

# State control of Migration during the COVID-19 pandemic in Mexico

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## **PROJECT SUMMARY**

Since the beginning of the COVID-19 pandemic migrant communities have become immobile—stuck in the destination countries, or unable to continue their journeys in transit or in origin countries. This project brings together a collection of essays that seek to spell out how migrant communities in the Global South, namely in Mexico, Nepal, Qatar and Zimbabwe, have been affected by, and reacted to the pandemic. Inspired by a mobility justice approach, we speak to the (changing) power relations inherent to mobility, as well as the intersectional nature of migration with inequalities mapped along a global geography of race and class, amongst others. We do this by acknowledging that long before COVID-19, migration and mobility were intrinsically embedded into a hierarchical globalized regime of asymmetric power, that largely determines who can move and under what conditions. The essays aim to not only re-centre the Global South, but also to view these cases as relational to each other and to the state of global affairs.

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#### **ABSTRACT**

In this article, the author shows how the Pandemic aggravated the already precarious conditions of migrants. When the Pandemic started in Mexico, the authorities were already upgrading their migration control measurements on several levels. Deeper coordination with the Trump Administration, suspension of asylum processes in the USA, militarization of the migration management and bureaucratic institutions in Mexico, have all been taking place simultaneously by March 2020. The article shows how arbitrary detentions, releases, deportations of migrants have increased in Mexico during the Pandemic while ignoring potential public health hazards. Moreover, the article also draws the attention to different forms and techniques of resistance by migrants, like the formation of caravans which served as a tool of collective protection.

# I. <u>INTRODUCTION</u>

The COVID-19 pandemic has imposed severe challenges globally. In Mexico, the health emergency has placed the country in an "extremely complex" situation, which is not only manifested in the high number of infections and deaths, as well as in the overflow of the capacity of the health facilities, but has also led to an increase of at least 4% in the share of the population living below the extreme poverty line (OPS 2021).

Regarding migration, the pandemic has aggravated the already precarious situation in which irregular migrants find themselves in the country. It is necessary to take into account the fact that thousands of people annually illegally cross Mexico's southern border every year attempting to reach the United States.

These migratory flows come mainly from Guatemala, El Salvador and Honduras and in recent years have formed massive movements of people known as caravans. Faced with this wave of migration, Mexican immigration policy has been modified and is currently characterised by strong control and containment strategies, mainly encouraged by the agreements adopted between Mexico and the United States.

Additionally, the agreements between the two countries have allowed Mexico to become a *de facto* safe third country since June 2019, under the "stay in Mexico" programme, which has been implemented through the Migrant Protection Protocols (MPP),<sup>1</sup> despite the fact that they do not formally have the character of law or international agreement in Mexico's legal system.

The government of Mexico decided to incorporate the National Guard into the work of immigration containment in order to be able to carry it out effectively; this military cooperation has increased performance in immigration control since 2019 and the eruption of the pandemic has led to its being strengthened. This is how the National

<sup>1</sup> MPP or Migrant Protection Protocols are legal instruments according to which those who request asylum in the United States are immediately returned to Mexico where they must wait for the

procedure. All persons granted with an MPP must be recognised by Mexico as residents for humanitarian reasons; it must also offer them employment, access to health and education – obligations that Mexico is clearly unable to guarantee.

Institute of Migration (INM), despite being the only agency legally empowered to implement Mexican immigration policy,<sup>2</sup> has increasingly shared its functions with the National Guard.

Thus, the pandemic and the immobility caused by the border closures, the cancellation of transport services and the quarantine in general found Mexico already in the process of militarisation and repression of migratory flows, in addition to having thousands of seekers of US asylum within its national territory.

This article first describes how the pandemic deepened the precarious state of irregular migrants in transit or detained in the country; then it examines how the militarisation of the migratory function has been strengthened during the pandemic; and finally it presents some resistance strategies against the control of the authorities.

# II. MIGRANT PRECARITY AND COVID-19 IN MEXICO

The precarious and vulnerable situation in which irregular migrants find themselves in Mexico has been widely documented (Ministry of Interior 2018; Ortega Velázquez 2017; Meza Gonzalez and Cuéllar Álvarez 2010). Since the 1980s, Mexico has ceased to be a country that exports migrants and has become a country of transit, destination and return. This is essentially due to the exponential increase in the transit of people from Central America, fleeing civil wars and the political and economic transformations of the region.

