luis Potosí	5	11	6
Chihuahua	24	8	-16
Estado de México	3	6	3
Zacatecas	3	6	3
Puebla	4	5	1
Coahuila	9	5	-4
Sonora	15	5	-10
Baja California	17	4	-13
Hidalgo	7	3	-4
Durango	8	3	-5
Sinaloa	9	3	-6
Guanajuato	9	2	-7
Tlaxcala	4	2	-2
Aguascalientes	4	2	-2
Querétaro	6	1	-5
Jalisco	6	1	-5
Campeche	7	1	-6
Nayarit	1	1	0
Michoacán	3	1	-2
Yucatán	6	1	-5
Quintana Roo	6	1	-5
Morelos	3	0	-3
Guerrero	9	0	-9
Baja California Sur	3	0	-3
Colima	9	0	-9

Source: INM Transparency Request

Provide Alternatives to Detention for Unaccompanied Minors

Unaccompanied minors who are apprehended in Mexico are detained in either an INM detention center or a closed-door DIF shelter. For unaccompanied minors who seek refugee status, this can mean that the minor is detained for months or even years. This system creates a disincentive for unaccompanied minors thinking of applying for refugee status. These conditions can also lead to negative effects for minors' psychological health and overall wellbeing.

Steps Forward:

- **Short-Term:** There are some ways to make DIF shelters more suitable for minors without fundamentally changing their structure. This could include weekly recreational trips for minors who are expected to stay at the shelter for extended periods of time. It could also include opportunities for unaccompanied minors who apply for refugee status to participate in activities outside of the DIF shelter system.
- **Medium-Term:** There is currently only one open-door shelter in Mexico for unaccompanied minors who apply for refugee status. More unaccompanied minors should be able to live in similar shelters, and to attend school and participate in extracurricular events outside of the shelter system.
- **Long-Term:** There are few circumstances where unaccompanied minors can leave a DIF shelter, including even when unaccompanied minors are recognized refugees or have family members residing in Mexico. When possible, DIF should establish a process for unaccompanied minors to live with extended family members who may be residing in Mexico. Similarly, DIF and the PPNA should consider establishing a foster care system for unaccompanied minors who are recognized as refugees. This could allow these minors to live in a home setting until they become adults.

Develop and Provide More State-Run Programs

Only 12 of Mexico's 32 states currently offer programs for Central American unaccompanied minors, and there are significant variations among these programs and services.

Steps Forward:

- Each state's migrant office should identify the unaccompanied minor populations that travel through the state and the adequacy of their protection system.
- Each state's migrant office should provide programs that seek to assist not only Mexican minors but also unaccompanied minors from other countries. These programs should be targeted to unaccompanied minors who are both in transit and have settled in the state.

Reinforce a More Holistic Vision of Unaccompanied Minors

Central American unaccompanied minors are often viewed as either gang members who are perceived as violent or as vulnerable children reliant upon adult support. To date, strategies to address this population often reflect these divergent opinions. Yet unaccompanied minors have a diverse range of profiles. For example, some unaccompanied minors are parents themselves, have economic responsibilities in their home countries, or have lived situations of stress and extreme violence that require specialized attention.

Steps Forward:

- Develop trainings and workshops to sensitize INM, COMAR, DIF shelter staff, and PPNNAs about how the staff's personal values and cultural beliefs may affect their work with unaccompanied minors from different backgrounds. These activities should be for staff that work directly with migrants inside detention facilities and through their administrative procedures.
- Develop culturally-informed training with DIF shelter staff. By learning about the socio-political context of unaccompanied minors' home countries, DIF staff can better

understand why minors decide to migrate. In this way they can also challenge existing assumptions about migration and childhood, identify the most vulnerable profiles, and create strategies to address their needs.

