Migrants are present in every region of the world. The call to accompany and serve them is a responsibility given to the entire body of the Society, and it must resonate with everywhere we are present. Case studies of critical situations at borders and different migratory flows in several parts of the world offer an insightful instrument for analysing the challenges that many Jesuit institutions face in their efforts to help and support displaced people, forced migrants, and refugees.

This book has detected that studies and statistics are absent from what happens at borders in a global context. This lack of information is due to the territories where migration occurs and the difficulty that nation-states encounter while monitoring the flow of migrants. Thus, this rise in mobility demonstrates that there must be agreements between countries for better migration management. There is a lack of research and the pressing need to investigate what is happening. Our mission and driving force behind this proposal are to present a global vision of borders from its most vulnerable human beings, migrants.

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MIGRATORY FLOWS AT THE BORDERS OF OUR WORLD

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Migratory Flows at the Borders of Our World

Universidad Pontificia Comillas

Migratory Flows at the Borders of Our World

Alberto Ares Mateos, S. J.
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Editors

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CONTENTS

INITIALS AND ACRONYMS

AASU	All Assam Students' Union
ADF	Australian Defence Force
AHRC	Australian Human Rights Commission
AIA	Amnesty International Australia
AIDA	Asylum Information Database
AIDS	Acquired Immune Deficiency Syndrome
ALP	Australian Labor Party
AMIIF	Asylum, Migration, and Integration Funding
AS	Asylum Seekers
AUC	United Self-Defense Forces of Colombia
AUD	Australian Dollar
BBVA	Banco Bilbao Vizcaya Argentaria
BJP	Bharatiya Janata Party
BPSB	Border Police Station Belgrade
CAA	Citizenship Amendment Act
CAT	Committee Against Torture
CBDP	Community Based Development Programme
CEAR	Comisión Española de Ayuda al Refugiado
CETI	Temporary Immigrant Stay Centres
CHRO	Chief Human Resources Officer
CHT	Chittagong Hill Tracts
CIDH	Comisión Interamericana de Derechos Humanos
CIE	Foreigner Internment Centres
CNDH	Mexico Human Rights National Commission (in spanish Comisión Nacional de los Derechos Humanos)
CNMH	Centro Nacional de Memoria Historica
CODHES	Consultoría para los Derechos Humanos y el Desplazamiento
COMAR	Comisión Mexicana de Ayuda a Refugiados

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CONAPO	Consejo Nacional de Población
CPLP	Community of Portuguese Language Countries
CPT	European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
CWG	Commonwealth Games
DEM	Departamento de Extranjería y Migración
DHA	Department of Home Affairs
DHS	Department of Homeland Security of the United States
DIBP	Department of Immigration and Border Protection
DLI	Department of Labour and Immigration
DPMH	Dimensión Pastoral de la Movilidad Humana
DRC	Democratic Republic of Congo
EBGT	European Border Guard Teams
ECOI	European Country of Origin Information Network
ECtHR	European Court of Human Rights
ELN	National Liberation Army (in spanish Ejército de Liberación Nacional)
EPL	Popular Liberation Army (in spanish Ejército Popular de Liberación)
EU	European Union
FAO	Food and Agriculture Organization of the United Nations
FARC-EP	Colombian Revolutionary Armed Forces-Army of the People (in spanish Fuerzas Armadas Revolucionarias de Colombia-Ejército del Pueblo)
FASIC	Fundación de Ayuda Social de las Iglesias Cristianas
FRRO	Foreigners Regional Registration Office
FYR	Former Yugoslav Republic
FYROM	Former Yugoslav Republic of Macedonia
GC	General Congregation
GDP	Gross Domestic Product
GIAN	Global Ignatian Advocacy Network
HHC	Hungarian Helsinki Committee

