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Bordering (In)Humanity:

An Analysis and Critique of Mexico's (Im)Migration Policy Failures

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Abstract

Since the inception of the Mexico's reformed migration law, national development programs, and its provided support from the U.S., human rights violations, public health, and increased migrant vulnerability have seen high levels of concern which has garnered international interest. Due to the aforementioned effects of Mexico's migration strategy, its suppression and enforcement-based approach could be perceived as a near-sighted solution since it does not properly attend to the situation in an intersectional manner. If Mexico were to decide to respond in a comprehensive, human security-based approach, it could not only more effectively meet international human rights obligations but could more adequately manage the migrating population, prioritizing the health of the migrating individuals and the public within the affected region(s). While analyzing and critiquing the failures of Mexico's current (im)migration policy, this body of argues how their enforcement-centric approach perpetuates human rights violations and provokes vulnerability amongst migratory populations.

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Introduction

Due to an insufficiency of resources, political will, and personnel, no state can truly prevent migration or unauthorized populations from entering and inhabiting their territory. History has shown that migration is a common practice among all species in every region of the world. Human beings have been doing it since the beginning of their existence and as have we are currently experiencing, it shows no traces of ending that natural tendency and way-of-life. Our emphasis on state boundaries, designated by unnatural barriers and natural barriers alike, do not and cannot bar human migration. As states fund border projects, pass legislation and form or reform agencies to curb unauthorized migratory entries, vast majority of the times they do it with the state in mind. The stability of the state, and not the protection and respect of the migratory populations, typically seems to be the core premise of the state's agenda on migration control. Meaning, that prioritizing the sustainability of the state could signify that you must take all viable measures to assure that goal. Some of the problems with that is it does not tend to take into account how that affects the health of the migrating individuals once within that state as well as the message that it emits speaks to the lack of importance placed on the health and human rights of individuals. In the case of Mexico, the aggressive migration strategy taken has dramatically increased the violations of human rights against migrants in and around its borders.

The heightened levels of human rights violations can be attributed to Mexico's lasting lack of enforcing the rule of law and its migration policy that has been centered on apprehension, detention, and deportation. Mexico's migration policy is derived from three different sources: (1) its reformed Migration Law (Ley de Migracion); (2) the U.S. funded Merida Initiative; and (3) the Southern Border Program (Programa Frontera Sur). Since their implementations, human rights violations have skyrocketed and provoked the vulnerability of the already-vulnerable migrating population.

Mexico's military branches and agencies in charge of migration and border customs have become increasingly militarized which one could conclude to the reasons of its excessively-forceful responses to migrating populations. Mexico's migration strategy over the the past couple of years has not prevented or decreased migration.

While it may not be Mexico's responsibility to directly tackle the root causes of migration hailing from Central America, their migration strategy has not only worsened the situation for those migrating but it establishes a suppressive approach to civil matters. For a state like Mexico that has been flagged many times for human rights abuses against its own citizens, an aggressive and militarized response to migrants and refugees does not help achieve its international human rights obligations. As an active member that signed and ratified multiple treaties to respect human rights, Mexico's current responses to migration have not been health-appropriate for the migrating population.

The two main problems with Mexico's excessively-forceful response to migration are that (1) it treats migrants like 'the enemy', which in turn dehumanizes them and endangers their health; and (2) it does not effectively or humanely resolve irregular migration. A wide range of health risks migrating populations face from discrimination, bodily-harm, theft, rape and psychological trauma are just some of many more not including what they face when detained. The collective trauma that those migrating experience could hamper social connections, empathy, sense of community, and sense of security. Such effects possibly damage regional and international relations. Mexico, the migrating population, and those experiencing the migrating waves would most benefit from a pivot away from Mexico's aggressive-centric approach to a human security-approach.

The reason to focus on health-sensitive approaches for migrants is that while it speaks to the respect of human beings and their human rights as captured in international human-rights laws, it exemplifies the importance of protecting the most vulnerable populations from harm. Violent responses towards individuals in any state affects the state's overall stability. By states refusing health-appropriate treatment towards migrants, it could create and perpetuate imbalances in a state's society and spread onto other neighboring countries. Depending on how a state responds to migrants could potentially determine--and typically does--the health and stability of the state. A state that bases its migration strategy on suppression and aggression typically reflects how it responds to other social matters such as social protests for example.

The importance to emphasize on human security is because it achieves international communities' agreed-upon human rights laws while appropriately addressing challenging migration waves. A human security-based approach emphasizes the cohesion of both threats and responses when addressing state and human insecurities. An interlinkage of threats affect each other which can then spread onto other regions or areas that thus creates an epidemic crisis. For those sole reasons,

Mexico--and all countries for that matter--should place high importance on developing a migration strategy founded on human security. If Mexico's current approach to migration continues, it will only further churn the wheel of migratory and societal insecurity. Mexico's aim and international human rights obligations toward achieving and respecting the international communities' human rights laws must be met with a human security-based approach to appropriately secure and manage in and around its boundaries. The aforementioned reasons make this body of work an expose of our need as a global community to become aware of how Mexico's migration policies and strategies affect public health and how Mexico can possibly respond to migration in a more effective and health-appropriate manner.

I will provide a multidisciplinary approach with an emphasis on the sociological perspective which will include: (1) an analysis and critique on Mexico's receiving aid packages from the United States and Mexico's current (im)migration policy; (2) analyzing the objectives and human rights stipulations in both Mexico's migration policy and received aid package; (3) an analysis of the human rights-related violations by Mexico's (im)migration policy countries; (4) and a qualitative and quantitative data analysis of the health effects on the migratory population and border regions of the affected countries since the enactment of Mexico's (im)migration policy and received aid package. The analysis will focus on: human rights abuses and sociological effects. Utilizing state reports, IGO and NGO reports, border-militarization literature, border security policies.

Throughout the paper I will utilize the word *migrants* as opposed to *immigrants*. I choose to do so for several reasons. One being the negative connotation the word immigrants has had in daily discussions; the word has become synonymous with words such as criminals and has ultimately dehumanized these specific individuals. Such labeling divides human beings and allows the larger society to feel detached from migrants which can then give way for lesser treatment and can make it easy to forget that migrants are entitled to fundamental rights. Secondly, according to Merriam-Webster's definition of migrant, it is one that moves [regularly] in order to find work. Seeing as the reported accounts of the reasons for these individuals migrating are for either economic opportunities, due to their country's lack of economic opportunities, or the alarmingly high violence rates within their country, I will refer to all migrating individuals as migrants. Finally, although this paper is analyzing irregular migration--which does not include state-authorized migration like those that are given specific work permits or travel visas--the word migration will be utilized interchangeably with 'irregular migration' to match the usage of migrants.

I will begin by covering Mexico's current migration policy that consists of: the reformed Migration Law, the Merida Initiative, and the Southern Border Program. All three will be examined along with a portion dedicated to the United States' migration policy since the 1990's and the influence they have had on the structure and processing operations of Mexico's current migration policy. I will then follow up with the international human rights laws violated mainly in fault of Mexico's migration policy. Finally concluding with an overview of human security and how that can be implemented as an operational tool to better address Mexico's irregular migration.

Chapter 1. Mexico's Current Migration Policy

The U.S.' Migration Policy and How That Would Influence Mexico's Migration Policy

Since Mexico's migration strategy is closely linked and basically corresponds to the U.S.' migration policy, one cannot speak of Mexico's current border policy without first having knowledge of the U.S.' migration policy. The U.S. responded to the large migratory influx from Central America destined to the U.S. with not only reforming their immigration policy by adopting various immigration bills but has turned to Mexico to carry out its own border securitization initiatives to ease the U.S.' intake of migrants. The U.S. has implemented a migration methodology based on apprehension, detention, and deportation of irregular migrants, or also referred to as a 'control policy'. The policy began to strengthen in the 1990's where it would pave the way for a more intense border security with border initiatives to match. The purpose of covering the U.S.' current migration policy provides insight on Mexico's strategic ploy to combat irregular migration and the migratory populations' attempts to reach the United States from Central America. This analysis will not review the relationship of their migration policies prior to the 21st century even if the relationship between both countries dates back several decades into the 1970's. The main acts to transform the U.S.' policy into one based on control were the Illegal Immigration and Immigration Responsibility Act (IIRIRA) and the REAL ID Act. The IIRIRA would criminalize migrants in an irregular status, create barriers of entry and reentry and extended the detention period for irregular migrants while the REAL ID Act would set some nearly impossible required evidence and documents from refugees and asylum-seekers requesting protection. The content of both those acts can be seen as not only the foundation to the United States' immigration policy but Mexico's reformed immigration policy as well.

Due to a set of ungrounded and misguided emotional angst, irregular migration and any non-U.S. citizen presented a threat to American society and all that pertains to it (Guerette, 2007). The U.S. border security policies in the 1990's, such as the Border Security Initiative (BSI), were created as a response to not only the irregular migrating populations but as a response to the deaths of those migrating into the U.S. by way of the Sonoran Desert and other dangerous environments. The original agency consisted of the Immigration and Naturalization Service (INS) which would later create the Border Safety Initiative (BSI) in which would direct the United States Border Patrol (USBP). The USBP's task was to increase state security along the border zone. The term security was not left ambiguous to whom the U.S. were trying to keep safe from. Waves and

waves of Central American and Mexican nationals began entering the United States seeking refuge, a better quality of life and economic opportunity. Anti-immigration sentiment began to mound as a result of it. Politicians began to carry out this initiative based on an incrementing social insecurity.

In June 16, 1998, with anti-immigrant and state security politicizing, the Clinton Administration passed the BSI. It was used to compliment a 1996 act that “was the landmark authorization for border securitization, earmarking hundreds of millions of dollars for Border Patrol agents, security systems, and fortifications” in which would deem a successful policy “that emphasized control” (Ackelson, 2004). Together, they would set the tone for the fight against irregular migration according to Jason Ackelson. This pivotal move on irregular migration was known as the Illegal Immigration Reform and Immigration Responsibility Act (IIRIRA). This act reformed the totality of an irregular migrant's stay within the United States. For instance, if they within the United States for 365 days or more, they would have to leave the United States and remain outside for ten years unless they obtained a waiver from the authorized governing body--any entry without a pardon would deny them the ability to request entry for ten years (Public Law 104-208, 1996). If convicted of any minor offenses, like unpaid traffic violations or shoplifting, could get you deported. A partnership between local law enforcement and federal law enforcement agencies would make it capable of working with one another under Section 287(g) of the Immigration and Nationality Act (U.S. Immigration and Customs Enforcement). This would open the doors for irregular migrants whom have been convicted of any offense, minor or major, to be checked of their legal status, detained in detention centers for up to two years before being deported (U.S. Immigration and Customs Enforcement). This method of resolving migration from here on out would continue to be reuttered by conservative politicians, implying that traditional military threats and migration were of the same like; in which both presented threats to the state, the general public and the overall American life.