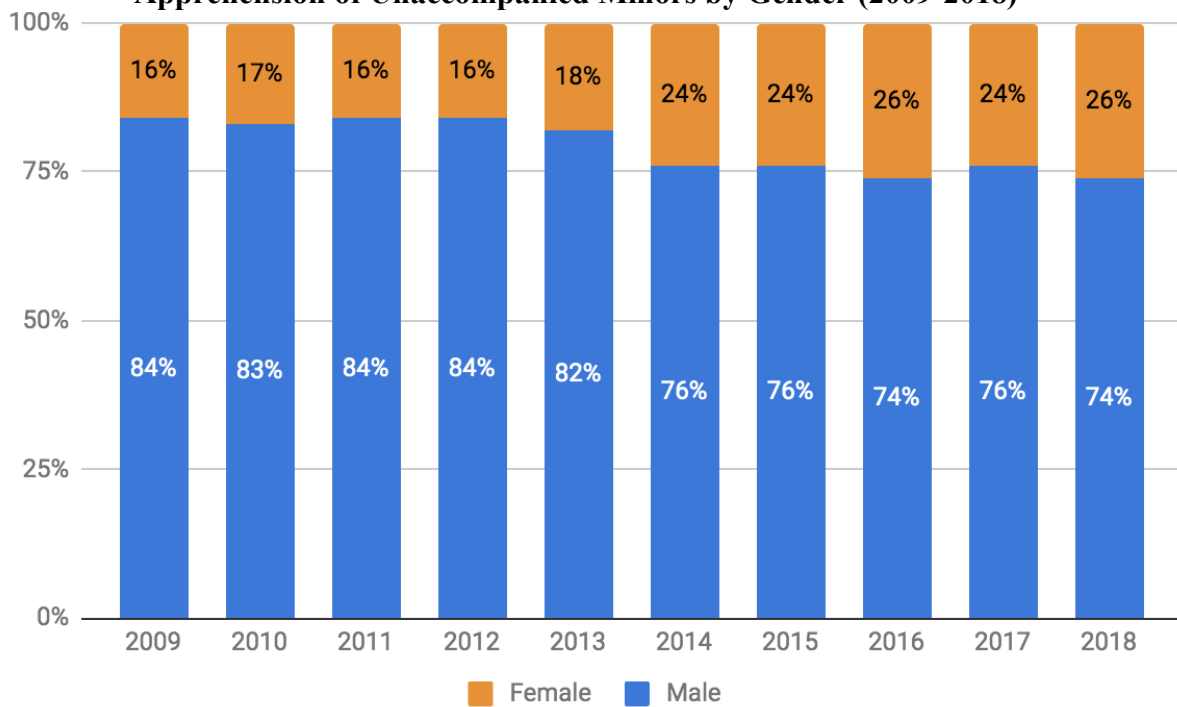
Appendix 1: Unaccompanied Minor Apprehension Data

Table 4
Mexican States with the Highest Number of Apprehensions of Unaccompanied Minors (2009-2018)¹¹⁷

State	Apprehensions
Chiapas	25,689
Veracruz	13,219
Tabasco	8,413
Tamaulipas	4,023
Oaxaca	3,942

