

Rights handbook for migrants, asylum
(or refugee status determination)
seekers in Mexico.



WHEN I LEAVE MY COUNTRY, DO I STILL HAVE HUMAN RIGHTS?

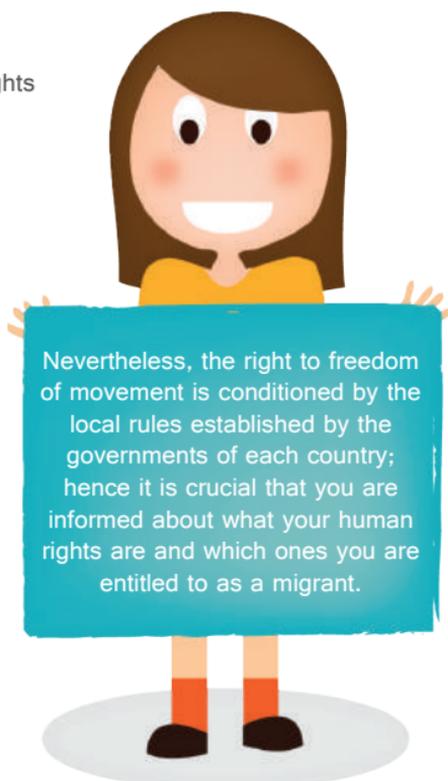
In accordance with the current Migration Act, the goal of this handbook is to inform you about your human rights. We also encourage the autonomy of the foreigner in everything regarding his/her migration procedure.

To be informed means knowing your rights as well as the risks you could face, especially, in case you are a migrant without documents. It is, therefore, essential that you know how to prevent and identify possible violations to your human rights and where to go in case you require more information.

Article 13 of The Universal Human Rights Declaration states that:

1. Everyone has the right to freedom of movement and residence within the borders of each State.

2. Everyone has the right to leave any country, including his own, and to return to his country.



Nevertheless, the right to freedom of movement is conditioned by the local rules established by the governments of each country; hence it is crucial that you are informed about what your human rights are and which ones you are entitled to as a migrant.

IF I DO NOT HAVE ANY DOCUMENTS, AM I ILLEGAL?

NO!! No human being is illegal.

Anyone remaining in a foreign country without identity and/or travel documents, a visa or passport, or whose residence permit (migration document) has expired, has an irregular administrative status, that person is best known as undocumented, but never illegal.

WHEN I LEAVE MY COUNTRY, DO I STILL HAVE HUMAN RIGHTS?

Yes.

Human Rights are inherent to all human beings; in other words, you have rights just because you are a human being and both, the Government and State, have the obligation to promote, respect, protect and guarantee them.

According to International Law, everyone, including migrants, have the right to:

- Life.
- Freedom of expression, thought, conscience and religion.
- Leave any country, including their own, and to return to their country.
- Keep bonds with their country of origin and manifest their cultural identity
- Not be discriminated.
- Not be subjected to torture or to cruel, inhuman or degrading treatment.
- Not be held in slavery or servitude.
- Have a decent work.
- Health.
- Free basic education.
- Protection and assistance from consular authorities.
- Liberty and security and to not be subjected to arbitrary arrest or detention.
- Respect to their privacy, family, home.
- Due process and access to justice.



Moreover, being a migrant guarantees you:

- That no one can withhold or destroy your passport, visa, identity documents, entry, exit, residence or stay authorizations in the territory of the country you are in.
- Can register your children's birth in case they are born in Mexican territory, get married or carry out any other act of the civil status.

WHAT HAPPENS IF I DO NOT HAVE A MIGRATORY DOCUMENT?

Your rights are restricted and, therefore, you could face different obstacles such as:

- Difficulties to receive medical attention.
- Difficulties to begin or continue your studies.
- Difficulties to open a bank account, receive money from abroad or request a loan.
- Being at risk of being deported to your country at any moment.
- Putting yourself at risk of being detained or deprived of your freedom to further on be referred to a migration detention center.
- Being a victim of labor exploitation (you can be forced to work under conditions that put your health and life at risk, dismissed unfairly).
- Being a victim of abuse by authorities or other people. being at risk of getting involved in human trafficking networks.

REMEMBER!

Travelling with the help of traffickers (aka "coyote", a person who helps migrants enter a country) might not be safe since you could be abandoned or caught by the Border Patrol when crossing the borders of different countries. Even worse, you could become a victim of organized crime.



WHAT SHOULD I DO IF I WANT TO OBTAIN A MIGRATORY DOCUMENT?



