



# **Institutional and Legal Migratory Framework of the Republic of Honduras: A Working Paper**

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By María Sol Pikielny and María Jesús Mora

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As part of its project on regional migration systems and capacities, the Migration Policy Institute (MPI) developed country profiles for six countries (Costa Rica, El Salvador, Guatemala, Honduras, Mexico, and Panama). These working papers were preparatory for the final report MPI published in April 2021, *Laying the Foundation for Regional Cooperation: Migration Policy and Institutional Capacity in Mexico and Central America* by Andrew Selee, Ariel G. Ruiz Soto, Andrea Tanco, Luis Argueta, and Jessica Bolter. The full report and other country profiles can be found here:

[www.migrationpolicy.org/research/regional-cooperation-migration-capacity-mexico-central-america](http://www.migrationpolicy.org/research/regional-cooperation-migration-capacity-mexico-central-america).

## I. Institutional Framework

The Honduran immigration system, established by the Honduran Law of Migration and Foreign Nationals, is the set of state institutions that oversee the entry and exit of migrants, regulation of nationals and foreigners, as well as the transit, stay, and permanence of foreigners in national territory.

This system is composed of the Ministry of the Interior and Justice, the National Institute of Migration, and the Inspection Department, supported by the Migration Officers and the National Civilian Police.

- **The Ministry of the Interior and Justice** (*La Secretaría de Gobernación y Justicia*) provides recommendations on Honduras' immigration policy to the President;<sup>1</sup> it issues the corresponding resolutions to grant, deny, or cancel residence and is also responsible for approving any changes to immigration status;<sup>2</sup> it orders the expulsion of foreigners;<sup>3</sup> hears and resolves forgiveness applications filed by previously expelled or deported foreigners from the country;<sup>4</sup> and grants asylum when appropriate.<sup>5</sup>

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<sup>1</sup> Article 4, subsection 2 of the Law of Migration and Foreign Nationals, *Ley de Migración y Extranjería de Honduras* (Decree No. 208-2003).

<sup>2</sup> Article 4, subsection 11 of the Law of Migration and Foreign Nationals.

<sup>3</sup> Article 4, subsection 8 of the Law of Migration and Foreign Nationals.

<sup>4</sup> Article 4, subsection 9 of the Law of Migration and Foreign Nationals.

<sup>5</sup> Article 4, subsection 10 of the Law of Migration and Foreign Nationals.

- **The National Institute of Migration** (*El Instituto Nacional de Migración*), whose functions derive from the former General Directorate of Migration and Foreigners,<sup>6</sup> drafts, suggests, and executes migration policy for the Ministry of the Interior and Justice.<sup>7</sup> The Institute controls the entry, exit, and stay of foreigners within the country;<sup>8</sup> it is responsible for the care of foreigners located in special care centers;<sup>9</sup> and it coordinates supervision activities between the National Civilian Police and other entities in order to prevent irregular immigration.<sup>10</sup>

Furthermore, the Institute applies sanctions,<sup>11</sup> fines, fees, rights, and charges for the required proceedings; it orders deportation when appropriate;<sup>12</sup> grants refugee status;<sup>13</sup> and enables the necessary locations to control the entry or exit of both nationals and foreigners.<sup>14</sup>

The National institute of Migration,<sup>15</sup> through its Under-Secretariat for Consular and Migratory Affairs, is responsible for drafting, developing, and coordinating programs among public and private institutions to support and aid Honduran migrants in vulnerable conditions who have returned to the country,<sup>16</sup> and who are cared for at the Center for Returned Migrants.<sup>17</sup>

- **The Inspection Department** (*El Departamento de Inspectoría*) is responsible for the inspection of public and private work centers, public entertainment venues, education centers, hotels, lodgings, and so forth. It is also in charge of the arrest and custody of foreigners with irregular status, the delivery of citations authorized by the Secretariat of Registration, the implementation of operations, the control of clandestine immigration, and the execution of the corresponding deportations and expulsions of foreigners.<sup>18</sup>

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<sup>6</sup> Juan Orlando Hernández Alvarado, "[Decreto para crear el instituto nacional de migración](#)" (Article 6, Executive Decree PCM 031-2014) *Diario Oficial La Gaceta* (June 30, 2014).

<sup>7</sup> Article 5 and Article 8, subsection 2 of the Law of Migration and Foreign Nationals; Article 4 of the Executive Decree establishing the National Institute of Migration.

<sup>8</sup> Article 8, subsection 3 of the Law of Migration and Foreign Nationals.

<sup>9</sup> Article 8, subsection 16 of the Law of Migration and Foreign Nationals.

<sup>10</sup> Article 8, subsection 17 of the Law of Migration and Foreign Nationals.

<sup>11</sup> Article 8, subsection 8 of the Law of Migration and Foreign Nationals.

<sup>12</sup> Article 8, subsection 13 of the Law of Migration and Foreign Nationals.

<sup>13</sup> Article 8, subsection 20 of the Law of Migration and Foreign Nationals.

<sup>14</sup> Article 8, subsection 21 of the Law of Migration and Foreign Nationals.

<sup>15</sup> Article 8 of the Law of Migration and Foreign Nationals.

<sup>16</sup> Article 8 of the Law of Migration and Foreign Nationals.

<sup>17</sup> CONMIGHO, "[Attention Center for the Returned Migrant](#)," accessed December 16, 2020; The returnee care centers have been closed during the pandemic, according to: UN News, "[Los migrantes, vulnerables ante el cierre de fronteras en Centroamérica por el coronavirus](#)" April 24, 2020,

<sup>18</sup> Article 4, subsection 8 of the Regulation of the Law of Migration and Foreign Nationals, *Reglamento de la Ley de Migración y Extranjería* (2004).

- **Migration Officers** (*Los Delegados de Migración*) are the migration officers who are responsible for conducting the functions and activities related to border control through air, sea, and internal control to ensure regular and controlled migration within the country.<sup>19</sup> The Migration Officers allow or deny the entry or exit of foreigners in accordance with the corresponding regulations.

