

MEXICO-U.S. ADVOCATES NETWORK NEWS

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IN THIS EDITION:

The Binational Commission on Mexico-U.S. migration and border issues, created last February by Presidents Bush and Fox, continues to generate public discussion and debate on how to align policies with the reality of Mexico-U.S. migration flows. In June 2001, the Mexico-U.S. Advocates Network hosted a Binational Roundtable discussion on "The New Bilateralism." The first half of this edition focuses on the results of that meeting, and the status of the binational negotiations.

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The newsletter also addresses other discussions of migration related issues taking place throughout the United States, Mexico, and Central America.

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Third Binational Roundtable on Mexico-U.S. Migration: The New Bilateralism

By Spring Miller and Anne Seymour

Speculation that the Bush administration was considering a legalization program for some of the estimated 3 million undocumented Mexican immigrants in the U.S. dominated national headlines for several weeks this summer. Though the administration has since backed away from the idea, and now is cautiously discussing a more modest program of "earned adjustment," the fact that legalization was ever floated as a possibility - and the political furor generated by its mere mention - is a strong indication that the heated political climate surrounding immigration policies in this country is changing rapidly. The last several months have seen dramatically heightened public and governmental attention to the issue of Mexico-U.S. migration and an unprecedented bilateral reexamination of migration policies.

Over the past three years, the Mexico-U.S. Advocates Network has convened an annual Roundtable among Mexican and U.S. activists to discuss their shared concerns relating to U.S.-Mexico migration policy and its effect on the lives of people and communities on both sides of the border. These annual meetings and interim exchange visits have created a community of activists who understand the complex, binational forces that shape Mexico-U.S. migration, and who are well-prepared to take advantage of the opportunities presented to immigrant and human rights advocates during this dynamic period.

On June 11-12, 2001, the Mexico-U.S. Advocates Network convened its third annual Roundtable on Mexico-U.S. migration in Mexico City. Thirty advocates and academics from both countries participated in the meeting, which resulted in the development of a set of principles for advocacy in each country. These principles constitute a framework for migration policy reform which will be very useful for civil society members interested in seeing the current political fluidity around Mexico-U.S. migration policies result in concrete advancements for the human and labor rights of migrants. (*The New Bilateralism* continues on page 2)

Bilateral Mexico-U.S. Migration Discussions Continue

By Spring Miller

The process of binational negotiations regarding migration and border issues, which was initiated by Presidents Bush and Fox last February, has opened space in the political and public spheres of both countries for a thorough reexamination of policies relating to US-Mexico migration. It appears increasingly unlikely that the two presidents will be prepared to present any concrete policy proposals when they meet again in Washington, DC, on September 4th and 5th, and the focus of the negotiations seems to have come full circle to emphasize again the creation of a new large-scale guestworker program. President Fox's initial assertions that the free flow of labor between Mexico and the U.S. should be included as a natural extension of the existing NAFTA agreements have been muted recently. Additionally, the lack of a formalized mechanism for civil society to give its input into the process has troubled advocates from both Mexico and the U.S. from the beginning. However, a full assessment of the political dynamics that have characterized this process over the last six months reveals that this high-level working group - and the explosion of public discussion, debate, and activity sparked by its creation - still represent a meaningful opportunity for both countries to transform the disastrous policies currently governing Mexico-U.S. migration. (*Bilateral Discussions* continues on page 5)

An Initiative of the Heartland Alliance for Human Needs & Human Rights

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AGENDA

Roundtable participants were briefed at the beginning of their meeting by officials of the U.S. State Department and Mexican Foreign Ministry who informed them that the bilateral negotiations will proceed with working groups on border issues, temporary worker programs, and regularization/legalization during the summer of 2001, with the announcement of some sort of agreement when Presidents Fox and Bush meet in Washington, D.C. on September 5, 2001. While both governments readily agreed to brief the Network Roundtable, and the discussion with officials was frank and open, the Network noted that the Binational Commission has no mechanism for public information or participation. The Mexico-U.S. Advocates Network intends to promote a binational civil society role in this historic discussion either within or parallel to the bilateral government talks. The June meeting marked the first step in that process.

After listening to the government briefings, Roundtable participants spent the next day and a half sharing information about the political situation in each country, the factors affecting current migration trends, policy options under discussion in both capitals, and the state of organizing and advocacy aimed at the mobilization of concerned constituencies and at impacting the legislative process. The policy paper developed by the recent Carnegie Endowment-Instituto Tecnológico Autónoma de México study group proved a useful starting point for discussions. Meeting in national sessions and then in a binational discussion, participants developed a set of priorities for advocacy in each country and for joint advocacy:

CONCLUSIONS

Conclusions: U.S. Advocates

U.S. Principles

The U.S. participants developed the following set of principles to function as a framework for advocacy and organizing activities:

Goal:The goal of advocacy over the short term is to influence the negotiations between Presidents George W. Bush and Vicente Fox.