Along with an already anti-immigrant sentiment hovering inside the Oval office and on the minds of anti-immigrant U.S. citizens, the September 11 attacks on the Twin Towers fueled the need to strengthen U.S. borders and prioritize the security of the state. Although it was not known by the general public, U.S. Congress was on the verge of liberalizing immigration laws, according to Johnson and Trujillo. Yet, it was September 11 which “effectively initiated a lengthy hiatus in the discussion of positive immigration reform as the general public sought to seal the borders” (Johnson and Trujillo, 2007). The global image of the United States appearing vulnerable was a rare sighting that gave them the urge to retaliate with a vengeance at all levels. Lawmakers' task was to attempt to formulate bills and initiatives that would make it very difficult for

non-U.S. citizens from entering unless going through a very difficult vetting. While under the guise of state security, irregular migration, which fell under the umbrella of terrorism since those that were found to be responsible for the 9/11 attacks were non-U.S. citizens, was to be curbed and regulated as much as possible.

The measures the U.S. took ranged from an increase in federal presence in both its northern and southern borders to the U.S. House passing an amendment to the defense authorization bill "calling for the use of military personnel add military to help patrol both borders with Mexico and Canada" (Ackelson, 2004). Even Bush administration's 2005 budget sought \$400 million in new funding for border security, outlined in the Administration's budget request for the Department of Homeland Security, which would have totaled \$40.2 billion, 103% over the 2001 level (Ridge, 2004). These extensive measures demonstrated the U.S.' seriousness to address state security as its primary objective. This meant putting great financial backing to that would extensively screen all incoming personnel and overall imports entering the U.S. With so much resources and passed bills to attempt to regulate and decrease all entries in the name of preventing possible terrorist attacks, it made it increasingly difficult for those seeking refuge and asylum.

According to Kerwin, "counterterror and immigration experts increasingly agree on what constitute effective and appropriate immigration policy reforms in light of the terrorist threat" (Kerwin, 2005). Unfortunately, many of the post-September 11 policy changes do little to actually advance public safety and violate the rights of refugees and asylum seekers. These include reductions in refugee admissions, the criminal prosecution of asylum seekers, and a safe third-country asylum agreement between the United States and Canada. In addition, other measures such as "preventive arrests, closed deportation proceedings, and 'call-in' registration programs offend basic rights and may undermine counterterror efforts" (Kerwin, 2005). Kerwin brings up a valid point--the United States extensive refugee protocols increases migrant vulnerability while not effectively addressing terrorism. The difficulty to legitimately acquire refuge has become nearly impossible with the newly established procedures and demands in which Mexico would too adopt in their migration reform.

Refugee Challenges Due to the U.S.' REAL ID ACT

To further shed some light on the frustration for asylum seekers, there have even been recorded prosecutions of document fraud against migrants in the southern states of the U.S. Out of disparity, migrants fleeing from danger in their home country would seek illegal means of obtaining uncertified documentation in hope of entering the United

States. Many times, this led to such prosecutions being pursued prior to any asylum determination in which now many of those asylum seekers were to be legally considered criminal offenders because of “how they escaped the conditions that qualify them for asylum” which actually “chills the right to seek asylum and undermines the international refugee protection regime” (Kerwin, 2005). The categorization of refugees and asylum seekers as criminals contradicts the creation and importance of having a refugee program. By now recording such individuals as law violators further perpetuates their vulnerability for it “complicates the ‘discretionary’ determination of asylum eligibility, as well as subsequent petitions for permanent residency and U.S. citizenship” (Kerwin, 2005). Such individuals are unable to return to their country of origin due to the insecurity and can neither pursue a life free of the criminal system in their potentially-adopted state which further provokes their vulnerability.

Nothing can be more true with the enacting of the REAL ID Act which requires asylum seekers “to demonstrate that their race, religion, nationality, membership in a social group, or political opinion which represents ‘a central reason’ for the persecution they suffered or fear” (The REAL ID Act, x 101(a), 2005). What that entails is that these asylum seekers must by some evidential proof the motive of their persecutor. The impossibility of that is incomprehensible. The Act also makes it “more difficult to establish an asylum claim without corroborating evidence and makes it easier to deny a claim based on a negative credibility determination” (The REAL ID Act, x 101(a), 2005). What constitutes credible evidence is very hard to provide when you are fleeing from persecution. The fact that refugees and asylum seekers must present or even asked to present hard evidence that proves their insecurity in areas of conflict is to be seriously examined and questioned as necessary.

The Result of the U.S.’ Migration Policy

For the past two decades, U.S. policy makers initiated consecutive policies that led to increased fortification along the southwest border and more restrictive immigration laws. As stated, the incontestable result of the U.S.’ control policy has been of fewer opportunities for legitimate entry into the United States and an increased enforcement in the border regions has increased migrant deaths due to migrants seeking more dangerous paths to avoid border patrol agents. Many would cross through the Sonoran desert which can reach very high temperatures in the summer and very cold temperatures in the winter. The routes they have been forced to take has also many them prey for gang members which rob, rape and killed some. Such recordings have led “several researchers attributed the cause of migrant casualties to U.S. immigration policy and the border buildup during the early 1990s” (Cornelius, 2001). It is

of great difficulty to deny the correlation between the increasement of border security and control policy with that of migrant deaths and overall heightened migrant vulnerability.

This leads many scholars and experts to believe that such programs, and control policies for that matter, are unjust and present no proof of being the appropriate or effective response for irregular migration or the refugee and asylum process. The correlation between the U.S.' control policy and migrant vulnerability speaks to the inefficacy of control policies. The fact that migrant deaths and irregular migration has not slowed or decreased alludes to the notion that the U.S.' dedication to border security has not resolved the issue. Johnson and Trujillo have concluded that with "dramatic increase in the undocumented immigrant population followed the largest enforcement build-up of the U.S./Mexico border in history" and "if one measures the effectiveness of border enforcement by the size of the undocumented population in the United States, enhanced border enforcement has failed" (Johnson and Trujillo, 2007). Two decades worth of bills and initiatives have not been able to address the issue of 'state security' as the U.S. has intended or desired. In all attempts by "the Bush Administration to use 'national security' as a justification to virtually all of its immigration control strategies", its measures "fail to advance the fight against terrorism and undermine refugee and immigrant rights" (Kerwin, 2005). Even without circumstantial evidence to defend the efficacy of the U.S. border control policy, its blatant injustices and abuses, the call for these policies gave passage to pressure Mexico to adopt their own reformative immigration protocol that would much resemble the U.S.'. The migration 'threat' had now expanded further south of the U.S. border into foreign soil.

An Overview of the Merida Initiative

As migratory flow from the Central American countries of Guatemala, El Salvador, and Honduras moves upward with its destination slated into the United States through Mexico, border security initiatives and laws get created, and existing ones reformed, in hopes of controlling the irregular migration of those fleeing their native land's social, political, and economic threats. With no slowing in sight, the U.S.' decided to respond to the consistently increasing migration influx by providing Mexico with a sizeable funding and a developmental program that could act as a barrier for those migrating from Central America.

Seeing how Mexico was facing an unprecedented level of violence due to narco trafficking, the U.S. formulated an initiative that could both benefit them and

Mexico. This aid package would address Mexico's interior state security by boosting Mexico's law enforcement agencies and border agencies that, while prioritizing on the narco-trafficking issue, would also target irregular migrants--which included unaccompanied minors--deriving from Central America heading towards U.S. grounds by strengthening its borders. As Rep. Michael McCaul (R-TX), Chairman of the House of Representatives Homeland Security Committee, stated in early July 2014, "I think, as you look at these children [unaccompanied minors], they are all coming from Central America. If we can close the southern border of Mexico, that stops 99 percent of our problems here." (U.S. House of Representatives, Committee on Homeland Security, 2014). The statement by Rep. Michael McCaul clearly addressed the United States' interest in guiding and assisting Mexico's expansion in its border and overall state security. McCaul's speech spoke on behalf of Washington's goal in managing migration by any means possible. The inception of the Merida Initiative would serve as the blueprint for the U.S.' and Mexico immigration policy.

In 2008, the Merida Initiative was created to carry out the four following objectives: (1) disrupting organized crime; (2) rule of law while protecting human rights; (3) updated border security programs and a twenty-first century border; and (4) building strong and resilient communities (Selke and Finkeal, 2017). The funding of \$2.6 billion was to be carried out from 2008-2016, whereas all but 15% was delivered while that last 15% was to be dependant upon the evaluation of the U.S. Congress based on the effectiveness of the initiative (Selke and Finkeal, 2017). The largest allocation of the funding--\$1.6 billion--has been directed towards improving the rule of law in Mexico. The initiative is meant to be a comprehensive approach to the insecurity of the Mexican state.

The Merida Initiative focused on Mexico's arguably greatest state flaws--corruption and respect to the rule of law. These detrimental weakness in Mexico's governmental structure had been perceived as the main issue that was threatening and destabilizing state security. Corruption from the local to federal level had been a long-standing matter in Mexico, widely known throughout the state and the international community. Nothing better captured this than the multiple escapes by Mexico's greatest drug lord--Joaquin "El Chapo" Guzman--from federal prison. What Mexico wanted to mainly focus on what corruption, which spawned the interest to create an anti-corruption mechanism. It was the escape of Joaquin Guzman that led to a 2016 new anti-corruption system that was brought to legislation by Mexico's Congress dating back from a constitutional reform from April of 2015. Some of the new points of the National Anti-Corruption System were designed to give "the anti-corruption system investigative and prosecutorial powers and a civilian board of directors; increased

administrative and criminal penalties for corruption by public officials and private companies; and required three declarations (taxes, assets, and conflicts of interest) from public officials...whereas the board of civil-society directors will be selected by a committee of academics and social activists in 2017, and it is expected that the system will start working by the end of the year" (Seelke and Finkeal, 2017). Whether or not, the change to judicial structuring will actually solve Mexico's corruption issues, it is seen as a progressive step forward. For Mexico is being currently appraised by some for its efforts, it is also receiving doubts from others.

The National Anti-Corruption System was to extend to the reformation of Mexico's security forces. By focusing on both these main sectors, it appears that Mexico believes that this gives them a greater chance of securing the state of violence and corruption. The importance of reforming Mexico's security agencies is of great importance due to their recorded human rights violations and known corruption (Organization of American States, 2015). According to Seelke and Finkeal, "police roles are changing under the new adversarial justice system, which requires them to prepare investigations that can be challenged in public oral trials and to serve as witnesses in court" (Seelke and Finkeal, 2017). Prior, federal police officers would gather information through confessions that were sometimes derived from torturing rather than through forensic evidence. (Seelke and Finkeal pg 2017). Although the attempt to reform police agencies has become a central focal point, the lack of attention towards reforming law enforcement at the local level has negated true progress especially with cases such as the disappearance of 43 students whereas federal forces "had been operating in the state of Guerrero" and "did not intervene to prevent the September 2014 disappearances and killings of 43 students in Iguala, Guerrero," whom local police were "collaborating with criminal groups in September 2014. Moreover, some federal police may have participated in the disappearances 32" (Goldman, 2017). For the general public within the state, it comes to no surprise the involvement of law enforcement and military agencies in the disappearances and overall corruption. When you see the progressive human right violations, we come to see that even with legislative obligations established to improve the greatly troubled security forces, Mexico has yet to demonstrate considerable evolution.