## 2. Legal Framework

The general Honduran legal system on migration derives from the constitutional framework comprising chapter two of the Political Constitution of Honduras, the Honduran Law of Migration and Foreign Nationals<sup>20</sup> and its 2004 regulation,<sup>21</sup> the executive decree that established the National Institute of Migration,<sup>22</sup> and its amendment.<sup>23</sup> Regarding the regulation of humanitarian protection, migrant children are protected by the Declaration on Humanitarian Emergencies,<sup>24</sup> while matters related to human trafficking can be found in the Law against Human Trafficking<sup>25</sup> and its regulation.<sup>26</sup> Finally, regarding the protection of refugees, asylum-seekers, and stateless people, there seem to be no specific regulations on these matters in Honduras.

## 3. Migratory Categories and Adjustment Processes

Foreigners that enter national territory may be admitted under the following migratory categories:

- Non-residents; or,
- Residents.<sup>27</sup>

The **non-resident** category includes the following subcategories:

- Tourists;<sup>28</sup>

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<sup>19</sup> Article 8 of the Regulation of the Law of Migration and Foreign Nationals.

<sup>20</sup> Law of Migration and Foreign Nationals, *Ley de Migración y Extranjería de Honduras* (Decree No. 208-2003).

<sup>21</sup> Regulation of the Law of Migration and Foreign Nationals, *Reglamento de la Ley de Migración y Extranjería* (2004).

<sup>22</sup> Juan Orlando Hernández Alvarado, "Decreto para crear el instituto nacional de migración (Executive Decree PCM 031-2014)" *Diario Oficial La Gaceta* (June 30, 2014).

<sup>23</sup> Juan Orlando Hernández Alvarado, "Decreto para reformar el decreto para crear el instituto nacional de migración (Executive Decree PCM 063-2014)," *Diario Oficial La Gaceta* (July 2, 2014).

<sup>24</sup> Juan Orlando Hernández Alvarado, "Decreto declarando la situación de la niñez migrante no acompañada y de las unidades familiares como una emergencia humanitaria (Executive Decree PCM 033-2014)," *Diario Oficial La Gaceta* (July 8, 2014).

<sup>25</sup> Law against Human Trafficking, *Ley contra la Trata de Personas* (Decree No. 059-2012).

<sup>26</sup> Regulation of the Law against Human Trafficking, *Reglamento de la Ley contra la Trata de Personas* (Decree 36-2015).

<sup>27</sup> Article 17 of the Law of Migration and Foreign Nationals; Article 17 of the Regulation of the Law of Migration and Foreign Nationals.

<sup>28</sup> Article 18, subsection 1 of the Regulation of the Law of Migration and Foreign Nationals.

- In-transit travelers;<sup>29</sup>
- Migrant workers,<sup>30</sup> which includes foreigners who, with the corresponding permit, enter the country on a temporary basis in order to conduct legally permitted paid activities;
- Cross-border workers<sup>31</sup> refers to workers from neighboring countries who, with the corresponding permit, cross the border to conduct legally permitted paid activities, whether temporary or permanent.

The **resident** category is subdivided into:

- Transitory residents;<sup>32</sup>
- Temporary residents;<sup>33</sup>
- Permanent residents;<sup>34</sup>

The following foreigners are also considered residents:<sup>35</sup>

- Rentiers;<sup>36</sup>
- Pensioners;<sup>37</sup>
- Investors;<sup>38</sup>
- The spouse, young children, older dependent children, and parents of the persons mentioned in the preceding categories.
- Foreigners married to Hondurans who were born in national territory;<sup>39</sup>
- Foreigners who are parents, siblings (younger or older), and grandparents<sup>40</sup> of Honduran children born in national territory.<sup>41</sup>
- Foreigners who acquire permanent residency in the country, after having remained as legal residents or with a special residence permit for a minimum period of five years and who have also complied with Honduran laws;<sup>42</sup> and,

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<sup>29</sup> Article 18, subsection 2 of the Regulation of the Law of Migration and Foreign Nationals.

<sup>30</sup> Article 18, subsection 7 of the Regulation of the Law of Migration and Foreign Nationals.

<sup>31</sup> Article 18, subsection 8 of the Regulation of the Law of Migration and Foreign Nationals.

<sup>32</sup> Article 20 of the Law of Migration and Foreign Nationals.

<sup>33</sup> Article 20 of the Law of Migration and Foreign Nationals.

<sup>34</sup> Article 20 of the Law of Migration and Foreign Nationals.

<sup>35</sup> Article 20 of the Regulation of the Law of Migration and Foreign Nationals.

<sup>36</sup> Article 23 of the Law of Migration and Foreign Nationals; Article 20 of the Regulation of the Law of Migration and Foreign Nationals.

<sup>37</sup> Article 24 of the Law of Migration and Foreign Nationals; Article 20 of the Regulation of the Law of Migration and Foreign Nationals.

<sup>38</sup> Articles 31 and 33 of the Law of Migration and Foreign Nationals; Article 20 of the Regulation of the Law of Migration and Foreign Nationals.

<sup>39</sup> Article 20 and 36 of the Law of Migration and Foreign Nationals.

<sup>40</sup> Article 20 of the Regulation of the Law of Migration and Foreign Nationals.

<sup>41</sup> Article 35 of the Law of Migration and Foreign Nationals; Article 20 of the Regulation of the Law of Migration and Foreign Nationals.

<sup>42</sup> Article 37 of the Law of Migration and Foreign Nationals; Article 20 of the Regulation of the Law of Migration and Foreign Nationals.

- Those who, without belonging to the previous categories and in duly justified cases, are authorized by the Secretary of State within the Ministry of the Interior and Justice.<sup>43</sup>

In addition, it is worth mentioning that the Honduran Constitution establishes that Central Americans by birth who have resided in the country for one year are considered Honduran by naturalization.<sup>44</sup> This law also recognizes the right to health<sup>45</sup> without any distinction, thus, protecting both migrants with a Central American visa and foreigners.