Later, starting from 2007 onwards, migrants experienced the effects of the considerable increase in violence in the country due to the actions of organised crime groups that dispute the control of parts of the territory among themselves, in conflict with state security forces. Moreover, criminal groups or cartels began to include among their activities human trafficking and the kidnapping of irregular migrants (CIDH 2013).

21) http://www.diputados.gob.mx/LeyesBiblio/pdf/LMigra\_070121.pdf.

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<sup>&</sup>lt;sup>2</sup> Among the functions of the INM is to monitor the entry and exit of people to and from the national territory; to review their documentation; to process and decide on the admission, stay and departure of foreigners; to record, decide and implement the deportation or return of migrants; to impose sanctions; and to detain and imprison foreigners who violate migration law. (Immigration Act, article

Currently, those entering Mexico come not only from Central America, but from South America, the Caribbean and even from other continents such as Africa and Asia, as evidenced by the presence of people from Congo, Cameroon and Bangladesh (Narváez Gutiérrez 2015; Martínez and Jiménez 2021); however, the vast majority of those who cross the southern border into Mexico irregularly are Central Americans.

Figure 1.

Migrants from Congo in Chiapas,
Mexico



Source: https://www.milenio.com/estados/llegan-mexico-12-mil-africanos-mes-inm

The constant increase in migratory flows arriving in Mexico decreased in 2017, perhaps due to the election as US president of Donald Trump, who had openly spouted an anti-immigrant message during his campaign. It should be noted that during that time, although the flow of people from Central America decreased, there was an increase in the number of Haitians and Cubans (INM 2019).

But in October 2018, the phenomenon of the "migrant caravans" modified the flows again; according to statistics from the INM, the increase in the number of people who enter with the intention of arriving in the United States of America or settling in Mexico has not ceased.

In the first caravan, it was estimated that 6,000 people entered the national territory, with more people being added – as a result, almost 7,000 arrived in Tijuana and were

housed in a makeshift shelter located in the Benito Juárez sports centre, which was precariously equipped with only 18 mobile toilets and hoses that served as toilets and showers, allowing no privacy (COLEF 2018).

The thousands trying to reach the United States ran into the bureaucratic wall of the American asylum system, which in 2018 had 733,000 pending applications. This meant that in order to access a first migration hearing with a judge, people had to wait an average of 721 days, during which they were required to remain in Mexico because of the implementation of the "stay in Mexico" programme in June 2019 (COLEF 2018). These data illustrate the prevailing immobility on the northern border.

Figure 2.

The first caravan crossing the Suchiate River at the Mexico-Guatemala border, 2018



 $\textbf{Source:}\ \underline{\text{https://newsweekespanol.com/2018/12/mexico-eu-inversion-centroamerica/}}$ 

Moreover, the substantial military presence to prevent crossing of the southern border, the massive bureaucratic and police wall blocking entry to the United States (Garrett 2020) and the INM's capacity for detention and imprisonment have generated a persistent immobility among migrants, who live in situations of precarity and insecurity.

The INM is the only Mexican government agency legally empowered to implement immigration policy in the country, and among its most important functions are those of immigration control, such as reviewing documents, arresting migrants and operating immigration prisons – facilities referred to in the Immigration Act as Migration Stations and Provisional Stays.

According to immigration law, foreigners who a) have entered the country without the required documentation or at unauthorised locations, b) enter the country after being deported, c) falsely claim to be Mexican, d) provide false information or use falsified documents, or e) have breached an order to leave the national territory, will be sanctioned (Immigration Act, article 144). This is why the main cause of immigration detentions is the lack of documents or visas that would authorise migrants to be present in the country or the possession of falsified documents.

Historically the INM has been among the state agencies that the National Human Rights Commission<sup>3</sup> has most frequently reported of to be implicated in acts of torture, endangerment to health and even death involving people under its custody in their recommendations.<sup>4</sup>

The opacity of the way in which the INM manages immigration stations can generate violations of the migrants' rights. At the beginning of 2020 it was reported that civil and religious societies, as well as humanitarian aid societies, were prohibited without further explanation from entering the immigration stations, leaving incarcerated migrants without the possibility of receiving legal guidance, medical attention or emotional support from these organisations (Lagner and Camacho 2020).