You can approach the Instituto Nacional de Migración, INM, (National Migration Institute) and request information on the procedures and requirements you need in order to apply for a permanent or temporary document to stay in Mexico; Nonetheless, if you feel it is safer, you can approach migrant houses, human rights commissions and civil or human rights organizations that support migrants.

WHAT CAN MY COUNTRY'S CONSULATE DO FOR ME?

Consular agencies **have the obligation** to provide **guidance** and **assistance**, regardless of your stay status, whether it is regular or irregular; they are also obliged to provide you with consular identity cards (proof of identity), issue and renew passports.

Note: The Consulate does not issue birth certificates and generally does not have the support to authenticate (apostille) or legalize documents. They cannot force you to return to your country.



WHAT SHOULD I DO IF I LOSE MY PASSPORT IN MEXICO?

You must go to a Police Station and submit a declaration of lost documents; afterwards, you should go to your Consulate so they issue another passport, you must pay for this passport.

While the new Passport is issued, they can give you a consular identity document, free of charge.

SUBMIT A CONSULAR IDENTITY DOCUMENT



WHAT SHOULD I DO IF I AM DETAINED BY A POLICE OFFICER OR SOLDIER?



- You should be informed about the reasons of your detention.
- You should not provide any information until a defense attorney has been assigned; the Mexican Government provides cost-free legal aid.
- Demand to be communicated with your Consulate; Mexican authorities **have the obligation to inform the Consulate about the detention of a foreigner whenever they (foreigners) request or demand it.**

WHAT RIGHTS DO I HAVE IF I AM DETAINED?



- Right to know the reasons why you were detained.
- Right to make a phone call.
- Right to have an interpreter if you do not understand or speak fluent Spanish.



- Right to have an attorney (it can be a public defender, this means it is for free, or a private attorney of your choice).
- Right to medical assistance, if you are injured or ill.
- Right to not declare without an attorney or person you trust present.



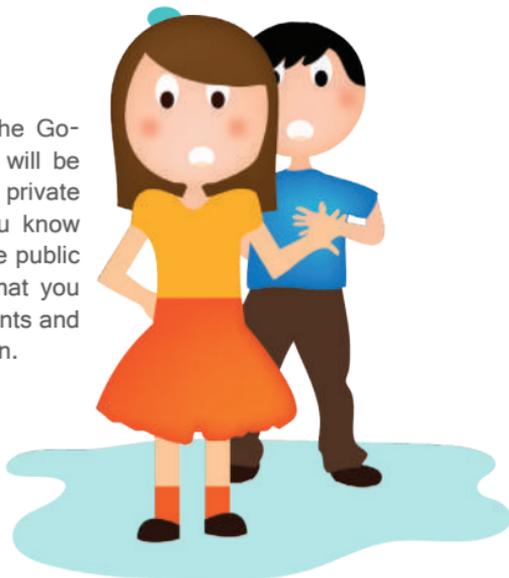
- Right to not be a victim of violence, physical harm, threat or intimidation by the Police, public officials, or any other person.



- Right against self-incrimination, being compelled to declare against yourself or pleading guilty.
- To receive a copy of your statement and to read it before you sign it.

WHAT IS THE DIFFERENCE BETWEEN A PUBLIC DEFENDER, ATTORNEYS FROM ORGANIZATIONS AND A PRIVATE ATTORNEY I PAY FOR?

- Public defenders are provided by the Government and they are for free. One will be assigned in case you do not have a private attorney. It is very important that you know the name and telephone number of the public defender you were assigned to, so that you are able to send him/her your documents and that you are in constant communication.



-Human Rights Attorneys from organizations commonly provide their services for free. Nevertheless, it is necessary that you contact an organization, such as Sin Fronteras, so they are able to follow up your case. Attorneys from civil organizations have a vast knowledge in Human Rights matters.

-If you chose a private attorney, you will have to pay him/her. Try to turn to trustworthy attorneys.

Nota: when you decide to pay for an attorney, it is necessary to have his contact information or to physically know where his office is. You have the right to request him copies of all the documents he makes and presents during your process.

It is very **important** that you tell your lawyer:

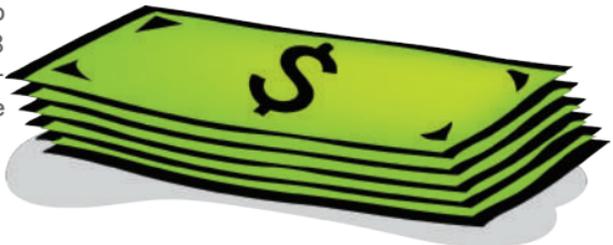
- If you are an asylum seeker or if you are afraid of returning to your country and why.
- Since when you have been in Mexico and how you entered.
- If you have any family members in Mexico.
- The jobs you do or have done.



