

International refugee law in Mexico

Axel García

Significant gaps in Mexico's legal process are increasing refugee vulnerability.

In 1980 the Mexican government created the Mexican Commission of Aid to Refugees (Comisión Mexicana de Ayuda a Refugiados – COMAR) to assist refugees arriving from South and Central America. 20 years later, Mexico became a signatory to the 1951 Convention and the 1967 Protocol.

However, the legal system that was introduced to provide for the regularisation of refugee status includes procedures that are not in accordance with the international law of refugees and has no provision for courts dealing specifically with migration or refugee issues, for specialist lawyers or for official translators or interpreters. Furthermore, there is only one NGO – Sin Fronteras IAP¹ – in the country that is devoted to this issue.

The process of granting refugee status has developed in an ad hoc fashion, and consists of three stages – preliminary, analysis and decision. During the preliminary stage, asylum seekers can claim protection by applying to the National Institute for Migration within their first 15 days in Mexico. Government officers then interview those applying for refugee status, research the human rights situation in their country of origin, and express an opinion about their eligibility.

In the analysis stage, the cases submitted by these officers are assessed by the Eligibility Committee Working Group² which decides whether to approve the application, ask for further details about the case or reject the application. If an application is rejected, the reasons behind the Committee's decision are explained verbally to the applicant. He or she can then request a new interview with a different officer. However, the case will be examined again by the same Working Group.

In the decision stage, the assessments of the Working Group are submitted to the Refugee Eligibility Committee³, a body that issues a recommendation to the National Institute for Migration which will decide on the case. Those who have their application rejected are entitled to appeal for review. However, it is the administrative processes that are reviewed, not the reasons behind the decision. Few of these cases have been heard in the Mexican courts and the involvement of diverse authorities at different points in the process has caused confusion as to respective powers and authorities. It should be stressed again that there are neither courts nor lawyers specialised in this matter.

Challenges and responses

There is a lack of mechanisms to facilitate refugee integration and, most seriously, a lack of representation of unaccompanied children. We are campaigning for the constitutional recognition of asylum and a fully developed legal asylum procedure, as well as an increase in the government budget for assistance to refugees.

Mexican civil society and the academic community need to develop greater awareness of the importance of respecting fundamental human rights, such as the right to apply for refugee status. A group of international, governmental, non-governmental and academic organisations is currently working on the development of a 'virtual degree' that would include subjects such as migrants' human rights, international refugee law and people trafficking. This will enable human rights workers to undergo training and become better qualified.

UNHCR should bolster its efforts in Mexico to promote international

refugee law, whether directly or through civil organisations and universities in order to train professionals interested in this field. The planning and follow-up of training schemes for migration officers instigated by UNHCR and the Mexican government should



Juan de Dios García Davish/
Centro de Derechos Humanos Fray Matías de Córdova

be improved, since they have so far had only a limited impact.

Axel García (axelgarciamx@yahoo.com.mx) was a volunteer with UNHCR Mexico and was an officer of COMAR in Chiapas and Mexico City. He is a member of the International Association of Refugee Law Judges www.iarlj.nl/general/. This article does not necessarily reflect the views of either UNHCR or COMAR.

1. www.sinfronteras.org.mx

2. Made up of governmental organisations, UNHCR and an NGO with full voting rights.

3. A governmental body of high-ranking officials. UNHCR can be invited to work with them and have a say but does not have full voting rights.

Popular route for migrants between Guatemala and Mexico.