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## CHAPTER 5

# GOVERNMENT POLICY TOWARDS REFUGEES BY REGION

The government's treatment of Central Americans depends in large part on where they are living. Policy lines are mapped out according to three broad geographical regions. First, there are those who live in southern Mexico, either in officially recognized refugee camps or settlements or mixed in with the Mexican population along most parts of the border with Guatemala. Second, there are the Central Americans who live in cities in the interior of Mexico, and, third, are those in Mexico's north, near the border with the United States.[1]

### THE SOUTH

#### Government Policy

More is known about the Guatemalans in the official camps of the south than in any other region. This is because they are concentrated in camps and a great deal of national and world attention has been focused on their plight. Moreover, their official recognition means that data is gathered about them. The Mexican government's treatment of them reflects the conflicts and contradictions in official policy. In contrast with these Guatemalans, other Central Americans in Mexico are dispersed and little national or world attention has been paid to their situation.

Between late 1981 and 1984, thousands of Guatemalans, mostly *campesinos* or peasants, fled to the state of Chiapas in southern Mexico from attacks by the Guatemalan military and from government repression. They crossed the border in massive waves from 1981 to 1983 and in smaller numbers in 1984. Some also arrived in 1985. Entire towns in Guatemala fled to Mexico.[2]

In 1983, 40,000 Guatemalans were thought to be living in the Soconusco area in southwest Chiapas, on coffee farms or in settlements mixed in with Mexicans. By May 1984, another 46,000 were living in 95 camps along the border. Many Guatemalans traditionally had gone in and out of the Soconusco area for economic reasons, but in the period from 1981 to 1984 great numbers came with their families and stayed after the harvests were over.[3]

The Mexican government's response to the influx of Guatemalans reflects the deep divisions that have existed within the government. In mid-1981, immigration officials (from the Interior Ministry) deported from Chiapas the first wave of Guatemalans who had entered Mexico as a result of the intensification of the Guatemalan government's counterinsurgency campaign. The deportations were criticized within Mexico and by the UNHCR and other international organizations. Deportations continued even as the director of COMAR, Gabino Fraga, asserted that no more mass deportations would take place.[4]

Guatemalans continued to arrive and mass deportations were replaced by deportations on a smaller scale from Ciudad Cuauhtémoc (in Chiapas along the border), directed principally by Cesar Morales, the *Delegado* or Director of *Servicios Migratorios* there. The outcry caused by the continuing deportations caused Morales' transfer.[5] The Interior Minister then acknowledged the presence in Mexico of Guatemalans who had fled their country, asserting that they did not qualify as asylees but nevertheless would not be forced to return to Guatemala.[6] Thousands of Guatemalans were permitted to stay in makeshift camps along the border, and COMAR and UNHCR provided some level of food and services to them.[7]

However, because of interference from *Servicios Migratorios*, "the severity of camp conditions, logistical problems, and COMAR's inexperience and disorganization," COMAR initially was not able to provide sufficient aid to refugees who settled in camps along the border.[8] Following the inauguration of Miguel de la Madrid as President of Mexico in 1982 and the visit of the United Nations High Commissioner on Refugees to Mexico, delivery of aid to these camps improved substantially.[9] The camps where COMAR provides assistance will be referred to as the "official camps."

In 1983, the overall immigration policy throughout the country tightened under the direction of Mario Vallejo as head of *Servicios Migratorios*. Vallejo later was given the additional role of Director of COMAR. New visa requirements, described earlier, were issued. More than 100 additional immigration agents were sent to Chiapas to increase the immigration presence in the camps. Renewal of tourist visas and the granting of any immigration status in the interior of Mexico were subject to rigorous requirements. The roundup of Central Americans said to be living illegally in Mexico City was ordered.[10]

Furthermore, in June 1983, at the same time that matters were stabilizing in the refugee camps, a campaign to deport Central Americans in the Soconusco area of Chiapas began. In addition, the possibility of Central Americans obtaining legal status, and thus security, in the interior of Mexico decreased.[11]

In 1984, Oscar Gonzales took over as Director of COMAR. In mid-1985, Jose Ortiz Arana replaced Mario Vallejo as Director of *Servicios Migratorios* amidst allegations of corruption in that agency.[12] Both appointments have been praised in Mexico; however, neither director has stated an explicit policy toward Central Americans outside the camps in the south.

Although the treatment of the Guatemalans now in official camps has changed through the years, the Interior Ministry consistently has referred to them as economic migrants rather than political refugees.[13] Even as the Interior Ministry ruled that they would not be subject to deportation, Ministry officials asserted that they did not qualify for political asylum.[14] The Ministry also announced stepped-up vigilance to prevent new waves of foreigners from entering the country.[15]

Beginning in late 1981, the Guatemalan military began raids on refugee settlements in southeast Chiapas and Guatemalan aircraft flew in Mexican airspace. The Guatemalan government viewed these camps as guerilla bases and Mexico as a supply route for arms. The Mexican government denied

this.[16] In 1982 through 1984, the Guatemalan military repeatedly entered Mexico, sometimes killing, wounding, or kidnapping Guatemalan refugees and Mexicans. The Guatemalan government denies that these incursions took place. The Mexican government has condemned the incursions and uses them as a justification for relocating the refugees away from the border. At the same time, however, some Interior Ministry officials denied that incursions by Guatemala even took place.[17]

In May 1984, the Mexican government announced its decision to relocate refugees from these official settlements to the states of Campeche and Quintana Roo, in the Yucatán Peninsula in southern Mexico. This relocation began in June 1984. The government promised in its initial announcement that the relocated refugees would not displace or compete with Mexican laborers in Campeche and Quintana Roo.[18]

