

CONCEALING CONTAINMENT: RESPONSES OF THE MEXICAN GOVERNMENT TOWARDS UNDOCUMENTED MIGRATION (2018-2021)

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THIS IS A WORKING DRAFT THAT CONTAINS EXCERPTS FROM A LONGER PAPER

ABSTRACT

This working paper addresses the different strategies the Mexican government has employed to manage (undocumented) migration. The arrival of the October 2018 Caravans to Mexico took the Mexican government by surprise. At the Mexico-Guatemala bridge, thousands of undocumented migrants claimed a safe passage into the country. After clashes with the police, migrants entered. The incumbent president, Andres Manuel Lopez Obrador (2018-2024), stated that it would provide jobs to migrants, respect their human rights, and be different from past administrations. For that, his government designed a New Migration Policy. However, as pressure from the north and the south increased, Mexico shifted its approach by employing old and new containment strategies. What strategies has the Mexican administration applied in the 2018-2021 period towards undocumented migration? And, do the strategies correspond with what was outlined in the New Migration Policy? This working paper engages in a preliminary analysis of two strategies. First, the granting of temporary humanitarian visas to stay in Mexico; second, the implementation of the Migrant Protection Protocols. Preliminary findings show that the Mexican government has created new ways to contain and criminalize undocumented migration, in contrast with a discourse of respect to migrants' human rights and the guidelines of the New Migration Policy.

Keywords: Mexico, undocumented migration, Central America, the US, New Migration Policy, containment strategies

INTRODUCTION

On December 1, 2018, Andrés Manuel López Obrador (AMLO) took on the presidency of Mexico during a migration turmoil. *Vis-à-vis* the phenomenon of large arrivals from Central America, his government designed a New Migration Policy (NMP), said to fully respect migrants' human rights, be inclusive, and have a gender perspective. Given the external pressure, both from the north and the south, the government applied strategies of containment aimed to control and stem migration flows, in direct opposition to the principles that were to guide the new policy (Bustamante, 2019).

This paper shows the different migration strategies that the administration has employed to manage undocumented migration and assesses their adherence to the components of the NMP. In other words, it brings to light the contradictions of the current administration between the discourse of respect of human rights to achieve a safe, orderly and regular migration, reflected in the design of a NMP, and the new and old practices of containment that increase the vulnerability of migrants.

To do so, I analyze the narratives of the Mexican president, different government officials, statistics, programs, and policies. I compare their content with the actions that the Mexican government has performed. The analysis is based on secondary data. It includes the revision of official documents, legislation, statistics from the Migration Policy Unit, Registry and Identification of People (UPMRIP), the National Migration Institute (INM), the Mexican Commission of Refugee Aid (COMAR), the United States Department of Homeland Security (DHS), newspaper articles, press releases, and NGOs reports.

The working paper is divided into three sections. The first is a background on migration policy in Mexico over the last three decades. The second explains the components of the NMP and lays out the actions that the Mexican and US governments have carried out in relation to migration. The third is a discussion of the policies implemented.

MIGRATION MANAGEMENT IN MEXICO: THREE DECADES OF *GOVERNANCE BY CONTAINMENT*, 1994-2018

The administrations of Ernesto Zedillo (1994-2000), Vicente Fox (2000-2006), Felipe Calderon (2006-2012) and Enrique Peña Nieto (2012-2018) followed the pattern of “*governance by containment*” (Calva Sánchez & Torre Cantalapiedra, 2020; Faret et al., 2021; Villafuerte Solís & García Aguilar, 2014). They instrumentalized policies of containment in line with the externalization of migration control from the US. In other words, since the 1990s, Mexico has designed and enacted diverse actions and policies of containment, identification, apprehension and deportation of undocumented migrants (Anguiano Téllez & Trejo Peña, 2007; París Pombo, 2017; Torre Cantalapiedra & Yee Quintero, 2018; Varela Huerta, 2015).