Source: INM Transparency Request

Figure 9
Apprehension of Unaccompanied Minors by Gender (2009-2018)¹¹⁸



Source: INM Transparency Request

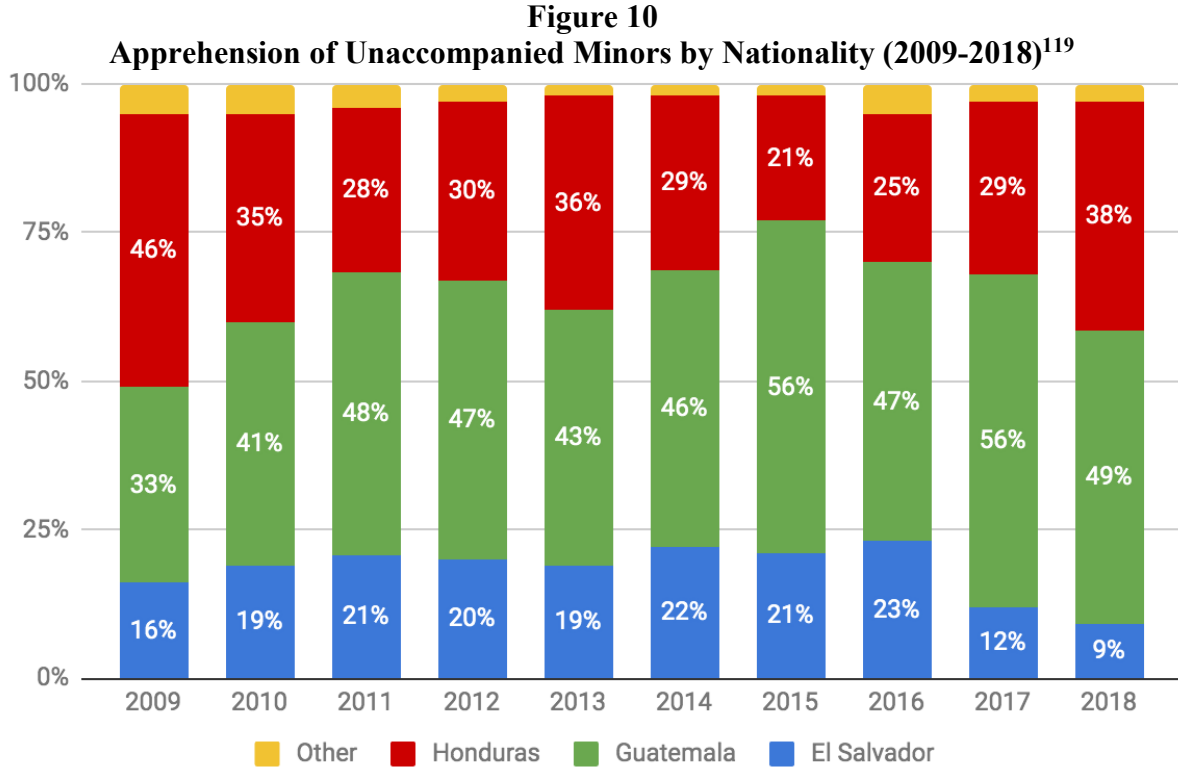
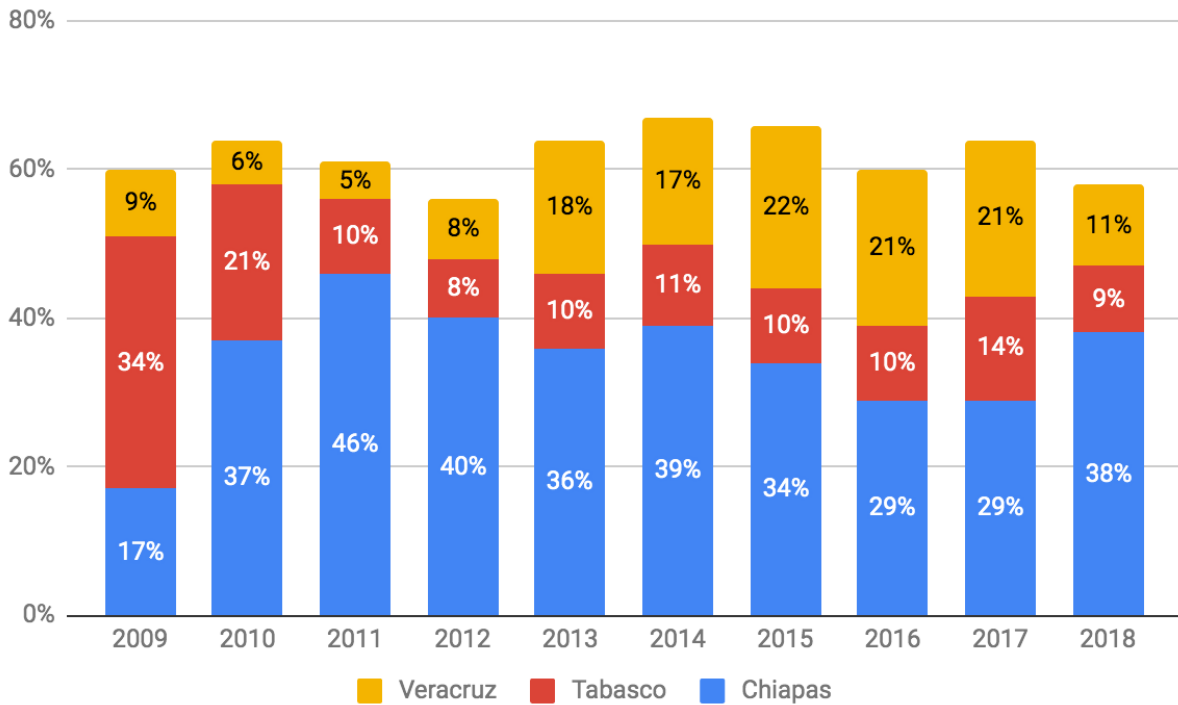