### Special Categories: The CA-4 Agreement

The CA-4 Agreement that was signed by the presidents of El Salvador, Guatemala, Honduras, and Nicaragua, allows for the transit of citizens from the signatory countries without requiring a passport and through expeditious immigration instruments. The agreement discards the visa requirement for citizens of the member countries.

The agreement also established the creation of the Central American Single Visa for the Free Mobility of Foreigners. Free mobility allows citizens of a third country who possess a visa to enter any of the signatory territories to visit other countries party to the agreement without additional visa requirements, provided that such visa has not yet expired. Likewise, the uniform requirements and procedures for the entry of foreigners are approved based on country classification:

- “A” Category – For visa-exempt foreigners;
- “B” Category – For foreigners who require a consular visa or one without consultation and;
- “C” Category – For foreigners who require the approval of the General Directorates of Migration to obtain an entry visa (consulted visa).

In addition, the agreement defines the intermediate and peripheral migration offices, and establishes the creation of the Visa Homologation Commission (VUCA) comprised of the Migration Directorates and the Consular Affairs Directorates of the Foreign Ministries of the signatory states. Its operations are technically regulated through approved procedure manuals and is freely adhered to by any member state of the Central American Integration System (SICA).

In this regard, the *Regional Manual of Migration Procedures of the Central American Single Visa CA-4* establishes a classification of visas according to the type of travel document and/or activity to be conducted in the region:

- Ordinary: For normal or ordinary passports.
- Official: For official or service passports.

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<sup>43</sup> Articles 21, 25, 26, 27, 28, 29, and 30 of the Law of Migration and Foreign Nationals.

<sup>44</sup> Article 24 of the Constitution of Honduras, *Constitucion de la Republica de Honduras* (Decree 131-1982).

<sup>45</sup> Article 145 of the Constitution of Honduras.

- Courtesy: For ordinary, special, or service passports in official, cultural, sports missions, service personnel of diplomatic or consular missions, participants in seminars or courses, among others.
- Diplomatic: For diplomatic passports.

And a classification according to the period and terms of validity:

- Transit: Valid to enter and leave the region, for a period of 96 hours from the moment of entry to a peripheral border of any of the signatory states. It does not apply to the "C" Category, which requires a normal visa extension process.
- Simple: Valid for a single entry to the region. It is valid for 60 days from the date of issuance.
- Multiple: Valid for multiple entries to the region. It is valid for up to one year.

The period of stay granted by the immigration authority of the first signatory state is the basis for the conditions of their transit and stay within the territories. If a foreigner remains in the territory of one of the signatory states for a longer time than authorized, the individual is subjected to evaluation by the General Directorate of Migration of the country in which the foreigner is located, in accordance with national legislation. Likewise, if an extension of stay is required, it must be requested from the immigration authority of the signatory state where the person is located.

The *Regional Manual of Migration Procedures of the Central American Single Visa CA-4*<sup>46</sup> establishes that foreigners residing in one of the signatory states may not conduct any remunerated or commercial activity in the territory they visit. However, with the creation of the Central American Resident Card, it was agreed to grant all foreigners who are residents in any of the countries of the region the same treatment regarding mobility, regardless of their nationality.

The Central American Single Visa does not entail temporary or permanent residence in the territories of the signatory states. Consequently, foreigners who wish to enjoy a different status other than the one obtained upon entry must meet the requirements established by the legislation of each of the mentioned states.<sup>47</sup>

On the other hand, foreigners who possess valid visas for entry to the United States, Canada and countries in the Schengen agreement, are exempted from the tourist visa requirement to travel to the Central American CA-4 region.

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<sup>46</sup> Governments of El Salvador, Guatemala, Honduras and Nicaragua, *Manual Regional de Procedimientos Migratorios de la Visa Única Centroamericana CA-4*, (procedural manual, May 26, 2011).

<sup>47</sup> Article 7 of the Central American Single Visa Agreement, *Convenio de creación de la Visa Única Centroamericana para la libre movilidad de extranjeros entre las repúblicas de El Salvador, Guatemala, Honduras y Nicaragua*.

The list of countries, international organizations, and other entities that fall under these categories can be found in the *Regional Manual of Migration Procedures of the Central American Single Visa CA-4*.

## 4. Humanitarian Protection

### A. Refugee Protection<sup>48</sup>

#### Process for Determining Refugee Status

The refugee applicant is interviewed individually and confidentially in order to obtain the required information regarding the identity, nationality, address, and reasons behind the request. These interviews are conducted within immigration offices or at the International Migration Department through the Refugee Section of the Central Office. When the refugee applicant does not speak Spanish, he or she may be assisted by a translator provided by the liaison office of the United Nations High Commissioner for Refugees (UNHCR).<sup>49</sup>

Prior to the recognition of refugee status, the Department of International Migration will issue the corresponding verdict on the application request.<sup>50</sup> The National Migration Institute, jointly with officials of the UNHCR liaison office, will carry out the investigations deemed necessary in determining the veracity of the information provided by the applicant, who may submit the pertinent documentation when possible. While the National Institute of Migration issues the final decision, the Department of International Migration authorizes the temporary stay of the foreign applicant for a period not exceeding 90 days, extendable for 30 days when necessary.<sup>51</sup>

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<sup>48</sup> Refugees are those foreigners who: in accordance with the international treaties ratified by Honduras, are recognized as such due to well-founded fears of being persecuted for reasons of race, religion, nationality, belonging to a certain social or political group, as well as their opinions, and whom reside outside of their country of nationality and are unable or unwilling to avail themselves of the protection of their country due to such fear; due to lack of nationality and for the reasons stated in the previous paragraph, are outside the country in which they had habitual residence and cannot or do not want to return to it; have fled their country because their life, security, or liberty has been threatened for any of the following reasons; a) generalized, serious, and continuous violence; b) foreign aggression understood as the use of armed force by a state against sovereignty, the territorial integrity, or political independence of the country of origin; c) internal armed conflicts arising between the armed forces of the country from which the person is fleeing and armed forces or groups; d) massive, permanent, and systematic violence against human rights; and, e) that they suffer persecution through sexual violence or other forms of gender persecution based on violations of human rights enshrined in international instruments. All those persons who depend directly on the refugee and who constitute a family group will also be considered refugees. Likewise, the people who accompany the refugee or have joined them subsequently, as long as they are under their dependence, will also be considered refugees. Foreigners who, while legally in Honduran territory, feel threatened for the reasons previously expressed, may request a special permit to stay as refugees.

