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PART 2

CHAPTER 4 CENTRAL AMERICANS IN MEXICO

NUMBERS AND LOCATION OF CENTRAL AMERICANS IN MEXICO

While great numbers of Central Americans have entered Mexico since 1979, little official information is available about their numbers and characteristics. The Central Americans in Mexico are primarily Guatemalan and Salvadoran and, to a far lesser extent, Honduran and Nicaraguan. The Guatemalans are primarily *campesinos* or peasants. Many of them are concentrated near the Mexico-Guatemala border because of their cultural, family, and economic links on both sides of the border. Those near the border live either in officially recognized refugee camps or mixed in with the Mexican population. The Salvadorans are mainly from the urban working class and they live primarily in Mexican cities.[1]

The presence of Central Americans has been reported in cities throughout the country: in the Federal District (Mexico City); Oaxaca; oil ports (such as Coatzacoalcos, Minatitlán and Salina de Cruz); Hermosillo; Tampico; Guadalajara; Puebla; Veracruz; and Monterrey.[2]

Official figures exist only for Guatemalans living in camps or settlements in the south. They are said to number 21,300 in officially recognized camps and settlements in the state of Chiapas and 18,500 in refugee settlements in the states of Campeche and Quintana Roo. Beyond this, there are no reliable figures (or even any estimates from the highest levels of government) concerning the numbers of Central Americans in Mexico, whether defined as refugees or as economic migrants.[3]

This is due in part to the normal difficulty of calculating the number of people illegally in a country and to changes in the numbers over the past several years. It is also due to the government's decision to limit those it treats as refugees to Guatemalans living in official camps or settlements in the south. This decision has resulted in an absence of the most basic information about Central Americans elsewhere in Mexico.

However, some lower level officials as well as independent sources do venture estimates. According to a recent immigration director in the southern state of Chiapas, which borders Guatemala, there are 76,000 Guatemalans in Chiapas: 17,000 in the camps; 40,000 undocumented; and 19,000 laborers working in Mexico, usually from January to March. He estimates that there are also 24,000 Central Americans from other countries in Chiapas and that Central Americans in the rest of the country total about three times more than the number in

Chiapas.[4] The national total of Central Americans would then be about 400,000.

Sergio Aguayo, the principal Mexican researcher of Central Americans in Mexico, uses a conservative estimate of at least 250,000 Central Americans in all of Mexico.[5] Of these, about 200,000 (primarily Salvadoran, and to a much lesser extent, Guatemalan) live in cities in the interior of Mexico, including an estimated 45,000 in Mexico City. The remainder are primarily Guatemalans living in the south, either in camps or mixed in with the local population.[6]

Though the figures vary, all Mexican sources number Central Americans in Mexico in the hundreds of thousands.

ROLES OF COMAR AND UNHCR

The Mexican government has tried to confine the definition of those treated as refugees to Guatemalans in officially recognized camps and settlements in the south. As mentioned previously, Mexico established COMAR to work with refugees. Although COMAR's charter does not limit its work to Guatemalans in the south, the agency devotes itself almost exclusively to managing refugee camps there, with funding from the United Nations High Commissioner for Refugees.[7]

COMAR's activities now are limited by government practice to Guatemalans in official camps in the south because of the government's decision that these are the only people it will treat as refugees. In fact, COMAR was founded in response to the influx of Salvadorans which began about 1980. But in 1983 COMAR stopped providing assistance to urban refugees, who were principally Salvadoran.[8]

Although COMAR is an agency jointly sponsored by the *Secretarías de Gobernación, Relaciones Exteriores, and Trabajo y Previsión Social* (Ministries of the Interior, Foreign Relations, and Work and Social Security), it is primarily associated with the Interior Ministry. The Interior Ministry's role is to control immigration and to protect internal security.[9] The inherent conflict between COMAR's duties and those of the Interior Ministry has been aggravated in particular by the problems posed by the Guatemalan refugees.