The effect of the pandemic was to make conditions for migrants even more adverse. In the United States, the Trump administration, which had already sought to undermine the asylum system, completely suspended the asylum process on March 20, 2020: "all new asylum seekers have been denied access to the asylum process and are being immediately returned to either Mexico or their country of origin. Under

<sup>4</sup> Example of this are the following recommendations issued by the National Commission for Human Rights: 77/2019, 34/2020, 36/2020 69/2020, documents that can be consulted in <a href="https://www.cndh.org.mx/tipo/1/recomendacion?field\_fecha\_creacion\_value%5Bmin%5D=&field\_fecha\_creacion\_value%5D=&field\_fecha\_creacion\_value%5D=&field\_fecha\_cre

<sup>&</sup>lt;sup>3</sup> The National Human Rights Commission is an autonomous constitutional body that aims to monitor the respect for human rights in Mexico. When a violation of a person's rights is detected, the Commission issues recommendations to the responsible authorities so that they respect and protect human rights or repair the damage caused. These recommendations have a strong moral and political weight in the country's public opinion. https://www.cndh.org.mx/.

the new COVID-19 guidelines, UACs [unaccompanied alien children] undergo standard processing procedure only in situations where return is not feasible, where there are signs of illness, or when human trafficking is suspected" (National Immigration Forum 2020).

This US policy of summary expulsion of persons detained after crossing their southern border in an irregular manner was based on Section 265 of Title 42 of the Code of Laws of the United States of America for reasons of "public health" (CMDPDH et al. 2020).

Regarding the detention of migrants in Mexico, the INM decided at the end of April 2020 to release 3,759 migrants and returned them to their countries of origin without granting any legal status, thereby increasing tensions in the border areas and avoiding international obligations in the matter.

The migrant release and return in April was carried out in the absence of diagnostic tests and sanitary control measures within the immigration prisons, under the argument that no cases of contagion had been detected among the people housed there. Additionally, the INM recognised that the release provoked annoyance among the residents of Talismán, a border city of Chiapas, due to the presence of Guatemalans who were prevented from returning because of border closures (INM 2020b).

The release was also prompted by riots and protests by people housed in immigration stations where they were left without any type of medical provision against COVID-19. An example of this was a fire started by incarcerated migrants in protest at the Tenosique immigration station, the largest and most important on the southern border, which ended in the death of one person (CMDPDH et al. 2020).

In the north, the INM also did not guarantee the health and integrity of the Mexican migrants returned by the United States, because "once they step on national territory, they fully exercise their right to free movement, so the INM respects their constitutional right" (INM 2020b, translation by author). This is despite full knowledge of the precarity facing returned migrants, who lack economic resources, communities and often even family members upon whom they can rely.

In all cases, Mexican and foreign migrants are also exposed to the violence of organised crime (Naciones Unidas México 2020), which has not diminished, as evidenced by the massacre that occurred in Camargo, at the northern border state of Tamaulipas, where the burned corpses of 19 migrants were discovered in January 2021 (INM 2021).

Specifically, the pandemic has increased vulnerability factors among migrants, beginning with the closure of borders, the suspension of the permission to work, the violent and unilateral decisions taken by the authorities, the precarious and insufficient sanitary conditions in immigration stations, the summary expulsions from the United States and the abandonment of returned Mexican migrants who receive no medical diagnosis upon entering the country.

All these migrant experiences conform to what Anne-Laure Amilhat and Frederic Giraut conceive as *borderities* (Darling 2016), an interpretation of borders as a variety of rules and experiences and not as fixed limits – because in the case of Mexico, people can travel with apparent freedom across the 1,000 or 2,000 miles that separate the southern border from the northern border yet face constant obstacles, as a result of the US border extending *de facto* to Guatemala.

In addition to the above, it is considered that the main factor of precarity and risk that migrants face is the growing militarisation of immigration control, which is discussed in detail in the following section.