<sup>49</sup> Article 46 of the Law of Migration and Foreign Nationals.

<sup>50</sup> Article 46 of the Regulation of the Law of Migration and Foreign Nationals.

<sup>51</sup> Article 47 of the Regulation of the Law of Migration and Foreign Nationals; The UNHCR website states that “the INM will analyze and verify the information provided during the interview and the case will then be

## Benefits and Rights of the Refugee

Under no circumstance will a person or a group of people seeking refuge be forced to return to the country where they fear their rights will be violated. In the case of refugee resettlement to a third country or repatriation to the country of origin, the National Institute of Migration will coordinate the corresponding measures with UNHCR.<sup>52</sup> The refugee applicant will not be imposed pecuniary sanctions nor any other type of sanctions due to irregular entry or irregular stay in national territory. Likewise, the individual will be exempt from paying any corresponding fees for immigration procedures, services, and airport taxes.<sup>53</sup>

Every refugee has the right to family reunification. For this, an application must be submitted to the National Institute of Migration. The Honduran authorities will provide refugees with proper support and adequate treatment in order for them to coexist and participate as part of Honduran society.<sup>54</sup> Refugees who wish to travel abroad will submit a written request to the General Directorate of the INM justifying the reason for the trip, which will need to be endorsed by UNHCR. The request will not be authorized when there are duly justified concerns regarding national security or public order.<sup>55</sup> Prior to its approval by the General Directorate, the Department of International Migration must issue an opinion on the exit permit. The Migration Officers will not allow the departure of a refugee, if he or she does not present the corresponding permit to leave the country, granted by the General Directorate.<sup>56</sup>

Although no specific regulations were found on the subject, it can be inferred from the articles of the National Constitution establishing nondiscrimination that refugee applicants and refugees have the right to access health services,<sup>57</sup> compulsory education paid for by

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assessed by the Internal Commission for the Review, Analysis and Determination of Refugee Applications (CIRADR) known as the 'Refugee Commission'...When the verification phase is over, the Refugee Commission will prepare an opinion, granting or denying refugee status. The INM will notify the Refugee Commission of the decision regarding the request for refugee status. In the event that refugee status has been recognized, the applicant will be provided with an identity card to prove it. Finally, it is important to note that not all asylum seekers qualify for refugee status. If the request is denied, they have the right to file an appeal for reconsideration. Supplementary protection could also be granted for humanitarian reasons." On the UNHCR website there are no regulations supporting the operations of the Refugee Commission. UNHCR, "[¿Cómo solicitar la condición de refugiado?](#)" accessed December 16, 2020.

<sup>52</sup> Articles 44 and 49 of the Regulation of the Law of Migration and Foreign Nationals.

<sup>53</sup> Article 51 of the Regulation of the Law of Migration and Foreign Nationals; Article 46 of the Law of Migration and Foreign Nationals.

<sup>54</sup> Article 50 of the Law of Migration and Foreign Nationals.

<sup>55</sup> Article 51 of the Law of Migration and Foreign Nationals.

<sup>56</sup> Article 58 of the Regulation of the Law of Migration and Foreign Nationals, Art. 58.

<sup>57</sup> Article 145 of the Constitution of Honduras.

the state,<sup>58</sup> and employment under fair conditions and equal pay.<sup>59</sup>

## Limitations

Refugee status will not be granted to people for whom there are supported accusations of:

- Having committed a crime against peace, a war crime, or any crime against humanity;<sup>60</sup>
- Having committed a serious common crime outside of Honduras, classified as such in Honduran legislation, prior to the request for refugee status;<sup>61</sup>
- Having committed acts contrary to the purposes and principles established in the Charter of the United Nations.<sup>62</sup>

## B. Asylum<sup>63</sup>

### Process for Determining Asylum Status

The Ministry of the Interior and Justice jointly with the Ministry of Foreign Affairs, through the Honduran consulate or diplomatic representation accredited in the foreigner's country of origin, will carry out the necessary investigations in order to determine the veracity of the information provided by the asylum seeker.<sup>64</sup> Once the asylum application is approved, the National Institute of Migration will grant a special residence permit to the asylee and the spouse, the children of the spouse, and the paternal and maternal grandparents of their children when requested.<sup>65</sup>

### Benefits

The asylee in Honduras who wishes to travel abroad must request permission from the

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<sup>58</sup> Article 171 of the Constitution of Honduras.

<sup>59</sup> Articles 127 and 128 of the Constitution of Honduras.

<sup>60</sup> Article 43, subsection 1 of the Law of Migration and Foreign Nationals; Article 48, subsection 1 of the Regulation of the Law of Migration and Foreign Nationals.

<sup>61</sup> Article 43, subsection 2 of the Law of Migration and Foreign Nationals; Article 48, subsection 2 of the Regulation of the Law of Migration and Foreign Nationals.

<sup>62</sup> Article 43, subsection 3 of the Law of Migration and Foreign Nationals; Article 48, subsection 3 of the Regulation of the Law of Migration and Foreign Nationals.