Premise 1: The premise under which our advocacy proceeds is that current migration-related policies are a failure.

Premise 2: The bilateral negotiations should not be conducted in secret and should provide mechanisms for input from concerned sectors of society, the general public, and Congress.

The Four Pillars:

1. Legalize Mexico-U.S. migration through:
 - Legalization/permanent residence for immigrants in the United States
 - Legalization of future flows through mechanisms such as temporary worker-to-permanent resident visa programs, adjusting quotas for family immigration to meet demand, and other options;
2. Strengthen labor rights and social protections, by including health care benefits and effective labor law enforcement;
3. Develop new strategies for immigration law enforcement by:
 - Including accountability, human rights protection, and alternatives to current border enforcement
 - Replacing the current employer sanctions regime with enforcement targeted at illegal recruitment and exploitation:
4. Develop new economic development strategies that:
 - Are determined by the affected communities and are sustainable over the long term,

(The New Binationalism , continued from p. 2)

- Include Border Regions
- Include finance and infrastructure support from governments and international financial institutions

Advocacy Strategies in the U.S. over the Short-Term (June to September, 2001):

1. Support for a signature campaign on a letter to both presidents from Mexican immigrants in the U.S., coordinated by a national committee of Mexican immigrants/immigrants' rights organizations
2. Educate and pressure Congress and the administration through meetings, briefings, hearings, letters, etc.
3. Develop specific messages consistent with the four pillars which allow flexibility for distinct advocacy strategies
4. Develop a media strategy
5. Reach out to other networks and potential allies

Binational Work:

1. Determine how to have a U.S. strategy reinforce Mexico strategy and vice-versa
2. Maintain communication and coordinate strategies and tactics when possible

Mexican Conclusions

Major Pillars:

1. Border control issues - especially deaths at border
2. Legislation:
 - Guestworker program
 - Legalizations/amnesty for undocumented in United States
3. Development strategies in Mexico

Short-Term Strategy:

1. Consolidate a forum to define action regarding the Senate, Congress, and State legislatures
2. Consolidate binational coordination by:
 - Organizing immigrants' rights groups from United States come to speak to Mexican Congress and groups from Mexico go to speak to the U.S. Congress
 - Developing a communication strategy which includes putting out a Spanish-language bulletin in Mexico regarding U.S. Congressional initiatives that could affect Mexicans, (requires help from U.S. groups).

Spring Miller is Program Coordinator of the Mexico-U.S. Advocates network. Anne Seymour is the former Program Coordinator of the Mexico-U.S. Advocates Network.

Grassroots Leaders Organize to Impact Bilateral Negotiations Process

By Rebekah Lusk and Lucia Medina

Amidst sweltering mid-July heat, the sound of Mariachis, and the smell of traditional Mexican cuisine, thousands gathered in Pilsen – one of Chicago's most densely populated Mexican neighborhoods – to greet Mexican President Vicente Fox. Fox's visit to Chicago on July 15 was his first since his election in July 2000. Fox's popularity among many Mexicans in the U.S. is a result not only of his recent election to office, which ended the 71-year reign of the Institutional Revolutionary Party (PRI), but also stems from the emphasis his administration has placed on strengthening ties between Mexico and the Mexican community living abroad. Although Fox spoke about a range of issues, including investing in Mexico, driver's licenses

for the undocumented and general immigration policy, many in the crowd were most interested in hearing his stance on legalization for undocumented immigrants living in the U.S.

The recent elections of President Bush and President Fox – and the determination of both men to forge a new era in Mexico-U.S. relations – opened the space for the bilateral negotiations on migration and border issues which are currently taking place.

(Grassroots Campaign continued on p. 4)

(Grassroots Campaign continued from page 3)

Seeking to make the most of the opportunities presented by President Fox's close relationship with the new Bush administration, President Bush's concern with the Latino immigrant community as a voting bloc, and the initiation of the process of bilateral migration negotiations, a group of Mexican-American leaders commenced a national signature campaign for legalization at the beginning of July. These national and local leaders saw the bilateral negotiations as a unique opportunity for the Mexican community within the U.S. to influence the negotiations and pressure Fox to advocate for a legalization program for all undocumented immigrants living in the United States. This legalization campaign has become an opportunity for Mexicans and Mexican-Americans to work together to make their strength visible to both governments and to mobilize many community groups that historically have not been involved in political action.

The national campaign "La Campaña de Firmas por la Legalización" is taking place in California, Florida, Idaho, Illinois, Iowa, Oregon, Utah, Washington, and Texas. Each state has developed its own strategic method of collecting signatures. All the signatures gathered from participating states will be collected at the end of August and presented to the Mexican and U.S. governments by delegations who will travel to Mexico City at the end of August and to Washington, DC at the beginning of September.

