

Navigating Migration and Human Rights in Mexico: The Impact of International Law on National Policies

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Abstract

The paper elaborates on the complex interaction between international law and national migration policy in Mexico from the perspective of human rights. First, the historical and political context of the issue of migration in Mexico is introduced, followed by the development of an explanation regarding how socioeconomic factors lead to migration flows and thus the problems which migrants must face. This paper argues that the securitization of migration has downplayed the protection of human rights for nationals, and it thus emphasises national policies over border control. It also discusses very important NGO activities in the sphere of advocating for migrants' rights in cases of government failure. A case study in Tijuana showed that migrants suffer violence, discrimination, and a lack of basic services. The paper discusses how policies that exist today cannot resolve the problems and require an integrated policy respectful of human rights, taking migration as a global problem. It contributes to the broader debate on migration and human rights, underlining the importance of bringing national policies up to international legal standards to protect migrants, treat them with dignity, and make this a reality in Mexico.

1. Introduction

Migration policies are a part of migration governance and refers to the laws, regulations and administrative practices which govern the movement of people in and out of the country. IOM's Migration Governance Framework (MiGOF) defines migration policy as the 'law and policy affecting the movement of people' and includes policy on 'travel and temporal mobility, immigration, emigration, nationality, labour markets, economic and social development, industry, commerce, social cohesion, social services, health, education, law enforcement foreign policy, trade and humanitarian' issues ([IOM, 2017](#)).

Migration policies in Mexico is a complex and varied variable which provides to the country's social, political, economical, demographic and environmental landscape. These policies not only affect domestic affairs but international relations as well, particularly with the United States. These policies affect various aspects of migration including the admission, stay and deportation of foreign nationals, the protection of migrants' rights, border security, and Mexico's obligations under International Law.

Mexico is widely known for the high number of emigrants that exit the country to start a new life, or escape the conditions they used to live in every year. Out of a total of nearly 11.2 million Mexican emigrants around the world in 2020, almost 10.9 million relocated to the United States, followed by Canada and Spain. On the other hand, the number of new permanent residents in Mexico has fluctuated in recent years, from 114 000 in 2011 to 341 000 in 2022, according to the government's Migration Policy Unit. The largest shares tend to come from family relations and work opportunities.

The main objective of this study is to go into depth regarding the migration trends in Mexico followed by the human rights issue surrounding it. Furthermore, international laws concerning the movement of people and how well it is being implemented will also be explored. Essentially, Mexico's placement as a country with huge amounts of migration will be explained in the perspective of Mexican society and people living in the country today.

Research questions to this study includes, key features of migration policies in Mexico, impact of migration policies on the economical, demographic and political situation of the country, challenges faced by refugees, asylum seekers, immigrants and emigrants surrounding the human rights issue, effectiveness of these migration policies and lastly the involvement of third party organisations, such as NGOs in the system of migration in Mexico.

1.1 Theoretical Framework

The principle of human rights relevant to Mexico, just like in many other countries, is driven by international standards, constitutional provisions, and local laws. These principles revolve around ensuring the dignity, safety and rights of immigrants. Mexico's obligations under International Law consists of numerous international treaties which impose on the Mexican state the responsibility to deter and prevent violations, and to investigate and violations of those rights.

Under International Law, governments are obligated to ensure the victims of human rights abuses an effective remedy which includes truth, justice and appropriate reparations. Under the International Covenant on Civil and Political Rights (ICCPR), governments have an obligation "to ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy."²⁶ Mexico is required to respect and assure the civil and political rights of all individuals within its territory, including migrants.