The Merida Initiative's Funding Based on its Human Rights Stipulations

The funding of the Merida Initiative does possess human rights stipulations that Mexico must adhere to, or at least actively attempt to adhere to, in order to continue being funded by the U.S. The creation of human rights conditions in the Merida Initiative was an objective of the U.S. Congress to contest human rights abuses and

impunity in Mexico. From 2008 through 2015, "Congress directed that 15% of certain assistance provided to Mexican military and police forces would be subject to certain human rights conditions" (Seelke and Finkeal, 2017). The failure to fulfill with the human rights obligations or even curb human rights violations by Mexican security forces led U.S. Congress to the redirect funding to other nations "due to human rights concerns" (Seelke and Finkeal, 2017). As it comes to little surprise to some, there was no human rights conditions on Mérida Initiative accounts in the 2016 Consolidated Appropriations Act (P.L. 114-113). The reason for that is unclear, some speculate that the U.S.' and Mexico have too much invested that defunding the whole operation would jeopardize their state security even more.

Since the U.S. State Department's 2015 report on Mexico's Human Rights issues, it has been clear that state-sponsored violence and impunity continue to be problematic within Mexico. The State Department's annual human rights reports covering Mexico have cited credible reports of police involvement in extrajudicial killings, kidnappings for ransom, and torture whereas that has been even an escalation in committed more human rights abuses by the Mexican military since its increased presence in maintaining public safety (U.S. State Department Report, 2015). In May 2014, Mexico revised the country's military justice code to comply with rulings by the Inter-American Court of Human Rights and decisions by Mexico's Supreme Court affirming that cases of military abuses against civilians should be tried in civilian courts which has led to three federal courts convicting military forces of homicide and forced disappearances (U.S. Department of State, Mexico-Mérida Initiative Report (15% Report), 2016.). Where the conviction of those accused could be seen as a commitment to progress, it is yet to be seen if this will continue to be implemented. U.S. Congress continues to be weary about the human rights issues in Mexico to the point that they have progressively sent more and more U.S. assistance into Mexico under the Merida Initiative. Under the Leahy Laws, where they require vetting for Mexican security forces to receive U.S. State Department support, U.S. Congress has furthered the monitoring process to assure Mexico's compliance and dedication to improving their security forces (Leahy Laws, 2016).

Due to the numerous reports of human rights violations at the hands of the Mexican military and police, Congress' 2008 to 2015 financial budgets had set specific human rights standards and conditions on U.S. assistance. Although Mexico had not been found of complying with the U.S. Congress' stipulations, a U.S. spokesman admitted it would still distribute aid to Mexico. The news came from a 2015 briefing where the spokesperson said that although the State Department was "unable to confirm and report to Congress that Mexico fully met all of the [human rights] criteria in

the Fiscal Year 2014 appropriation legislation (P.L. 113-76 P.L. 113-76) ... [it continues] to strongly support Mexico's ongoing efforts to reform its law enforcement and justice systems." (Seelke and Finkeal, 2017). The conclusion to the State department's decision not to submit a report for Mexico would redirect well over \$5 million to Peru and withhold an additional sum of \$500,000 in foreign military financing (FMF). The accumulated losses in funding continues to speak to Mexico's failures and challenges when it comes to complying with human rights conditions set by both the U.S State Department and international human rights laws. Yet, it has not stopped U.S. funding and training.

The support from the State Department might have been damaged but it has far from vanished. Along with an established a high-level human rights dialogue with Mexico, the State Department has expanded its efforts by providing human rights training and human rights programs for Mexican security forces. Through USAID's finances, a dedication to improving the protection of human rights defenders and journals, whom constantly face grave threats, has been implemented by Freedom House in the amount of \$5 million which is discussion of being extended. Developing a national human rights strategy and legislation aimed at preventing and punishing human rights abusers has been added to USAID's agenda whereas \$25 million will be allocated through the 2018 year (Seelke and Finkeal, 2017).

Yet, Congress still is yet to determine whether or not to boost funding for human rights programs such as military and police training programs and a more expanded and advanced efforts in human rights organizations. Congress will most likely continue its supervision and oversight of human rights conditions on Merida assistance. This still leaves out one important issue. There is still no specification on the protection of migrants' human rights. Congress' consideration on migrants' right in Mexico is a serious issue since they are bearing much violence and injustices at the hands of the Mexican state. The response program to the migration situation was to be known as the Southern Border Program (Plan Frontera Sur). Under the Merida Initiative, the development of the Southern Border Program would be the core initiative in attempting to control the migration streaming from Central America. Equally, many concerns have been voiced from human rights activists and migrants themselves on the overall management of the matter. (Seelke and Finkeal, 2017).

The Southern Border Program (Programa Frontera Sur)

To add to the Merida Initiative's programs, Mexico's government developed the Southern Border Program (SBP) (*Programa Frontera Sur--(PFS)*)—a package of operations to bolster security and control human mobility in the zone. According to Mexico and Guatemala's presidents (Pena Nieto of Mexico and Otto Molina Perez of Guatemala) communiqué, the program aims to “protect and safeguard the human rights of migrants who enter and travel through Mexico, as well as to establish order at international crossings to increase development and security in the region” (U.S. House of Representatives, Committee on Homeland Security, 2014). Mexico's attempt to implement a more-organized strategy to protect the human rights of migrants was hollowly echoed throughout press conferences and written vigorously in all its promotional statements in an attempt to show the international community it was taking the proper procedures to resolve its horrendous patterns of violence.

Although the Southern Border Program has yet to publish its official strategy, it has defined several action plans for border securitization. Five key elements include: (1) organized transit crossing, which will include a boost in visas for those visiting; (2) developing advanced technologies and equipment vital for infrastructure (i.e. border checkpoints); (3) an increase of border protection; (4) a shared responsibility among regional institutions; and finally, (5) a more comprehensive network of intercommunicating institutions which will be under the supervision of the Coordinating Office for Comprehensive Attention Migration at the Southern Border (U.S. House of Representatives, Committee on Homeland Security, 2014). Under the leadership of Senator Humberto Mayans, the officiality of the organization was put into effect on July 8, 2014. As been stated, besides the act of the Coordinating Office and its outlined work, there are no readily available documentation that provides in-depth information on the Southern Border Program. Though a notable distinction from the U.S., Mexico has placed irregular migration as a bureaucratic issue, making it a non-criminal offense. Yet, it is not the actual non-criminal charges that is the issue here, it is the criminal-like protocols Mexico takes as a response to irregular migration. The manner in hunting down, apprehending, detaining and deporting migrants is what you would do to those you view as criminals dangerous to the general public and the state.

The Southern Border Program has mainly expanded its migration agents with the National Migration Institute (*Instituto Nacional de Migración, INM*) being the main agency to spearhead the irregular migration. The INM is the chief enforcer of Mexico's reformed migration laws. Part of their priorities is to protect migrants from any physical maltreatment or danger--though abuses and maltreatment have most often come from the state itself as we will further capture ahead. Working alongside Mexico's Federal Police, they station themselves at border entries, checkpoints known as CAITFS

(Comprehensive Attention Centers for Border Transit), as well as the apprehension and detention process. (Diario Oficial de la Federación, 2011). To clarify, INM agents are not a security force and are not to carry lethal weapons. They for that reason are in partnership with federal security forces. The INM has however been flagged by migrants' rights advocates for carrying and using Taser-type electrical stun devices whereas many of these supposed non-lethal resolutions have been quite horrific (Joseph Sorrentino, 2015). What has been most apparent since the inception of the INM and the increase of federal forces in the southern border region has been the inflated recordings of apprehensions.

Between July 2014 and June 2015, apprehensions of Central American migrants increased by 71 percent compared to the same period in the previous year—before the July 2014 launch of the Southern Border Program.¹⁴ (Secretaria de Gobernacion, 2016). From the years of 2010 to September of 2015 there has been a total of 536,091 recorded apprehensions by the INM, the highest coming in the months of January of 2015 to September of 2015 along. (Secretaria de Gobernacion, IBID). The drastic increase has come from capturing irregular migrants from its traditional migratory routes, especially the notorious northbound train known as '*La Bestia*' (The Beast). The "U.S. officials had long complained, mostly in private, about Mexico's lack of action to curb migrants' open use of train routes" (Isacson, Meyer, and Smith, 2015). The targeting of the train usage made most sense to the U.S. and Mexico knowing its long history as the transit system that bridged the migrants' hope to a better future. The expansion of the Federal Police has largely been manning the trains' route, making them the chief apprehenders.

An increase of the Mexican Federal Police has been primarily placed in Tuxtla Gutierrez and Tapachula. The Federal Police is the only federal security agency besides the INM that are allowed to ask for the legal status of individuals in Mexico even though many other security agencies have been requesting citizenship status of anyone they deem worth asking. Their dedication to "rescuing" migrants has proven to be effective. Looking at the dates "between September 2014 and May 2015, Federal Police operating near the Guatemala border reported "rescuing" (apprehending) 4,553 migrants (México: Presidencia de la República, Tercer Informe de Gobierno, 2015). The word rescuing has been purposely quoted to challenge the utilization of the word in this context. Rescuing entails freeing someone or something from confinement, danger, or evil or taking someone (such as a prisoner) forcibly *from* custody which cannot be seen as applicable in this situation. The INM and Federal Police Force have been the main forces capturing the migrants and placing them in detention centers or are shaking them down for money or both. To make matters worse, detention centers themselves have

been noted as substandard and dangerous themselves since many have come under scrutiny by human rights organizations. To put it simply, there is no rescuing taking place, there is only a rising of dangers.

With the failure to protect migrants, the next alternative was to showcase the Southern Border Program as an economic stimulus. This eager attempt to portray the SBP as an economic development strategy for Mexico's southern region, which endures disheartening levels of unemployment and poverty, would soon too fall short of its goal and become an abandoned cause. The economic development eventually stagnated, leaving its planning stage in limbo. Within a short period of time, the program's priorities returned back to securing Mexico's southern border which meant an increase in security agents to safeguard the borders and manage migration. The increase in security personnel though became less than originally anticipated. This did not prevent however its influence over the waves of migrating populations. A great deal of changes were most notable in the traditional migration routes where migrants relied on which now forced them to seek alternative paths that are less safe (Isacson, Meyers, and Smith, 2015).

The Southern Border Program would come short of its aim of protection and safeguard of migrants' human rights and instead increase its human rights violations by the hand of the state. The massive human rights violations recorded by the U.S. State Department and human rights organizations find it factually evident that the aim to protect and safeguard the human rights of migrants was completely missed. Mexico would later modify SBP's purpose from one of security to one of both security and economic stimulus. Either way, it would fall short of both its intentions and further provoke human rights violations and vulnerability.

Mexico's Migration Law

To complement the Merida Initiative, Mexico adopted its first comprehensive migration law in May 2011 known as the Migration Law (Ley de Migración). Previously, migration was regulated by the General Population Law (Ley General de Población). This new law was designed to establish a legal framework for regulating migration and regulations for the maintenance of detention centres. The adoption of this law came on the heels of a broad-based advocacy effort that included actors from civil society, government, and the international community. Also helping spur action on the law were the murders by drug traffickers of several dozen Central American migrants whose

bodies were discovered in August 2010 in a clandestine grave in the northern state of Tamaulipas (Schiavon and Diaz 2011). The reformed Migration Law was reformed in an attempt to more adequately control the migratory movement and provide the government's tracking of these individuals to be more systematically effective.