<sup>63</sup> According to Article 3, subsection 3 and article 52 of the Law of Migration and Foreign Nationals: Asylees are foreigners whom Honduras, through its Secretary of State in the Ministry of the Interior and Justice, has recognized as meriting the right of asylum, due to any of the following circumstances: 1) political persecution due to the deposition of a government regime in country of origin; 2) existence of well-founded fears of violation of human and citizen rights because of political reasons; and 3) duly proven political or common crimes related to politic. Members of an asylee's family unit will also be considered asylees.

<sup>64</sup> Article 63 of the Regulation of the Law of Migration and Foreign Nationals.

<sup>65</sup> Article 61 of the Regulation of the Law of Migration and Foreign Nationals.

National Institute of Migration, stating the reason for the trip,<sup>66</sup> and the Department of International Migration must issue their recommendation on the foreigner's exit request, in order for the Institute to decide whether to approve it or not. The Migration Officers will not allow the departure of a foreigner with asylum status without the presentation of the permit to leave the country. Likewise, re-entry will not be allowed if a migration alert for unauthorized departure is issued.<sup>67</sup>

## Limitations and Exceptions

Asylum status is revoked when: a) the asylee leaves the country without the corresponding permit;<sup>68</sup> b) the asylee's actions endanger Honduras' sovereignty and security;<sup>69</sup> c) the asylee's actions threaten friendly relations between Honduras and other states;<sup>70</sup> d) the asylee commits crimes within national territory.<sup>71</sup> In the first case, deportation will proceed and in the last three cases, the asylee will be subjected to expulsion.<sup>72</sup>

### C. Restrictions for Applicants Seeking Protection in Other Countries

According to the Asylum Collaboration Agreement signed between the United States and Honduras, the terms of this agreement do not apply to Honduran asylum seekers or stateless persons with habitual residence in Honduras.<sup>73</sup> On the other hand, in order to ensure the protection of the applicants that are transferred to Honduras, this country commits to not return nor expel individuals for requesting Honduran protection. The United States will be responsible for the transferred people until such transfer is completed.<sup>74</sup> Notwithstanding, Honduras reserves the right to evaluate protection requests on a case-by-case basis.

The United States has the responsibility to determine and provide protection in its territory when establishing that the person in question is an unaccompanied minor or that said person arrived in United States territory with a valid issued visa or any other valid document or in situations where the United States does not require a visa. Both countries commit to cooperating to strengthen Honduran institutions and jointly developing standardized operating procedures.<sup>75</sup> However, it is not possible to describe the

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<sup>66</sup> Article 65 of the Regulation of the Law of Migration and Foreign Nationals.

<sup>67</sup> Article 65 of the Regulation of the Law of Migration and Foreign Nationals.

<sup>68</sup> Article 64, subsection 1 of the Regulation of the Law of Migration and Foreign Nationals.

<sup>69</sup> Article 64, subsection 2 of the Regulation of the Law of Migration and Foreign Nationals.

<sup>70</sup> Article 64, subsection 3 of the Regulation of the Law of Migration and Foreign Nationals.

<sup>71</sup> Article 64, subsection 4 of the Regulation of the Law of Migration and Foreign Nationals.

<sup>72</sup> Article 53 of the Law of Migration and Foreign Nationals; Article 64 of the Regulation of the Law of Migration and Foreign Nationals.

<sup>73</sup> Governments of the United States and Honduras, "[Acuerdo de Colaboración de Asilo entre Honduras y Estados Unidos](#)" *La Tribuna* (September 2019).

<sup>74</sup> Article 3 of the Asylum Collaboration Agreement.

<sup>75</sup> Article 7 of the Asylum Collaboration Agreement.

implementation of the aforementioned mechanisms, since they have not yet been published as of February 2021.

#### **D. Statelessness<sup>76</sup>**

The Secretary of State in the Ministry of the Interior and Justice recognizes the status of statelessness to any foreigner located within the national territory who lacks a nationality.<sup>77</sup> The National Institute of Migration, through the Department of International Migration, must exhaust all possible means of evidence to demonstrate that said foreigner lacks a nationality.<sup>78</sup> Once statelessness is recognized, the Institute grants a special residence permit<sup>79</sup> and in turn, the Department of International Migration documents and registers the stateless person in the National Registry of Foreigners.<sup>80</sup>

#### **E. Victims of Human Trafficking<sup>81</sup>**

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<sup>76</sup> Stateless persons are persons who are not considered nationals of any state, according to article 3, subsection 2 of the Law of Migration and Foreign Nationals.

<sup>77</sup> Article 54 of the Law of Migration and Foreign Nationals; Article 59 of the Regulation of the Law of Migration and Foreign Nationals.

<sup>78</sup> Article 59 of the Regulation of the Law of Migration and Foreign Nationals.

<sup>79</sup> Article 59 of the Regulation of the Law of Migration and Foreign Nationals.

<sup>80</sup> Article 60 of the Regulation of the Law of Migration and Foreign Nationals.

<sup>81</sup> A victim of human trafficking is a person who has suffered damages, including physical or mental injuries, emotional suffering, financial loss, or substantial impairment of fundamental rights, as a consequence of the crime of human trafficking. The term “victim” also includes, where appropriate, family members or dependents who have an immediate relationship with the direct victim and people who have suffered damage when intervening to assist the victim in danger or to prevent the victimization. Victims' assistance measures must include: 1) the necessary supplies to meet their basic needs for personal hygiene, food, health, and clothing; 2) health care and necessary medical assistance, including testing for HIV and detoxification and other diseases; 3) adequate and safe accommodation. In no case will victims of human trafficking be housed in prisons, penitentiaries, police, or administrative establishments meant for the accommodation of detained, processed, or sentenced persons; 4) counseling and psycho-social legal assistance to victims and their families, in the language and means they understand; and 5) translation and interpretation services according to their nationality, customs, and disability status. These measures will be determined in a technical report by specialized personnel from the Immediate Response Team (*Equipo de Respuesta Inmediata*, ERI), except in cases where due to distance or communication circumstances they must be taken by the authorities from the place where the victim was located. These measures are associated with the process of sustainable assistance to the surviving victim of human trafficking and are taken in the medium and long term. They are carried out by different entities according to their institutional roles and responsibilities and include: 1) improving the physical and mental state of the victim with necessary treatments; 2) providing the victim with a prolonged, permanent or temporary immigration status when appropriate and according to a detailed technical analysis and consensus with the victim; 3) managing, when appropriate and with the consent of the victim, repatriation or resettlement; and 4) applying the necessary coordination measures between institutions so that the victims have their own safe accommodation as well as study and work opportunities. These measures will be determined in a technical report by specialized personnel from the ERI.