# III. STATE CONTROL AND LAW ENFORCEMENT

This section will demonstrate how, during the COVID-19 pandemic, the process of militarisation of migration management in Mexico has been strengthened and how this process exacerbates immobility in the region, as the Mexican territory is the main migration corridor in America.

It should be considered that prior to the outbreak of the pandemic, Mexico had already enhanced its capacity for immigration control and detention, especially since the National Guard began to carry out such activities. To cite one example, in 2019, the number of migrants arrested for not having proper documentation and for

unauthorised presence in the country exceeded by more than 50,000 the number of those arrested in 2018 (INM 2020a).

Such an increase is explained by the issuance in May 2019 of several laws that granted powers in matters of immigration control to the armed forces and the conclusion of an agreement adopted by the governments of Mexico and the United States, which basically consisted of the obligation on the part of Mexico to reduce the number of migrants reaching the southern border of the United States in exchange for the non-imposition of extraordinary tariffs on Mexican goods and services by its northern neighbour.

The agreement was a joint declaration adopted at a meeting between US President Donald Trump and Mexican President López Obrador (Department of State 2019), at which the Mexican government promised to take unprecedented steps to increase enforcement to curb irregular migration, including the deployment of its National Guard throughout Mexico as well as taking decisive action to dismantle human smuggling and trafficking organisations.

The agreement was based on what the parties said was the joint recognition that the increase in migrants from Central America represented a humanitarian and security emergency for both countries. Mexico publicised the agreement as an achievement, for having managed to suspend indefinitely the imposition of tariffs, thus demonstrating the effectiveness of its immigration control and containment system.

In addition, it was agreed that the success of stifling the flow of migrants would be reviewed after 90 days, thus putting pressure on the Mexican government, since if the expected decrease was not achieved, the flow of commerce with the US – the first and main commercial partner of the country – would be seriously affected; consequently, more than 20,000 members of the National Guard joined the immigration control functions.

For its part, the US government said it would immediately expand the implementation of the MPP programme across its southern border, which did nothing but put pressure on Mexico's northern border and the immigration control actions; in addition, it was reported in the media that the United States government allocated 5 billion US dollars to strengthen the actions of the Mexican government in immigration detention and containment (Redacción 2019).

The emergence of the COVID-19 pandemic in 2020 was a reason for even further strengthening of immigration control and its militarisation, as the authorities' discourse, in addition to considering migrants as a risk to national security, considered them also as a health hazard, as the secretary of foreign affairs Marcelo Ebrard expressly pointed out, when he stated that "the dissolution of the migrant caravan that left Honduras last week [October 2020] and arrived in Guatemala this Saturday was due to the sanitary conditions that these countries and Mexico have imposed in a particular way to avoid the risk of contagion by the coronavirus" (Sánchez 2020). The governments of Mexico, Guatemala and Honduras also issued a joint statement expressing concern about the risks associated with irregular and mass migration in the context of the pandemic (Mexico Government 2021).

Thousands of National Guard soldiers were sent to both borders of Mexico permanently as part of the "collaboration of the armed forces in surveillance tasks [...] to enforce the migration law". (INM 2021b). According to the 2nd Annual Report of the President of the Republic, which refers to the period from September 2019 to June 2020 and coincides with the outbreak of the pandemic, under the strategies "Plan of Migration and Development in the northern border and Plan of Migration and Development in the southern border" during the first months of the pandemic, 1,761 soldiers were deployed to the southern border and 3,124 to the northern border to support the detention of 52, 233 migrants – 41,803 in the southern states of Campeche, Chiapas, Oaxaca, Quintana Roo, Tabasco y Veracruz, and 10,433 in the northern states of Baja California, Chihuahua, Coahuila, Durango and Nuevo León (Mexican Government 2020). The arrests, which the Mexican government referred to with the euphemism of "rescues", occurred because immigrants did not have the necessary immigration permits, and it was argued that the arrests had a humanitarian character by preventing migrants from being trafficked, kidnapped or killed along the way.