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HIV	Human Immunodeficiency Virus
HRW	Human Rights Watch
IAA	Immigration Assessment Authority
IAO	Immigration and Asylum Office
IAP	Investigación-Acción participativa
ICGLR	International Conference on the Great Lakes Region
ID	Identity Document
IDPS	Internally displaced persons
IHRL	International Human Rights Law
ILO	International Labour Organization
IMF	International Monetary Fund
INE	Instituto Nacional de Estadística
INEI	Instituto Nacional de Estadística e Informática
INGOS	International Non-Governmental Organizations
INM	Instituto Nacional de Migración
IOM	International Migration Organization
IRL	International Refugee Law
IRO	International Refugee Organisation
JMS/ SJM	Jesuit Migration Services
JRS	Jesuit Refugee Service
JRS-COL	Servicio Jesuita a Refugiados en Colombia
JRS-LAT	Servicio Jesuita a Refugiados Latinoamérica y el Caribe
LNP	Liberal-National Coalition
LOEX	Library Orientation Exchange
LTTE	Liberation Tigers of Tamil Eelam
MIP	Migrant Interdiction Program
MPP	Migrant Protection Protocols
NATO	North Atlantic Treaty Organization
NDTV	New Delhi Television
NEP	New Economic Policy
NGOS	Non-governmental organizations

NRC	National Register of Citizens
NSS	National Sample Survey
NSSO	National Sample Survey Office
OBCS	Other Backward Castes
OBIMID	Ibero-American Observatory on Human Mobility, Migration and Development
ODI	Overseas Development Institute
OfFERR	Organisation for Eelam Refugees Rehabilitation
OHCHR	Office of the High Commissioner for Human Rights
OLP	People Liberation Operations
OPEC	Organization of the Petroleum Exporting Countries
OSB	Operation Sovereign Borders
OVCS	Orphans and Vulnerable Children
PDS	Public Distribution System
PEP	Special Permanence Permit (in spanish Permiso Especial de Permanencia)
PIL	Public Interest Litigation
PIP	Entry and Permanence Permit (in spanish Permiso de Ingreso y Permanencia)
PNG	Papua New Guinea
PNIP	People in Need of International Protection
PNUH	National Planning and Housing Program
PTI	Press Trust of India
PTP	Peruvian Temporary Permit of Permanence
PTP	Temporary Permanence Permit
PTSD	Post-Traumatic Stress Disorder
PUDR	Peoples' Union for Democratic Rights
R4V	Plataforma de Coordinación para Refugiados y Migrantes de Venezuela
RAMV	Administrative Record for Venezuelan Migrants
RCOA	Refugee Council of Australia

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REDODEM	Red de Documentación de las Organizaciones Defensoras de Migrantes
RJM	Jesuit Migration Network
RPCS	Regional Processing Centres
RSD	Refugee Status Determination
SA	South Asia
SAARC	South Asian Association for Regional Cooperation
SADC	Southern African Development Community
SC	Scheduled Castes
SCSP	Scheduled Caste Sub Plan
SEGOB	Secretaría de Gobernación
SENA	Servicio Nacional de Aprendizaje
SEZS	Special Economic Zones
SGBV	Sexual and Gender Based Violence
SHEV	Safe Haven Enterprise Visa
SLT	Strategic Leadership Team
SPA	Society for Psychological Assistance
SRSS	Status Resolution Support Services
ST	Scheduled Tribes
STC	Spanish Constitutional Court
TMF	Border Mobility Card
TNN	Times News Network
TPV	Temporary Protection Visa
TWS	Trauma Withdrawal Syndrome
UN	United Nations
UNDP	United Nations Development Programme
UNGRD	National Unit for Disaster Risks Management
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
UPM	Unidad de Política Migratoria
US	United States

USD	United States Dollar
USDOS	United States Department of State
VHP	Vishwa Hindu Parishad
WBR	Western Balkan Route

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TABLES

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ANGOLA AND THE DEMOCRATIC REPUBLIC OF CONGO'S BORDER

AUSTRALIA: AUSTRALIA'S BORDER AND ITS DISCONTENTS

I am pleased to introduce this critical study on world borders. Human migration and our mixed societies "invite us to open roads on which to walk together, in the richness of diversity."[1]

There is an important debate amongst the public about the tragedy of forced migrants and refugees. We are bearing witness to a historic crossroad where migratory flows and humanitarian emergencies are raising questions about our way of life. How we understand international relations, how we manage diversity in our societies, and how we respond to the traumatic situation of the families that knock on our doors and cross borders has become a priority.