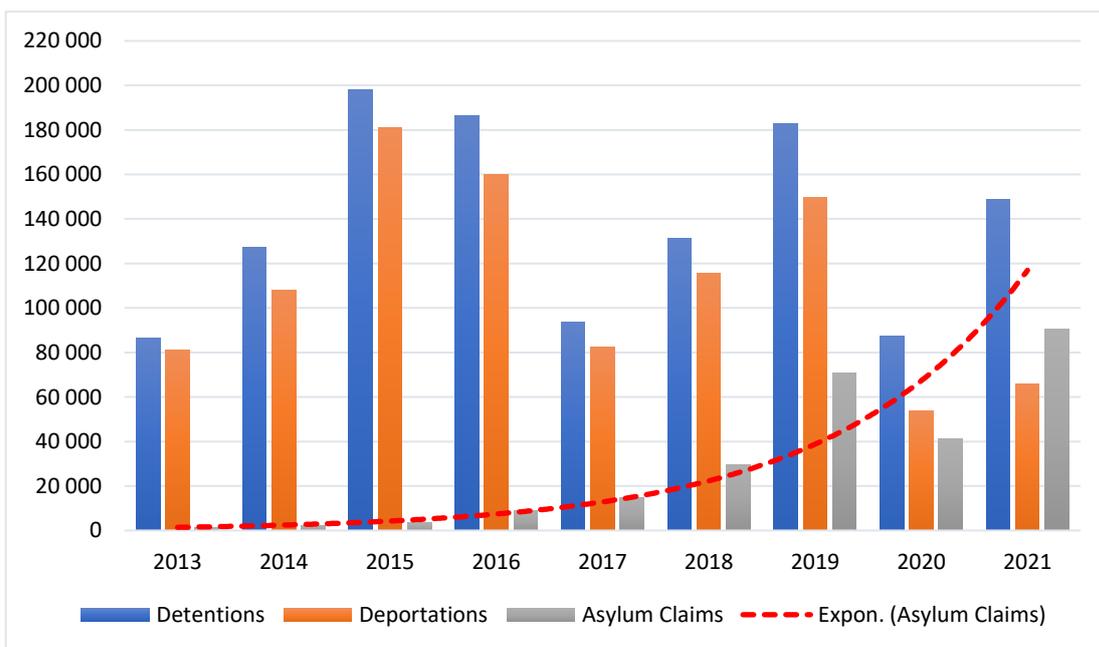
In line with the externalization of migration control, Mexico and the US have collaborated in a series of programs¹ that aimed to decrease the number of arrivals of migrants into the US. The cooperation has included the training of Mexican officers, information exchange, transfer of financial resources to acquire security equipment, such as infrared cameras and drones, to hire personnel, and to build of detention facilities (Anguiano Téllez & Trejo Peña, 2007; Calva Sánchez & Torre Cantalapiedra, 2020; Faret et al., 2021; Frelick, 1991; Grupo de Trabajo sobre Política Migratoria, 2014; París Pombo, 2017). As a result of the collaboration, Mexico increased the number of checkpoints and revisions along the transit corridors. For instance, migration inspection and control activities extended from the Southern Mexican border to southern states of Veracruz, Tabasco, Chiapas, and Oaxaca, and more recently across the country (Torre Cantalapiedra & Yee Quintero, 2018). The efforts have resulted in historical identification rates, detentions, and deportations of undocumented migrants (see Figure 1). The high volume of apprehensions and deportations throughout the

¹ See the Enhancement Plan for the Southern Border (Frelick, 1991) Southern Plan (Anguiano Téllez & Trejo Peña, 2007; Torre Cantalapiedra & Yee Quintero, 2018); Southern Border Program (Animal Político, 2014; Grupo de Trabajo sobre Política Migratoria, 2014; Swanson et al., 2015), Iniciativa Merida (Vogt, 2020)

years indicates the limited screening, assessment of the needs, and inadequate due-process protections that migrants and asylum seekers have experienced (Dominguez Villegas & Rietig, 2015).

Moreover, in the last five years, the number of asylum claims has skyrocketed, signaling the effect of the tightening of immigration control policy in Mexico and the US. Many people are initially seeking to settle in Mexico because the routes to the US have become extremely dangerous, and the costs of crossing borders have vastly increased (Castillo, 2019; Faret et al., 2021; Torre Cantalapiedra, 2020; Varela Huerta & McLean, 2019).

Figure 1. Detentions, Deportations, and Asylum claims in Mexico, 2013-2021



Source: elaborated by the author with information from COMAR, 2020, 2021; UPMRIP, 2021

During the presidency of Enrique Peña Nieto (EPN), Mexico saw the arrival of the so-called "Caravans of migrants."² from the Northern Triangle of Central America (Honduras, Guatemala, and El Salvador). The administration first welcomed migrants with tear gas at the

² There is no consensus about the number of people that arrived at the border; sources estimated 7,000, while others 4,000 (Ahmed, 2019; Arroyo et al., 2018).