This action was part of the "South Zone Shielding Operational Plan" and the corresponding "North Frontier Shielding Operational Plan". The names of these plans accurately reflect the immobility they impose on migrants. These strategies

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<sup>&</sup>lt;sup>5</sup> In Spanish *Plan de Migración y Desarrollo Frontera en la Norte* and *Plan de Migración y Desarrollo en la Frontera Sur*. These programmes remind us of the controversial Southern Border Programme of President Enrique Peña Nieto, in force between 2014 and 2017.

were not expressly designed as a result of the pandemic, but they were maintained and even strengthened during the health crisis.

However, the militarisation of the Mexican migration agency did not end with the deployment of troops at the borders and routes used by migrants, but also penetrated its offices. By December 2020, in 18 states (out of 32), persons with a military profile had been appointed to lead the representations or offices of the INM; these offices are facilities where immigration procedures are carried out and are not intended for control or immigration detention as such. That is why this substitution of civilian with military personnel in the offices has been interpreted by the national ombudsman, civil society and religious shelter houses as an explicit position by the government towards the criminalisation of migrant groups and away from a humanitarian perspective (CNDH 2020).

Despite public statements against this, the immigration authority has not explained why military personnel have been included as heads of office. Civil and religious organisations that provide humanitarian assistance to migrants in Mexico point to a lack of dialogue, openness and connections with the INM, which prevent adequate defence and protection of human rights (CNDH 2020).

It should be noted as well that on 14 January 2021, an agreement of the National Security Council was published in the Official Gazette of the Federation, establishing the general provisions that govern the organisation and operation of the Security High Level Group and of the Operational Coordination group, of which the INM is part and which regulates and expands the functions of surveillance, intelligence and information exchange within the country and with foreign government security agencies (Ministry of Interior 2021). This is expected to strengthen the security nature of the INM and its involvement with surveillance and state intelligence.

In the north, the border with the United States was partially closed at the start of the pandemic on 20 March 2020. All non-essential travel across the border was limited due to the health risks it poses; by air, all travellers are asked to provide a negative COVID-19 viral test taken within three calendar days of travel or documentation from a licensed health care provider of having recovered from COVID-19 in the 90 days preceding travel (US Embassy in Mexico 2021). All of this has increased even

further the already high costs involved in travelling to the so-called first world countries (Tendayi 2019).

Thus far, we can see how Mexico acts as a kind of holding pen for immobile migrants stuck between the armed forces, security policies, the health emergency and inefficient asylum systems. And it can be said that Mexico has extended its containment power beyond the highly guarded border between Mexico and Guatemala, represented by the Suchiate River.

In a clear example of outsourcing its southern border, in October 2020, the Mexican president announced that the caravan formed in Honduras and heading toward the US had been dissolved, because "[f]ortunately, both the governments of Honduras and Guatemala helped convince the members of these caravans that there are no sanitary conditions and that they had to act differently"; then he directly admitted Mexico's involvement: "Yes, there was an intervention agreement in Central American countries ... Mexico coordinated with Central America through Foreign Minister Ebrard." (Televisa News 2020).

In the same way, Mexican government supported, encouraged and congratulated the Guatemalan police department when in January of this year they repressed, with tear gas and sticks, the Honduran caravan that was supposed to arrive in Mexico. The control of the elastic southern border of Mexico was celebrated by Foreign Minister Marcelo Ebrard as a demonstration of responsibility and coordination between the governments of Mexico and Central America. In sum, he recognised the outstanding work of the Guatemalan government in acting firmly and responsibly before the contingents of migrants who had violated its sovereignty, and in enforcing its immigration laws and health protocols (Mexican government 2021).

## IV. RESISTANCE POSSIBILITIES

Resistance can be understood as a force that prevents a process from intensifying beyond a certain threshold (Hess 2017). In this article, an act of resistance would attempt to contain the precarity of migrants and the adverse effects of the militarisation of migration management. Given the described scenario, at least two possibilities of resistance are perceived. First of all, there is the formation of caravans

itself, which emerged from social networks and from the belief among migrants that travelling in caravans gives them greater protection against the crimes and abuse usually encountered along the route. Caravans also mean greater assistance from governmental and non-governmental entities and lower costs since there is a lesser need to hire a *coyote* or smuggler (IOM 2018).