Nowadays, according to the data provided by the UNHCR, there are about 763 million internal migrants worldwide and 271.6 million international migrants equivalent to the fifth most populous country in the world. Over 70.8 million people are forced to leave their homes due to armed conflicts, generalised violence, or natural disasters. Out of these migrants, almost 26 million are refugees, 41.3 million are internally displaced, and 3.5 million are asylum applicants. Sadly, the Mediterranean Sea has become the largest cemetery in the world where more than 17,821 people have lost their lives in the last five years.

The Society of Jesus has committed actively to promoting justice for migrants and refugees. Fr. Pedro Arrupe founded the Jesuit Refugee Service in 1980, and for the last 40 years, the Jesuits feel that the migrant and refugee mission has always been "a grace and a responsibility for us all."[2]

The 35th General Congregation (GC 35) in 2008 reaffirmed that providing services to migrants, refugees, the internally displaced, and victims of trafficking, is an apostolic preference of the Society.[3] Eight years later, the GC 36 called upon the Society to respond to the call of Christ who has summoned us anew to serve the poor and the excluded:

> Among these various forms of suffering that have appeared with consistency from many of our Provinces and Regions is the displacement

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1   Pope Francis at General Audience (GC from now on), 5 June 2019.

2   "Jesuit Refugee Service", Letter of Peter-Hans Kolvenbach, S. J. to the Whole Society, 24 June 2000.

3   GC 35, d. 3, 39.

of peoples (refugees, migrants, and internally displaced peoples): In the face of attitudes hostile to these displaced persons, our faith invites the Society to promote everywhere a more generous culture of hospitality.[4]

This love of the Society for the impoverished is expressed in deeds more than words. This has been recently confirmed by the process of discernment that led to the promulgation of the Universal Apostolic Preferences, among which is our commitment "to care for migrants, displaced persons, refugees, and victims of wars and human trafficking."[5] As a mission of the Church through the Holy Father, The Society has accepted to "continue to help create conditions of hospitality, to accompany all these people in their process of integration into society, and to promote the defence of their rights."[6]

In these challenging times, the Society of Jesus has been freshly inspired in its mission to accompany, serve, and advocate for migrants and refugees by the prophetic leadership of Pope Francis, who has called on the international community to have a shared response to refugees and migrants articulated in four verbs: to welcome, to protect, to promote, and to integrate. Pope Francis has insisted that what is needed is a fundamental conversion, a change in attitude, "to overcome indifference and to counter fears."[7]

While JRS has been the focal point of the Society's coordinated response to refugees, the Society of Jesus has developed an extensive network of specialised institutions working with migrant and displaced people. In addition, there are other institutions committed to the cause within the wider Jesuit family. Parishes, retreat centres, schools, social centres, and universities have been places of welcome, social action, and research for advocacy often in partnership with the JRS and the Migration Network. Many Jesuit communities have also welcomed individual migrants, refugees, and families.

Serving migrants, refugees and displaced people offer the apostolic body of the Society a profound and privileged opportunity to accompany the suffering of humanity. Walking with the dispossessed as we search

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4   GC 36, d. 1, 25, 26.

5   "Universal Apostolic Preferences of the Society of Jesus, 2019-2029", Letter of Arturo Sosa, S. J. to the Whole Society, 19 February 2019.

6   *ibid.*

7   Pope Francis addressing the participants of the international forum on migration and peace, 21 February 2017.

together for a future through reconciliation and rendering a service that not only brings healing to the present but also creates resources and opportunities for human and spiritual formation towards a better future.