In addition to the duty to investigate and prosecute, states are also obligated to provide victims with information about the progress and outcomes of the investigations into the violations. The UN General Assembly has affirmed that the right of victims to remedies include access to relevant information regarding human rights violations.³⁰ International principles, adopted by the UN Commission of Human Rights, assert that "regardless of any legal proceedings, victims, their families, and relatives have the inalienable right to know the truth about the circumstances in which violations occurred."³¹

Under international standards, states should ensure that victims are able to participate in proceedings aimed at remedying human rights violations. Both the Inter-American Court and the European Court of Human Rights (ECHR) have affirmed that victims and their families have the right to be involved in investigations related to violations of their rights.⁴⁴ The ECHR has stated that "the next-of-kin of the victim must be involved in the procedure to the extent necessary to safeguard his or her legitimate interests."⁴⁵ Similarly, in 2006, the International Criminal Court (ICC) ruled that victims also have the right to participate in the investigative phase.⁴⁶

The 1951 Refugee Convention and its 1967 Protocol obligates Mexico to protect refugees, providing them with access to asylum procedures, protection from refoulement and right to work, education and healthcare. Mexico is bound by the policy of non-refoulement which prohibits the return of individuals to a country where they are at a risk of persecution, torture or other serious human rights violations.

Mexico was the first country to adopt the UN Global Compact for Migration in order to ensure a safe, orderly and regular flow of migrants. In alignment with the principles of the global compact and in contrast to the policy of previous administrations, Mexico has ceased the deportation of hundreds of thousands of Central American migrants. The Mexican government has instituted a new migration policy which has

granted legal status to more than thirteen thousand foreign nationals who have entered the country through the southern border, aiming to document their entry and assist some in accessing the job market. This new policy addresses the fundamental wrong of previously condemning migrants to illegality, which led to their exclusion and vulnerability.

1.2. Historical and Political Context

Despite significant progress in generating detailed and reliable migration data in Mexico, providing a complete picture of the situation remains challenging due to the complexity of the phenomenon. The data is incomplete as many individuals moving within the country, particularly those entering and staying irregularly, have not been registered by any institution. As a result, it is difficult to accurately determine the exact number of migrants and refugees in the country, as well as their circumstances and status.

According to data from the United Nations Population Division, nearly 1.2 million foreign nationals were residing legally in Mexico in 2020, representing about 1 percent of the total population (United Nations, 2020). While this may seem like a relatively small figure, the foreign resident population has grown by 123 percent over the past 20 years. In 2000, there were 538,051 foreigners living in Mexico, a number that rose to 969,710 by 2010 and reached 1,197,624 in 2020. The majority of these legally residing foreign residents are from North America, with the United States accounting for 68.9 percent (809,642). Additionally, migration from Latin America and the Caribbean has increased notably. In 2000, this group made up 18.3 percent of foreign residents, but by 2020, their share had risen to 22.8 percent.

Over the past 20 years, the gender distribution of foreigners residing in Mexico has remained unchanged, with an equal balance of 50 percent women and 50 percent men. Additionally, the resident migrant population in Mexico is notably young. According to United Nations data, 60.7 percent of foreigners living in the country are under the age of 20, with the average age being 14.4 years. Furthermore, most foreigners tend to settle in major cities like Mexico City or Guadalajara, border states such as Baja California or Chihuahua, and the Central-Bajío region, including Querétaro, the State of México, or Puebla. These areas are attractive to migrants due to their economic importance, acting as magnets for the labour force, according to data from the National Institute of Statistics and Geography (Instituto Nacional de Estadística y Geografía, 2020).

The low average age of foreigners residing in Mexico aligns with the fact that a significant majority originate from North America, particularly the United States, which accounts for 66.7 percent of foreign residents, according to United Nations data (2020) (see figure 2). This trend is largely due to the substantial number of Mexican nationals who have returned to Mexico, either voluntarily or forcibly, bringing their U.S.-born children with them (Aguilar and Jacobo, 2018).

The second most significant source of migrants is Latin America, primarily Central America. Over the past 20 years, Guatemalans, Hondurans, and Salvadorans have been among the 10 most common migrant nationalities in Mexico. The Venezuelan population in Mexico has grown particularly rapidly in recent years due to the humanitarian crisis in Venezuela. In 2000, there were only 3,024 Venezuelan migrants in Mexico (0.6 percent of the total migrant population), but this number rose to 16,491 in 2015 (1.7 percent) and reached 70,377 in 2020 (5.9 percent).

The number of migrants, asylum seekers, and refugees arriving in Mexico with the intention of reaching the USA or Canada has increased significantly. In 2023, the Mexican Refugee Agency reported that 141,053 people sought asylum in Mexico, with the majority coming from Haiti, Honduras, Cuba, Guatemala, and El Salvador.