The Senate's initiative assigns the regulatory framework of Mexico's reformed migration laws as follows: a) the Law of Migration regulates the international mobility of people in its broadest sense, the legal entrance, stay and transit of foreigners in Mexico and some emigration and return issues of Mexican nationals; b) the General Law of Population, after the derogation of over 70 articles, focuses on regulating demographic issues, internal migration and also some emigration concerns; and c) the Refugee and Complementary Protection Law regulates the international obligations that Mexico has with regard to refugees and human rights protections (Gazeta, 2010).

The Senate's proposed Migration Law is designed to adhere to international conventions signed and ratified by the Mexican state. Part of the reformed Migration Law is to comprehensively address every aspect of the migration process which would intersect with international human rights laws. The rights of migrants was to be a central focal point on the newly reformed migration law. Providing equal treatment for those entering in and through Mexico was a main issue since they felt that social services such as medical services should be a right for all regardless of their legal status.

Since Senator Rubén Velázquez of the Democratic Revolutionary Party (Partido de la Revolución Democrática) (PRD) speech at a September 2010 conference, the United States' Congress found favor in updating Mexico's migration policy. Senator addressed his colleagues requesting they consider reforming Mexico's migration law "which would become Mexico's voice to the world on how migrants should be treated" (Michele & Gomez, 2010). The treatment he spoke about was to provide humane assistance and operate humanely throughout the migratory processing of migrants. The law's structure included the creation of an Office of the Prosecutor within the Solicitor General's Office (Procuraduría General de la República) that will focus on investigating crimes against migrants and protection of their human rights. If the Office of Prosecutor within the Solicitor General's Office were to conclude any violations against migrants, a series of sanctions would be placed against the migration officials which would carry fines as high as 5000 US dollars.

Under Article 11 of the Constitution of Mexico, exercise of the right to enter, travel through and leave Mexican territory is subject to the limitations that Migration Law imposes. Therefore, traveling into or through Mexican territory places an individual at

the mercy of the INM and their accompanied Federal Police forces. The focus of the newly imposed migration law is that on the 2011 Immigration Act which states the INM's functions. A closer look of the Immigration Act captures the procedural process which are:

- Immigration control consists of the measures for reviewing the documentation of persons who seek to enter or leave the country, and inspection of the modes of transportation used for those purposes. In such actions, the Federal Police may assist and coordinate with the INM.⁵⁰⁸
- Immigration verifications are the visits that the INM conducts to confirm that foreign nationals within Mexican territory are in compliance with the obligations set forth in the Immigration Act and its Regulations.⁵⁰⁹
- Immigration reviews are those measures that the INM may take to establish the immigration status of aliens within the national territory, in places other than those used for international travel by persons.⁵¹⁰

Chapter 2. Human Rights Violations

Mexico has signed and ratified just about every major international human rights treaty yet has been notorious for constantly dishonoring them. Several NGOs including that of the Washington Organization in Latin America (WOLA) has recorded a great quantity of human rights violations done to migrants by the hands of state officials (Isacson, Meyers, and Smith, 2015). We come to question Mexico's dedication to actually adhering to international human rights conventions and their strategy to repair their image of incompetence. The main conventions that will be discussed will be migrant's right to personal liberty, migrant's right to health, and migrant's right to due process; for these have been migrant's greatest feats that make them most vulnerable.

The Right to Personal Liberty

Since the inception of the Southern Border Program, detention center construction has been on the rise. This come is contradiction to Mexico's 2008 law that decriminalized unauthorized entry, yet, migrants are still being placed in processed in detention centers. The verbiage to explain Mexico's detention centers is one that you would find in rehabilitation shelters or homeless shelters. The migrants are 'presented' at 'migration stations' to be 'temporarily housed' before the INM decides whether they are able to stay or to be sent to their country of origin. The terminology used by the Mexican government comes as an illusion for detaining individuals against their will which is by international human rights law depriving one of their personal liberty. The Inter-American Commission on Human Rights (IACHR), in conjunction with the Organization of American States (OAS), have determined in their 2014 report on *Human Rights of Migrants and Other Persons in the Context of Human Mobility in Mexico* that "under international human rights law and the inter-American standards on the right to personal liberty, the measures known as "presentation" and "holding" are forms of deprivation of personal liberty because they prevent irregular migrants from exercising their right to freedom of movement." (IACHR-OAS, 2013) . The fact that an attempt of clever wording does not and cannot hide the fact that migrants' human rights are being violated by the Mexican government during their apprehension and detention while being investigated on their irregular migration status.

Apprehension and detention has been esteemed by the Special Rapporteur on the Human Rights of Migrants that "to make good on the guarantees set forth in Article

7 of the American Convention, member States must establish immigration policies, laws, protocols and practices premised on a presumption of liberty—the migrant's right to remain at liberty until the immigration proceedings in his or her case have come to a conclusion—and not on a presumption of detention." (IACHR, 2010).

For Article 7 of the American Convention reads:

1. Every person has the right to personal liberty and security.
2. No one shall be deprived of his physical liberty except for the reasons and under the conditions established beforehand by the constitution of the State Party concerned or by a law established pursuant thereto.
3. No one shall be subject to arbitrary arrest or imprisonment
4. Anyone who is detained shall be informed of the reasons for his detention and shall be promptly notified of the charge or charges against him.
5. Any person detained shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to be released without prejudice to the continuation of the proceedings. His release may be subject to guarantees to assure his appearance for trial.
6. Anyone who is deprived of his liberty shall be entitled to recourse to a competent court, in order that the court may decide without delay on the lawfulness of his arrest or detention and order his release if the arrest or detention is unlawful. In States Parties whose laws provide that anyone who believes himself to be threatened with deprivation of his liberty is entitled to recourse to a competent court in order that it may decide on the lawfulness of such threat, this remedy may not be restricted or abolished. The interested party or another person in his behalf is entitled to seek these remedies.
7. No one shall be detained for debt. This principle shall not limit the orders of a competent judicial authority issued for nonfulfillment of duties of support.

The detention of irregular migrants during mobility denies them their fundamental right to further continue that mobility free from any forces of the state. The IACHR report

expands on that by stating that “automatic immigration detention is antithetical to protection of the right to personal liberty and to the principle that immigration detention must be an exceptional measure and a last resort” (IACHR, 2010). A less invasive alternative could and should be explored, one that will not restrict nor refuse the autonomy of an individual until a compelling judgement has been made. Mexico's decision to ‘house’ irregular migrants during their immigration proceedings reflects its unreasonability to adhere to international human rights and recommendations which in turn further perpetuates their vulnerability and endanger their overall health. Detaining an irregular migrant has seemed to be Mexico's primary and sole response--to argue it has been made a ‘last resort’ as the American Convention states, would be hard to debate given the realm of possibilities that currently exist.

Interestingly enough, although processing and detention should typically last 2 days, a migrant's ‘processing’ can have them detained for up to 60 working days according to Mexico's migration law (Isacson, Meyers, and Smith, 2015). Several factors can determine the extension such as: the detention center's inability to accurately identify the migrant and/or his or her nationality, difficulties in obtaining identification documents, consular delays, or health problems, among others (Centro de Derechos Humanos Fray Matías de Córdova, 2015). For those from politically or operationally unstable regions of the globe, a migrant is “to be returned (such as for migrants fleeing violent conflicts who would not necessarily qualify for asylum), the migrant might spend a significant amount of time in detention waiting for an exit document (oficio de salida), granting the individual the possibility to remain in Mexico for a period of up to 20 days (many of these migrants likely then make their way to the U.S. border)”. (Isacson, Meyers, and Smith, 2015) Isacson, Meyers, and Smith's report mentions one Mexican official's statement that estimated that approximately 30 percent of the population in Mexico's largest detention center, known as Siglo XXI, are detained for prolonged periods of time. (Isacson, Meyers, and Smith, 2015). Extended periods of detention has had detrimental effects on those detained.

Unaccompanied migrant children have been stuffed with adult migrants although it is lawfully forbidden by Mexican law. Detained migrant children are supposed to be housed in accommodations under the supervision of the National System for Integral Family Development (Sistema Nacional para el Desarrollo Integral de la Familia, DIF) yet are still being placed at times with adult migrants due to the lack of space in DIF shelters. This can be very dangerous for the children for very obvious reasons. Children run a very high risk of being physically, mentally, emotionally and sexually assaulted at the hands of adults. The vulnerability of the children in detention centers is heightened significantly due to their mental and physical fragility. The fact that they are youth,

undeveloped and incapable of defending themselves in any form should be obvious enough to prohibit any housing exceptions with adults.

Since the unaccompanied migrant children are housed with adults, that includes a predatory group such as gang members which at times have purposely been captured to be threaten and abuse the migrant population. Isacson, Meyers, and Smith capture the susceptibility of the children with reports from detained migrants describing “fears for their own safety, since at times gang members have allowed themselves to be caught so that they can stay inside the detention center, watching over and harassing other migrants.” (Isacson, Meyers, and Smith, 2015). Many unaccompanied migrant children escaped from their countries of origin due to skyrocketing gang violence especially those from El Salvador and Honduras whom have some of the highest violent crimes in the world (Isacson, Meyers, and Smith, 2015). Leaving their homes due to insecurity only to be back into further insecurity at the hands of different actors, in this case state actors, speaks to the sense of inevitable vulnerability that they find themselves in. The fact that state actors are supposed to provide protection according to international and national human rights laws yet fail to do so is incomprehensive given the sources and training provided to Mexico.

Migrant children are to be protected by various international human rights laws due to their heightened vulnerability. The vast levels of recorded victims of various crimes and human rights abuses in Mexico were against boys, girls and adolescents. Such observations should require Mexico to adopt new legislative measures to better safeguard children during their times of transnational mobility. As stated under Article 19 of the American Convention and the United Nations Convention on the Rights of the Child, Mexico has an obligation to adopt special measures to protect children and adolescents within their jurisdiction yet they have fallen behind on the creating any (CRC, 1989). Mexico's stagnant adoption of protective measures must bear in mind the children and adolescents' rights that adequately address their special needs of protection that speak to the realities of the greater vulnerability they face in comparison to other groups.

The Right to Due Process

Migrants' livelihood has been jeopardized as a result of Mexican immigration forces' denial of distributing proper legal representation and information regarding their rights. Upon detainment in Mexico's processing facilities, reports have surfaced about

migrants' not knowing their rights nor being informed about them. That comes as a clear human rights violation. For under article 5 of the Status of Aliens Treaty in Inter-American Commission on Human Rights (IACHR) it clearly reads that:

States should extend to foreigners, domiciled or in transit through their territory, all individual guaranties extended to their own nationals, and the enjoyment of essential civil rights without detriment, as regards foreigners, to legal provisions governing the scope of and usages for the exercise of said rights and guaranties (Inter-American - Status of Aliens - ARTICLE 5)

Part of those individual guaranties that nationals benefit from is that right to a proper due process. The right to legal provisions carries great civil and political empowerment for any human being. Given the vulnerable state migrants in an irregular status are in during transit, the denial of that human right further provokes their vulnerability. In addition, denying migrants, or any individual, of enjoying this civic right undermines our societal liberties. These liberties are essential to our progress as free democracies to advance in our treatment to one another. Our human rights are embedded in these free democracies and should not be limited, restricted or denied at any moment or situation. The most vulnerable especially cannot and should not be at the mercy of a state or actor that prevents them of exercising this vital human and civil right.