Many Guatemalan refugees, with the support of the Catholic diocese of San Cristóbal de las Casas in Chiapas, have opposed relocation to Campeche and Quintana Roo. The refugees argue that they should be moved further into Chiapas, a state where they have cultural, social, and economic links, rather than to Campeche and Quintana Roo, which are different in climate and topography and whose location would make eventual return to Guatemala difficult.[19]

The government supports relocation for reasons beyond the humanitarian one of protecting the refugees from the Guatemalan government. The state of Chiapas often has been described as one which the Mexican revolution did not touch.[20] Large *haciendas* or estates dominate land ownership. There is a shortage of land and constant social unrest from landless peasants. Many conservatives in the Mexican government fear the spread of revolutionary ideas through the presence of Guatemalans in Chiapas.[21]

In addition, the Mexican government has tried to avoid direct confrontation with the Guatemalan government, even where the provocations are great, as in the case of the military incursions.[22] Some scholars view the Guatemalan incursions as an attempt to force Mexico to seal off the border. Although Mexico has increased its military presence on the border, the border is still open. Finally, Guatemala has claimed that its participation in the Contadora process depends on the refugees being moved away from the border.[23]

In the past, Mexico reportedly denied food and services to refugees in Chiapas in order to persuade them to move.[24] A subtler version of this pressure continues. For example, construction of new housing is "carefully subordinated" to favorable responses of refugees to relocation. In addition, just before Chajul camp residents were relocated to Quintana Roo in December 1985, refugees were prevented from going to gather wood used for cooking, a situation the UNHCR says was corrected one week prior to their relocation.[25]

Human rights groups have criticized vigorously the force and coercion used in the relocations, as well as the government crackdown on those refugee aid workers and researchers who criticized the move.[26] However, the UNHCR has supported the relocations despite its own exclusion from the camps in July 1984. The UNHCR has minimized the violence and conflicts which other

groups, such as the diocese of San Cristóbal, have criticized. For example, the UNHCR attributes to "inexperience" the Mexican navy's threatening and detaining refugees and burning the Puerto Rico camp in July 1984.[27] Even those who have opposed the manner of relocation concede the government's right to decide where the refugees should live.[28]

There are now about 20,000 Guatemalan refugees in official camps in Chiapas and 18,200 in Campeche and Quintana Roo.[29] Substantial numbers of refugees have refused to move. COMAR enlisted the UNHCR's help in persuading refugees to move, but their joint efforts have not been successful. The government has stated in the strongest terms that relocation will continue. However, there was only one major relocation in 1985, the movement of 451 refugees from the Chajul camp in Chiapas to Quintana Roo.[30] The hope that Guatemalan refugees soon will repatriate to Guatemala underlies Mexican policy toward them.

### Legal Status

The Guatemalans living in official camps in Chiapas, Campeche, and Quintana Roo have special visas. Although the UNHCR deals with these people as "displaced persons in refugee-like situations," they do not have visas as political asylees nor do they have visas that specifically recognize their refugee situation.[31] They are, however, the only group among the Central Americans in Mexico that receive collective treatment by the government and *de facto* recognition as refugees.

Refugees can retain this special status and their special visas only if they remain in an authorized camp. A Guatemalan living in the south cannot move to Mexico City and retain the visa granted to him or her. Nor will the UNHCR grant its refugee status to a Guatemalan who had *de facto* refugee status in the south but who then came to Mexico City seeking official UNHCR refugee status.[32] This policy reflects the UNHCR's partial deference to the government's policy of limiting refugee treatment to those in the camps.

Guatemalans and other Central Americans living in the Soconusco area of Chiapas do not have the *de facto* refugee status granted to Guatemalan refugees in the official camps and settlements in Chiapas, Campeche, and Quintana Roo.[33]

### Chiapas: The Official Camps

Conditions in the camps vary from one part of the southern region to another. Each must be considered separately.

The official refugee camps in Chiapas are located near the Mexico-Guatemala border, from the Lacandón Jungle region to the Montebelo Lakes and from the La Trinitaria areas into the *municipio* (township) of Frontera Comalapa. Refugees in these camps over the age of 15 have FM-8 visas. The FM-8 visa does not allow transition to citizenship, as it confers only a temporary status. Under Mexican law this is a three-day visa given to visitors in maritime ports or border cities. But the form of this visa for Chiapas camp residents is a 90-day permit issued specifically for them, limiting holders to an

area 50 kilometers (30 miles) from the border.[34] Initially, validation was done individually. Now validation is done en masse by COMAR. According to the UNHCR, there have been no expulsions of refugees from the camps. Refugees report they need official permission to go to another camp.[35]

The FM-8 visa does not include the right to work, the rationale being that the refugees are fed, clothed, and housed by COMAR with UNHCR funds. In fact, to the degree tolerated by local authorities and residents, many refugees perform agricultural work in neighboring communities. Because working is illegal, however, the refugees are vulnerable to exploitation and blackmail.[36] Such illegal work is their only access to cash and prevents total dependence on COMAR.