Mexico-Guatemala border (Arroyo et al., 2018; Calva Sánchez & Torre Cantalapiedra, 2020; Pradilla, 2019; Ramos, 2018). Migrants clashed with the police forcing migrants to step back. Migrants reorganized to cross Mexico. The Mexican government offered them the possibility of crossing in small groups to take them to detention centers to apply for refugee status or humanitarian visas (Rojas, 2018). The caravan rejected the offer and pushed for a collective entrance (Martínez, 2018). After that, some crossed the Suchiate river while others pushed the gates to enter Mexico. Finally, the government let them cross the country. Days later, as part of the strategies to contain the influx of the caravans, the federal government launched a regularization program called “*Estás en tu casa*” (You are at home). The program was set to provide medical assistance, education, access to a temporary job, and a provisional ID. Migrants needed to meet two requirements: remain in Oaxaca and/ or Chiapas; register before the INM; and seek asylum (Anguiano Téllez & Lucero Vargas, 2020; Secretaría de Gobernación, 2018). Members of the caravan did not accept the offer because they did not want to be confined to the south of Mexico but wanted to continue their journey to *El Norte* (Martín Pérez, 2018; Redacción AN, 2018). The Plan was, in fact, a containment policy that aimed to keep migrants in the South of Mexico.

In summary, past administrations have been using different strategies to control the arrival and stay of undocumented migrants in the country. Although the various collaboration programs between the US and Mexico have been implemented to counter drug trafficking, human trafficking, violence, the reality is that much of the resources have been used to keep migrants out of the US. Before taking office, President Andres Manuel Lopez Obrador (AMLO) promised a change in migration policy. He had largely criticized EPN's approach to migration, particularly the implementation of the Southern Border Program and the treatment of migrants in the caravan. He stated his immigration policy would defer from past administrations, as he would provide jobs, grant work visas, and work with the region's

governments to create development programs to disincentivize migration (Arroyo et al., 2018). He stated there were different alternatives to deal with migration other than using the armed forces and the police and that his administration would respect migrant human rights. Finally, he stated that Central Americans would not be mistreated (MORENA, 2018, paras. 6–8). The following section then addresses the components of the New Migration Policy and the different strategies that AMLO's administration has employed to manage undocumented migration.

Immigration Policies in AMLO's Administration, 2018-2024

The New Migration Policy

Lopez Obrador took office on December 1, 2018, in the middle of the mediatic frenzy given the arrival of the caravans and the pressure from the US. On December 18, the incumbent administration outlined the components of the New Migration Policy (NMP). The NMP was embedded in a more extensive process (and discourse) of transformation that the administration aimed to implement. The NMP has created upon two axes: the defense and respect of migrant's human rights and promotion of economic development in sending communities to address the structural causes of migration (UPMRIP, 2019). The NMP has seven components: shared responsibility; regular, safely and orderly mobility and migration; attention to irregular migration; strengthening of institutional capacity; protection of Mexicans overseas; integration and reintegration of migrants; and sustainable development in migrant communities (UPMRIP, 2019).

Together, the components offered a comprehensive approach to migration as they sought to address the structural causes of migration; to provide physical and psychological protection measures to irregular migrants and path for their regularization in the country; to strengthen the capacities of institutions that offer services to migrants, especially the INM, COMAR and the Migration Policy Unit; and foster the integration and inclusion of migrants

into the Mexican society, as they have active participation in the definition, execution, and accountability of policies. The administration's challenge was to create the strategies and concrete initiatives that would address what was outlined, appoint personnel to carry out the actions and assign an appropriate budget. The biggest challenge was to create a dialogue with the US, as any decision made in migration will be conditioned by the inevitable proximity with the US (Hernández López, 2020, p. 170).

Some of the changes introduced as a result of the NMP included the signing of the Global Compact for Safe, Orderly, and Regular Migration (GCM) in December 2018. Party countries are committed to creating and, more importantly, implementing mechanisms against human trafficking, family separation, criminalization of migration, and arbitrary detention (Noticias ONU, 2018). In March 2019, in a press release, the Mexican Secretary of Foreign Affairs stated that Mexico was the first to put in practice the principles of the GCM. In doing so, he stressed, “Mexico has stopped deporting hundreds of thousands of Central American migrants in contrast with the migration paradigm of past administrations[...] Thanks to this New Migration Policy we have corrected the fundamental error, that of illegality, that condemns migrants to marginalization and precarity³” (SRE, 2019, paras. 1–3).