IF I AM A MIGRANT WORKER, WHICH RIGHTS DO I HAVE?

You have the right to receive an honorable payment and your employer should respect what he agreed to pay you, it should preferably be expressed in written form; you have the right to rest a day per week, to a vacation, to receive a decent treatment from your employer as well as from your workmates and to not be dismissed unfairly or for discrimination reasons.

You have the right to work a maximum of 8 hours per day or to receive payment for the extra hours you work.



WHAT IS HUMAN TRAFFICKING?

When you are forced at work to carry out activities that were not agreed with your employer previously, if your documents are retained or you are deprived of your liberty, you are possibly living a work and sexual exploitation situation.

Human trafficking is defined by the Protocol against Trafficking persons as the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.

WHAT CAN I DO TO AVOID BEING A TRAFFICKING VICTIM?



- Do not trust those who offer you an attractive job, before accepting that option, gather information about the work or the person that has made the offer.
- It is vital that you take into account that under no circumstances should you let go of your personal documents since the strategy of traffickers is to stop their victims from returning to their country of origin.
- Do not sign contracts in languages you do not understand.

RIGHTS OF MIGRANTS, ASYLUM (OR REFUGEE STATUS DETERMINATION) SEEKERS WHO ARE IN A MIGRATION DETENTION CENTER (ESTACIÓN MIGRATORIA)

OBJECTIVE

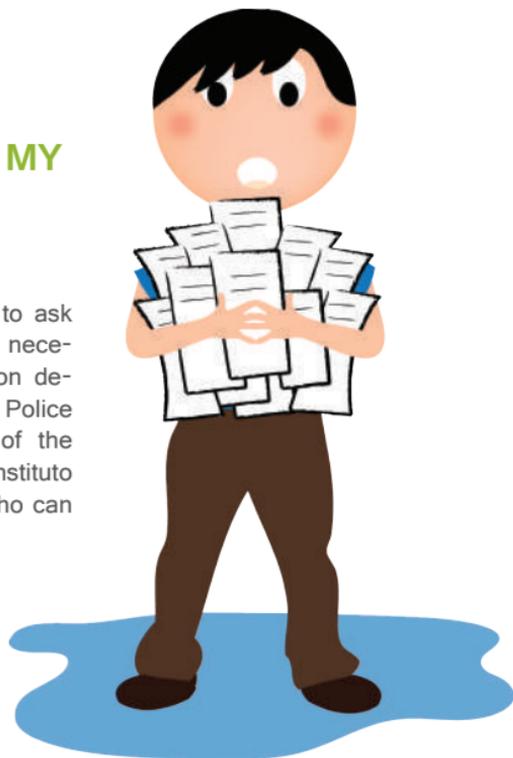
The objective of this handbook is for you to know what your rights are during your stay in the detention center and while your regularization or deportation process takes place.

This information is for you to solve frequently asked questions about the legal process you can be subjected to.

The recently passed Migration Act is the group of norms that regulate the entry and exit of foreigners to the Mexican territory through permits, better known around the globe as visas.

WHO CAN ASK FOR MY DOCUMENTS?

The only authorities authorized to ask for your documents and, if it is necessary, to take you to a migration detention center are: the Federal Police (Policía Federal) and agents of the National Migration Institute (Instituto Nacional de Migración, INM), who can be identified as follows:



Federal Police

They wear a navy blue cap with the badge of the PF (Federal Police), a white short or long-sleeved shirt with PF embroidered at shoulder length, a star to the left side, the name of the officer to the right, navy blue trousers and black shoes.

They can also be wearing beige trousers with dark olive green sides, dark olive green cap with the PF badge, and dark olive green short-sleeved shirt with PF embroidered at shoulder length and black shoes.



Agents from the National Migration Institute

The agents of the INM (National Migration Institute) wear a navy blue cap with a metallic golden badge of the INM placed at the front, a light-blue short or long-sleeved shirt with the Mexican flag embroidered on the right sleeve and, on the right, the INM logo; or a navy blue polo t-shirt with golden INM logos on both lapels and sleeves, and the colored logo at the front; metallic plates, one on the right side with the name and position of the officer and, another one, on the left side with the acronym: INM-SEGOB, navy blue trousers and black mining boots.

Women wear a navy blue trouser or skirt with a light blue side stripe, a navy blue cap with INM embroidered in gold, a navy blue polo shirt with the INM logo embroidered in gold on the collar and sleeves and, at the front, the INM color logo embroidered; and black shoes.