Migrants are present in every region of the world. The call to accompany and serve them is a responsibility given to the entire body of the Society, and it must resonate everywhere we are present. Case studies of critical situations at borders and different migratory flows in several parts of the world is the focus of this book. It offers an insightful instrument for analysing the challenges that many Jesuit institutions face in their efforts to help and support displaced people, displaced people, and refugees.

This service to refugees and migrants requires a discernment that strives to be guided by the Spirit and apostolic planning that makes effective use of human and all other available resources. It obliges us to deepen our vocation as collaborators in a mission that is only possible if our many efforts are combined. It also demands that we improve our ability to work through networks that make better use of our resources, rendering us more effective in making the situation of refugees visible, and in promoting actions to improve their integration in host countries.[8]

Only if we work together will the world be able to address the causes of forced displacement at their roots and end a phenomenon that produces so much suffering for so many people of all ages and socio-economic backgrounds. This book is a significant attempt to embody this aspiration for us to walk together to help migrants and refugees, as the GC 36 has called on us to do.[9] Institutions that the Society of Jesus has endowed the work with migrants, refugees and displaced persons have developed a joint work, participating the following organisations: the Secretariat for Social Justice and Ecology in the General Curia in Rome, the Jesuit Refugee Service, the Migration Network (Jesuit Migrant Services and Jesuit Network with Migrants), the GIAN Migration, and the University Institute of Studies on Migration at Comillas Pontifical University, which coordinated and funded this publication.

ARTURO SOSA, S. J.
Superior General of the Society of Jesus
Rome, 20 May 2020

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8   GC 36, d. 2, 4-9.

9   GC 36, d. 1, 26.

Borders have become commonplace in today's world. They have become cultural intersections and a place to manage diversity, but are also places where rejection, abandonment, and societal limitations are quite present.

Periodically, there are circulating news reports on tragic events at the borders where those die or disappear during their pursuit of a better life, fleeing violence, persecution, and extortion, among other situations. These circumstances reveal a sense of vulnerability when refugees flee their countries of origin, attempting to find security and fundamental human rights in a foreign country. In a general sense, trafficking at the borders is regulated by rules enshrined in the Declaration of Human Rights internationally, regionally, and nationally. At the same time, there is a constant sense of insecurity when standards are not often met, and guarantees are not given.

This publication has detected that studies and statistics are absent from what happens at borders in a global context. This lack of information is due to the territories where migration occurs and the difficulty that nation-states encounter while monitoring the flow of migrants. Thus, this rise in mobility demonstrates that there must be agreements between counties for better migration management. There is a lack of research and the pressing need to investigate what is happening. Our mission and driving force behind this proposal are to present a global vision of borders from its most vulnerable human beings, migrants.

Two publications that may serve as the basis for migration flow research have been funded by the Secretariat of the Social Justice and Ecology in Rome, with the support of other partners and groups from the RJM (Jesuit Migration Network), the SJMS (Jesuit Migration Services) at the Ibero-American space, and the Ibero-American Observatory on Human Mobility, Migration and Development (OBIMID). The first one is a study published in 2016 titled *Migration at Borders in Latin America* on five borders and another in 2017: *The migratory movements at the borders in Latin America*, published in paper copy and digital format, covers over eight borders in twenty-one Latin American countries. The publication argues that at several borders in Latin America, migrants not only put their human rights at risk but also affects the reception system policies of the receiving countries.

However, there seem to be territories where the local government fails to protect and defend the rights of its people.

This book has been written from a pluralistic point of view. Furthermore, it includes additions from various agencies that have expertise in the field. The JRS (Jesuit Refugee Service) reports all border cases, from those that they handle in their office, to those detected out in the field. Their Strategic Leadership Team (SLT), along with GIAN Migration, makes it possible for the necessary fieldwork to be carried out.