While the Inter-American Commission on Human Rights' Status of Aliens Treaty emphasizes the migrant's right to enjoying the same civic rights as those of any national, article 16 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families specifically states that any migrant is to be well-informed of their human rights that apply in any relevant treaty.

For Article 16 (c) states:

The person concerned shall be informed without delay of this right and of rights deriving from relevant treaties, if any, applicable between the States concerned, to correspond and to meet with representatives of the said authorities and to make arrangements with them for his or her legal representation.

(International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families- ARTICLE 16)

While enjoying the rights that nationals are given, migrants are to be informed of their rights by government authorities. In the event of a given situation, the authorities

are required by international human rights laws to be given legal representation without delay. As stated, while in detention, migrants are often times denied or delayed of this right; leaving them at the hands of fate. The denial of legal representation and the delay in receiving this information speaks to the incompetence on behalf of the Mexican state. What we see is contradiction between theory and practice with the formation of such programs and laws like the Southern Border Program and the reformed Migration Law. Even with the verbal and legislative attempt to promote, respect and enforce human rights, the state falls drastically short. This comes at a moment of great necessity and justice when migrants need representation during their times of irregular mobility. Yet, the coordination between Mexican laws and ratified International Conventions are yet to be aligned, where contradiction and contrast are existent in the context of migrants' rights.

Mexico's migration statutes—specifically the Constitution, the General Law of Population, and the International Conventions that Mexico has ratified—remain inherently uncoordinated. For example, Article 125 of the General Law of Population and Article 33 of the Mexican Constitution do not guarantee due process to a foreigner facing deportation and, as such, they contradict the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. Even though Mexican legislators have emphasized the importance of achieving coordination between Mexico's migration laws and such treaties, this inconsistency remains an issue. (Gonzalez and Koslowski, 2011). Mexico's failures in providing just legal processing to migrants adds to the increasing world of hopelessness and trauma that migrants already face. Suffering from an already-grim situation in their home states, migrants now find themselves in a new unjust experience where they are not even provided with the proper international judicial processing. For as willing as Mexico has been to sign and ratify international human rights conventions they are constantly finding themselves unable to meet the obligations that provide basic human rights. This inconsistency and lack of adequate legal coordination has been a continuous barrier for Mexico's capability to uphold the rule of law, or even set forth strategies of action that would advance Mexico's human rights' objectives. The protection of the migrant community is under constant threat when unrepresented or underrepresented during their legal processing; a threat that harms their mental and physical well-being due to the level of stress these experiences bear.

Refugees and Asylum-Seekers Legal Underrepresentation

Refugees, distinct from migrants, face extraordinary circumstances that has them positioned in a certain area of vulnerability. While the Mexican government swears the

protection of refugees, they have yet to do the necessary to offer such a human rights service. The Commission for Refugee Assistance (Comisión Mexicana de Ayuda a Refugiados, COMAR) is the attributed agency that is in charge of screening and processing potential refugees. Of the many of migrating individuals apprehended and detained, few have sought out the protection the COMAR is designed to provide. This could be attributed to a number of realities from refugee or asylum-seekers being discouraged to seek such protection or, if not detained, being unable to financially sustain themselves while they are being processed or, if already detained in a detention center, they are unwilling to remain detained while processed. Yet, many times, it comes from individuals not knowing they are even capable of seeking such a status because they not been given the proper information on it nor have been screened properly. The fact that Mexico has numerous individuals that should constitute as refugees or be granted asylum and have not be proportionately granted such status is incredible.

Mexico's Law of Refugees, Complementary Protections, and Political Asylum bases the right to asylum on "generalized violence; foreign aggression; internal conflicts; massive violation of human rights; and other circumstances leading to a serious disturbance of public order" (Ley Sobre Refugiados, Protección Complementaria y Asilo Político, 2014) Based on that definition, the vast majority should be given asylum since the vast majority are running from violence and human rights violations in their home state according to. Yet, only 451 individuals were granted refugee status in 2014 which constitutes to around 21 percent of all requests(Ley Sobre Refugiados, Protección Complementaria y Asilo Político, 2014). In addition, COMAR granted 79 individuals with "complementary protection" which permits these individuals to stay in Mexico due to the risk of death, torture, or other cruel and inhumane treatment should they be returned to their countries. This special status does not allow these individuals cannot apply to bring their family members since they are not technically refugees.

This brings us to why are such few individuals granted refuge or asylum. According Isacson, Meyers, and Smith, many are unaware of their rights to seek protection even though INM agents are required to inform migrants of their rights, including the right to request protection in Mexico (Isacson, Meyers, and Smith, 2015). Of course, the reality is that INM agents are overlooking this practice or improperly informing an individual in detention of their right to seek such status. One can assume that many times what is happening is the individual most likely signs documents confirming they have been informed of their rights yet do not fully grasp the content (Isacson, Meyers, and Smith, 2015). The Inter-American Commission on Human Rights

(IACHR) December 2013 report on the migrant situation in Mexico estimated that 68 percent of the people held in Mexico's largest migrant detention center, the Siglo XXI facility in Tapachula, were unaware of their right to seek protection (IACHR, 2013). The numbers of unaware detained individuals in Mexico's detention center is very problematic for a country that claims to be promoting and enforcing the international human rights treaties. Even with its newly-acquired commitments towards enforcing the rule of law and respecting human rights, Mexican immigration officials are still unable to accomplish its basic requirements of distributing migrants of their fundamental human rights. This has required the UNHCR to even visit Mexico's migrant detention centers in an attempt to inform migrants on their rights to seek protection through posters or videos.

For those aware of their right to seek asylum find themselves in difficult predicaments in which they must decide to seek asylum and remain detained for a longer period of time or decide to be released and deported back to their country of origin. The extension of their asylum-seeking process can last up to 45 business days and have a possibility of further extension based on a variety of criteria such as a need of additional documents required from the migrant (Ley Sobre Refugiados, Protección Complementaria y Asilo Político). The time to remain detained for that long can be discouraging and unbearable for those seeking asylum.

The time of prolonged detainment has created an increase of asylum requests to be desisted. For those that are allowed to seek asylum outside detention, they now must find a means to provide for themselves and their family during the process. Difficulties are increased with their irregular status which acts a barrier for things such as employment. Many times refugee families will seek humanitarian assistance from UNHCR just to sustain their basic needs. The sought out aid places refugee and asylum-seekers into another state of vulnerability since they have now become dependent on the services of the UNHCR. If the UNHCR becomes overwhelmed in requests, a shortage of services and funding can affect those seeking assistance. The dependence on UNHCR assistance is another worry that refugee and asylum-seekers must carry upon their shoulders during their time of difficulties. As unstable as their transnational transit is, the apprehension and detention period traumatic, now, add another level of insecurity during the asylum process and you increase the refugees and asylum-seekers' mental and physical health risks.

This all comes down to the lack of legal representation that potential refugee and asylum-seekers face. Migrant's financial limitations inhibit their ability to access and acquire legal representation. Along with migrant's economic restrictions to hire an

attorney, pro-bono immigration lawyers in Mexico are few and far between. The amount of available pro-bono lawyers creates an additive barrier to migrant's acquirement of their human rights rights. Civil society organizations (CSO) are another non-state actor that attempt to assist migrants seeking asylum or refuge. Yet, their restrictions and limitations make it difficult to provide their services, especially in entering migrant detention centers. In the case of the Tapachula-based Fray Matías de Córdova Human Rights Center, they are "only able to enter an office at Siglo XXI twice a week for four hours and is only able to speak with migrants who have put their names on a list. As is the case in the United States, refugee-status seekers who lack legal support are less likely to see their claims resolved in their favor" (Sin Fronteras, 2013). The lack of legal support provokes their vulnerability to the susceptibilities of exploitation and abuse as well as unables them from potentially accessing asylum.

It does not help that COMAR is understaffed with only fifteen agents available to process the entire country's asylum claim. Asylum-seekers and refugee-seekers are interviewed by COMAR agents who base their decisions to grant asylum or refuge on an analysis of the situation of the migrant's country of origin. The agent's subjective analysis of both the migrant and their home country make it difficult to imagine the proper and justifiable protocols are being followed. Based on the understaffing of COMAR, it is difficult to imagine that COMAR agents are able to give the necessary evaluation of each migrant seeking protection. The Washington Office of Latin America have also noted that there are not many available COMAR agents in many parts of Mexico "which limits migrants' ability to speak with anyone about their eligibility for protection. In these cases, a migrant must communicate his or her interest in requesting protection to an INM agent, who then transmits this information to COMAR". (Isacson, Meyers, and Smith, 2015).

The understaffing of COMAR is one that is very problematic for several reasons. For one, the underrepresentation in COMAR's staffing greatly inhibits the processing time it takes to adequately review a migrant's application for refuge or asylum. When you have thousands of migrants in a very vulnerable state, their lives depending on the approval of their asylum or refugee request, there must be an fast and efficient processing to ensure every migrant's application is properly reviewed. Many migrating left very oppressive conditions in their country of origin so it is important to process their requests for asylum or refuge as quickly and as adequately as possible. The lack of staffing furthermore places the migrant in limbo, creating an in even greater vulnerable state for them.

Migrants' irregular status becomes more and more complicated and prolonged which makes the migrant's position difficult. For every delay that may occur during a migrant's application for refuge or asylum, the migrant faces greater and greater risks in overall health. The mental stress, for instance, is under great duress; the uncertainty of how much longer they must remain within this limbo of irregularity or whether they will be deported back to their home country where they face a multitude of challenges is a lot to cope with. The degree of mental fatigue migrants face throughout the asylum process is something that requires mental therapy in an attempt to restore some level of mental balance in which, in all reality, they will be very limited or denied in accessing or acquiring.

Secondly, their physical health, and the health of their family, is jeopardized regardless if they are detained or released during the processing. If they are detained within the migrant detention center, the living conditions are known to be negatively impactful. Within a cramped cell amongst others, their vulnerability is increased; even more so with the aforementioned facts about the general population, especially gang members, being detained alongside the migrants to shake them down while detained and even after they are released. Many of these gang members have been known to rob and abuse migrants in their time of transit. When they are not detained, and are given the liberty to be released within the state while their application is processed, they now face the challenges of finding employment and possibly housing for themselves and their families. Their irregularity status makes it difficult to find employment or if they are able to find employment, it is either poorly paid, physically demanding, dangerous, or all three. The health risks of understaffing at COMAR create this mounting web of vulnerability for those applying for refuge and asylum which makes it vital that Mexico attends to these needs with the adequate amount of financing, staffing and training.

Finally, we must highlight the vulnerability and dangers they face if deported back to their country of origin that could be plagued by social and political ills that could jeopardize the health of those returned. If the state has not run an adequate refugee or asylum process to each migrant, they run the risk of refoulement.