The Immediate Response Team (*Equipo de Respuesta Inmediata*, ERI), created by the 2012 Law against Human Trafficking, is in charge of the accreditation process for victims of human trafficking. The National Institute of Migration will grant the victim a temporary residence permit for a minimum period of 90 calendar days if the ERI issues a report determining that a foreign person is in fact a victim of human trafficking and must temporarily remain in Honduran territory for their necessary recovery and/or personal safety or to decide, with the support of legal assistance, whether or not to file the corresponding charges. This permit is also granted to the dependents of the victim.

If the victim is a minor, the temporary residence permit includes every right and benefit established by international instruments and national regulations on the subject to uphold their best interests. In any case, victims have the option to apply for refugee status.<sup>82</sup>

The information related to victims of the crime of human trafficking, their dependents, and people related to them, as well as witnesses of the crime in question, is confidential.<sup>83</sup> When a person claims to be a victim of trafficking, the humanitarian principle of nonrefoulement to the state of origin or to third states for which there is a fear of return, is applied,<sup>84</sup> and the corresponding assistance measures will be granted.

## 5. Implementation and Compliance with the Legal Migratory Framework

### A. Types of Return, Fines and Re-entry Bans

Through **voluntary repatriation**, refugees who voluntarily wish to do so may return to their country of origin or habitual residence, having established their intentions in writing to the International Migration Department of the National Institute of Migration.<sup>85</sup> The request for voluntary repatriation must contain the explicit statement of the refugee clearly determining the reasons for the request and the certainty that their personal integrity will be guaranteed, waiving the government of Honduras from any responsibility regarding any event that takes place after the repatriation is completed.<sup>86</sup> The Department of International Migration, in coordination with UNHCR, will carry out the voluntary repatriation and ensure that it is completed under the best conditions of security and respect for the person's rights.<sup>87</sup>

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<sup>82</sup> Article 31 of the Law against Human Trafficking.

<sup>83</sup> Article 3, subsection 5 of the Law against Human Trafficking.

<sup>84</sup> Article 3, subsection 9 of the Law against Human Trafficking.

<sup>85</sup> Article 48 of the Law of Migration and Foreign Nationals; Article 55 of the Regulation of the Law of Migration and Foreign Nationals.

<sup>86</sup> Article 55 of the Regulation of the Law of Migration and Foreign Nationals.

<sup>87</sup> Articles 44 and 48 of the Law of Migration and Foreign Nationals; Articles 49 and 55 of the Regulation of the Law of Migration and Foreign Nationals.

Honduras is a member of the Regional Conference for Migration, and of the International Organization for Migration and part of the Protocol for Assisted Voluntary Returns using funds from the Regional Conference for Migration for the assisted return of vulnerable regional migrants, making it possible to use these mechanisms in cases where it cannot take on the costs of return.

**Deportation** is the legal act of expelling foreigners from national territory when:

- They have entered or stayed in the country with false documents;<sup>88</sup>
- They remain in the country after their stay has been terminated;<sup>89</sup>
- They have entered the country clandestinely or without complying with regulations.<sup>90</sup>

Deportation also can occur when foreigners exceed their authorized residency period without having left the country.<sup>91</sup> However, deportation in these cases may be commuted for a financial penalty. The pecuniary penalty will be applied for each month of delay and will be calculated in an equivalent amount to 10 percent of the highest minimum wage in the service sector,<sup>92</sup> upon authorization from the National Institute of Migration.<sup>93</sup>

Deportees who do not have authorization to re-enter the country are prohibited from entering.<sup>94</sup> If the deportee is illegally located in Honduras, they will be immediately deported.<sup>95</sup> Deported foreigners may request a pardon which suspends the prohibition to enter the national territory after two years of deportation.<sup>96</sup>

**Expulsion** is the legal act of evicting foreigners from the national territory that:<sup>97</sup>

- Have been convicted of crimes, after serving their sentence or having obtained a pardon;<sup>98</sup>
- Engage in illegal activities or activities that have not been authorized in their entry or residence permits;<sup>99</sup>
- Threaten the well-being, the economy, the environment, international peace, and the good international relations of Honduras with its allies;<sup>100</sup>

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<sup>88</sup> Article 88, subsection 1 of the Law of Migration and Foreign Nationals.

<sup>89</sup> Article 88, subsection 2 of the Law of Migration and Foreign Nationals.

<sup>90</sup> Article 88, subsection 3 of the Law of Migration and Foreign Nationals.

<sup>91</sup> Article 88, subsection 4 of the Law of Migration and Foreign Nationals.

<sup>92</sup> Article 88 of the Law of Migration and Foreign Nationals.

<sup>93</sup> Article 3, subsection 5 of the Law of Migration and Foreign Nationals.

<sup>94</sup> Article 81 of the Law of Migration and Foreign Nationals.

<sup>95</sup> Article 81 of the Law of Migration and Foreign Nationals.

<sup>96</sup> Article 144 of the Regulation of the Law of Migration and Foreign Nationals.

<sup>97</sup> Article 3, subsection 6 of the Law of Migration and Foreign Nationals.

<sup>98</sup> Article 89, subsection 1 of the Law of Migration and Foreign Nationals.

<sup>99</sup> Article 89, subsection 2 of the Law of Migration and Foreign Nationals.