Despite this incursion, authorities have continued to fall short in protecting the rights to life and security

of these migrants, asylum seekers, and refugees. On March 28, at least 40 migrants lost their lives, and 29 others were hospitalised due to a fire at a migration detention centre in Ciudad Juárez, Chihuahua state. Reports suggest that migrants were allegedly left locked up after the fire had started.

In a landmark ruling in March, the Supreme Court declared that the maximum stay in an immigration detention centre should be 36 hours, after which migrants and asylum seekers must be released. The court also emphasised that migrants and refugees must have proper legal representation to protect their rights.

Most asylum seekers enter Mexico without proper documentation, fleeing violence or persecution in their home countries. Many avoid requesting protection at official border crossings, fearing that agents from Mexico's immigration authority, the National Migration Institute (INM), might deport them. Instead, most apply for refugee status once inside Mexico. Some individuals who sought protection at the border reported being turned away by INM agents or security guards. Additionally, many asylum seekers recounted that INM agents discouraged them from seeking refugee status in Mexico, pressuring them to accept voluntary returns to their home countries.

One man who fled forced gang recruitment in Honduras shared his experience: "I thought they would help us when we got to Mexico, but when we came to the border bridge and asked for protection, they turned us away. I never thought I would have to leave my country. Now, I know if I went back, I wouldn't last very long alive. If you don't obey the gangs there, they force you to—or they kill you."

The foreign resident population has grown substantially, with most coming from North America, Latin America and the Caribbean. The incursion of asylum seekers has increased, yet challenges persist in protecting their rights as witnessed by the recent tragic incidents taking place near the border. The complexities of migration in Mexico underscore the need for continued improvement in both data collection and the protection of migrant rights.

1.3 Migration's contribution to the Mexican Society

Migrant populations do contribute to the host country including the labour market, tax systems and even social security systems. However, these contributions extend the economic fear and include social and cultural factors as well. Some historical analyses have been conducted on the contributions that international migration makes to economical, social and cultural attributes of the country. For example, there are studies on contributions that foreigners have made to science and technology. In the country throughout the 20th century. There is no shortage of information surrounding the claim that Mexico is a single national culture.

The migration population makes a particularly significant contribution to the maquila industry (commerce), one of the largest in Mexico. Many of these migrants wait at the border to enter the United States. Many of these migrants will stay in these regions on a long-term basis to contribute to the local economies by using both public and private services, making them play an essential role in the development of border states. Alongside how migrants contribute to Mexican society, one needs to understand how the Mexican population perceives these migrants who have come to the country. The vast majority of Mexican society has a positive opinion of the foreign population. In 2018, the percentage of people favouring the migrant population stood at a whopping 72%, while only 28% of these people showed discontent or a very low opinion.

With regard to how the population perceives these migrants, there tends to be a consensus around the idea that foreigners make a positive contribution to society. In a study by Haas Paciuc, Sanchez-Montijano and Zedillo Ortega in 2020, 81% of the respondents claimed that the migrants contribute favourably to the economy, and 76% say they bring innovative ideas to the table. Although the consensus was not absolute,

most respondents disagreed with statements alleging that migrants take away jobs, 54% did not think that they create insecurity and 62% disagreed with the statement that they dilute Mexican customs or traditions. On the matter of rights, the Mexican population considers that the freedoms of these migration populations should be respected and followed. However the protection of these rights has been difficult and not followed quite discreetly. A quarter of the population, or about 90 0000 people, sought refugee status in 2021. Most have to wait several months for their application to be accepted and for documentation confirming their legal status and enabling them to depart and to be sent to their country of origin. The battle to find employment and housing, and they frequently face discrimination. The UNHCR and the Mexican authorities do not provide enough support., According to other respondents, Tapachula's proximity to the Guatemalan border - where the criminal organisation had fled to - made them feel insecure.