For Article 31(1) of the Refugee Convention states:

Refugees unlawfully in the country of refuge – “The Contracting States shall not impose penalties, on account of their illegal entry or presence, on refugees who, coming directly from a territory where their life or freedom in was threatened in the sense of Article 1, enter or are present in their territory without

authorization, provided they present themselves without delay to the authorities and show good cause for their illegal entry or presence”.

(Convention relating to the Status of Refugees)

This part is difficult to legally defend against. Mexico technically has this implemented process for those requesting refuge or asylum. Mexico's COMAR do not impose penalties if one enters the state without proper documentation. Yet, the problem here is because of their understaffing, which could be due to a lack of political desire and financial and staffing limitations make it very difficult to adequately and efficiently fulfill everyone's request for protection. In addition, as mentioned earlier, the documentation required to request asylum or refuge is not necessarily realistic when speaking about an individual escaping a dangerous environment. Demonstrating that one must “show good cause for their illegal entry or presence” does not consider a migrant's fear for national authorities, whether of their home state or the one receiving state's, are unable to present what a state would consider a legitimate means to entering without evidential documentation claiming so. The major critique must go against the Mexican state for not bettering the refugee and asylum process given how instrumental it is for the health and livelihood of these individuals in need.

The Right to Health

A major pressing violation for migrants has been their right to health. The World Health Organization (WHO) has defined health as a “state of complete physical, mental and social well-being and not merely the absence of disease or Infirmity” (WHO, 1948). The definition remains contested and finding an alternative is constantly sought but it remains an acceptable definition in which to base the argument of this paper on. Pace has distinguished the definition of health to be one that focuses on “integration rather than contradiction of two concepts: one negative (absence of disease or infirmity) and one positive (promotion of human well-being)” (Pace, 2009). The importance to connect the necessity of both the negative and positive is crucial when discussing the entity of health. The fact that the WHO Constitution draws upon not only the physical health but the mental health of an individual while referring to vitality of preventive and curative health strategies is worth noting. The WHO acknowledges the importance of a comprehensive definition to health and a comprehensive approach to employ health services much like the concept and operational functioning of human

security which is to be covered in the following chapter. The Right to Health remains the limited, restrictive and denied to specific individuals despite a State's non-discriminatory responsibility.

Article 12 (1) 24 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) states the Right to Health as:

"right of everyone to the enjoyment of the highest attainable standard of physical and mental health" (ICESCR, 1966).

The ICESCR too recognizes the right to health is not one that is bound to certain groups nor is it bound to just health care. The right to health extends to factors much less considered when exploring what it means to be access to adequate services. That extension also means the right to safe drinking water, proper sanitation, proper and nutritional food resources, or safe environmental conditions to name a few. Pace recognizes the importance of "the participation of the population in all health-related decision-making at the community, national and international levels, including those who have migrated" (UN Committee on Economic Social and Cultural Rights, 2005).

That decision-making process is a matter that often times leaves those most affected left out. In the context of access to health services and health-related policy strategizing, vulnerable groups such as migrants must be brought to the table in order to ensure their input on what is most needed. The importance in welcoming migrants' input is instrumental to the overall health of the state and the region itself. When migrants and other vulnerable groups are left out, the state runs a risk of allowing the spread of health-related dangers that can become very difficult and costly to control. Health-related risks know no physical boundaries and can see negative effects in every aspect of society. Therefore, it is not only essential to migrants and those most vulnerable but also crucial to the overall stability and health of the State to welcome the voices and decision-making of all affected individuals in health-related strategizing and operational functioning.

Other Human Rights Relating to the Right to Health

As stated, the number of rights touching on the right to health can be found in the International Bill of Rights that is comprised of the UDHR (1948), the ICCPR (1966) and ICESCR (1966). They include the rights to: food, housing, work, education, human dignity, life, non-discrimination, equality, the prohibition of torture, privacy, access to information, and the freedoms of association, assembly and movement (CESCR, 1966).

It is under these covenants that none of these ratified rights are to be restricted by any means. It is important that States acknowledge and respect the fact that those rights are established and implemented for the health of the overall global society. Yet, that does not mean the reality of a health epidemic is immune to any limitation.

While a firm stance on the right to health is internationally accepted, it also comes to great contradiction that there are also exceptions in which can deem a situation necessary to the restriction of those rights. Such rights that become limited are those such as: freedom of movement; freedom of opinion; right of peaceful assembly; and right to freedom of association (International Covenant on Civil and Political Rights, 1966). However, "Public health may be invoked as a ground for limiting certain rights" only "in order to allow a State to take measures dealing with a serious threat to the health of the population or individual members of the population. These measures must be specifically aimed at preventing disease or injury or providing care for the sick and injured".³³ (CITATION). Of course, we have seen such "threats" be included in many States' justification for control-based migration policies. The fact that public health is to be denied or restricted in any way to vulnerable groups such as migrants typically speaks to the unwillingness or inability of politicians to perceive migrants' health as a fundamental right that should not be limited. State health typically prioritizes over migrant and even specific citizens' health. Though, the Siracusa Principles have captured some justified limitations to these rights in which most speaks in defense of state health.

The Siracusa Principles have become internationally accepted standards for the understanding of limitation provisions in human rights instruments (Siracusa Principles, 1985). According to these Principles, action aimed at derogating or limiting rights must: be prescribed by law; have a legitimate objective that cannot be reached through less intrusive and restrictive means; be based on the best scientific evidence available; not be drafted or imposed arbitrarily; be limited in time; and subject to review. (Siracusa Principles, 1985). In this situation, Mexico has established laws that legally provides them the ability to limit the aforementioned rights. Yet, it must be questioned whether or not Mexico has explored all other viable options in replacement to detention and the health effects that entails. The Siracusa Principles will later be brought up in the section of detention.

Although no Mexican government official has outright come out to justifying the restricting of migrants' right to health, they have justified the importance of "processing" migrants in irregular status. Some have claimed the importance to do so out of the migrants' own safety. In contrast to the "sincerity" of Mexico's intentions to protect the

migrants by denying or limiting their fundamental human rights, the reality is that migrants are most vulnerable or in harm when such processing is conducted. As stated, throughout the migrants' journey, from beginning to end, the vulnerability and risks are incredibly increased when such control-based migration policies restrict their fundamental liberties. Mexico's recorded human rights violations have made it clear that limiting the migrants' right to health through its migration policy has further affected migrants' health in a negative way.

Chapter. 3 The Flaws and Failures of Mexico's Migration Policy

Based on Mexico's exaggerated human rights violations and the continuous influx of migration, one can argue that Mexico's methodology has resulted in many shortcomings and health-risks for migrants and general public in the affected regions. Mexico's current migration policy has largely failed in several ways: (1) respecting and complying with international human rights; (2) it has provoked vulnerability in an already vulnerable group by denying migrants fundamental rights; (3) its concentration on control is ineffective and one-dimensional; and (4) its largely nearsighted and is not a viable long-term solution. Through the recorded reports by various state and non-state sources, its most obvious that Mexico has fallen short of respecting international human rights or even curbing the state-sponsored abuses and violations. This could be possibly attributed to Mexico's various federal agencies that have placed apprehension through force as their main objective. Mexico is widely known for state corruption and the use of excessive force by their law enforcement agencies has increased insecurity and vulnerability to the already-vulnerable migrating population. Its focus on controlling migration and not formulating a more intersectional strategy to managing migration has failed its ability to curb the flow of migration itself while endangering the health of those migrating. For these reasons, Mexico's migration policy can be seen as nearsighted since it is founded on suppression which does not truly resolve a situation, it simply delays it and increases health risks amongst those affected by it.

The Inefficacy of the Control Policy

Mexico's current migration policies are focused on control, apprehension, detention, and deportation. Both Mexico's reformed Migration Law (Ley de Migracion) and the Southern Border Program (Programa Frontera Sur)'s containment structure, are formed under the influence of Mexico's control-centered policy which has not been ineffective in complying or respecting international human rights laws and migrants' human rights to be specific. To add to Mexico's international obligations' failures, Mexico's policy has provoked vulnerability amongst migrants--further endangering their lives. Lastly, although Mexican officials have not officially stated the purpose of their control-based migration policy, their objectives to apprehend, detain and deport exposes the true reality of the migration policy--which is to prevent incoming migration flows--has failed to stop migration. Those major drawbacks to Mexico's control policy remains largely on the growing consensus by leading international migration researches that control policies tend to fail in general for several reasons which will be briefly covered further below.

As mentioned, there is ever-growing consensus that control policies alone cannot prevent irregular migration (Caritas, 2004). This is most evident by the fact that in many states irregular entries have increased despite the introduction of such policies, and where they have fallen it has normally not been to acceptable levels (MPI, 2004a). Koser has attributed some these grander powers to be things like globalisation, conflict and worsening global economic disparities. These factors are well beyond the control of direct state intervention (Koser, 2005). State migration policies cannot and do not necessarily influence a movement as strong as migration. An individual that must act in order to preserve their life and the life of their family will do whatever is necessary even when the obstacles are great and many. Specialists in control-based policies such as Zetter acknowledge that control policies do not change the fundamental reasons for irregular migration (Zetter, 2003). That is very important observation when analyzing a state's decision to implement such policies. The fact that such substantiated arguments exposes the reality of the inefficacy of control policies comes to a surprise to why such policies are still established. Even more so knowing the aforementioned forces that create powerful waves of human movement.

This leads to a second point--the power of human migration and its extreme difficulty to stop. Experts such as Boyd, Gurak and Caces have concluded that may be a result of social networks and chain migration (Boyd, 1989; Gurak and Caces, 1992). Systemic phenomena such as globalisation and capitalism have thrived on migration and have as a result become dependent on the maintenance of such human mobility. This has opened migration up to an array of businesses such as recruitment agents and the whole travel industry to even seedy enterprises such as migrant smuggling and human trafficking (Salt and Stein, 1998). Such of migrant smuggling and human trafficking are sometimes due to migrants' need to move within non-traditional migratory passages which places them in danger of these actors.

As mentioned, the unintended consequences of control policies cannot be foreseen as one may predict. Koser noted that that one consequence of control policies has probably been to fuel the growth in migrant smuggling (Koser, 2000). Even where smugglers are not involved, control policies have often pushed migrants to more dangerous and complicated ways of crossing borders and remaining illegally (MPI, 2004). This has impacts on other related policies like that of asylum seekers which no longer becomes part of the refugee policy which many times has negative effects. One of the main reasons it can be problematic is the similar structuring to irregular migration in which it is becoming control-oriented and losing the protection focus of refugee policies (UNHCR, 2004). The position that puts asylum seekers in is very dangerous

since a control-based policy can dismiss their claims more readily not to mention they can be improperly categorized by the general population and politicians alike as irregular migrants. The distinction between both groups are very important to distinguish since they have unique threats that require specially-tailored resources and services.