<sup>100</sup> Article 89, subsection 3 of the Law of Migration and Foreign Nationals.

- Take part in movements of any nature that use or encourage violence for achieving their objectives, such as in riots or disruptive meetings, or in any way that favors or promotes armed conflicts of national or international natures, social instability, ungovernability, non-compliance with the law, or social or political unrest;<sup>101</sup>
- Have entered the country hiding their status as expellees from Honduras;<sup>102</sup>
- Fraudulently use or attribute an immigration status different from the one granted to them by the Honduran immigration authorities;<sup>103</sup>
- Have obtained residency or naturalization fraudulently or their letter of naturalization has been revoked;<sup>104</sup>
- Engage in economic activities other than the one for which they have been authorized or are fraudulently exercising their profession or trade<sup>105</sup> upon the determination of the Secretariat in the Ministry of the Interior and Justice.<sup>106</sup>

Those who have been expelled and do not have authorization to re-enter the country are prohibited from entering again.<sup>107</sup> If the person is illegally located in Honduras, they will be immediately deported.<sup>108</sup> Expelled foreigners may request a pardon which suspends the prohibition on entering the national territory after five years of expulsion.<sup>109</sup>

**Rejection** is the action through which the immigration authority denies a foreigner entry to the country and immediately orders their transfer to their country of origin, provenance, or to an admitting third country.<sup>110</sup> The rejection of a foreigner is immediate and will proceed when they do not meet the entry requirements nor present immigration documents;<sup>111</sup> when there is an entry ban ordered by the competent authority;<sup>112</sup> when they are caught trying to enter the country through an unauthorized port;<sup>113</sup> and when they have been deported or expelled from the country and have not obtained a re-entry permit issued by the competent authority.<sup>114</sup>

## **B. Regulation and Guidelines on Detention Conditions and Procedures**

### **Conditions of Detention and Detention Centers**

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<sup>101</sup> Article 89, subsection 4 of the Law of Migration and Foreign Nationals.

<sup>102</sup> Article 89, subsection 5 of the Law of Migration and Foreign Nationals.

<sup>103</sup> Article 89, subsection 6 of the Law of Migration and Foreign Nationals.

<sup>104</sup> Article 89, subsection 7 of the Law of Migration and Foreign Nationals.

<sup>105</sup> Article 89, subsection 8 of the Law of Migration and Foreign Nationals.

<sup>106</sup> Article 3, subsection 6 of the Law of Migration and Foreign Nationals.

<sup>107</sup> Article 81 of the Law of Migration and Foreign Nationals.

<sup>108</sup> Article 81 of the Law of Migration and Foreign Nationals.

<sup>109</sup> Article 144 of the Regulation of the Law of Migration and Foreign Nationals.

<sup>110</sup> Article 3, subsection 23 of the Law of Migration and Foreign Nationals.

<sup>111</sup> Article 87, subsection 1 of the Law of Migration and Foreign Nationals.

<sup>112</sup> Article 87, subsection 2 of the Law of Migration and Foreign Nationals.

<sup>113</sup> Article 87, subsection 4 of the Law of Migration and Foreign Nationals.

<sup>114</sup> Article 87, subsection 5 of the Law of Migration and Foreign Nationals.

The Constitution of Honduras establishes that minors are not allowed to be in jail or to be imprisoned<sup>115</sup> and that every child should enjoy the benefits of social security, health and education, so that both the child and the child's mother, beginning with the prenatal period, have the right to food, sports, and medical services.<sup>116</sup> Similarly, the Constitution recognizes the right to health, without discrimination, and the obligation of the state to maintain an adequate environment to protect public health.<sup>117</sup> Although this is not specific to the conditions of detention, it is understood as a framework for the Honduran government's obligations towards detained migrants as well.

## **Protocols for the Arrest and Separation of Vulnerable People**

No legal system or legal document has been identified stating the conditions for irregular migrants in care centers nor protocols on time of detention and separation of vulnerable people.

## **Reception Protocols for Repatriated Migrants**

Honduras declared the situation of unaccompanied migrant children and family units as a humanitarian emergency, in order to activate a national system of social protection for the immediate care of minors and their families, their dignified and orderly repatriation, and their reintegration into the community.<sup>118</sup>

## **Limitations on the Power to Detain or Return Migrants**

In accordance with the provisions of the legal migration framework, in no case will a refugee or a person seeking refuge be returned.<sup>119</sup> Moreover, individuals who await the resolution of their refugee application process also must not be deported or expelled from the country, nor those granted this status, except when there are clearly justified security or public order reasons.<sup>120</sup> On the other hand, the extradition of a refugee applicant will proceed only if it is proven that the request is not based on the reasons for which the individual sought refugee protection.<sup>121</sup>

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<sup>115</sup> Article 122 of the Constitution of Honduras.

<sup>116</sup> Article 123 of the Constitution of Honduras.

<sup>117</sup> Article 145 of the Constitution of Honduras.

<sup>118</sup> Executive Decree Declaring a Humanitarian Emergency (PCM 33/2014). For more information, see Government of the Republic of Honduras, "[Sistema Integral de Atención al Migrante Retornado](#)," updated July 24, 2020.

<sup>119</sup> Article 44 of the Law of Migration and Foreign Nationals; Article 49 of the Regulation of the Law of Migration and Foreign Nationals.

<sup>120</sup> Article 46 of the Law of Migration and Foreign Nationals; Article 51 of the Regulation of the Law of Migration and Foreign Nationals.

<sup>121</sup> Article 45 of the Law of Migration and Foreign Nationals; Article 50 of the Regulation of the Law of Migration and Foreign Nationals.

## 6. Migrants in the Labor Market

The Constitution of Honduras establishes that foreigners can only, within legal limits, teach science and the arts, and provide technical or advisory services to the state when there are no Hondurans who can perform those jobs,<sup>122</sup> and that they enjoy the same civil rights as Hondurans, in accordance with legal regulations.<sup>123</sup> However, there are special categories, such as migrant workers who possess special residence permits and cross-border workers.