Signature campaign organizers are hopeful that the campaign will be effective in demonstrating the strength of the Mexican-American community in the U.S. and its concern with the issue of legalization – and that this expression of the community's power and organization will impact leaders of both governments during this dynamic period in U.S.-Mexico migration policy. The leaders of the signature campaign want to work towards a legalization that does not only include Mexicans, but all undocumented immigrants living in the U.S. Because of the unique opportunity represented by the bilateral negotiations, the campaign included only the signatures of Mexican nationals. However, when members of the national delegation meet with high-ranking Mexican officials on August 28 and 29 and when the campaign holds a press conference in Washington, DC in early September, their message will be that Mexicans living in the U.S. – both undocumented and documented – demand that both governments work together to legalize the status of all undocumented immigrants.

Rebekah Lusk is a community organizer for the Illinois Coalition for Immigrant and Refugee Rights. Lucia Medina recently graduated from the University of Chicago and is an intern for the Mexico-U.S. Advocates Network.

Staff Transition

The Mexico-U.S. Advocates underwent significant staff transition this summer. Susan Gzesh, founding director of the Network, left the Heartland Alliance to become Director of the Human Rights Program at the University of Chicago on August 1st. She will continue as a member of the Advisory Board of the Network and will serve as a special consultant on specific projects. Oscar Chacón took over as Director of the Mexico-U.S. Advocates Network in mid-August. A leading advocate for immigrants' rights, Oscar is well-known to many activists in the U.S. and abroad, as well as funders, elected officials, religious leaders, and immigrants in many communities. He is the past Executive Director of Centro Presente (Boston). Oscar is currently the President of the Salvadoran American National Network. With his broad contacts among many constituencies important to the work of the Mexico-U.S. Advocates Network, Oscar will

provide key leadership to the Network as it enters a new era of challenges.

Additionally, Anne Seymour left the Heartland Alliance to attend law school at George Washington University. Spring Miller began as the Program Coordinator of the Mexico-U.S. Advocates Network in late June. Spring came to Chicago from Washington, D.C., where she worked with the American Friends Service Committee. We would like to thank Susan and Anne for the tremendous work they have done in strengthening the growth of the Network. We look forward to collaborating with them, as well as with other Network friends and supporters, as we enter into a new era of challenges and opportunities with respect to binational and regional migration policy.

(Bilateral Negotiations, continued from page 1)

Overview of Binational Commission Activities

During the Binational Commission's first several months of existence, negotiators on both sides focused on the development of a new guestworker program. Making such a program the sole focus of the commission would have enabled the Bush administration to respond to the demands of U.S. business groups - who have been agitating in recent years for the enactment of policies that would grant them easier and fuller access to a cheap immigrant labor force - while leaving aside the politically volatile issue of what to do with undocumented Mexicans living in the U.S. It also would have allowed the Mexican government to address one of its most pressing concerns: how to ensure that its citizens have accessible, legal mechanisms which allow them to enter safely into and work in the U.S. However, as immigrants' rights advocates, labor unions, and Latino organizations began to put pressure on both presidents to address the issue of legalization, it became clear that President Fox could not afford politically to move forward with plans for a guestworker program without addressing the status of the 3 million undocumented Mexicans living in the U.S. Additionally, President Bush, who has high hopes of generating significant Latino electoral support through these migration discussions, became increasingly interested in addressing the issue of undocumented Mexicans in the U.S. as well.

Both administrations' concern with this group of people (who play an integral role in both the Mexican and U.S. economies) came most clearly into evidence in mid-July, immediately following a meeting of the highest ranking officials of the binational working group. The Bush administration surprised the nation by leaking an internal State Department memo which suggested the administration was considering some form of legalization for undocumented Mexicans in the US. That amnesty "trial balloon," as observers referred to the leaked memo, sparked a tremendous outcry within the conservative base of the Republican party. Senator Phil Gramm asserted that there would be an amnesty only over "his cold, dead, political body." The political furor that followed the legalization leak exposed the tenuousness of the balance President Bush was trying to strike between outreach to Latino voters and placation of business interest on the one hand, and his need to maintain the support of the

rank-and-file conservative base of his party on the other hand. Immigrant advocates expressed their support for the president's general line of thinking but also reiterated their call for legalization of all undocumented immigrants living and working in the U.S.

The Democratic party, which had been relegated to the sidelines as the media focused on the activities of the Binational Commission, stepped into the furor immediately following the release of legalization "trial balloon," claiming that they agreed with advocates' assertions that the administration's potential legalization proposal did not go far enough. Democratic leaders in the House and Senate developed their own set of principles regarding immigration policy, which included, among other points, increasing the number of family and employment visas available to reduce backlog and promote family reunification; a legalization program for undocumented immigrants of all nationalities who could prove that they had worked in the U.S. for a certain number of years; a temporary worker program that guaranteed full labor mobility, equal protections, and access to legal permanent residency/citizenship.