Provoked Vulnerability

As mentioned, Mexico's migration policy has increased the vulnerability of the already-vulnerable migrating population. Over the last few decades, the vulnerability migrants face has been under constant watch by the international community. A non-national individual resides in a foreign country exposes them to a certain level of danger of becoming a target of human rights violations, discrimination, and abuse. The Inter-American Commission on Human Rights' (IACHR) reports that migrants "face de jure and de facto discrimination and are vulnerable because of the difficulties they have in expressing themselves in the language of the country in which they find themselves; their lack of understanding of the local culture and customs; their lack of political representation; the problems they encounter in exercising their economic, social and cultural rights—particularly their right to work, their right to education, and their right to health; the difficulties they encounter in obtaining identification documents, and the problems they encounter in accessing effective judicial remedies when their human rights are violated or when seeking reparations for such violations" (IACHR, 2013). These insurmountable risks migrants face must be attended to in order provide them the security they deserve under international human rights laws. The state of Mexico must not only claim their willingness to protect migrants but must actually follow through with their legal and oral commitment.

The fact that national security has been placed at the forefront of addressing transnational migration has created this increased vulnerability for migrants. State policies have focused on segregating migrants as much as possible from the general public by rounding them up, detaining them, and deporting them at times without proper due processing and under inhumane conditions which has perpetuated this mentality of 'otherness' that allows migrants to be treated as a lesser individual. This view of the 'other' is most apparent during their documenting processing and detention. The fact they are in detention, even if Mexico claims that transiting into and through its boundaries is not a criminal offense, demonstrates how state addresses the issue as state threat as opposed to a humanitarian crisis. Those migrating are individuals in need. The shakedown of migrants by corrupt law enforcement officers, and their

eventual detention in substandard conditions, is not an appropriate way of approaching the situation humanely.

Migrants who experience horrid, substandard conditions while in detention also captures their denial of enjoying the highest accessible health services which restricts their right to health. Their level of vulnerability due to Mexico's control-policy has not acted appropriately in considering the health of migrants. Mexico's migration policy has responded with tactics that greatly resembles the manner in which law enforcement responds to criminals. The theoretical objectives in store once again do not reflect their practices which is why we are witnessing health deterioration amongst migrants while in detention.

Although Mexico does not under law criminalize migrants they have treated them as criminals due to their manner of processing their documenting status in which makes migrants' irregular movements all the more vulnerable. The Commission has recognized that the extreme vulnerability of migrants in an irregular situation exposes them to the danger of being victims of abuses and violations of their human rights (IACHR, 2013). In the Commission's view, migrants in an irregular situation face a structural vulnerability in which they are subject to arbitrary arrest and a lack of due process; collective deportation; discrimination in access to the public and social services to which foreign-born nationals of other states are entitled by law; inhumane detention conditions; unlawful harassment by police and migration authorities; obstacles in accessing and getting justice for crimes committed against them and an inability to defend themselves when exploited by unscrupulous employers (IACHR, 2000). The vulnerabilities the Commission has reported couldn't be more accurate when you analyze the disparities migrants have faced in Mexico. Every challenge listed above by the Commission exposes the necessity and importance to provide migrants in Mexico with the just representation, services, and resources.

The systematic oppression migrants face is an addition to the other factors such as color, race, national origin, language, sex, etc. An intersectionality of discrimination is most apparent in women of darker skin hue for example. The Commission has frequently observed that they "suffer an intersection of forms of discrimination combined with their sex and their condition as migrants, such as their age, nationality, educational and economic level, among others; dimensions that should be examined by States in the design of interventions with the goal of better protecting their human rights in the realm of justice." (IACHR, 2013). Such individuals' socially targeted identity reveals the levels of vulnerability that a migrant faces, the more socially shun that individual is increases their subjectivity to health dangers. A transwoman or a physically or mentally

disabled individual carries another level of danger as well. The need to implement social programs and training is instrumental when it comes to protecting the most vulnerable from arbitrary stigmatization and abuse.

The stigmatization of migrants has been historically divisive when accepting or integrating migrants into the mainstream society of any country. End result are recorded migrant experiences of robbery, extortion, physical, psychological and sexual violence has been some of the few of many reported of dangers migrants face according to the Commission (IACHR, 2013). Much of these targeted offenses against migrants has been along Mexico's southern region where Central Americans enter through. If migrants are not being harassed by State forces, they are being abused by local gangs or other exploitative individuals. The irregular situation of migrants are pressured to resort to a life in the shadows, outside of the public eye to avoid the many forms of violence. A greater danger awaits them by this cause-and-effect scenario, one in which further perpetuates their vulnerability.

Migrants that have been forced into move within the the shadows presents a different form of vulnerability. For instance, when migrants are pushed to move through non-traditional paths, perhaps a deep-forested jungle or rocky and unsafe mountains, places them in greater danger of becoming injured by the conditions of the natural environment as well as being unattended to in the event of an injury. In addition to the dangers of the natural environment, they also become even more vulnerable to the predatory exploitation and violence of local street gangs or narco-trafficking organizations that have been known to terrorize migrants frequently. The Commission has received abundant information about state agents, such as INM agents and municipal, state and federal police officers who, either directly or by colluding with organized crime, have committed crimes and human rights violations against migrants (IACHR, 2013). Although presented with this very unfortunate circumstance, they run that risk in order to not be detected, detained, or deported by immigration forces. That added fear of being reported to the INM or preyed upon by the criminal organizations positions migrants in a very difficult and unsafe predicament.

Inability to Prevent Migration Flow

Control policies such as the one Mexico has been implementing typically do not fare too well in terms of preventing or managing incoming migrating populations--with Mexico's policy being no exception. The concern at hand is that Mexico's aggressive

apprehension and deportation of migrants is not a suitable or effective method to preventing or managing migration flow for it is largely limited, one-dimensional approach. When we focus on apprehension statistics, we notice that there has been an increase of apprehensions by Mexican border agencies scaling from 2010's 63,356 to 2015's 166,503; with each year progressively increasing (Chishti and Hipsman, 2016). These recorded accounts signify two things: one, Mexican immigration agencies have been doing their job in apprehending and detaining; and two, migration into Mexico from Central America has not slowed down, only increased. If Mexico's policy was meant to control migration, it has not necessarily done a good job of solving the issue but instead given the illusion of resolving it.

According to Koser, an average of eight percent of those detained from the years of 2011-2015 have been deported (Koser, 2005). Yet a dual perspective can be interpreted by the recorded numbers. Despite the high recorded apprehensions, detentions, and deportation, one cannot convincingly argue that Mexico's control policy has effectively resolved the situation of migration. One way of looking at it can be seen that Mexico's Southern Border Program is functioning as intended--to apprehend, detain, and deport. The high numbers demonstrate the efficiency of the program. But if the goal is to simply apprehend, detain, and deport, then should that not be interpreted as being near-sighted when speaking to the current, and future potential, effects of migration.

According to Caritas, there is a "growing consensus that control policies alone cannot prevent irregular migration" (Caritas, 2004). This is evidenced by the fact that in many states irregular entries have increased despite the introduction of such policies, and where they have fallen it has normally not been to acceptable levels" (MPI, 2004). Control policies taken by Mexico have been largely ineffective in managing migration or respecting and enforcing human rights. What the international community, scholars and professionals in the field of border securitization are coming to the conclusion are that control policies cannot prevent migration, nor will it. At best, they stall the resolution process in order to either find a different alternative. Yet, the current trend seems to negate any other alternative solution to be in the works. Stalling will not protect the state or the migrating population. One thing that is clear is that control policies are largely political, where some people's and some politician's misguided anguish towards foreigners influence the state's migration policy enough to render any needed progress. Those in favor of control policies on migration then push for a strategy that gives the illusion of security from migrants which are seen as 'the other' or the 'enemy' as mentioned before.

To be clear, a keyword to focus on in the Carita's statement is that of the word 'alone' when speaking to preventing irregular migration. The main issue comes down to control policies' lack of comprehension and intersectionality. Control policies are designed to maintain complete authority over a given situation, and nothing else; that attempt of control is the sole objective on the agenda. The problems are that is control policies are merely an illusion of control; that have proven time and time again their inefficacy and lack of understanding of a complex matter. Control policies are an operative system that typically functions in singular fashion with little or inadequate diversification. With something as complex as irregular migration, a strategy as simplistic as Mexico's migration policy does service to no one, not the migrating population or the state. It is merely a 'quick-fix' type of solution for a situation that requires a more in-depth response. This is a band-aid solution whereas it does not resolve the root of the situation itself, it temporarily--and ineffectively--fixes the situation but does not properly attend to it.

To put it into a simplified and graspable analogy, where there is a table's loose leg due to a broken screw. The looseness of the leg creates instability and causes the table to wobble, making it a risk to leave unattended. Instead of repairing or replacing the damaged leg and broken screw, the owner decides to place a stool next to the wobbly leg for support. It temporarily holds up but with the normal yet constant activity taking place on and around the table, the stool tends to move out of place no longer supporting the table and thus making the table at risk of collapsing again. The owner has the capability to take off the wobbly leg and screw, sand the leg and with a new screw, piece the table back together, securing the stability of the table again. In this overly simplistic analogy, the Mexican government resembles the owner and the table representing the whole migration situation. The table's owner has decided to temporarily resolve the imbalanced table by placing a stool next to the wobbly leg, much like the Mexican government has chosen to implement a control policy which only temporarily and unreliably resolves its migration situation. Much like the owner's response to the table and Mexico's response to irregular migration, both are incapable of meeting the needs of the situation. If left incorrectly repaired, both have disastrous consequences, which we are currently witnessing now.

Whether we wish to view it as quick-fix response or a stalling approach while they figure out a more complete solution, Mexico's control policy will remain ineffective in preventing migration, managing migration or discouraging others from migrating. It all comes down to designing a comprehensive and prevention-oriented approach when addressing irregular migration. One of the trending concepts structured on prevention and is multifaceted is the human security concept. It can be utilized as the foundational

concept and an operational tool to base migration policies on. This is not to say it is the answer to irregular migration but it is comprised of an interlinkage of various mechanisms that together can better manage irregular migration while focusing on the health and integrity of the individual.

Chapter 4. Human Security Concept and its Relation to Migration

A Brief Introduction to Human Security

The term 'human security' first came on the scene shortly after the dismantling of the Soviet Union, most notably after the fall of the Berlin Wall. The new circulating word was intended to shed light on an alternate paradigm that would focus on the "physical and psychological security, dignity and well-being" (CHS, 2003). Although the term is defined distinctively around the world and constantly challenged, in this paper, human security will be utilized and founded on the Commission on Human Security's (CHS) Human Security Now report which was defined with the expertise and work of Shahrbanou Tadjbakhsh.

In the report, the term human security was defined:

"...to protect the vital core of all human lives in ways that enhance human freedoms and human fulfillment. Human security means protecting fundamental freedoms – freedoms that are the essence of life. It means protecting people from critical (severe) and pervasive (widespread) threats and situations. It means using processes that build on people's strengths and aspirations. It means creating political, social, environmental, economic, military and cultural systems that together give people the building blocks of survival, livelihood and dignity." (CHS, 2003)

According to the CHS, the five main features of human security as an approach are that: (1) it is people-centered; (2) multi-sectoral, (3) comprehensive, (4) context-specific, and (5) prevention-oriented (CHS, pg 6). The human-centered feature of human security places the health and safety of the individual as essential to the issue at hand. In the migration issue in Mexico, the individual will not be overlooked or placed secondary to the state's interests. The multi-angled feature entails that there is an acknowledgement of the diverse range of issues causing migration in the first place. This leads to the comprehensive approach which unites the various government sectors that are required to resolve the complexity and demands of the situation. Requiring the agenda to be context-specific, places the importance on the particularity of migration by region requiring a tailored-response as opposed to a generic migratory response. All is tied in with the emphasis on prevention which is the most vital to managing irregular migration.