This idea of constant human movement, not necessarily migrants but refugees that cross territorial fringes, often crossborders to migrate to another country for business and then return—known as circular migration. At the same time, certain parts of this migratory flow that cross into another country are labelled as migrants in transit. These movements are particularly worrisome due to the vulnerability of women and children and the danger of them falling prey to human trafficking, i.e., sex, labour, and organ trafficking. In order to discuss these migratory movements, we must report what is happening, provide detailed information on events, and foster awareness in order to influence public policy.

Our first chapter is on Borders and Migration, Theoretical approach and general context of borders in the global world, written by Joaquín Eguren. In this chapter, he incorporates a refugee and migrant perspective.

Alejandro Olayo, S. J., comments and analyses the México-US border. This is a very particular border situation, and therefore, the work that has been done is significant. It is also essential to put forth the border situations in Mexico-Guatemala, as well as to comment on the Central American caravans on their way to the US.

The following American border includes an analysis of the Chile-Peru border Migration Flow written by Miguel Yaksic. This chapter explores the various aspects that characterise and define the border that Chile and Peru share. This territory has become increasingly complex in migratory terms, especially since Chile has become one of the most critical migratory destinations in South America.

Xavier Jeyaraj, S. J., analyses the Internal Migratory Flows and the Challenges on the Indian Continent. This chapter looks at the status and patterns of internal migration in India and how it has affected marginalised communities, tribes, women, and children. The chapter will focus more on the inter-state 'distress migrants' and not on 'development migrants' who move out of the state for economic progress.

Alberto Ares, S. J.; Josep Buades, S. J.; Maria del Carmen de la Fuente and Cristina Manzanedo analyse the Western European Border, the Spanish-Moroccan Border. The points of reference are the socio-demographic characteristics of western Mediterranean route flows.

José Ignacio García, S. J., and Cinzia Fenu analyse Europe's Eastern border. In this chapter, they describe the specific migratory flows and refugees and migrant situations in the transit countries on this border. Although it is an access point to enter the EU, its role has always appeared mitigated in the more general context of migration in Europe.

Avelino Chico, S. J., analyses the border between Angola and Congo. This chapter discusses the effects of the border between Angola and the Democratic Republic of Congo (DRC) on international migration.

In the chapter on the Colombian-Venezuelan border, Mauricio García, S. J., and Daniel Cuevas tell us about the border between Colombia and Venezuela, the most active in both countries and one of the most dynamic in all Latin America and the Caribbean.

Stan Fernandes, S. J., Bernard D'Sami, and Loui Albert, S.J., in their chapter titled Refugees in South Asia: Issues and Concerns (Conditions of refugees and stateless people in South Asia), describe how there are refugees who have lived from more than six to three decades in host countries such as Tibetans in India and Nepal, Sri Lankan Tamils in India; Afghans in India, Iran, and Pakistan; Biharis in Bangladesh, Rohingyas in Bangladesh and India, and Chinese in India and Malaysia. Statelessness is another reality of South Asia.

Australia's border is one of the borders that is most defined by the country's history itself. In this chapter, Carolina Gottardo and Nishadh Rego explain how the contradictory roles that migration plays in the national collective psyche emanate from Australia's settler-colonial origins, and go further by analysing migrant arrival and settlement.

Finally, we highlight the cross-sectional and comparative aspect of our research and address the emerging similarities and differences. This will serve as our general conclusions and recommendations that may be useful for researchers, scholars, policymakers, politicians, students, and the public administration. Our humble purpose is for this study to help prevent crime, protect refugees, forced migrants, and influence the development of public policies that facilitate a more human reception mechanism than we currently have.

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METHODOLOGY

A series of elements were taken into account to implement an unbiased approach based on the methodology of the present work, which aims to address the different issues related to border events comprehensively.