The FM-8 visa is routinely renewed and immigration representatives officially insist that renewal is free.[37] However, some immigration officials and lower-ranking agents have reportedly charged refugees for the following: to prevent the refugees' return to Guatemala; for renewal of their visas; for the right to work; to travel between the camps and Comitán (one of Chiapas' three cities), and to celebrate the birthdays of the delegates or their agents. Refugees have also been fined for the loss of a visa. In addition, refugees have complained that immigration agents arranged work for them, collected their pay, and then did not pay the refugees.[38] Whether there is a charge for renewal, and how much it is, varies from place to place.[39]

At times, some refugees in Chiapas have received a type of FM-3 visa given to temporary agricultural workers. This practice, however, was discouraged by UNHCR out of fear that these refugees would lose the *de facto* refugee status accorded them by the FM-8 visa.[40]

Refugees have continued to be admitted to the camps in the past several years but in very small numbers. The UNHCR attributes this to strong military control over the places of access.[41] Those who enter camps in Chiapas now are well aware of the government policy to move the refugees to camps in Campeche and Quintana Roo.[42]

Many reports speak of the hospitality shown by Mexicans to these refugees, sharing land, jobs, food, and water. At the same time, the relationship between citizens and refugees is fragile. It is subject to competition for scarce land and wood and demands by Guatemalans for labor rights.[43]

Under Mexican law, children born in Mexico are Mexican citizens. However, according to Jose Humberto Flores Lara, *delegado* of the Ciudad Cuauhtémoc immigration area in Chiapas, it is Mexican policy that the children of refugees born in Mexico not be given birth certificates. The reason is that under Mexican law, the parents then might obtain an FM-2 visa (which could lead to permanent residency) or could obtain *naturalización privilegiada* (privileged naturalization), which is an expedited form of naturalization. The Mexican government wishes to avoid this.[44] Some refugees report difficulty in registering children for Mexican birth certificates. At the same time, some refugees hesitate to register the children born in Mexico because they do not know the legal consequences for Guatemalan citizenship or because they fear it may lead to loss of their Guatemalan identity. Others report being told they

could not register their children unless they agreed to be relocated to Campeche or Quintana Roo.[45]

When a child is born, a notation is made in the mother's immigration card. At 15 a child receives his or her own card. Refugees ask that the UNHCR keep a record of the children born in Mexico and books are kept in each camp recording births and deaths.[46]

COMAR, whose funding comes from UNHCR, insists on being the exclusive channel for aid to refugees in the camps.[47] Nonetheless, the Catholic church, through the *Comité Cristiano de Solidaridad*, headed by Bishop Samuel Ruiz, has worked consistently with Guatemalan refugees, starting even before COMAR began its operations in the south in 1981. A considerable amount of aid from international organizations flows through this committee. The Comité was the group most opposed to the relocation of the refugees and still provides aid to refugees who refuse relocation. But though the Church group managed to maintain its activity, another organization, the *Comité de Ayuda a Refugiados Guatemaltecos* (CARGUA), lost the rarely given legal permission to work with refugees once some of them were relocated to Campeche and Quintana Roo. The official explanation was that there would be no more refugees in Chiapas. For the refugee groups, legal status signifies the ability to work without fear that the government suddenly will crack down on the groups.[48]

COMAR consistently has faced problems in the delivery of food and services to the camps, although there has been considerable improvement since the camps were established. Some problems have resulted from interference from other government agencies, inefficiency, or corruption.[49] But the isolated location of many of the Chiapas camps has created serious logistical problems which do not exist with the camps in Campeche and Quintana Roo.[50]

### **Chiapas: The Soconusco Region**

In the Soconusco region of southwest Chiapas, foreigners automatically are considered economic migrants rather than refugees.[51] In fact, foreigners traditionally have harvested coffee, cotton, and fruit there, constituting a source of cheap labor. This migratory work pattern, along with the geographic characteristics of the area, have contributed to making the region the traditional corridor connecting Central America to North America.[52]

According to Juan Roque Flores, the immigration director for the state of Chiapas, the Central Americans in the Soconusco are either temporary agricultural workers with visas, foreigners passing through on their way north, or foreigners living and working there illegally. Central Americans in this area cannot obtain any legal status other than occasionally as FM-3 temporary agricultural workers.[53] Those who have this visa and do not return to Guatemala become illegal immigrants in Mexico.

The government has not established any mechanism for determining which foreigners in the Soconusco are economic migrants and which are political refugees. The UNHCR has criticized the government's failure to recognize the Soconusco area as a location for refugees. Thousands of Central Americans

(mainly Guatemalans, Salvadorans, and Hondurans) enter there through Tapachula, the major city near the border. According to UNHCR workers in Chiapas, a sizeable proportion, perhaps 30 percent, would qualify as refugees in UNHCR terms.[54] Although the UNHCR has sent several investigative missions to the area since 1983, UNHCR workers elsewhere in Chiapas report receiving information from the Soconusco only informally and irregularly.[55]

Because there are officially no refugees in the Soconusco region, there are no groups that have official recognition to help them. COMAR provides no assistance. Because of fear of the government, the few groups that do provide assistance must lead a semi-subterranean existence. They are religious groups that operate under tacit tolerance of the government, providing emergency help, health assistance, food, clothing, temporary housing, and small productive projects.[56] However, there is no guarantee that this work will be allowed to continue, despite the power of the Catholic church and the role of the Central Americans as a source of cheap labor. These groups understand that the government will tolerate their activities to the extent that they operate quietly and do not challenge the government's refusal to acknowledge Central Americans in the Soconusco as refugees.[57]

Immigration agents in the Soconusco reportedly have engaged in corrupt practices, kidnappings, arbitrary detentions, intimidation, deportations, and the prostitution business. Immigration agents and police reportedly steal money and steal or destroy identification documents, passports, and visas belonging to foreigners who enter the country here.[58] Many foreigners work under exploitative conditions and are considered a threat to local employment because they displace local workers.[59] Many Central American women in the Tapachula area are forced into prostitution. Women can work easily in prostitution and need the money to continue traveling. Often they must pay immigration officials or they will be deported.[60] The widespread corruption in the area and the need to end it are openly acknowledged by the government.[61]

Central Americans are detained regularly in the Soconusco area by immigration agents and deported to Guatemala with no formal legal process. The Mexican government is devoting increased attention to detaining and deporting foreigners as they enter the country in the south.