In case agents of the PF take you, they should lead you to the nearest INM's staff.



WHAT IF THE POLICE OFFICER THAT DETAINED ME IS NOT FROM THE FEDERAL POLICE OR AN INM AGENT?

If an agent different from the afore mentioned, cuffs you, threatens you, bribes you, strips you of your belongings, hits you or harms your physical, psychological or sexual integrity when detaining you,

REPORT HIM!

To report a violation of your rights, you can call the **NATIONAL HUMAN RIGHTS COMMISSION (COMISIÓN NACIONAL DE DERECHOS HUMANOS, CNDH)**, General Direction for complaints and guidance (Dirección General de Quejas y Orientación), which is in charge of receiving and taking care of complaints 24 hours a day, 365 days a year, telephone number: 5681-5112 or 5681-81 25 extensions 1123 and 1242 and 01 800 715 2000, this number is tollfree; you can also turn to any civil organization that works with Human Rights. Shelters for migrants are also a good choice when it comes to receiving support in order to file a report for any violation to your human rights.



WHO CAN KEEP MY MIGRATORY DOCUMENTS?

Only the agents of the **National Migration Institute (Instituto Nacional de Migración)**, when there is information to presume they are apocryphal (fake).

WHAT HAPPENS WHEN I AM DETAINED FOR NOT HAVING VALID MIGRATORY DOCUMENTS?

You will be taken to one of the closest migration detention center (estaciones migratorias) and an ADMINISTRATIVE MIGRATION PROCEDURE will take place.

ADMINISTRATIVE MIGRATION PROCEDURE

If you are lodged at the detention center, a file will be opened with the purpose of having a register and control of your stay.

As you arrive to the detention center, you will have to make a statement in a language you understand, in front of two witnesses, and you will be requested to provide the following information:

1. Name
2. Nationality
3. Age

You have the right to read it and, only if you agree, you will sign it or give your fingerprints; you must be provided with a copy, and you will be allowed to communicate with the person you ask to, via the telephone or any other means, including your Consulate.



Remember that if you provide a fake name or information, they can delay your exit of the detention center or deportation.

WHAT IS THE ADMINISTRATIVE MIGRATION PROCEDURE ABOUT?

The Administrative Migration Procedure comprises three stages:

- a) **Begins** when you arrive to the migration detention center.
- b) **Continue** with the stage of statements and evidence that you present and submit.
- c) **Finishes** with a migration resolution that defines your legal status.

WHAT IS THE LENGTH OF STAY IN A MIGRATION DETENTION CENTER?

Your stay in a migration detention center should be no longer than 15 working days; nevertheless, it could extend up to 60 working-days. The reasons to extend your stay can be because:



- There is no diplomatic representation of your Government in Mexico.
- You do not have identity or travel documents and more time is needed to issue identity and travel documents.
- Mexico does not have financial resources for your deportation.
- There are no seats or travel connections available.
- There are no travel itineraries for your deportation.
- The transit of foreigners in other countries is forbidden.
- You are in a criminal process.
- You are in a migratory regularization process.
- You suffer a physical or mental illness.
- You provided fake information regarding your name, age or nationality.
- You requested a refugee status determination.



Nota. You must know that if you decide to apply for a judicial review or to file a writ of amparo (which is a remedy for the protection of constitutional rights), you will have to remain in the detention center until these proceedings are resolved. However, you should not let anyone frighten you and, if you do not agree with the resolution Migration gives you, you can have access to justice through Appeal Courts that will be able to defend your rights in case an arbitrary or unjust act is committed.

CAN I LEGALIZE MY MIGRATION STATUS IF I AM IN A MIGRATION DETENTION CENTER?

The Migration Act states that all foreigners have the right to migration legalization if they:

1. Can prove they are married to or cohabit with a Mexican or foreigner with a legal residence;
2. Can prove that they have a father, mother or child custody of a Mexican or foreigner with a legal residence;
3. Were a victim or witness of a serious crime committed in the Mexican territory.



Note. In order to prove that you are entitled to migration legalization and to avoid deportation, you must submit the necessary documents such as: a marriage certificate, a cohabitation document, an identity document, your children's birth certificates, and to pay a for having an irregular status.

WHAT IS THE RIGHT TO CONSULAR PROTECTION?

The consulate is an extension of your country when you are in a transit or destination country. It has the obligation to know your whereabouts, make sure your rights are respected, assess the issuance of a document that enables you to be returned to your country, provide assistance and counseling through visits or phone calls to the detention center where you are and to provide support in order to locate your family members.