Meanwhile, however, the Bush administration was backing quickly away from the memo, saying that no proposed policies had yet been developed and that the president was opposed to a "mass amnesty." Conservative Republicans and anti-immigrant groups have devoted significant energy to proving to the administration that attempting to gain the popularity of Latino voters via legalization is a futile effort and will ultimately alienate "mainstream" Republican voters. In the weeks since the leaked memo came out, both the Mexican and the U.S. governments have backtracked significantly. Representatives of both administrations say that the September meeting of Presidents Bush and Fox in Washington will culminate with the presentation of a set of common principles with regard to migration policy, *not* the announcement of a concrete policy initiative. Many analysts are now suggesting that the Bush administration may not act on the issue until after the 2002 elections.

(Bilateral Discussions cont. on page 6)

(Bilateral Negotiations continued from p.5)

Looking Ahead

As the deadline originally set for Bush and Fox to announce a comprehensive a new migration policy approaches, the enormity of the task they have undertaken is becoming more obvious. There is near-universal agreement across the political spectrum in both Mexico and the U.S. that the current unilateral policies regulating Mexico-US migration are a failure. However, the question of what sort of policy regime should take the place of the current one - and how it can be developed on a truly bilateral basis - is enormously complicated. The social and economic realities (including economic and social integration between the two countries, and profound economic restructuring in Mexico) that generate Mexico-U.S. migration flows are themselves tremendously complex, and the implementation of a truly comprehensive set of policies will be necessary for either nation to respond humanely and effectively to the migration phenomenon. While some innovative policy initiative that addresses the circular nature of the Mexico-US migration flow - and at the same time ensures equal rights and dignity for migrants- could represent an important breakthrough in binational migration policy, a guestworker program resembling the exploitative models we have seen in the U.S. in the past will be an inadequate response to the complex challenges of Mexico-U.S. migration in this era of increasing economic and social integration.

In a binational roundtable discussion sponsored by the Mexico-U.S. Advocates Network last June, a group of immigrants' rights advocates and academics came up with a set of four pillars upon which a comprehensive binational migration policies should be based. Those four pillars include: legalizing Mexico-U.S. migration by granting legal permanent resident or citizenship status to undocumented migrants already in the U.S. and by legalizing future flows; strengthening labor rights and social protections for all migrants; developing new strategies for immigration law enforcement; and implementing new sustainable economic development strategies that are shaped by communities most affected by them. (see article entitled *Third National Roundtable on Mexico-U.S. Migration: The New Bilateralism*)

The Binational Commission appears to be developing a whole new migration policy vocabulary, based on terms like "regularization" and "earned adjustment," in its attempts to negotiate the delicate political balances that will be necessary to implement real migration policy changes. Whether this lexicon merely represents a set of euphemisms for the replication of policies that have failed in the past, or embodies meaningful advances towards addressing the issues outlined above, will depend in large part on domestic politics and the power of various interest sectors and electoral groups in each country.

Spring Miller is the Program Coordinator for the Mexico-U.S. Advocates Network.

TOHONO O'ODHAM TRIBAL MEMBERS PRESS FOR CHANGES IN IMMIGRATION LAW

By Lucia Medina and Spring Miller

Representatives of the Tohono O'Odham tribe, a Native American nation whose land straddles both sides of the Arizona and Sonora, Mexico border, arrived in Washington in early June to pressure Congress to pass a law resolving their complex citizenship problems. Seventy miles of the Mexico-U.S. border established as part of the 1853 Gadsden Purchase cuts across Tohono O'Odham land and divides the nation in two. In 1937, when Congress recognized the Tohono O'Odham as a sovereign government, they became the only Native American nation to enroll members on both sides of the U.S.-Mexico border. Today, approximately 1,400 of the nation's 24,000 members live on traditional O'Odham lands in Mexico. Another 7,000 tribal members live in the U.S. but lack the official documents necessary to prove U.S. citizenship. Until recent years, O'Odham

mothers followed the tribal custom of giving birth at home; thus, many members never received official U.S. birth certificates.

For nearly a century and a half after the imposition of an international boundary across their land, Tohono O'Odham members crossed the Mexico-U.S. border frequently and with ease to visit family members, friends, and ceremonial sites. However, with the intense buildup of Border Patrol personnel and equipment in Southern Arizona over the last several years, the free movement of tribal members across ancestral lands has been severely inhibited.

(Tohono O'Odham continued on page 7)

(Tohono O'Odham continued from p.6)

Tribal members say that the doubling of patrols along the southern Arizona border has rendered their homeland a "war zone." O'Odham members who live on the Mexican side of the border, as well as those who were born in the U.S. but lack official citizenship documents, find themselves constantly at risk of arrest or deportation. They are afraid to make the religious pilgrimages their ancestors have made for centuries. Those who live in Mexico have a particularly hard time accessing medical care, as the tribal reservation headquarters and health center are located on the U.S. side of the border. Many of these O'Odham members without U.S. citizenship served in the U.S. armed forces but cannot receive the benefits to which they are entitled.