### **Campeche and Quintana Roo**

There are two settlements in Campeche, Maya-Tecum with 7,671 people and Quetzal-Edzna with 4,833 in December 1985. There also are two settlements in Quintana Roo, Los Lirios with 2,056 people and Maya-Balam with 3,686. These settlements are on the scale of small towns, with houses, schools, and medical clinics constructed by the refugees in areas where nothing existed before.[62]

The settlements are located in the Yucatán Peninsula, where the terrain is dry and scarcity of water is sometimes a problem, particularly in Campeche. Although the Mexicans in Campeche are of Maya origin, as are the Guatemalans, their cultural group separated from that of the Guatemalans several thousand years ago and they speak different languages. The Mexicans



in Quintana Roo generally came there on their own in recent years from other parts of Mexico in search of vacant land. This has resulted in a certain reservation on their part to government-sponsored settlements.[63]

Refugees in Campeche and Quintana Roo now receive a conditional FM-3 visa instead of the FM-8 visas granted to refugees in Chiapas. The FM-3 visa they receive is both a residence permit and a work permit for agricultural or artisan activities. It is good for one year, rather than the six months normally granted for FM-3 visas. Agricultural workers with FM-3 visas are limited to living and working within a short distance of the border. These visas allow the refugees to reside in the settlements and their surrounding areas.[64]

With the FM-3 visa, Guatemalans can work outside the camps under an arrangement in which COMAR acts as the contractor. COMAR justifies this arrangement on the grounds that the refugees otherwise would be exploited and suffer discrimination. The refugees are not allowed to look for work independently. They cannot leave the camps without the permission of authorities and there is an immigration station at each camp with immigration officers on constant duty.[65] According to the draft of a recent U.N. report, the nearby fields and forests offer the opportunity to "escape," and leaving without permission is "sanctioned negatively." Another researcher says that those who leave may, if they are picked up, spend some time in jail, with no legal process.[66]

No refugees in camps in Campeche or Quintana Roo are known to have been granted a visa which leads to more permanent residency in Mexico.

The Mexican government has called for integration of the refugees into Campeche and Quintana Roo and for their economic self-sufficiency.[67] Neither of these has happened yet. The long-term objective of making these refugees self-sufficient is limited by political factors, including the government's expectation that they will return to Guatemala in the foreseeable future and the desire that they not receive better treatment than Mexicans in the area. The government has given the refugees temporary use of land for agriculture, but to date this has not been sufficient for their survival. There is not enough land and the quality of much of it is inadequate. The refugees, who generally have experience working land on an individual basis, have been required to farm collectively without adequate training.

Other projects also have encountered problems. Poultry production cannot compete with local monopolies and markets for handicrafts are limited. Therefore, the refugees need work outside their communities. However, they are paid less than Mexicans in the area and the agricultural work is only seasonal in any event. Moreover, because the area is sparsely populated, the refugee settlements create an excess labor supply. Researchers fear that a pattern will continue in which the refugees are underemployed for most of the year and work intensively for a few months for commercial growers outside their communities.[68]

Women face particular problems in the settlements. In Guatemala their role in caring for animals and making and selling handicrafts gave them access to the world outside their villages. In Mexico, their role is limited to housework and only the men leave on COMAR-sponsored projects.[69]

COMAR also has decreed that refugees will participate in all stages of planning and execution of economic development projects. To date, this participation has been very limited. In fact, the design of programs has been largely COMAR's work. Researchers view this as a threat to the success of the economic projects and to the refugees' cultural identity; this is seen as a problem that may continue.[70]

Access to the camps is limited. Both COMAR and immigration authorities must give permission to enter. Only the Catholic church has a permanent physical presence in the settlements. Non-Catholics, who constitute about 30 percent of the refugee population, view the limitation on free entry of religious personnel as harassment against them.[71]

The UNHCR has given high praise to conditions in the settlements, attributing the improvements in treatment of the refugees to the appointment of Oscar Gonzales as Director of COMAR in 1984.[72] However, little information is available, from governmental or non-governmental sources, about the day-to-day lives of these refugees. No information is available about when more refugees from Chiapas will be relocated to Campeche and Quintana Roo. No information is available to indicate whether the government will lift the restrictions on refugees in the three states and permit their full integration into Mexican life.

## THE INTERIOR OF MEXICO

### Problems with the Procedure for Obtaining Legal Status

As noted previously, some 200,000 Central Americans, largely Salvadoran, are estimated to live in cities throughout Mexico. Little is known about them. Unlike the Guatemalans in the camps in the south, they must make individual applications to the Mexican government for visas and generally must meet the same requirements imposed on foreigners who come to Mexico for reasons other than persecution in their home countries. Their prevailing characteristic is that they do not have, nor can they attain, legal status in Mexico.[73] Because of this, a secure existence in Mexico is generally impossible.[74]

Central Americans who have fled their countries and reach Mexico City may apply to the UNHCR for refugee status. Those whose applications are approved are given a certification letter from the UNHCR. These refugees then may apply for a visa from the *Dirección General de Servicios Migratorios*, the General Directorate of Immigration Services, the division of the Ministry of the Interior responsible for the immigration status of foreigners.[75] Though the UNHCR certification offers only limited protection, those without it lead existences that are even more insecure.