Figure 11
Unaccompanied Minors Apprehensions in Chiapas, Veracruz, and Tabasco (2009-2018)



Appendix 2: List of DIF Shelters

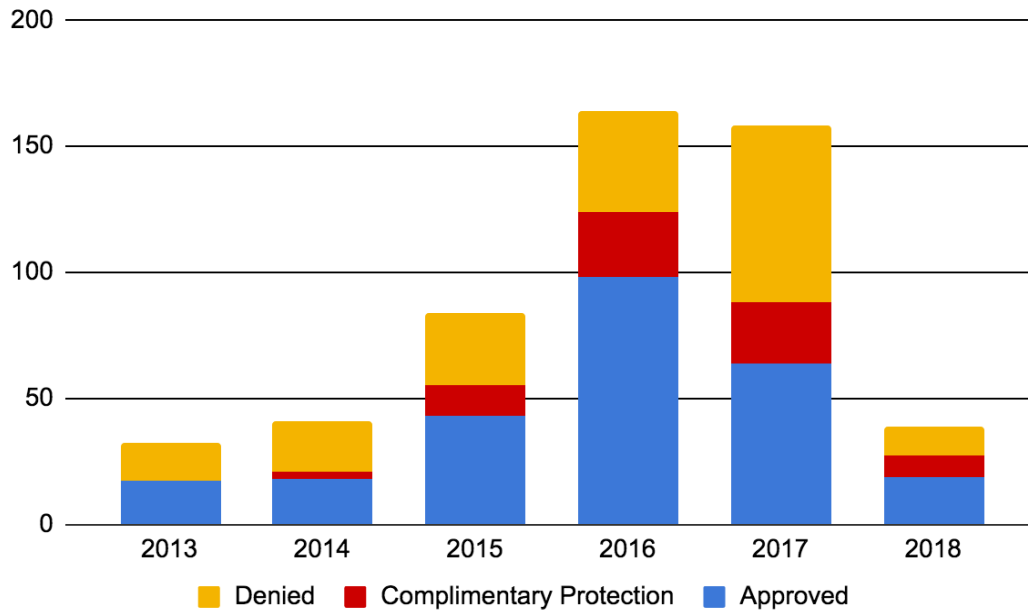
Table 5
List of DIF Shelters

Shelter Name	City, State	Capacity
CASNAM	Aguascalientes, Aguascalientes	32
Albergue Temporal Mexicali	Mexicali, Baja California	130
Albergue Temporal Tijuana	Tijuana, Baja California	180
Casa Cuna Casa Hogar	La Paz, Baja California Sur	80
Maria Palmira Lavalle	Campeche, Campeche	50
Casa Meced Arrecife	Carmen, Campeche	20
Albergue Temporal para Menores Migrantes	Tapachula, Chiapas	80
Albergue para Familias Solicitantes de la Condición de Refugio	Arriaga, Chiapas	44
Albergue Municipal para Niños y Niñas Migrantes	Comitán de Domínguez, Chiapas	24
Albergue para Migrantes Hombres No Acompañados	Frontera Comalapa, Chiapas	20
Casa del Migrante	Palenque, Chiapas	42
Albergue Municipal para Niñas y Adolescentes Femeninas	Tapachula, Chiapas	24
Granja Hogar	Chihuahua, Chihuahua	
Casa Asis	Ciudad Juárez, Chihuahua	10
Mexico Mi Hogar	Ciudad Juárez, Chihuahua	30
Centro de Asistencia Social Francisco Gabilondo Soler (Niños y Niñas)	Colima, Colima	60
Centro de Asistencia Social para Adolescentes Mujeres	Colima, Colima	30
Centro de Asistencia Social para Adolescentes Mujeres)	Colima, Colima	30
CNMAIC Casa Cuna Tlalpan	Ciudad de México	50
CNMAIC Casa Cuna Coyoacán	Ciudad de México	50
Centro Amanecer para Niños	Ciudad de México	40
CNMAIC Casa Hogar para Niñas	Ciudad de México	55
CNMAIC Casa Hogar para Varones	Ciudad de México	35
Mi Casa, Villa 1	Durango, Durango	3
Mi Casa, Villa 2	Durango, Durango	5
Mi Casa, Villa 3	Durango, Durango	6
PAMAR	Chilpancingo, Guerrero	20
Centro de Asistencia Morelense para la Infancia (CAMI)	Temixco, Morelos	200
Centro de Asistencia Morelense para Adolescentes	Temixco, Morelos	70