Although Mexico has not signed the 1951 United Nations Convention or the 1967 Protocol, the UNHCR operates in Mexico under the 1981 bilateral agreement with COMAR mentioned earlier. The two agencies agreed to cooperate in the development and financing of assistance programs for those accepted as asylees or refugees by the Mexican government. The agreement makes no direct reference to the 1951 U.N. Convention, although the agreement makes the programs being financed subject to international standards concerning refugees and asylees.[10]

The signing of this agreement is not equivalent to Mexico being a party to the 1951 U.N. Convention. As described earlier, under the U.N. Convention a refugee cannot be expelled to a country where his life or freedom would be threatened on account of his race, religion, nationality, membership in a particular social group, or political opinion.[11] In addition, the U.N. Convention guarantees a refugee minimum rights, generally of a social and economic

nature. For example, a refugee is guaranteed the following rights in a manner similar to nationals: freedom of religion, access to the courts, public elementary education, public relief, labor legislation, and social security.[12]

Moreover, a refugee is guaranteed the following rights in a manner not less favorable than that accorded to aliens generally in the same circumstances: ownership of property, self-employment, housing, education beyond elementary education, and freedom of movement.[13] With respect to wage earning, employment, and freedom of association, refugees must be given the most favorable treatment given foreign nationals in the same circumstances. Restrictive measures imposed on aliens or their employment shall not be applied to refugees who have resided in the country for three years or whose spouse or children are nationals of the country of residence.[14] Finally, as far as possible, the assimilation and naturalization of the refugee must be facilitated.[15]

In contrast, the agreement between COMAR and the UNHCR does not grant refugees in Mexico these rights granted in the U.N. Convention. Furthermore, as this study will show, refugees do not have other rights required by the Convention, including the restrictions in the Convention on the mechanisms for expelling refugees from the country of asylum.

The UNHCR's general responsibilities are "the function of providing international protection . . . and of seeking permanent solutions for the problems of refugees by assisting Governments . . . to facilitate the repatriation of such refugees, or their assimilation within new national communities." [16] The agency's work in protecting refugees involves determining who is a refugee, as opposed to an economic or other kind of migrant; trying to assure that minimum rights called for under the U.N. Convention are given to refugees; and encouraging adherence to the U.N. Convention. The work of seeking permanent solutions involves economic and social integration of the refugees into their country of first asylum, their homeland, or a third country.[17]

The UNHCR's determination that an individual qualifies for refugee status is referred to as being declared "a refugee under mandate." It carries no official status under Mexican law and a refugee under mandate must still apply for legal status under Mexican law.

According to the UNHCR, the Mexican government has tried to limit the agency's jurisdiction to the camps in the south. This would permit the government to operate free from international intervention when dealing with Central Americans outside the camps.[18] The UNHCR has accepted, in part, this limitation. It has no real presence in the parts of Mexico where the government denies that refugees exist and has little access to information in those areas, although it may send an occasional investigative mission, provide funding to a refugee assistance group, or respond to a refugee's call for help. Aside from its financial support of camps in the south and its presence in nearby offices that serve the camps, its base of operations is in Mexico City. In the capital, UNHCR's protection work consists mainly of declaring foreigners to be refugees under mandate and helping them get legal status under Mexican law. But in order to get UNHCR's recognition, the foreigner has to reach Mexico City, which is well within the interior of Mexico.[19] This trip involves a

substantial risk of deportation or at least extortion by government officials along the way.

The Mexican government's decision in 1983 to withdraw assistance from Central Americans outside the camps in the south put an increased burden on UNHCR to provide direct assistance to refugees.[20] This extra burden adversely affected some UNHCR assistance programs, such as its economic development program. No other Mexican agency is authorized by the government to coordinate assistance to refugees in the way that COMAR is authorized to operate in the official camps in the south.[21] At the same time, all aid to refugees must be coordinated and carried out through COMAR. Therefore, the UNHCR cannot designate a Mexican group to coordinate aid to Central Americans who are not in official camps in the south and must maintain only informal, unofficial relationships with groups that aid these people.[22]

The UNHCR also has acceded to the Mexican government's demand that it use a more restricted definition of refugee. According to one source, until July 1985, the UNHCR in Mexico used the Organization of African Unity definition of a refugee approved by Mexico in the Declaration of Cartagena:

... every person who, owing to external aggression, occupation, foreign domination, or events seriously disturbing public order in either part or the whole of his country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality.