In conclusion, immigrants greatly enhance Mexico's social and cultural landscape and boost the nation's economy, especially in sectors like the maquila industry. The majority of the Mexicans have a positive attitude towards migrants and acknowledge their creative and economic developments despite worries about rivalry and cultural degradation. Nonetheless, there are still issues with defending the rights of migrants, as many of them have to face prolonged delays for legal status, prejudice and little assistance from the government. Although most people favour migrant rights, there is still a need for improved legislation and support mechanisms to enhance their integration, as seen by the problems.

1.4 Securitisation of Migration

This theoretical focus is crucial because it made it possible to comprehend how the securitisation of international migration occurs, with various actors - including government officials, religious leaders, journalists, academics and experts intervening to persuade the public that migration poses a serious threat to security. Furthermore, once the public begins to perceive migration as danger, these same actors have the right to create and implement policies, laws and hoc regulations, institutions, budgets and emergency protocols to put an end to, prevent, halt, contain, or manage the threat-even if doing so would violate the Constitution or international human rights standards.

Following the 9/11 attacks, there was a surge in securitisation of migration, particularly in the US and other similar nations where stricter immigration laws were implemented on the basis of the perception that foreign immigration threatened public and natural security. But not all immigration rules were affected by 9/11. As Philippe Bourbeau points out, the terrorist attacks had minimal impact on the already stringent immigrant laws in nations like France. There were no notable legal changes pertaining to migration after 9/11, and French authorities and the media hardly ever connected migration to the attacks.

Publications on migration in Mexico frequently use the idea of "securitisation" as an excuse for the substandard living conditions they experience. Numerous books concur that securitisation is the primary cause of a number of problems, including the development or abandonment of laws, heightened immigration checks, and a decline in the number of detained or deported migrants. They also go over the role organised crime plays in the migration, how local governments manipulate federal immigration laws, and how these laws have changed over time. This idea serves as an explanation for both historical and prospective shifts in Mexico's immigration policies.

Three main concepts support the notion of securitisation in Mexico's immigration policies, according to the documents under review:

1. The Mexican government has regulations in place to try and regulate unauthorised migration because it views it as a national security threat.

2. These measures, which were perceived as being “imposed” on Mexico by its northern neighbour, started following the terrorist events of 9/11 in the United States.
3. One common explanation for the increase in human rights abuses against migrants in Mexico is securitisation.

The authors of *Seguridad para el migrante: una agenda por construir* contend that Mexican policy has been influenced by the American assumption that migrants pose a security concern. They contend that a major contributing cause to the current migration-related humanitarian issue is this securitisation.

In a similar vein, the book *Migración y seguridad: nuevo desafío in México* emphasises how, following 9/11, migration has come to be associated more and more with counterterrorism measures, which has shaped Mexico's own strategy. Lastly, an article titled *Situación de los derechos humanos de las personas migrantes y solicitantes de asilo detenidas in las estaciones migratorias de México* asserts that the country's immigration laws, which are influenced by the United States, are predicated on a false fear of external dangers.

Even though a lot of publications concur on the general effects of securitisation, closer examination reveals inconsistencies and differing perspectives on how securitisation has influenced Mexico's immigration laws.

1.5 NGOs' Role in Advancing Human Rights for Migrants in Mexico

The difficulties deportees face when they get to Mexico's deportation locations draw attention to serious shortcomings in the Mexican government's handling of their concerns. Upon arrival, deportees frequently lack resources, assistance and knowledge regarding their next course of action. They might have urgent problems such as shortage of food, shelter, healthcare, and legal support. It may be challenging to adjust, particularly if they don't have any Mexican social networks or support systems.

The Mexican government has taken steps to assist deportees, but these measures have come under fire for lacking thorough planning, money and assistance. Numerous investigations and papers (e.g., Instituto Nacional de Migración, 2016, 2021; Alanís Enciso, 2015; López, 2017), among others suggest that these programs frequently fail to meet the actual and pressing requirements of deportees.

NGOs are now essential in helping deportees receive the assistance and services they need when the government is unable to provide it. They provide necessities such as food, housing, legal counsel, and psychological support. NGOs frequently act as deportees' main point of contact, guiding them through obstacles and assisting with their reintegration into society. Research, (e.g., López, 2017; París Pombo et al., 2017) highlights how crucial NGOs are to completing the gaps left by government programs. These groups, which typically operate in places where government programs are limited, are widely commended for their capacity to offer deportees effective and practical support.