For the selection of the analysed borders , the figures regarding the mobility experienced at each border were considered. Concerning the conducting of fieldwork in each of the selected regions, the realities on the ground were considered and analysed by covering the following points:

Points to cover

A. Social characterisation of the border and migratory flows.

- Geopolitical situation
- Migratory flows: Socio-demographic composition (sex, age, nationalities, etc.) and mixed flows: refugees, economic migrants and other types of forced migrants besides refugees.
- Attraction and expulsion factors.
- Migratory flow dynamic: migrants in transit, stranded migrants, entrances, deportations, circularity, permanent or temporal migration, returns, etc.
- Routes
- The life in the borders: communities, camps, livelihoods, gender perspective, etc.
- Vulnerable groups.

B. Immigration policy and legal framework: refugees and migrants

- The externalisation of borders.

C. Human rights analyses. Vulnerabilities in the country of origin, during the journey, at the border etc.

D. Conclusions: challenges and political and humanitarian proposals.

- Recommendations that will better the security and the defence of Human Rights of immigrants at the border.
- Suggestions to improve the political framework and mobility management.
- Proposals for improvements regarding the care of migrants living on the border.
- Support programs to facilitate the integration and inclusion in different environments of migrants.

Regarding the research techniques, the proposals were as follows:
- Analysis of existing secondary sources, such as national censuses, consular archives, articles and academic publications, press reports, and technical reports of public and private institutions.
- Primary sources include interviews and discussion groups, those that are corroborated by collaborators of Institutions, as well as victim interviews, which will be taken into account above all.

As a follow-up to each research piece, it has been noted that during the research process several variations were found that are worth reviewing. Moreover, there is no common legal framework to address the issues presented, so in the final comparative analysis we put forth the need for a global system that tackles these issues.

INTRODUCTION: BORDERS AND MIGRATION

Joaquín Eguren

When the Marquis de Curzon wrote his book, *Frontiers* (1907), he considered that borders were the main concern of any Ministry of Foreign Affairs in the "civilized" world and the subject matter studied in four out of five treaties or political conventions. For Curzon,

> the borders were truly the edge of the knife in which to hang the modern problems of war or peace, of life or death of nations... Just as the protection of the home is the most important vital concern for citizens, for the State the integrity of its borders is the condition of its existence. (Curzon of Kedleston, 1907, p. 7)

Therefore, as a branch of government science, border policy was of enormous practical importance and which greatly affected peace between nations. However, what Curzon could not have possibly imagined was that a century later, border policy would become a key issue due to migratory movements and would create considerable political tension among states.

In this chapter, we will present a description of the stages created by the theoretical reflection on borders related to migration. The new concepts that are being used to understand these dynamics, the methods of study and analysis applied to the recent stages of border dynamics and the instruments to manage such dynamics.

Stages of the reflection on borders

It is now necessary to analyse border issues related to migration. This topic has been recently studied because traditionally, borders were analysed from military and geopolitical perspectives and the state negotiations that defined them. Now we come to the border reflection process and how it is related to migration.

The first border reflections of a geographic and political nature can be placed fundamentally between the two world wars and were focused

on geographic territorial borders (Curzon of Kedleston, 1907; Holdich, 1916). These authors dealt with the classification of natural borders (sea, mountains, and deserts) and those characterised as artificial. For example, Curzon emphasises that in the 19th century, the main issues were the borders of empires, which were fading into those of nation-states. In general, the authors consider that most of the wars in the 19th century were caused by border disputes (Curzon of Kedleston, 1907; Holdich, 1916).

However, this reflection evolves as the knowledge in the field grows. Mainly because since the 1950s the social sciences have acquired relevance by using new concepts that deal with borders as a temporal and symbolic space at the same time, that the importance of physical boundaries had diminished.

We will distinguish between four stages regarding border studies. In the first stage, studies focus on the interwar period considering mainly the nature of the border's location and its history (Minghi, 1963, cited by Görentas, 2018). These studies were characterized by being mostly descriptive, from a military perspective, and tried to classify the borders as good, bad, artificial, and natural (Curzon of Kedleston, 1907; Holdich, 1916).