Since then, the UNHCR in Mexico has used the more restrictive U.N. Convention definition which requires individual persecution. The rejection of this broader OAU definition has serious consequences where proof of individual persecution, as required under the U.N. Convention, is difficult.[23]

The UNHCR's work, like that of other groups helping refugees in Mexico, is limited by the fact that it operates in Mexico only with the tolerance of the government. Criticism of the Mexican government's treatment of refugees by the UNHCR representative in Mexico (its highest ranking official there) resulted in his replacement in 1984.[24]

The UNHCR itself has been criticized by church and human rights groups and commentators for failing to protect aggressively the interests of Central Americans in Mexico.[25] But its presence in Mexico is significant. It represents a commitment on the part of Mexico to provide at least physical protection to a limited group of Central Americans in the country. Recognition as a UNHCR refugee also provides some practical protection in dealing with Mexican authorities.

But the UNHCR has been able to protect only a small portion of those who might be considered refugees in Mexico. It has granted refugee status to a limited number of refugees and even those under its protection have little chance of achieving legal status in Mexico. Because these are the most protected Central Americans in Mexico, the UNHCR's experiences with the government regarding these refugees assume a special significance in revealing the limits the government has set on Central Americans in Mexico.

THE REFUGEES' ABILITY TO OBTAIN LEGAL STATUS AS FOREIGNERS IN MEXICO

Foreigners who meet international definitions as refugees, including those declared refugees by the UNHCR, must enter and live in Mexico with a legal status under Mexican law that does not take into account their condition as refugees.

Obtaining legal status under Mexican law means meeting requirements that apply to all foreigners. These requirements require fitting within Mexico's economic system at a time when even many Mexicans cannot do so. In addition, the theoretical possibility of applying for an immigration status is far different from the practical reality of being granted it.

Most Central Americans enter Mexico without legal papers or with only tourist visas. They generally cross from Guatemala to Chiapas.[26] In 1983, in an effort to reduce the numbers of Central Americans entering Mexico as tourists but intending to remain, the Mexican government tightened visa requirements for tourists from Central America and the Caribbean. The order issued by the Interior Ministry labeled these people economic migrants who were displacing Mexican workers and causing social pressures and required proof of economic resources for the issuance of a tourist visa. Under the new rules, those from Central America and the Caribbean could obtain visas only from Mexican consulates in their countries of residence, rather than from airline companies, and had to show proof of financial solvency.[27]

Tourist visas may be issued for up to six months but generally are issued for a shorter period. In order to renew a tourist visa within the six-month period, the applicant also must show proof of financial solvency in Mexico. As of April 1, 1986, this meant proof of a monthly income of 100,000 pesos, or \$207, in a country where the monthly minimum wage in the capital was about 36,300 pesos, or \$75.[28] Most refugees (and most Mexicans) cannot claim this amount of income. As a result, many Central Americans who entered the country legally with tourist visas were unable to renew them and were forced to become illegal residents.[29] This will limit their ability later to obtain legal status in Mexico.

Every foreigner visiting or living in Mexico, including refugees, must have a visa. The granting of visas is a matter of governmental discretion.[30] There are three general classes of visas in Mexico: *no-inmigrante* (non-immigrant), *inmigrante* (immigrant) and *inmigrado* (immigrant with permanent residency status).[31]

Visas are listed as "FM" followed by a letter or number. *No-inmigrante* status includes such classifications as *turista* (tourist) (FM-T); *transmigrante* (person in transit) (FM-6); *visitante* (visitor) (FM-3); *consejero* (visitor for business purposes) (FM-3); *asilado político* (political asylee) (FM-10); *estudiante* (student) (FM-9); *visitante distinguido* (distinguished visitor); *visitantes locales* (visitors in ports and borders); and *visitante provisional* (provisional permit).[32]

An *inmigrante* may obtain an FM-2 visa. This visa may be given to people who live in Mexico on income from investments or rent and to investors in

Mexican industry, businesspeople, professionals, scientists, or technicians. It also may be given to foreigners married to Mexicans or whose children were born in Mexico. Although the FM-2 is a temporary residence permit, it is difficult to obtain. Residency with *inmigrante* status is a prerequisite to the more permanent *inmigrado* status.[33] Most Central Americans cannot qualify for the status and it generally has not been given to refugees recently.[34] Even Guatemalans who live in official camps in Mexico's south and have children born in Mexico are not given this status.

The visas granted to Central Americans in Mexico, whether or not they are refugees, are generally *no-inmigrante* temporary visitors' visas.[35] Since *inmigrante* status is a step toward *inmigrado* status, which in turn is a step toward naturalization, the assignment to a temporary status restricts their long-term settlement prospects.