A delegation of Tohono O'Odham members - many of whom are tribal elders, and many of whom live without U.S. documents on the U.S. side of the border - has spent this summer in

Washington, pressing Congress to rectify the complex, patchy citizenship situation of their members that is a result of historical oversight and current harsh border control policies. They are asking for an amendment to U.S. immigration law to make all Tohono O'Odham members U.S. citizens. The nation has found an ally in Democratic Representative Frank Pallone, Jr., a member of the House Resources Committee, whose district includes the Tohono O'Odham reservation. He introduced a bill to make tribal identification cards equivalent to federally issued citizenship certificates. Tribal members say they plan to stay in Washington until Congress addresses the complicated mix of historical oversight and current immigration enforcement policies that are arbitrarily and unfairly dividing their nation.

Lucia Medina recently graduated from the University of Chicago and is an intern for the Mexico-U.S. Advocates Network.

No Police, No Military, No "Sealing Off": As Opposed to *El Plan Sur*, A Comprehensive Migration Policy

El Plan Sur, the Fox Administration's \$11 million effort to stop illegal migration and other traffic at its southern border by greatly increasing the number of law enforcement agents and military personnel in the region, is set to be implemented this month. The plan has drawn widespread criticism from migrant and human rights advocates in Mexico. Below is an article based on the June 20, 2001 pronouncement of the Mexican Migration Forum regarding Plan Sur in Tapachula, Chiapas, Mexico.

*By Gabriela Díaz**

El Plan Sur aims to "seal off" the southern Mexican border from undocumented migration by enacting \$11 million police-military operations, turning the Isthmus of Tehuantepec into a bottleneck, and deporting all Central Americans to Guatemala.

With this policy, Mexico will be relying on a criminal and police approach to border policies, much like the one that the U.S. government has relied upon in its unsuccessful attempts to stop undocumented migration across its southern border. Since 1994, this U.S. enforcement policy has led to more than 1600 deaths along the Mexico-U.S. border, multiple violations of human rights, increased corruption on both sides of the border, and the growth of human trafficking networks. Among other harmful effects, it has also destroyed the family unity of migrants and profoundly disturbed life on both sides of the border. Mexico should not reproduce migration policies that have been shown to be very harmful to migrant populations and their families.

El Plan Sur has unacceptable implications, including:

- a geopolitical relocation of the North American border, focused between the Isthmus of Tehuantepec and the border of Mexico with Belize and Guatemala;
- the Mexican government would aim to act as a gatekeeper of a border that no longer belongs to it, since it is pursuing the interests of another country (the U.S.); (cont. on p.8)

* This article is based on the June 20, 2001 Pronouncement of the Mexican Migration Forum in Tapachula, Chiapas, México.

(*El Plan Sur*, continued from page 7)

- the Mexican government would assume the incalculable and shameful human costs that go along with stopping the path of migrants traveling from other countries to the U.S., imitating Operation Gatekeeper in Mexican territory.

It is also unacceptable that the Secretary of the Interior proclaims that, in return for acting as the immigration police of the U.S., the Mexican government could obtain a new guestworker program. The rights of some should not be negotiated for the supposed benefit of others. To do so would be to ignore migrants from Central America, from the south, and from the Caribbean, as well as the rest of the four million Mexicans in the U.S. who are still struggling for legal residence and the full recognition of their rights.

Since 1996, Mexico has participated in the Regional Conference on Migration, along with other countries of North America, Central America, and the Caribbean, with the explicit obligation of enacting migration policies that respect human rights and that contribute to productive regional development. Likewise, at the end of 1998 Mexico ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families and in 2000 ratified the Convention Relating to the Status of Refugees. The Mexican state has made international and regional commitments that the current government cannot violate.

Therefore, it is necessary to develop and implement a comprehensive migration policy that safeguards the rights of all migrants, regardless of their migratory status. This implies the suspension of political and military measures that attempt to contain international migration, threaten the human rights of migrants, violate the constitutional right of free transit, and expose the migrant and Mexican population to extortion and abuse on the part of corrupt functionaries at different levels of the government. But it also implies that there is an urgent need to finance authentic regional development strategies that address the structural causes of migration in countries of origin, instead of sending \$11 million to the "sealing off" of the southern border.

Gabriela Díaz is the Education and Advocacy Coordinator at Sin Fronteras, I.A.P., in Mexico City. The article was translated by Spring Miller.