Those who arrive in central Mexico illegally but obtain UNHCR refugee status then may apply to the Interior Ministry for a visa. If they enter illegally and do not obtain UNHCR refugee status, they cannot obtain a visa. Moreover, refugees who obtain UNHCR status but do not seek a Mexican visa are living illegally in Mexico. Only those who enter with valid tourist visas may solicit another visa regardless of whether they obtain UNHCR status.[76]

The numbers certified by the UNHCR as refugees are small in comparison with the estimated total number of Central Americans in Mexico. The fact that applications must be made in the capital limits the number. Foreigners are so scattered and isolated even in Mexico City that they do not always know about UNHCR's existence. Furthermore, many Central Americans fear that an application to UNHCR will lead to the Interior Ministry being advised of their presence and location in Mexico.[77]

Of the cases currently being approved by UNHCR, only about one-fourth go on to present visa applications to *Servicios Migratorios*. The remaining people will look for other solutions, including resettlement. The reasons for this low visa application rate are fear of detention in Mexico once the government is aware of their presence, fear of not being granted any immigration status, and the difficulty of surviving in Mexico because of the economic crisis.[78]

Many Central Americans reportedly believe that a visa application to the Interior Ministry will result in their deportation.[79] This fear has been accentuated by the number of Interior Ministry rejections and 30-day deportation notices issued in 1986. Central Americans complain that obtaining legal status takes an enormous amount of time and many visits to offices of the notorious Mexican bureaucracy. Applicants must miss work, and therefore pay, in order to complete required processes which only in unusual circumstances will result in obtaining legal status. Some refugee workers report that people are happy with interim papers saying their status is *en trámite* (in process). These people are economically insecure because they do not have papers but they feel their UNHCR status may protect them against deportation.[80]

## Legal Requirements

The temporary visitor's classifications theoretically considered available to those certified as refugees are FM-10 political asylee, FM-3 working permit, and FM-9 student. By their own terms, they are difficult for foreigners to obtain. Most Central Americans, even those certified as refugees, cannot meet their requirements. Beyond that, the UNHCR and those who work closely with refugees report that government policy in recent years has been to rule on few applications for immigration status, to deny political asylum to almost all applicants, and, more recently, to deny applications and order the applicants to leave the country.

**FM-10 Political Asylum.** Political asylum, as described in Part 1 of this report, may be granted to foreigners who flee from political persecution. Unlike the 1951 U.N. Convention, the Mexican definition requires proof of political persecution, not merely a well-founded fear of persecution on the basis of race, religion, nationality, membership in a particular social group, or political opinion. The terms of the proof are so strict that Mexican lawyers call it *la prueba del diablo*, or the proof of the devil.[81] Only a handful of people have gained this visa in recent years.[82] Only the Director General of *Servicios Migratorios* or the Minister of the Interior can decide political asylum cases. No criteria for granting this visa are published. A denial of this visa is not made in writing, since the applicant then would have to leave the country.

Instead, an applicant who is rejected for asylum is referred to another immigration section to apply for another visa.[83]

FM-10 asylees cannot become naturalized citizens. Instead, they can only renew their status or repatriate.[84] One form of obtaining naturalization in Mexico necessitates possessing *inmigrante* or *inmigrado* status and proving legal residency in Mexico for five years (among other requirements).[85] Time spent as an asylee cannot be included in the length of stay to obtain this form of naturalization.[86]

**FM-3 Visitor.** This visa permits a refugee to work. While the law appears to permit granting this visa for only six months, allowing one six-month renewal, in practice the visa may be continued for much longer.[87] This is the status generally given to foreigners who work legally in Mexico. Unlike the FM-8 or conditional FM-3 status given to Guatemalans in the south, it in no way implies any refugee status.

An applicant for an FM-3 visa must have the promise of employment. The employer must present a letter offering a specific job and salary. The specificity is necessary because the position must be one for which an insufficient number of Mexicans, or no Mexicans at all, are available. The employer must provide proof of the business's legal existence and list all employees by name, birthplace, salary, and position. This ensures that not more than 10 percent of the employees are foreigners and that foreigners do not receive higher salaries than Mexicans (or vice versa), conditions prohibited by the Federal Labor Law of December 2, 1969. Employers are also required to provide a statement of earnings and losses, proof of payment of taxes, and a commitment to train three Mexicans (giving detailed information about the trainees). The applicant must provide a *curriculum vitae* so the government can establish that he or she has the capacity to do the job offered and is not seeking the position simply to learn the work.[88]

Most refugees cannot meet these requirements. There is a vicious circle: to get a job, the applicant needs legal status; to get legal status, the applicant needs a job. This process is even more difficult for women, many of whom are not trained and have trouble finding work.[89] In addition, FM-3 visa holders need permission to change work. Requirements for the renewals of refugees' FM-3 papers are the same as for any other FM-3 holder; renewals are obtained in an office that has no connection with refugee matters.[90]

In some cases, UNHCR financing of an income-producing activity has been considered the equivalent of a job offer.[91] However, financing is limited and the current economic situation and lack of training for recipients of financing make failure of these projects likely.

An FM-3 visa is a non-immigrant visa and a refugee with this visa cannot become a naturalized citizen directly under the procedure of *naturalización ordinaria*, or ordinary naturalization.[92]

**FM-9 Student.** Current practice requires that a student be enrolled in a program at least at the *licenciatura* (bachelor's degree) or *técnico profesional* (professional technical) level. Prior to 1985, enrollment at less professional levels was sufficient. The stricter requirement narrows the number of people eligible for this visa.[93]

In addition, the applicant must be able to establish an income of 60,000 pesos per month, or \$124 as of April 1, 1986. This amount was recently increased from 45,000 pesos.[94] The minimum wage in Mexico City in April 1986 was about 36,300 pesos, or \$75 per month. The requirement of 60,000 pesos per month is difficult to meet because employment is forbidden by the FM-9 status. The applicant also must be enrolled in classes four hours a day in a morning session of classes. Since most employers require work in the morning, this last requirement is considered a way to ensure that students with FM-9 visas do not work. In effect, most applicants need scholarships. While the UNHCR provides a limited number of scholarships, they sometimes have been less than the necessary amount.[95]

Educational assistance from UNHCR became especially significant when COMAR limited its jurisdiction to Guatemalan refugees in the southern settlements and no longer provided educational as well as medical or economic assistance to refugees in the federal district.[96]