The adaptability and history of non-governmental organisations in Tijuana highlight their important role in meeting the needs for deportees and migrants. Changes in the US immigration policy and their effects on migratory patterns led to the establishment of numerous non-governmental organisations (NGOs) in Tijuana. Established in 1987, Scalabrini Casa del Migrante (1987) provides general assistance to migrants. Casa YMCA (1990), offers focused assistance to younger populations with a focus on youth migration. The Instituto Madre Assunta (1994) caters to the unique need for mothers and children who are migrants. Padre Chava Casa de los Pobres (1999), offers food, housing, and healthcare to those in need.

Regardless of when they were founded, these NGOs have proven to be flexible enough to adjust to new situations and changing demands. For instance, several of these organisations have shifted their focus to meeting the immediate needs of deportees arriving in Tijuana in reaction to recent spikes in

deportations. These NGOs' flexibility enables them to continue being relevant and successful in offering vital support. By addressing new concerns and modifying their services to suit the changing needs of the migrant population, their responsiveness improves their capacity to offer value for the public.

Many NGOs have refocused their efforts on this population as a result of the deportee crisis over the previous ten years. This change demonstrates their adaptability and continuous dedication to helping disadvantaged groups in the face of shifting social and political landscapes. Through putting public policy into practice, creating social networks, and promoting trust in local communities, nonprofits create benefits for the general public. They concentrate on attaining significant results that directly assist the people they assist. This entails attending to the concerns of migrants, promoting legislative changes, and fostering community relations for NGOs in Tijuana.

1.6 Unequal development

The idea of unequal development, captures the ways in which polarisation between nations, regions, and social classes has intensified due to historical, economical, social and political events. Class conflicts, changing geopolitical environments, capital accumulation, and the global division of labour are the main drivers of this. The new international division of labour is a critical component, wherein the intensification of labour force exploitation via labour migration and export oriented sectors in peripheral nations has occurred. These behaviours are connected to the growth of unequal exchange, in which rich nations reap the majority of the economic rewards from international commerce while underdeveloped nations suffer from limited gains and exploitation.

Financially and technologically, developed nations rule, putting emerging countries at a disadvantage and increasing global inequality. Peripheral areas struggle more to advance because they are subject to political and economic subordination. A small number of people have all the wealth and power, while poverty and discrimination rise. Inequality is increased when discriminating groups - particularly those based on gender, race and ethnicity - have less access to social protections and employment opportunities. The cost of poverty and discrimination fall mostly on disadvantaged populations and peripheral countries as a result of global economic imbalances that perpetuate domestic social inequalities.

Transfers from the outside can heighten regional inequality even while they give many Mexican families with essential income. Remittance-dependent areas might see economic growth, while other areas- especially those lacking these inflows- would suffer much more. Remittance dependency has the potential to compromise long-term economic stability and progress by deflecting focus away from critical domestic economic reforms and extending reliance on foreign money.

Since many migrants originate from lower-class origins, migration may contribute to class inequalities within Mexico by creating an uneven distribution of wealth and opportunity among various social classes and areas. Remittances from migrants frequently boost rural communities' prosperity while cities continue to draw opportunity and investment. This adds to the growing divide between rural and urban areas.

Migration is fuelled by economic issues including poor pay and a lack of jobs. Migration can both reflect and exacerbate the underlying underdevelopment that these problems are frequently signs of. Certain places may see a decline in labour force due to out-migration, which could result in lower local productivity and more economic stagnation.

In Mexico, migration both reflects and intensifies already-existing developmental issues and exacerbates economic, regional, and social gaps, all of which contribute to unequal development.