The National Reports Initiative: Advocates Seek to Condense Information Relating to the Situation of Migrants in RNCOM Member Countries

Due to increased immigration enforcement activities and deportation of unauthorized migrants throughout the region, the Regional Network of Civil Organizations on Migration (RNCOM) proposed an initiative at the March 2000 Fifth Annual Vice-Ministerial Conference to develop Regional Guidelines for the Protection of Migrant Human Rights in Situations of Arrest, Detention, Deportation, and Reception (Guidelines). The article below discusses a parallel initiative to the Guidelines, the preparation of national reports documenting the laws, regulations, and everyday practices affecting migrants in each of the RNCOM member countries. For more information about the Regional Guidelines project, please see The Mexico-U.S. Advocates Network News, volume 2, issue 10 (May 2001).

By Emilio Quesada

Last year affiliate organizations of the Regional Network of Civil Organizations on Migration (RNCOM) prepared national reports about the phenomenon of migration in each of their countries to compare what is established in laws, regulations, and public policy with what happens in the daily migration practices in the eleven member countries of the RNCOM. This information prepared by each country will provide evidence to demonstrate the urgent need

for the Regional Guidelines for the Protection of the Human Rights of Migrants in situations of arrest, detention, deportation, and reception.

These national reports are being edited, translated, printed, and published this year in order to share information on a regional level, parallel to the development of the text of the guidelines.(see *Nat'l Report p.9*)

(National Reports, continued from p.8)

The primary objective of the national reports initiative is the attainment of uniform information that is systematized and organized into one format from sources who are directly connected to immigration practices in each country. This includes information about international, regional, and national legal frameworks and the daily practices in the four aforementioned situations (arrest, detention, deportation, and reception).

The reports will allow advocates to identify structural and regulatory voids, as well as impediments to the full respect of human rights and the best practices of promoting human rights in each country. Moreover, with this reliable information advocates will be able to identify differences in the migration phenomenon between sending, receiving, and transit countries.

This information will allow civil society to collaborate in a coordinated manner with different governmental authorities who are involved with national migration policy.

The information presented in the reports will allow advocates to compare the impact of regional, bilateral, and international agreements from the perspectives of each of the RRCOM countries, whose dynamics are all very different. For example, the reports will provide a comparison between what is happening in Guatemala and Nicaragua, who have both recently passed new migration laws, as well as amongst other countries that are considering new migration legislation. The national reports from Honduras, Canada, Belize, the U.S., and Guatemala are in their final stages of publication. These reports will be presented at the RNCOM seminar this fall in Guatemala.

Emilio Quesada is the National Report Initiative Coordinator at Sin Fronteras, I.A.P. in Mexico City. This article was translated by Spring Miller.

THE IMPLEMENTATION OF THE INS DETENTION STANDARDS

By HELENA OLEA

In September of 2000, the United States Immigration and Naturalization Service (INS) issued thirty-six standards that cover all aspects of detention, from access to legal services, health care, and religious guidance, to the issuance of clothing, bedding and towels, to disciplinary policies. The standards apply to all INS detention except for children's shelter facilities and children's detention centers. The INS announced the Standards as a set of "uniform policies and procedures for the safe, secure and humane treatment of foreign nationals in INS custody." At the time of their issuance, the Standards seemed to be a significant step towards the improvement of detention conditions for thousands of non-citizens in deportation proceedings. Almost one year later, however, the standards have yet to be fully implemented.

Background

The INS detains a considerable number of non-citizens who are in immigration proceedings. Non-citizens in detention fall into one of the following three groups: asylum seekers, convicted felons, and long-term detainees.

The INS detains non-citizens who arrive to the US to seek asylum and who lack proper documentation. These asylum seekers are placed in deportation proceedings and are detained until they can find a sponsor who offers to support them during their immigration proceedings, or for the entire duration of the proceedings if they arrived to the U.S. with documents from a country whose citizens do not require a visa. The INS also detains non-citizens who were convicted of crimes and who, after having served their time, are placed in deportation proceedings. Some non-citizens are directly transferred from Federal or State custody to INS custody; others are arrested in their homes, the streets or even when they go before their parole officer. Only a few of those non-citizens are released under bond. The majority remain detained until they are sent back to their countries of origin.

Non-citizens from some countries cannot return to their countries of origin after they are ordered deported. Their governments do not issue travel documents to them, or simply refuse to accept

(INS Standards, continued on page 10)

them. Those individuals are usually either stateless or citizens of countries with which the U.S. does not have diplomatic relations, such as Vietnam, Laos, Iraq, Cambodia and Cuba. Recently, the U.S. Supreme Court ruled in *Zadvyas v. Davis* that the INS cannot detain these individuals after six months past the date of their final removal order. However, this ruling does not apply to individuals who did not make an "entry" into the U.S. Thousands of migrants who were allowed into the U.S. on parole status, like the Mariel Cubans, will remain in detention indefinitely.

The INS does not have enough bed space to house the 200,000 non-citizens who are detained every year. Hence, the agency contracts bed space with jails and police departments all across the United States. Non-citizens are arrested and taken to INS Processing Centers, and afterwards transferred to one of those contracted facilities. The INS Detention Standards are to be enforced in both INS Processing Centers and in contracted facilities.