The moment the Mexican Government **orders you are taken to a migration detention center**, it is obliged to notify your country's Embassy or Consulate, and to inform them about the detention status you have. The Migration authority that detained you has the obligation of facilitating you this communication.

It is very important that, if you do not want to communicate with your Consulate, you let the migration authorities of the place where you are being detained know about this and that you explain to them why, **especially, if you fled your country or are afraid of returning to your country.**

WHAT RIGHTS DO I HAVE WHILE I REMAIN IN THE MIGRATION DETENTION CENTER?

- To know the location of the detention center you are in
- To receive an honorable treatment
- Against discrimination by the authorities because of your ethnicity, nationality, gender, age, disability, social status
- To have an interpreter or translator, in case you do not speak Spanish
- To be informed of the reason of your entry to the detention center and the migration process
- Written information (in a language you understand) about your rights and obligations
- Legal aid provided by an attorney
- Medical and psychological attention
- Telephone communication
- Food, a bed to sleep in, carry out leisure and sport activities
- Basic products for personal hygiene, appropriate lighting and ventilation
- To receive visits on the established visiting days and hours

WHAT ARE MY OBLIGATIONS INSIDE A MIGRATION DETENTION CENTER?

1. You must respect the rules and specific orders you are given by the officials, as long as they do not violate your rights.
2. You must have a proper and respectful attitude towards the officials and your mates.

IF I AM AFRAID OF RETURNING TO MY COUNTRY, WHAT CAN I DO?

You can seek asylum in the Mexican Government under the refugee status determination.

Asylum (refugee status) is the protection granted by a State in its territory to nationals of another country that flee for fear of persecution or serious danger. This way, a person in asylum is determined as a refugee.

If you have left your country seeking protection because your life, safety, liberty and that of your family's is endangered for these reasons:

a) Ethnicity, race, religion, political opinion, belonging to a social group.

b) Generalized violence, war (armed conflict) or massive human rights violations in your country of origin or residence.

An illustration of a city skyline. In the foreground, a green sign with the word 'MÉXICO' and an upward-pointing arrow is mounted on a grey archway. A girl in an orange dress and a boy in a blue shirt are standing in front of the archway. In the background, there are stylized buildings, including a tall blue skyscraper and a yellow monument with a bird on top.

MÉXICO ↑

It is important that you notify the Mexican authorities about your fear as soon as possible when you are detained, since the stipulated period to seek asylum is 30 working days since your arrival to Mexico.

A refugee is someone who owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality, and is unable to, or owing to such fear, is unwilling to avail himself of the protection of that country.

The institution in charge of receiving and evaluating asylum applications in Mexico is the Mexican Commission of Aid to Refugees (Comisión Mexicana de Ayuda a Refugiados, COMAR).

IF I WAS THE VICTIM OF A CRIME IN MEXICO, WHAT AM I ENTITLED TO?

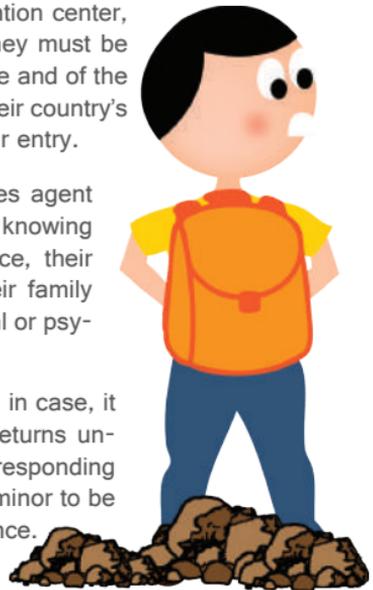
According to the Migration Act, if you are a victim of or witness a serious crime, you have the right to request a document for humanitarian reasons and you have the right to leave the migration detention center while the investigation and process finishes. This document considers the right to work and to have a legal (temporal) residence in the country for a specific amount of time.

WHAT HAPPENS WITH UNACCOMPANIED CHILDREN OR ADOLESCENTS?

When they are taken to a migration detention center, they should be separated from adults. They must be informed of the reasons why they are there and of the rights and services they are entitled to. Their country's Consulate should also be informed of their entry.

An interview by a child protection services agent will be carried out, with the purpose of knowing their identity, their nationality or residence, their migration status, the whereabouts of their family members, their specific protection, medical or psychological needs.

Once their migration status is resolved or, in case, it is decided that it is convenient he/she returns under the assisted return program, the corresponding Consulate will be notified in order for the minor to be received in his country of origin or residence.





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