### Government Policy

As a practical matter, the Mexican government has decided to grant asylum only in the rarest of cases. In 1983, the UNHCR was advised informally that "due to political and confidential reasons" the Mexican government would grant political asylum only in very special cases, generally involving diplomatic asylum. The UNHCR also was told that since the second half of 1983, the government had not granted asylum to persons already within Mexican territory, although previously granted political asylums would be renewed. The UNHCR was "advised not to request political asylum for refugees, but just an immigration formula that enables them to remain and work legally while in Mexican territory; otherwise, the Mexican government, despite accepting a request for asylum, would not follow-up this request." [97]

Furthermore, in 1983 *Servicios Migratorios* began a policy of not ruling on refugees' applications for immigration status of any type. According to the UNHCR, in March or April of 1983, refugee applications began accumulating at *Servicios Migratorios* without being acted upon. Throughout 1983 the UNHCR examined 1,170 cases and recognized 801 as refugees. Of these, 434 were presented to *Servicios Migratorios*. *Servicios Migratorios* declared 83 applications had been waived because of the refugees' failure to appear to present their cases. At the end of the year, legal stay had been granted in 40 cases, 14 were denied, and 292 cases still were awaiting a decision. This inaction, according to the UNHCR, was directed from the highest levels of the Interior Ministry.[98]

The consequences of a case remaining undecided were serious. People were not expelled, but they were not legally recognized nor were they authorized to work (although the majority did so illegally). In addition, the delay made admission to school more difficult. When the UNHCR was not able to get children whose cases were pending into public school, it had to obtain scholarships to private schools.[99]

This situation improved slightly in 1984; however, the UNHCR noted the continuing existence of a "vague policy on legal residence recognition." The

UNHCR examined 1,747 cases in 1984 and recognized 1,137 as refugees. Of those accepted, 780 cases were submitted for consideration to the Immigration Director's office. The government granted 234 visas: 19 FM-10 asylees, 10 FM-9 students, 169 FM-3 non-migrant with right to work, and 36 FM-2 migrant or non-migrant with right to work.[100] While no figures to this effect are listed in the 1984 UNHCR Annual Report, UNHCR personnel report that the government's policy of not acting on large numbers of cases continued.[101]

The 1985 UNHCR Annual Report does not list the numbers of cases submitted to *Servicios Migratorios*, nor the numbers of people granted legal status, but rather only lists the number of applications received by UNHCR (1,062) and the numbers accepted (508) and rejected (554) as refugees. According to the UNHCR, it changed its policy of listing the visas granted because there was no way of knowing if the visas granted were from applications submitted years earlier.[102]

However, the UNHCR does report that from January 1985 until the September 1985 earthquake, no refugees were granted asylum and only a small percentage were granted legal status as students (FM-9) or workers (FM-3). Those granted legal status did no more than meet the normal requirements for the grant of this status to foreigners. There was no special consideration of their refugee status.[103]

The UNHCR reports, without specifying exact figures, that throughout 1985 a large number of refugees were denied immigration status and the applicants ordered to leave the country in 30 days. No general enforcement of these orders occurred.[104] A recent joke among Salvadorans is that they first receive a letter from UNHCR certifying them as refugees and two weeks later they receive a notice from the Mexican government giving them 30 days to leave the country. The UNHCR complained to the Interior Ministry about the denials and an agreement was reached for meetings between the UNHCR and the Interior Ministry to discuss criteria for granting immigration status.[105]

Prior to the September 1985 earthquake, the UNHCR regularly submitted refugee claims to *Servicios Migratorios*. The damage caused by the earthquake to Interior Ministry facilities suspended the submission of applications. Submissions did not resume until the spring of 1986.[106]

The result of this process is that the majority of refugees under UNHCR mandate (other than the Guatemalans in the south) are "unlawfully staying in the country." [107] The consequences of illegality are extortion, fear, insecurity and instability, and psychological pressure. Some refugee workers report that the fear of deportation caused by the recent spate of denials has caused people to change addresses and jobs in order to make themselves as inconspicuous as possible.[108]

*Servicios Migratorios* disputes UNHCR figures and denies any policy of rejecting applications wholesale or delaying decisions on applications. Officials contend that the majority of refugees do not complete the process; that 98 percent of the visa denials are for not completing the process; and that the process of being legalized is completed quickly.[109] But lawyers who represent

refugees confirm the pattern of not deciding or, more recently, of denying applications.[110]

Government policy on foreigners working in public administration also demonstrates both the degree to which foreigners are not accepted in Mexico and the government's capacity to limit employment opportunities. In 1983 the government, by administrative decree, prohibited foreigners from working in the administrative branch of the public sector. The government fired the majority of the foreigners who worked there, giving them a minimum time to find private employment under threat of non-renewal of their immigration status.[111] The decree primarily affected South American refugees.

In addition, the government has made it more expensive to be a foreigner with legal status. The costs of immigration renewals have risen substantially in recent years. As of April 1, 1986, the cost of renewing an FM-3 visa for six months was 24,750 pesos, or \$51, and 15,000 pesos, or \$31, for each dependent. In addition, there is a substantial fee to enter and leave the country. The marginal existence of even UNHCR refugees requires that the UNHCR pay the immigration fees for refugees.[112]

### **Access to Benefits**

Little information is available about the Central Americans in the interior. The information that does exist concerns Central Americans in the Federal District, Mexico City. Even so, the Central Americans there are so scattered that it is difficult to obtain precise information about their numbers or characteristics, to design economic development programs for them, or to disseminate information to them.[113]