Each INS Standard describes a policy and indicates its applicability depending on the type of facility (INS Processing Centers, Contract Detention Facilities, and State or local governmental facilities used to hold detainees for more than 72 hours.) For each Standard, the specific policy and procedure is described in detail. A monitoring instrument is also part of the Standard, which is intended to assist both the INS and the facility to monitor standard compliance.

When the Standards were first issued, the INS established an implementation schedule, beginning with Processing Centers and the most populated contracted facilities. According to that schedule, all facilities housing INS detainees should be in compliance with the standards by the end of 2002.

Initially, non-governmental organizations that work on immigration issues were optimistic that the implementation of the Standards would result in meaningful improvements in the conditions of INS Processing Centers and contracted facilities. However, almost a year after the announcement of their issuance, nothing has changed in a number of INS and INS-contracted facilities, including the county jails of Illinois and Wisconsin where the Chicago INS District detains immigrants. Very few contract facilities are aware of the existence of the Standards, and even fewer jail administrators have taken the time to assess the changes necessary to implement them. The reality of INS detention conditions remains a far cry from the conditions set forth in the standards.

What will it take to ensure compliance with the Standards?

The stark contrast between current practices and those set forth in the Standards indicate the need for profound changes. First, an evaluation of the current detention conditions with respect to the Standards will help INS centers and contracted facilities identify what changes are necessary to ensure full compliance. Infrastructure, resources and processes should be modified in order to comply with the detention conditions described in detail in the Standards. Additionally, significant training of INS and contract facilities personnel with respect to the standards will be crucial to the effective implementation of the standards.

Although the national INS Headquarters has guaranteed that the standards will be fully in place across the country by the end of 2002, there appears to be a lack of political will at the local level to implement the standards. It will be necessary to create the political environment at the local as well as the national level in which the protection of the human rights of non-citizens in detention becomes a priority. Civil society can play an important role in creating such an environment. Non-governmental organizations can monitor detention conditions in light of the Standards and make recommendations. Immigrants' rights groups can ask their Congressional Representatives and Senators to insist on the need to implement the Standards and to appropriate adequate resources for that purpose. Immigrants' rights groups can become involved in jail programs, and act as a liaison between detainees and the immigrant community. Religious organizations can also play an important role in providing spiritual comfort to immigrants in detention. The joint action of all these governmental and civil society players will ensure that the Standards are implemented and that non-citizens in detention receive the dignified and humane treatment that they are entitled to. *Until recently, Helena Olea was a consultant to the Mexico-U.S. Advocates Network. She is currently a JSD student at the law school of the University of Notre Dame.*

Mexican Migration Forum Examines Detention Conditions of Migrants

By Gretchen Kuhner

This summer, the Mexican Migration Forum is conducting a study on detention conditions for migrants as part of a series of human rights monitoring projects of the Regional Network of Civil Organizations for Migration (RNCOM). Since March 2000, the RNCOM has been working to advance the protection of human rights in regional migration policy through a campaign to promote the adoption of Regional Guidelines for the Protection of Migrant Human Rights in Situations of Arrest, Detention, Deportation and Reception (Guidelines) by the intergovernmental Regional Conference on Migration.¹

The process of developing the Guidelines has included the preparation of national surveys to gather information regarding the migration legislation and practices in each of the 11 country members of the RNCOM. During the writing of the first draft of the Mexico report last year, participating organizations found that very little information is available on detention conditions for migrants. This year, following the regional RNCOM workshop held on Monitoring in Costa Rica during the Regional Conference on Migration annual meeting, the newly formed Mexican Migration Forum, a network of civil, religious and academic organizations throughout Mexico, decided to undertake the monitoring project as the group's first coordinated effort.

¹ The Regional Conference on Migration is an intergovernmental forum of migration and foreign relations officials from Belize, Canada, Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama, and the United States that holds annual meetings at the Vice-Ministerial level to discuss regional migration issues. The RCM was founded in 1996 when the governments of the region decided to organize an intergovernmental forum to improve communication among immigration and foreign policy officials in the region and establish cooperative agreements on migration. Additionally, Argentina, Colombia, and Ecuador participate as observers as well as the United Nations High Commissioner for Refugees, the Economic Commission for Latin America and the Caribbean, the International Organization for Migration, and the Inter-American Human Rights Commission.

The Forum organized the monitoring project during a national meeting held in Chiapas in June. Participants visited three detention sites near Tapachula to view the conditions in a Mexican prison, a local immigration detention center, and a small holding cell located in an immigration border inspection office. As a result of the visits, the Forum members decided that the monitoring project should focus on access to due process and physical conditions in detention, and should survey 8 regions including both borders, the migration corridor, and Mexico City.