Protection and empowerment have been signaled as the foundational pillars of human security; where without one or the other would not be constitute human security as a sustainable and long-term solution. The protection aspect places responsibility on the state from a top-down approach to enforce the rule of law, good governance, accountability, and social protective instruments with a bottom-up focus on the democratic process which then aims to empower the community(ies) resiliency during times of insecurity (CHS, 2004)(citation). The community, through the aid of the state, must be able to make informed decisions and act on their own behalf in order ensure their human security (CHS, 2004) (citation). The balance between the two are critical for the effectiveness of any social matter in which human security is the central focus.

The already-broad definition of human security by the Commission on Human Security does capture certain key points which will serve as part of the foundation to this paper's arguments. For one it draws attention to the importance to protect what is the base of all human lives--freedom to life, freedom from slavery, freedom to food, etc.--while also capturing the importance to defend what fulfills a human; that means that its including matters such as personal meaning through work, family, religion, choice of residency, etc. While protecting these foundational needs, the importance to protect each individual from physical and psychological dangers and threats are captured. What makes the concept of human security so essential is how it places the creation of social systems as functioning structures for the existence and respectable development of human-beings.

The entirety of the human security definition by the CHS is human-centric as opposed to state-centric whereas nowhere does it all mention the importance of guarding or maintaining social systems or institutions as imperative besides its purpose to serve and protect human freedoms and human fulfillment. Although to be clear, human security is not necessarily a replacement for state security but instead human security is mutually of equal importance when resolving or managing a state issue. For what we are starting to finally understand is that today's threats to human security are not just conventional physical threats such as military invasions from other states but threats derived from environmental degradation, denial to access social services, persistent poverty, etc. And because of this new understanding of what threatens humans we are able to connect the importance of resolving these threats in a holistic manner. For example, Alexandra Amouyel's *What is Human Security?* sees human security as a "field of intersection" amongst development, humanitarianism, human rights and conflict resolutions (Amouyel, 2006). The importance of intersectionality between these fields provides multiple angles of resolution towards social issues. When approaching a social crisis, it is vital that a comprehensive strategy is created and

executed because it has a much higher possibility of effectiveness based on the fact that no social problem is simple or one-dimensional thus must be approached in a holistic manner; a human security-based approach better suits these complex social issues for that sole reason.

Human security is ultimately re-conceptualizing our understanding of 'security' and its relation to human individuals. Its eclectic definition properly addresses the need to re-examine our perception of what freedoms we are entitled to and how to conserve them. That means that focusing our attention on the plentitude of human threats and resolving them with an intersectional response which considers security, development and human rights. The human-centric approach can see effective advancement in peace and development on a global scale.

The Importance of Human Security as a Long-term Solution for Mexico's Migration Policy

One of the problems with Mexico's current migration strategy is its lack of diversification and short-term vision. A vision founded on suppression with no mechanisms to manage, curb, or prevent irregular migration. Mexico's boost in enforcement, border and customs, and military agencies has negatively affected the migrating population attempting to cross through and to Mexico. Their responses to the the influx of migrants, asylum-seekers, and refugees bears much resemblance to how a state would respond in a military operation. Such a selected response can be interpreted as considering migration as a traditional state security threat whereas those migrating as perceived as 'enemy' and must be resolved in a militarized manner; an approach that resembles much like those of military operations whereas soldiers capture their enemy and clear the scene. This outcome only further perpetuates their vulnerability and worsens their situation. A response of that nature lacks humanity and depth, for it simply pushes back the individual into its original physical boundary while not necessarily bettering their situation in any way nor establishing an effective managerial-approach to migration or state security. No resources or services are provided for migrants deported to get back on their feet once returning to their country of origin. They are sent in worse situation since they have now lost time, were exposed to dangers, have surely financially set-back, and still face dangers back in their original state. And as discussed earlier, deporting migrants does not prevent them from reattempting the voyage either. For those reasons, the 'solution' to migration via detention and deportation is seen as near-sighted, ineffective and provokes their vulnerability which endangers their health.

What a human security-approach aims to do is tackle the situation in a comprehensive and effective manner in which it is more readily capable of resolving issues with a long-term vision and in a human-centric manner. This is due to human security's holistic composition that aims to resolve any issue with the individual's health and safety at the central core. Even though verbal concern and judicial verbiage of placing the greatest importance of migrant health at the moment of contact, Mexico's migration forces have yet to demonstrate it. The numerous harmful encounters with Mexico's state forces reveals that it is incompetent when carrying out its operational protocols in a safe and humane manner. Instead, Mexican migration forces address migration as a classical, repressive approach that again perpetuates migrant vulnerability and endangers their well-being. By doing so, this one-dimensional strategy misaligns the necessary approach when dealing with migration.

Although both human security and state security are interlinked and interdependent, a long-term solution should consist of one that is centered around human security first and state security second. Of course, every situation is different in every region but all policies and strategies that place the overall health of an individual benefits all including the state, for what is a state without the people? For we have seen examples of groups of individuals in a state of insecurity having negative effects on an environment. Take an example of social unrest by governmental repression such as police brutality in marginalized communities, a backlash of hostility by those repressed can happen, causing a state of environmental instability. What that looks like extends from economic instability to social instability amongst different groups. It is within the interest of the state to respond to social crisis in a manner that will bear in mind possible negative consequences to both the individual and the state. For repressive actions only damage social and governmental relations in which reparation becomes something difficult to achieve down the road. The damage created is long-lasting. It is in the interest of the state to approach migration in a way that places migrant's physical, mental and emotional security at the core of policy strategizing.

Human security's prevention-oriented principle is essential for a long-term solution for Mexico's migration policy for it is what long-term should be founded on. To prioritize prevention in migration policy-making means you have analyzed and evaluated the situation properly and concluded that the decided procedures placed are to target the root of a situation. By doing so, the state demonstrates it awareness of what the future of the situation could develop into, whether for better or worse, and has decided that a prevention-oriented strategy is in the best interest of the longevity of the state and the individuals affected by it. Mexico's current migration policy seems to be

more short-termed-based. It is too soon to determine fully the future consequences of those they are detaining and deporting, or to determine the future of the state's stability, but to assume that it's current migration policy centered on apprehension will not have great negative consequences on the region is unrealistic. We are already seeing the health dangers present, the recorded injuries and deaths during migration, and the social instability in the region. The continuation of Mexico's current migration policy will only continue to further this humanitarian crisis.

Chapter 5. Conclusion

In all, Mexico's migration policy has fallen nothing but short of its expectations and objectives. Mexico's migration policy has proven to be ineffective, near-sighted and has provoked vulnerability to the already-vulnerable migrating population. Being founded on suppression, it has heightened human rights violations and has further endangered migrants' lives. With the U.S. funding and collaboration--whom too have had similar disastrous consequences in the context of endangering human lives by way of their immigration policy--Mexico has not been able to fulfill its international human rights obligations and recommendations.

Mexico's central-focus on suppression and control in their migration strategy has made been very problematic in assuring the human rights of migrants. Founding their policy on repressive tactics and inefficient procedures has failed to not only protect migrants but has not curbed or prevented irregular migration. Their militaristic style of operating has perpetuated migrants' vulnerability and has jeopardized their health along the way. Establishing a migration policy that is control-based has demonstrated Mexico's perception of what should have been a humanitarian crisis and has instead seen it as a state threat. This inhumane response has shown the world the values Mexico has over humans in need. Their lack of attention on human security has worsened migrants' situation and has exposed them to more dangers whether in detention or during migrants' un-traditionally-explored paths. For these reasons, Mexico's control-based migration solution has been near-sighted, ineffective and has provoked the vulnerability of migrants.

While most focused on attending to the rule of law while protecting human rights, the Merida Initiative's four founding pillars have shown little progress in all four branches except for its increase of border security forces. As a part of the Merida Initiative's funding, the development of the Southern Border Program came as an attempt to protect and safeguard the human rights of migrants yet has done the opposite. There has been very poor work done to protect migrants' human rights and has not secured the region. SBP's development of the INM and their collaborated task with Mexico's military forces has demonstrated what happens when you respond to a humanitarian crisis in a militarized manner. This failed disguise of helping migrants has further endangered people's lives and has not in anyway bettered the situation.

Although the rights of migrants was to be a central focal point on the newly reformed migration law, it has done a far from stellar job of doing so given the

processing methodology of Mexico's INM. The reformed Migration Law was redesigned to adhere to international conventions signed and ratified by the Mexican state, as well as to comprehensively address every aspect of the migration process which would intersect with international human rights laws. Even with its supposed commitment to providing equal treatment for those entering in and through Mexico with social services such as medical care, an apparent paradox was created. In accordance with international human rights law, Mexico is required to offer health services for migrants and refugees, yet, it has at the same time endangered their lives due to their manner of processing those who enter the state.

While the lack of rule of law gave way for various human rights violations, migrants' right to health and right to due process during detention were most problematic. The denial of migrants' right to liberty when in detention captured the abuse of migrants' most fundamental right whereas the IACHR even claimed for it to be "antithetical to the protection of the right to personal liberty" (IACHR, 2010). Denying migrants of their personal liberty did not stop there, their right to health was stripped from them as well. Where even children were placed within adult migrant detention centers, the apprehension and detention process had negatively impacted all migrants' health. It was during detention that many of the detained individuals were most vulnerable and not provided proper medical services.

Once held in detention centers, migrants' health and livelihood would be further jeopardized by immigration authorities. They failure to provide migrants with information regarding their rights, provide proper legal representation or a just due process. This clear human rights violations under the IACHR' Status of Aliens Treaty exposed Mexico's inability to comply with even the most standard human rights requirements. This has been most problematic for the refugee and asylum-seeking process for the vast majority of those migrating were facing social crises in the form of exaggerated violence and lack of economic advancement in their home countries. These individuals are most in-need of protection and yet they have been snubbed from the possibility due to incompetence. The prolonged detention sentence and substandard conditions within the facilities also discouraged many from following through with the requesting of refugee and asylum protection.

Human security as a concept and operational tool to base any policy on is more capable of approaching issues in a human-centric manner with a long-term vision in plan than any other method. Human security's comprehensive composition focuses on an individual's health and safety prior to the state's. Of course, this is not minimize the

importance of state security, but securing human security is more sensical since without the people there is no state.

Human security's prioritization on preventive measures is what Mexico needs in order to better and more humanely respond to irregular migration. Developing a strategy that places human security at the forefront and bears in mind possible humanitarian consequences is better suited to respond to social issues. This too benefits the state's long-term health and stability by keeping social instability managed. We have established human rights at the international stage for a very important and logical reason. For we have seen the consequences of turning a blind eye towards humanitarian emergencies and we can no longer continue on a path of negligence and incompetence.

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