Central Americans live mainly in poor areas that surround the Federal District such as Nezahualcoyotl, Ecatepec, Xochimilco, Naucalpan, Iztapalapa, Cuajimilpa, Cuitlahuac, and Tlanepantla, and in poor sections of Mexico City, including the downtown area. They mix in with the Mexican population. They are for the most part believed to be Salvadoran, poor, of urban origin, and working illegally.[114] Even UNHCR refugees live in depressed urban areas of high crime where buildings are in bad condition and where they must share their housing with other families.[115] The UNHCR describes them as "struggling for survival under the most marginal conditions." [116]

In 1983, COMAR stopped providing any assistance to urban refugees. This action put an increased burden on the UNHCR for direct assistance to refugees.[117] No other Mexican agency is authorized by the government to coordinate assistance to urban refugees in the way that COMAR is authorized to operate in official camps in the south. At the same time, all aid to refugees must be coordinated through COMAR. Therefore, the UNHCR cannot designate a different Mexican group to coordinate aid and must maintain only informal relationships with groups that aid refugees.[118]

UNHCR assistance includes a seemingly impressive list of programs for those recognized as refugees by the agency: emergency assistance (subsistence support, temporary housing, beds, transportation, clothes, medical assistance); regular assistance (for women with children, unaccompanied

minors, old people, handicapped people); scholarships (for day care to university level); professional training for less than one year; legal assistance; small employment projects; repatriation; and resettlement.[119] Further, the UNHCR has regular contacts with official agencies which provide services (such as hospitals, training, or lodging) either free or at a reduced charge.[120]

However, the total number of people helped out by the UNHCR is small and the aid they receive is less than that received by refugees in the south, for whom basic needs are met.[121] In 1984, for example, 19 small economic projects were funded. They benefitted 20 families from Latin America, of whom two were Guatemalan and 11 Salvadoran.[122] Moreover, COMAR's termination of its activities caused these projects to come almost to a halt in 1984.[123] Subsistence allowances were given to 355 individual Central American refugees and 415 heads of families, generally for less than six months. Because the refugees were unable to obtain legal status, the UNHCR had to help them longer than the three months its guidelines specified. Furthermore, because of inflation, the assistance only met 60 percent of their real needs. Temporary housing assistance was given to 80 Salvadorans, 25 Guatemalans, two Hondurans, and one Nicaraguan. Help with the first month's rent was given to 305 Salvadorans, 40 Guatemalans, and 2 Nicaraguans.[124]

The worsening economic situation has meant that all aspects of the refugees' general situation—legalization of status, living conditions, and ability to engage in productive activities—have worsened even with assistance. The deteriorating situation also affects earlier refugees, such as South Americans who had achieved some degree of self-sufficiency, and makes conditions even more difficult for new arrivals like the Central Americans.[125]

For those without refugee status, there is little aid available. Consequently, these Central Americans depend greatly on the goodwill of officials with whom they come in contact or Mexican organizations that may help them.

Under Mexican law, foreigners legally in Mexico have access to public education. In principle, they need FM-9 visas for primary, secondary, or advanced studies. Usually, if parents have any kind of visa except a tourist visa, children will be accepted in primary or high school, but the FM-9 is a strict requirement for advanced studies. Refugees and asylees may obtain exemptions from admission requirements, but those who have one of the other immigration statuses cannot obtain exemptions.[126]

Whether the children of undocumented foreigners can enroll in school is, in practice, up to school administrators. In theory, the children of illegal residents cannot enroll in school. However, they often do. It is easier to enroll small children. Older children often cannot prove the level of school they attended in their home country and that they are eligible for admission at the appropriate level in Mexico. Children without birth certificates may also encounter problems in obtaining school admission.[127]

Adults, even with UNHCR assistance, may have difficulty enrolling in training programs such as vocational training. Problems arise because of their legal status as well as their lack of identity documents and diplomas establishing completion of secondary school.[128]



Whether birth certificates can be obtained for the children of people illegally in the country also depends on the circumstances of each case. According to the UNHCR, people illegally in the country cannot obtain birth certificates for their children in the Federal District, even though the children were born in Mexico. Some refugees report that this is a common problem. The local *delegación* (a political subdivision) has to permit the child's registration and sometimes demands proof of the parents' marriage. Sometimes people have to pay in order to register their children. However, other refugee workers report no problems in obtaining birth certificates. Some foreigners get false certificates for their children but this is considered dangerous.[129]

Access to hospital and medical care may be a problem for undocumented foreigners, depending on whether the person has personal contacts or has access to identification papers, either legal or illegal. Women in particular often must look for someone who will treat them for free. Refugee workers disagree on whether they can get access to Social Security medical facilities where treatment is free. The UNHCR has been able to arrange treatment for refugees with public hospitals.[130]

Some non-governmental agencies provide assistance to Central Americans in Mexico City. These include groups with religious affiliations, such as *Centro de Estudios y Promoción Social*, or CEPS (Center for Social Studies and Development). There are also private Mexican agencies such as *Servicio, Desarrollo y Paz, A.C.*, or SEDPAC (Service, Development, and Peace). and refugee agencies such as the Dutch group *Vluchteling*. These groups are only able to help small numbers of Central Americans. Some, like *Vluchteling*, do not have official recognition to do their work, although the government is aware of and tolerates their activities. The illegal status of their clients limits the ability of these groups to participate in long-term projects.[131] Because of their clients' vulnerability and the groups' need to ensure continuing operation, they are generally unwilling to make public demands or even to speak publicly about their work.