During the monitoring workshop, participants reviewed the available data on migrant detention in Mexico. Information provided by the Mexican National Immigration Institute shows that 32 immigration centers exist in Mexico. Only one, the Mexico City center, is considered a long-term detention center, while the others are located within Immigration Offices and are used to process migrants within several days. Those migrants that can be deported to Guatemala through the CA-4 agreement are returned directly to that country, while migrants of all other nationalities are transferred to the Mexico City Center for further processing and consular access.

While some information is available regarding detention conditions for migrants in the Mexico City Center, virtually no systematic information has been obtained on the other centers. Several recent articles have documented irregularities in basic procedural guarantees including corrupt practices as well as physical conditions that violate basic human rights standards. One problem is consistent overcrowding of the center, particularly in the male section. The center has a 125-person capacity, while the men's section often contains over 400 detainees. As a result, people are forced to sleep on the floor in rows along the hallway. This situation has exacerbated hygiene problems including soiled and flea infested mattresses and blankets, and skin irritations. Overcrowding has also prompted disruption of recreational activities, escalating tension among the detained population and, on occasion, leading to riots. Other common complaints among detainees include lack of potable water that has caused gastrointestinal disorders, and inadequate medical attention. (*Migration Forum* cont. p.12)

(*Migration Forum* cont. from p.11)

In a series of 25 interviews conducted by Sin Fronteras, I.A.P. last year, detainees also reported procedural irregularities. For example, many reported that they had not been informed the reasons for their detention, neither during the moment of the initial detention, nor once they arrived to the Mexico City Detention Center. One of the principal difficulties in ensuring migrants' basic human rights during arrest is that all levels of authorities participate in the process. Another difficulty is that the deportation procedure does not include a hearing in front of an administrative law judge. Rather, immigration officials take a declaration in which the detainees declares his or her nationality and "admits" to lack of proper documentation. While the administrative decision may be appealed, this rarely occurs in practice due to lack of legal representation for indigent migrants. Other problems include lack of interpreters and no consular representation of such states as Sierra Leone and other countries whose nationals have worked their way to Mexico.

The Mexican National Migration Institute is aware of these challenges and has initially responded with plans to build new sites or remodel existing centers. In March of this year, the Migration Commissioner, Felipe de Jesus Preciado, inaugurated the project to remodel and improve the Mexico City Detention Center, an effort that would increase the capacity of the center and improve recreational spaces. Similar plans were designed for Acayucan, Veracruz and Tijuana, Baja California among others. However, to date none of the construction projects have begun due to lack of funding.

The Migration Forum plans to obtain systematic information from eight different detention sites throughout the country. These sites are located in Chiapas (Tapachula), Tabasco (Villahermos and Tenosique), Oaxaca (La Ventosa and Salina Cruz), Veracruz (Veracruz and Acayucan), Mexico, D.F., Tamaulipas (Nuevo Laredo and Reynosa), and Baja California (Tijuana and Mexicali).

The project will document physical conditions and procedures involving access to legal representation, consular representation, communication and general information regarding detention rules and complaint mechanisms. The questionnaires were

developed by adapting those used in similar projects through the Detention Watch Network and the American Bar Association in U.S. as well as the United Nations Latin American Institute for the Prevention of Crime and the Treatment of Offenders (ILANUD) and Sin Fronteras. A specific questionnaire was developed for Migration personnel to learn about their working conditions. The interviewers will also fill out observation forms for each visit to the detention center.

The methodology ensures that a higher number of interviews will be conducted in the centers with the highest number of detainees. Mechanisms were established to ensure interviews representative of the varying nationalities and to include women and minors. A total of 335 interviews will be conducted with migrants. The Forum is conducting the project as a network and received authorization from the Immigration Commissioner in the context of the governmental declaration made during the annual meeting of the RCM in which member states offered to facilitate access to detention sites to support the Regional Guidelines Project.

Objective data and participant observations will be incorporated into a final report to be distributed to government officials, journalists, and civil society in Mexico and throughout the region. The Forum hopes that the project will produce objective information that will be useful in the preparation of national detention guidelines, enhanced procedural guarantees for migrants, and improved physical conditions. It also seeks to establish ways in which civil society can participate to foster and maintain these reforms.

The Forum hopes that similar networks in other countries in the region will learn from the experience and improve on the project methodology to obtain similar data in their countries.

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About Us

The Mexico-U.S. Advocates Network is a binational project dedicated to improving communication and mutual education between Mexican and U.S. non-governmental organizations concerned with the human and labor rights aspects of migration policy and developing vehicles for joint advocacy on those issues.

With support from the Ford Foundation, the John D. & Catherine T. MacArthur Foundation, the General Service Foundation, and the Joseph & Jeanne Sullivan Foundation, Heartland Alliance (Chicago) coordinates network activities in the United States. Please visit our Website at www.mexicousadvocates.org to access past newsletters, special reports, and other documents.

We welcome your comments, short articles, and/or announcements for submission at: newsletter@mexicousadvocates.org.

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