The administration sought to strengthen institutional capacity. A critical action in this rubric was a restructuring at the directive and operative level of the INM. The administration appointed Dr. Tonatiuh Guillén López as INM Commissioner and M.S. Andrés Alfonso Ramírez Silva as General Coordinator of COMAR (Redacción Ejecentral, 2018). In a press conference, where both commissioners were introduced, the Minister of Interior emphasized that “migrants have rights, they were not going to be stigmatized, criminalized, or persecuted” and that the appointed officers would honor that (Redacción Ejecentral, 2018, para. 3). The

³ Original text: “México ha dejado de deportar cientos de miles de migrantes centroamericanos, en contraste con el paradigma migratorio de administraciones pasadas... Gracias a esta nueva política se ha subsanado el error fundamental previo que, desde la ilegalidad, condenaba a los migrantes a la marginalización y la precariedad.”

restructure at the operative level aimed to cease officials who had been involved in criminal activities such as corruption and human trafficking and had violated migrant human rights. According to AMLO, in June 2019, more than 500 officers were fired as part of a “clean-up operation” (AFP, 2019), on top of the 30 that were removed in Tamaulipas after the disappearance (kidnapping) of 22 Central American migrants (SinEmbargo, 2019). Moreover, the INM was to train officers on human rights principles and human trafficking; build new detention centers, and acquire technology that could facilitate the admission and identification of migrants.

Initiatives on Migration

In the remaining section, I review two initiatives that the current administration has employed to manage undocumented migration; then, I analyze these strategies to assess if they are aligned with the components and goals of the NMP. I selected these initiatives based on their importance. Other scholars have also highlighted their relevance (Anguiano Téllez & Lucero Vargas, 2020; Calva Sánchez & Torre Cantalapiedra, 2020; Hernández López, 2020).

1. *Temporary humanitarian visas to stay in Mexico.* In January 2019, new groups of migrants arrived at the Mexico-Guatemala Border⁴. The federal government fashioned the *Plan de Atención a Caravana Migrante* (Action Plan) to manage the situation. The Plan aimed to provide medical assistance, shelter, and legal orientation (Secretaría de Seguridad y Protección Ciudadana, 2019). As part of the Plan, the government created an emergent program to register migrants in Tapachula, Chiapas and grant temporary humanitarian visas (*Tarjetas de Visitante*

⁴ According to figures released by the Minister of the Interior, it was estimated that about 13,500 people entered the county in the caravan of January 2019 (MPI, 2019).

*por Razones Humanitarias*⁵). On January 28, 2019, the end date of the program⁶, migrants requested 12,574 visas (Observatorio de Legislación Migratoria, 2019). AMLO declared that the visa was a mechanism to encourage migrants fleeing violence and insecurity to stay in Mexico and avoid going to the US. In doing so, he was also trying to prevent a possible source of disagreement between the two countries (Ernst & Semple, 2019).

In a conference presentation in February 2019, Olga Sanchez Cordero, Minister of the Interior, underscored the Plan had been *successful* as only 10% of those who crossed into Mexico with the caravan continued their journey up north⁷ while the rest of the migrants (90% of 13,500) received humanitarian visas. Moreover, Cordero stressed that different job agencies were actively recruiting migrants to prevent further movement from Central America (to Mexico) and the South-North movement within Mexico (MPI, 2019).

2. *Migrant Protection Protocols*. The first group of people that left from San Pedro Sula, Honduras, in October 2018, arrived in Mexico weeks before the intermediate elections for Congress and the Senate in the US. Amid the significant media coverage, Trump used the caravans to reinforce a xenophobic, racist, anti-immigrant discourse, favoring the channeling of resources to fortify the US Southern Border (Fernández Casanueva et al., 2018). The immediate response was to deploy more than 5,000 immigration officers down to the border (BBC News, 2018). Trump framed the caravan as an *invasion*; thus, the protection of the border was a matter of national security. As migrants continued to arrive, in December 2018, the US government announced the launching of the "Migrant Protection Protocols" (MPP). MPP is an initiative whereby undocumented foreigners entering or seeking admission to the US might be returned to Mexico for the duration of their immigration proceedings (Calva Sánchez & Torre

⁵ The "Temporary visa for Humanitarian Reasons" figure is regulated by the Migration Law, Article 52, Frac. V. (*Ley de Migración*, 2011). Migrants can apply for this type of visa if they are victims of crime in Mexican territory, unaccompanied minors, and apply for asylum.

⁶ The fast-track program ended, but the government continued to grant visas based on the provisions of the law. According to the INM, 40,966 visas were granted in 2019 (UPMRIP, 2020)

⁷ Here, Sanchez Cordero is explicitly referring to the large groups of people that arrived in January 2019.

Cantalapiedra, 2020; DHS, 2019). The MPP was implemented on January 24, 2019, after granting humanitarian visas in Mexico (Calva Sánchez & Torre Cantalapiedra, 2020).