Albergue de Atención a Migrantes No Acompañados (Fabriles)	Monterrey, Nuevo León	40
Albergue de Tránsito para Niñas, Niños y Adolescentes Migrantes No Acompañados y Repatriados	Oaxaca, Oaxaca	33
Casa de la Niñez Poblana	Cholula, Puebla	10
Casa del Adolescente	Puebla, Puebla	75
Centros de Asistencia #3		
Centros de Asistencia #4		
Centros de Asistencia #5		
Carmelita Ballesteros	Santiago de Querétaro, Querétaro	120
Albergue del Sistema DIF Estatal	Chetumal, Quintana Roo	16
El Sistema DIF Municipal de Benito Juárez	Benito Juárez, Quintana Roo	10
El Sistema DIF Municipal de Solidaridad	Solidaridad, Quintana Roo	10
El Sistema DIF Municipal de Cozumel	Cozumel, Quintana Roo	2
Centro de Asistencia Social Margarita Maza de Juarez	San Luis Potosí, San Luis Potosí	35
Centro de Asistencia Social Rosario Castellanos	San Luis Potosí, San Luis Potosí	20
Centro de Asistencia Social Rafael Nieto	San Luis Potosí, San Luis Potosí	50
Albergue Municipal de Mazatlán	Mazatlán, Sinaloa	12
Camino a Casa	Nogales, Sonora	100
Tin Otoch	Hermosillo, Sonora	100
Asistencia Social	Tlaxcala, Tlaxcala	12
Asistencia Social	Veracruz, Veracruz	25
Centro de Atención Integral al Menor en Desamparo (CAIMEDE)	Yucatán	150
Casa Hogar para Jóvenes de Zacatecas	Zacatecas, Zacatecas	15

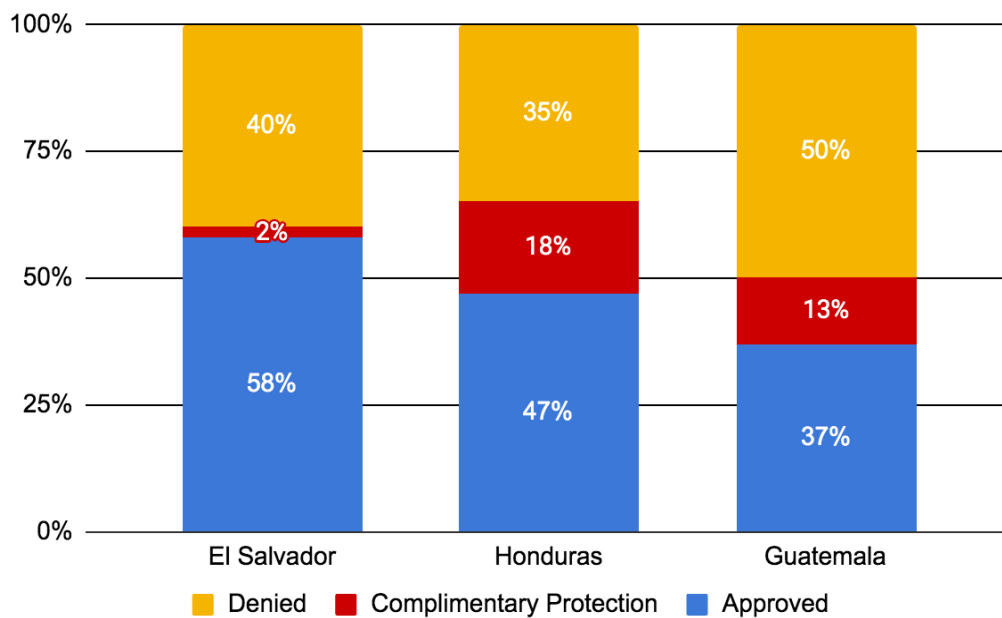
Appendix 3: COMAR Statistics

Figure 12
Results of Unaccompanied Minors' Refugee Applications by Year (2013-2018)¹²⁰