These non-governmental projects date from about 1980, when urban Central American refugees began arriving in large numbers. These projects provided emergency services based on the premise that the new arrivals would be like the Nicaraguans in exile who lived in Mexico for a short period and then returned to their home country. This premise proved to be incorrect.[132]

Subsequent programs included small economic development projects. Although the programs were successful with emergency services, long-term productive projects were more difficult and most projects failed. Mexico's economic crisis has made the survival of projects difficult. Participants had never been their own bosses and had not been trained to run a business, even a marginal business. The illegal status of the participants and the hardships of life in Mexico City, where most poor Mexicans have family networks to help with problems, made the projects precarious. Economic projects involve a permanent establishment, which makes detection easier. It was difficult to get adequate equipment, find markets, survive while awaiting profits, and manage transportation, all in the midst of the Mexican economic crisis. In addition, the amounts of aid available were small.[133]

Despite their illegal immigration status, undocumented Central Americans have been able to register their businesses with the Treasury Ministry, which has not asked for identification or nationality. However, when police at low echelons spot refugees, they become extortion targets. People then have to change their location and use money for bribes. This extortion problem was considered an important factor in the failures.[134]

Some groups operate refugee shelters but this emergency housing is strictly temporary. The shelters operate in a very circumspect manner, for fear that the government will close them. Their existence, however, is well-known to the government.[135]

COMAR, which initially recognized Salvadoran refugees in Mexico City, withdrew its support in 1983. Government sponsorship of small groups of Guatemalans and Salvadorans in the states of Morelos and Jalisco was withdrawn. Non-governmental groups operate some small programs in other parts of Mexico. However, the illegality of the Central Americans' status prevents open operation of these programs.[136]

In addition to the police problems for Central Americans who went into business, Central Americans report physical abuse and demands for money by police and immigration agents in Mexico. In the Federal District there are particular places the agents look for Central Americans; for example, at the bus depot where Central Americans arrive from the south and at Alameda Park. Central Americans are said to have more trouble in the Federal District than in the provinces because they often are required to show their papers in the capital. The principle reason is to extort money.[137]

Furthermore, Central Americans sometimes are taken advantage of by Mexican private citizens (although there are also many reports of the generosity of Mexicans to Central Americans). Those known to be undocumented are often paid less or extorted. Many have trouble finding work at all. Undocumented Central Americans are often charged higher rent. Economic mistreatment sometimes leads to malnutrition, as scarce funds are diverted from food-buying. Emotional problems also are common, given the difficulties of sometimes harsh new lives for Central Americans who may have suffered violence and fear at home.[138]

Even UNHCR refugees often have to move from place to place because of fear of immigration authorities, vulnerability to illegal evictions because of their unlawful status, and the continuing search for cheaper rents.[139]

## **THE UNITED STATES-MEXICAN BORDER**

In the northern border area, the Mexican government considers Central Americans to be traveling to the United States and treats them as economic migrants.[140] The Mexican government makes no attempt to distinguish those Central Americans in the north who have left their countries because of persecution from those who left for economic reasons. There is no process for Central Americans to seek UNHCR recognition in the north or to apply for visas which take into account their refugee condition. Recently the Mexican government has stepped up its vigilance to stop Central Americans moving toward the border.[141]

Those who enter Mexico with tourist visas often find that their visas are not considered valid north of Mexico City or Guadalajara.[142] However, these visas do not have a geographic limitation on their face.

The standard tourist visa requires visitors to list a principal destination in Mexico. Central Americans, like other tourists, often list as their principal destination *México Distrito Federal*, or Mexico City. A U.S. tourist would not be limited by this destination to Mexico City and could travel anywhere in the country. Some officials say the Central American visa holders are limited to the places listed on the visa. Others say the designation means only that it is the principal destination and the visa holder can travel anywhere in the country.[143] Central Americans with these visas report being detained by immigration authorities in the north.[144] Occasionally, immigration officials in the north have been persuaded to release from jail Central Americans with tourist visas.[145]

The Interior Ministry reportedly sent out a circular in 1982 forbidding the passage of Central Americans with tourist visas to the northern border. Interior Ministry officials in northern cities also are said to require, in addition to a valid tourist visa, proof that Central Americans have sufficient financial resources to take care of themselves on the border.[146] Suspicion that the Central Americans intend to cross to the U.S. is considered a basis for detaining them.[147]

Interior Ministry officials, however, deny the arrests and the restrictions.[148] In fact, these could violate Mexico's Constitution, which permits freedom of movement in Mexico and grants foreigners legally in Mexico individual rights guaranteed by the Constitution. Furthermore, going to the U.S. through Mexico does not violate Mexican laws.[149] Despite this, immigration agents extort money from foreigners who are in the north, knowing that they intend to cross to the U.S. illegally.[150]

The UNHCR believes that there may be Central Americans in the northern border area who deserve refugee status. The UNHCR has sponsored investigations which support this conclusion. It has also sent several investigative missions to the north. But otherwise it has little contact with the area except to the extent it is occasionally called by immigration personnel at the border.[151]

Although there are groups who work with refugees along the border, they are even more circumspect than those in other parts of Mexico.[152] In contrast to the situation elsewhere, the Mexican government is considered to have little tolerance for their existence.[153] They also run the risk that their work will be construed as helping people cross into the U.S. illegally. This is an important handicap because the Mexican government has allowed, or at least not protested, the work of U.S. agents in Mexico investigating the role of Mexicans accused of supporting the Sanctuary Movement by helping Central Americans enter the U.S.[154]

It is not clear if communities of Central Americans are developing in the north. According to the Interior Ministry, there are Central American agricultural workers along the northwestern part of the border, some of whom may have been there for 10 years. In addition, many Central Americans who have been deported from the U.S. live and work near the border. Mexicans

complain that they are displacing Mexican workers. Some are said to be trying to earn enough money to cross the border again. Occasional arrests are reported of undocumented Salvadorans who are trying to settle in northern states.[155]

Mexican and U.S. authorities oppose passage of Central Americans to the U.S. over the Mexico-U.S. border. The extent to which they cooperate to prevent this is discussed in the next section.