The MPP -also known as *Quédate en Mexico* (Remain in Mexico), meant that thousands of Central Americans that arrived in the US to seek asylum were sent back to Mexican border towns, Ciudad Juarez, Matamoros, Nuevo Laredo, Tijuana, Mexicali, to wait for admission, court hearings, and adjudication. The initiative shuddered migrants who traveled more than 3,000 km to arrive in the US. It also stated that Mexico was committed to providing migrants with humanitarian protections, including immigration documentation and access to education, healthcare, and employment (DHS, 2019).

According to official documents, by December 31, 2020, 68,039 people were enrolled in the MPP, and only 531 had received "relief," that is, only .7% of the applicants received asylum, statutory withholding of removal, and withholding of removal under the Convention Against Torture (DHS, 2021a).

After the 2020 presidential elections, Joe Biden was elected president of the US. Since February 2021, the DHS had started to process specific individuals enrolled in the MPP into the US and had pending cases before the Executive Office for Immigration Review (EOIR) (DHS, 2021b). It is estimated that about 13,000 people were allowed to continue their cases in the US (American Immigration Council, 2021). After a detailed examination, in June 2021, Biden signed Executive order 14010 to terminate the MPP program. On June 01, 2021, the Secretary of Homeland Security concluded it while the processing of individuals continued. However, on August 15, as part of a lawsuit brought by the states of Texas and Missouri, a federal judge ordered the Biden administration to "enforce and implement MPP in good faith" (American Immigration Council, 2021). On August 25, 2021, the processing of individuals enrolled in MPP was suspended (DHS, 2021c). Finally, the Biden administration will reinstate

the MPP and return people to Mexico in mid-November (National Immigrant Justice Center, 2021b).

DISCUSSION AND CONCLUSION

After reviewing the different strategies that the current administration is using, I assess how and if they comply with the components of the NMP. First, I argue that granting temporary humanitarian visas was a containment strategy insofar that was used to keep migrants in Mexico, particularly in the south. The strategy was an *ad-hoc* measure employed in the spur of arrivals rather than a long-term strategy to manage (undocumented) migration. The emergent Plan was far from a formalized path to the regularization and inclusion of undocumented migrants, as envisioned in the NMP. Moreover, it is worth acknowledging that migrants received better treatment in January 2019 than in October 2018; however, the Minister of Interior's statements regarding the Plan's success suggest that the government's ultimate goal of preventing migrants from moving north was achieved.

Second, the Migrant Protection Protocols, even if there were a *unilateral* initiative from the US, the fact that Mexico cooperated with the US meant that once again, Mexico did not comply with its own migration policy. For instance, the NMP underscored the respect and protection of migrants' human rights. However, by allowing the implementation of the MPP, Mexico failed to respect migrants' human rights as migrants enrolled in the MPPs were placed in camps in border towns, which are particularly dangerous given the presence of organized crime. Moreover, the MPP also violates the right to asylum, due process, and the principle of non-refoulement (IMUMI, 2021). Judy Rabinovitz, a lawyer of the American Civil Liberties Union, declared, "the policy is a disgrace, it is illegal, it is morally indefensible, and it needs to stop;" also, Karen Musalo, a lawyer and professor at the University of California stated "on every level, it is the opposite of protecting people" (Dickerson, 2020, paras. 4, 15).The MPP

has exposed migrants to kidnappings, extortion, and several forms of violence, including sexual abuse (HRW, 2019; Mukpo, 2020). In the two years of the initiative, more than 1,300 crimes have been committed against migrant populations, being organized crime and Mexican officers the primary perpetrators (IMUMI, 2021). Finally, the measure put migrants into further marginalization as they wait for their hearings in a very precarious situation.

Moreover, the reinstalment of the MPP reflects the US policy of mass expulsion of asylum seekers and the continued criminalization and persecution of undocumented migrants and refugees. As for Mexico, it has continued to consent to a policy that has torn apart families, has put migrants and asylum seekers in a desperate situation experiencing physical, economic, legal, and emotional violence, and even death (National Immigrant Justice Center, 2021a). Amid the announcement of the reinstalment, activists have called on the Biden administration to use all the necessary legal measures to terminate the program.

Mexico has systematically failed to promote, respect, protect and guarantee migrant human rights. For decades, the Mexican government has not provided protective measures to those fleeing violence, insecurity, poverty, and political repression; instead, it has punished and criminalized those who crossed the border irregularly.

The new administration said to strive for a transformation where migrants were at the core of the NMP, and their rights, dignity, and voice were a priority. The NMP has, nonetheless, shown its inability to achieve such a change. Instead, it has used new and old strategies and mechanisms of control and containment to deal with the current migration phenomena. Given the external pressure now, Mexico *could* change its migration paradigm; the question is if Mexico has the political will to do it.

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