The labor code establishes that all employers must ensure that their labor force is conformed of at least 90 percent Honduran workers and must pay Hondurans at least 85 percent of the total wages of their respective companies.<sup>124</sup>

**Migrant workers with special residence permits** are foreigners who enter the country for the purpose of conducting paid activities for a period of time greater than three months, for purposes requiring qualified labor. In addition, companies have a limit for hiring immigrants. According to article 11 of the Labor Code, this population must not exceed 10 percent of the company's workforce.

**Cross-border workers** are workers from neighboring countries who, with the corresponding permission, cross the border to carry out legally permitted paid activities, whether temporary or permanent.<sup>125</sup>

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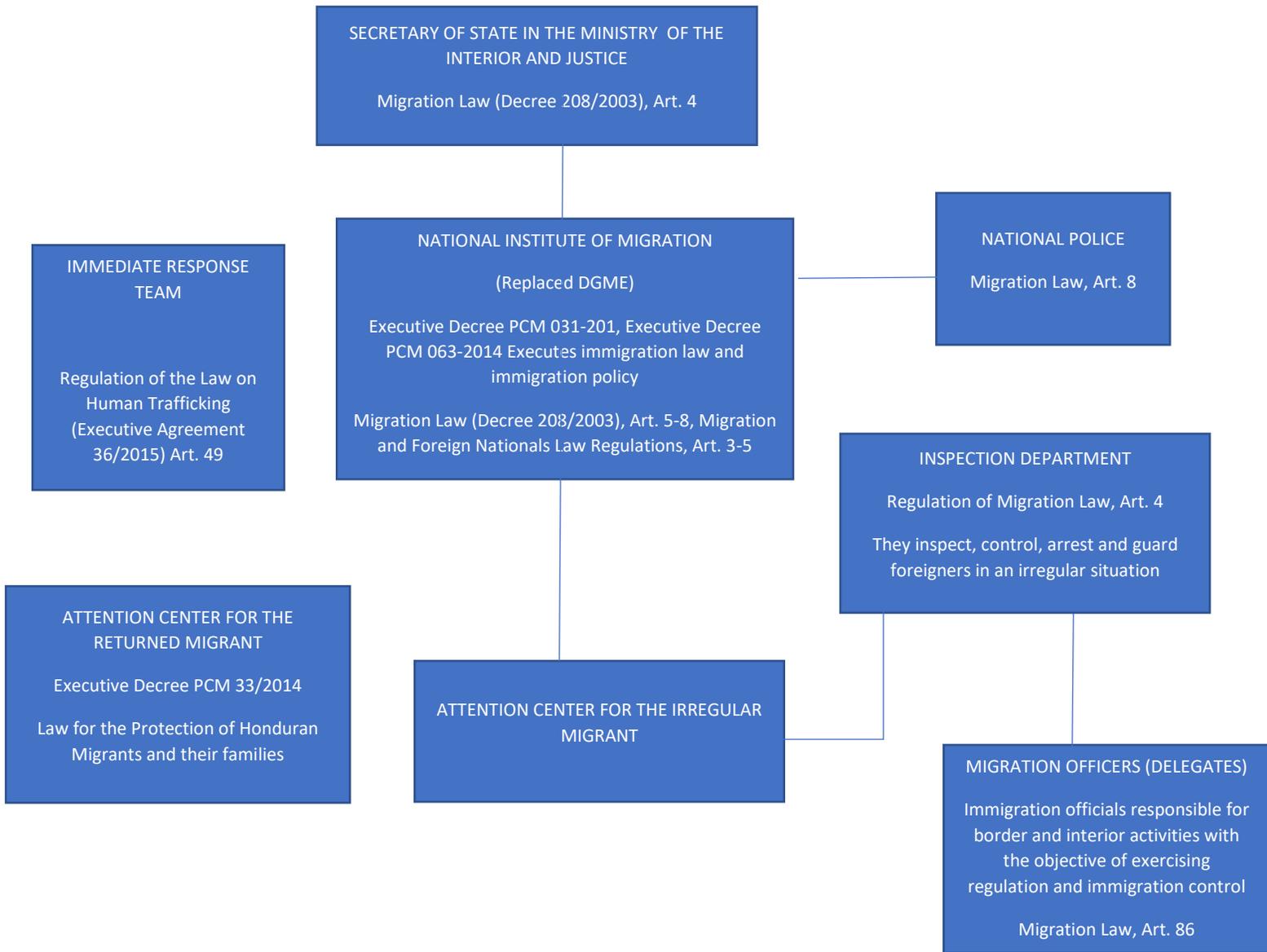
<sup>122</sup> Article 34 of the Constitution of Honduras.

<sup>123</sup> Article 31 of the Constitution of Honduras.

<sup>124</sup> Article 11 of the Labor Code, *Codigo del Trabajo y sus Reformas* (Decree No. 189-1959).

<sup>125</sup> Article 3, subsection 29 of the Law of Migration and Foreign Nationals.

## 7. Mapping of the Migration System



## About the Authors

### **María Sol Pikielny**

María Sol Pikielny is a public policy professor and a lawyer specialized in administrative law and international refugee law with experience in refugee status determination procedures, as well as asylum and immigration legal systems in Latin America. She has worked with the Inter-American Commission on Human Rights, the Organization of American States, and the Migration Policy Institute.

María Sol holds an L.L.M. from American University Washington College of Law, a master's degree in Administrative Law from Universidad Austral, as well as bachelor's degree in Law from Pontificia Universidad Católica Argentina.

### **María Jesús Mora**

María Jesús Mora is a research consultant whose experience spans migration, social mobility, and race in Latin America. She has been an intern for the Migration Policy Institute, The Nation, and the North American Congress on Latin America. She has a bachelor's degree in Sociology and History from New York University, where she graduated Phi Beta Kappa.

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