1.7 Human trafficking and smuggling

When Felipe Calderon, the president of Mexico at the time, declared war on drug trafficking in 2006, he

sent over 45 000 military to areas controlled by cartels. In 2012, there was a great deal of violence in northern and central Mexico due to the presence of over 70 000 troops. Car bombs, shootouts, beheadings, and conflicts between rival gangs and governmental forces became frequent occurrences, and everyday threats of kidnappings, extortion, forced disappearances, and executions were directed towards citizens. There were about 95 000 fatalities and over 27 000 reported missing persons as a result of the fighting. The state's unique system of governance, in which authorities and criminals use violence as a tactic for dominance, results in death, forced disappearances, persecution, and exile that are observed in Mexico. This system, which uses the war on drugs and its major toolkit and militarisation as its main tactics, results in numerous abuses of human rights, including killings, torturing, kidnappings and forced relocation. These actions are an example of necropolitics, in which the lines separating law enforcement from criminals are blurred, resulting in a hybrid force that threatens the basic idea that human rights provide protection from pain.

Dependent migrants are especially vulnerable to exploitation since many of them take on debt to compensate smugglers. Observers, especially politicians from Mexico, noticed connections between the killings, disappearances, and trafficking of women by organised crime organisations and the violence against women and girls.

As per the findings of the UNODC's 2018 Global Study on the Smuggling of Migrants, migrant smuggling routes throughout the Americas are dynamic and adaptable. Prevalent are two main routes: one links South and Central America, then travels through Mexico to reach the United States and Canada, while the other is a multi-destination route that stays within the same region.

The main platforms used to advertise migrant smuggling in Central America, Mexico and the Dominican Republic are social media platforms and instant messaging apps like Telegram and WhatsApp. Smugglers prefer to use these platforms over the dark web because they facilitate faster and easier communication, which helps them coordinate the movements of potential migrants.

At least 2.5 million migrants were thought to have been trafficked internationally in 2016, bringing in between \$5.7 and \$7 trillion in revenue. This sum is equivalent to what the United States or the European Union spend annually on humanitarian relief. It was projected that yearly migration-related expenses for El Salvador, Guatemala, and Honduras migrants totalled \$2.2 trillion, of which roughly \$1.7 trillion (77%) went to traffickers. Considering the smuggling business is covert and monitoring cyber activity is difficult these numbers are illustrative and probably underestimate the true extent of the operation.

In Mexico, the war on drugs and associated violence have compounded human trafficking and smuggling issues. Widespread violence, including 95,000 deaths and 27,000 disappearances by 2012, reflects a system where both authorities and criminals exploit violence. Migrants, heavily indebted to smugglers, face severe exploitation. Smuggling routes, facilitated by social media, are adaptable and extensive. Globally, smuggling generated \$5.7 to \$7 trillion in 2016, with Central American migrants spending \$2.2 trillion annually, \$1.7 trillion of which goes to smugglers.

1.8 National Policies and Legislation

- Overview of Mexican Migration Policies: Describe the current national policies and legislation on migration.
- Human Rights Protections: Assess how these policies address human rights concerns.
- Policy Gaps and Challenges: Identify gaps in the current policies and the challenges in addressing human rights issues.

2. Case Studies

- Case Study 1: Examine a specific instance where migration policies in Mexico impacted human rights.

3. Challenges and Limitation

4. Result and Discussion

- Impact of International Law: Evaluate how international law influences Mexican migration policies and human rights protections.
- Policy Effectiveness: Assess the effectiveness of current policies in upholding human rights.
- Comparative Analysis: Compare Mexico's approach with other countries' practices.
- Policy Recommendations: Propose recommendations for improving migration policies in Mexico to better protect human rights.
- International Cooperation: Suggest ways to enhance international collaboration to address migration and human rights issues.

5. Conclusion

- Summary of Findings: Recap the main findings of the research.
- Implications: Discuss the broader implications of the study for migration policy and human rights.
- Future Research: Suggest areas for future research on this topic.

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[Migration policies and governance](#)

[Number of Mexican emigrants worldwide 2020, by country of destination.](#)

[Mexico's Migration Policy Is Sovereign, Seeks to Protect Migrants' Rights | Secretaría de Relaciones Exteriores | Gobierno | gob.mx](#)

[Human rights in Mexico Amnesty International.](#)

<https://www.hrw.org/news/2022/06/06/mexico-asylum-seekers-face-abuses-southern-border>

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