Caravans have been interpreted as "coalitions in motion or weapons of the weak", enabling migrants to guarantee their personal safety and integrity during the trip (Chavez 2019) and giving them courage to flee from the violence and fear that they experience in their place of origin and that drive their emigration (Castellano and Martínez 2021).

Despite the force that the army has used to dissolve them during the pandemic quarantine, the caravans continue to be an option of resistance, as their character attracts the attention of civil society and humanitarian institutions and generates high political costs for governments. In addition, these "more or less spontaneous, nevertheless highly collectivized forms of action within the movements of migration have taken place on a regular basis over the last years" (Hess 2017), so it is not an exclusive initiative of the region but is similar to movements that have occurred in other latitudes, such as the "March of Hope" in September 2015 by refugees along the main motorway to reach Austria and Germany by foot. (Kasparek and Speer 2015)

The other possibility of resistance is related to the work developed by civil organisations that provide aid and humanitarian assistance to migrants and that have traditionally carried out activities whose purpose is to safeguard the lives and rights of migrants and who welcomed them during the pandemic. It is well known that adversity is an opportunity for growth, and in the context of the pandemic, these institutions have taken a step further. We examine for instance the initiative of the local ombudsman and *Frontera con Justicia* (Border Justice) association in Saltillo, the capital city of the border state of Coahuila, which is part of the UNHCR's "cities of solidarity" programme.

Both entities sued the Clean Water Act<sup>6</sup> of Coahuila State for unconstitutionality, accusing it of discrimination because the law establishes a preferential rate in favour of the elderly as a vulnerable group, and the promoters wondered if the same preferential treatment should not be given to the shelter *La casa del migrante* [the migrant's house] because it is a shelter that houses people in a vulnerable situation that was aggravated by the pandemic. In addition, they argued that during the pandemic it is essential to have access to clean water for hand washing and cleaning in general.

In an unprecedented act, the constitutional court agreed with these organisations and ruled that the state Congress should proceed to legislate on the protection of migrants, adding them to vulnerable groups whose right of access to water is violated by not being given a preferential rate, because otherwise the law is unconstitutional in discriminating against the migrant population (Tribunal Constitucional Local 2020).

This judicial decision constitutes a very important precedent in Mexico in favour of migrants and opposes the national government's view of considering migrants as a threat while also recognising the work of shelters managed by civil society or by the church in an altruistic way.

# V. CONCLUSION

We can affirm that in the corridor Central America-Mexico-US mechanisms and forms of migration control are crystallised that directly affect the immobility of migrants. We have seen how some political agreements (Tendayi 2019) have subjected migrants who risk their lives trying to reach the so-called first world countries to a growing border militarisation, sustained by their own countries and the other countries involved, clearly led by destination countries.

In conclusion, the combination of all these factors affirms the validity of the unequal chances of incorporation of people from the Global South into the so-called first world in terms of exploitation and subordination (Tendayi 2019; Grosfoguel 2006).

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<sup>&</sup>lt;sup>6</sup> The act is named *Ley de Aguas para los municipios del Estado de Coahuila de Zaragoza* and its object is to establish the bases and regulate the organisation, attributions, acts and contracts related to the provision of public services of drinking water, drainage, sewerage, treatment, reuse and disposal of wastewater.

Along with their possessions, they are carrying on their back the weight of the suspicion of illegality and contagion, because along the corridor of illegal human trafficking, the migration arrangements between the United States, Mexico and Central America have established an extraterritorial border in which people in transit are exposed to infection, without care protocols or sanitary measures beyond being quarantined in detention centres, where there are also no specific measures or access to immediate medical care (Estévez 2020).

Finally, we would like to prevent a few pieces of data from the governments involved that, together with the possibilities of migrant resistance, give a little hope. In Mexico, the Ministry of Health issued statement 79/2021, stating that foreigners in Mexico will be vaccinated against COVID-19 like the rest of the population and regardless of their immigration status (Ministry of Health 2021). However, this possibility remains a utopia, given that as of the end of February 2021, Mexico has administered about 2 million doses, which is equivalent to one million vaccinated people, which does not represent even 1% of the population. Also, the United States announced that the MPP programme has come to an end; this should permit migrants to start the refugee procedure in the US, unblocking the border. Nonetheless, as in the previous case, it is not yet known how or when this will take place.

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