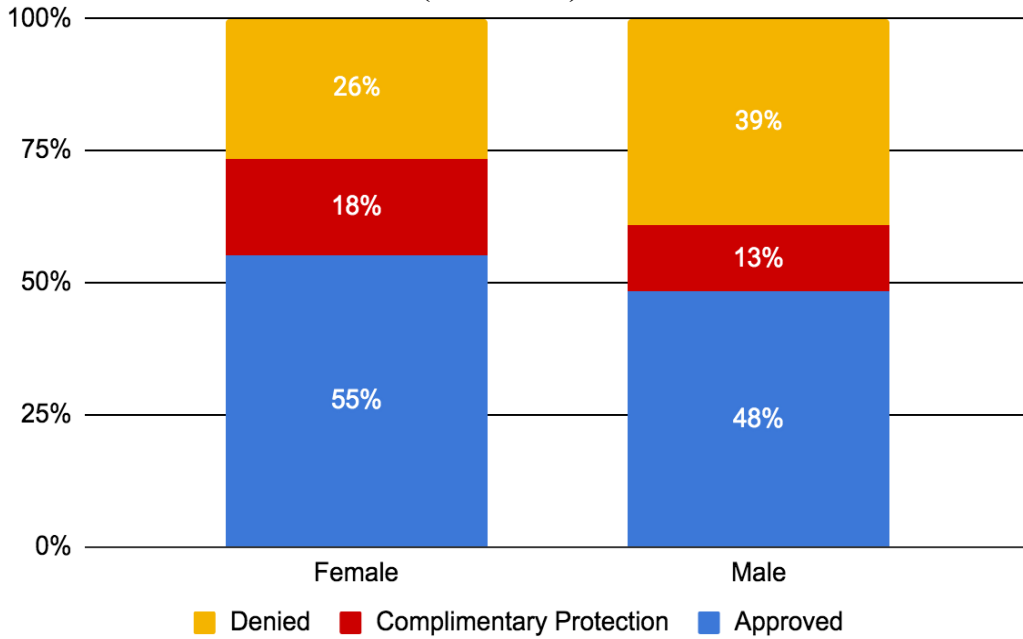
Source: COMAR Data

Figure 13
Percentage Results of Unaccompanied Minors' Refugee Applications by Nationality (2013-2018)¹²¹



Source: COMAR Data

Figure 14
Percentage Results of Unaccompanied Minors' Refugee Applications by Gender
(2013-2018)¹²²



Source: COMAR Data

Endnotes

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state provided data on all their social assistance centers, not just those for unaccompanied minors. DIF Nayarit has no shelters for unaccompanied minors.

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¹⁰⁶ “Acuerdo por el que se expide el Estatuto Orgánico del Sistema Nacional para el Desarrollo Integral de la Familia.”

¹⁰⁷ “Children at the Border,” Appleseed Network, 2012.

¹⁰⁸ “Closed Doors: Mexico’s Failure to Protect Central American Refugee and Migrant Children,” 71.

¹⁰⁹ COMAR/Unidad de Política Migratoria. Boletín Estadístico de Solicitudes de Refugio en Mexico 2018. <https://www.gob.mx/cms/uploads/attachment/file/427549/COMAR2018.pdf>

¹¹⁰ UNICEF México. *Los Derechos de la niñez y la adolescencia en México*. https://www.unicef.org/mexico/spanish/17054_17505.html

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¹¹² Ibid., 6

¹¹³ Interview with Jose Ramirez, October 15, 2018.

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¹¹⁷ Transparency Request, INM: 0411100036319.

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¹¹⁹ Transparency Request, INM: 0411100036319.

¹²⁰ Transparency Request, COMAR: 0422000014718.

¹²¹ Ibid.

¹²² Ibid.

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