According to Görentas (2018), the first border studies, summarized by Minghi (1963), focused mainly on the nature of the location of the boundary and its history. The second stage deals with a change of approach regarding the criteria by which a border is designed focusing on the functions it performs (Görentas, 2018). This change of perspective is related to the recognition of borders as points of contact between territorial structures of power in addition to the demarcation of national sovereignty. 'Function' and 'effect' began to have much more importance than 'form' and 'location'. After World War II, the concern was to diminish tensions in border areas due to the Cold War and tensions were military in nature.

We find the third stage developing at the end of the 20th century when border studies underwent a major transformation that Newman (2006) calls a rebirth of border studies. At the time, borders were understood as not only static natural lines between states, but also as social, political, and discursive constructions with its meaning being produced, re-produced or institutionalized. Therefore, the authors paid more attention to how borders are constructed socially and reflected on the discourses and practices of national identity instead of taking their existence for granted. By utilizing this perspective, the foundations of the borders are historically contingent

upon social practices and discourses that are linked to national ideologies and identities.

This perspective led to new debates about the construction of borders; in other words, how borders were constructed in terms of their symbols, signs, identifications, representations, performance, and histories. This was the point where the proliferation of border studies began in recent decades.

The fourth stage is characterized by the more rigid state control of borders after the terrorist attack of 11 September 2002, in New York. The main focus of border studies shifted to new types of control such as new border limits, biometric borders, more exhaustive security measures in airports, border "technologization" and visualization practices, cognitive limits of categories and the relationship between territorial borders, and the so-called world without borders of networked topological space (Görentas, 2018).

In this recent period, the transnational perspective stands out as an approach that describes a condition in which multiple links and human or institutional interactions are connected across the borders of nation-states (Vertovec, 1999; Kearney, 1995; Schiller, Basch, & Blanc-Szanton, 1992). Therefore, the transnational perspective has become a popular area of study where the growing intensity and scope of the circular flows of people, goods, information, and symbols can be analysed within the scope of border mobility.

Another trend in border studies is the emphasis placed on spatiality. The first important change is regarding border locations. Borders are no longer located only on the borders of states, but are increasingly dispersed 'everywhere'. Contrary to the thesis of the 'world without borders', Görentas (2018) quotes Balibar (2002), who suggests that "borders are being multiplied and reduced in their location and functions" (p. 160). There has also been

> a shift from the downtown-centred approach to a concern for other non-territorial spaces such as public spheres, cosmopolitan communities, global civil societies, non-near or virtual communities, and transnational or global networks, none of which can be limited in a conventional way. (Rumford, 2006, p. 160)

According to Rumford (2009), borders and mobility are not antithetical. A globalized world is a world of networks, flows, and frontiers. Contemporary borders are taking the form of "asymmetric membranes" that allow the movement of certain goods and people while protecting against

the unwanted entry of others. Accordingly, this term seems more appropriate than the term "firewall" (from the computer field), used by Walters (2011), because it does not sufficiently describe the fact that the border on one side can be less restrictive and selective than on the other side.

Therefore, it is now appropriate to explain what a border is. Frontiers are bordering processes and not just a mere physical line or a fence. In this respect, creating boundary processes refers to the construction of socio-spatial categories or, in other words, the processes of socio-spatial differentiation and homogenization. Consequently, the border and the construction of identity are considered interdependent processes.

Then there is the symbolic character of borders. The territorial and political aspects have political meaning. The symbolic aspects are the mental and cultural constructions that separate people, groups, and societies. Symbolic boundaries are boundaries that separate groups and distinguish between one community and another, one race and another, and one gender and another. Both types and models work in different spaces and areas, but perhaps the differentiating qualification would be the context in which they are carried out.

Moreover, many participants contribute to delineate borders. Coelho Albuquerque (2012) points to the border strategies and tactics surrounding the migration and circulation of Brazilian immigrants between two national territories, especially by observing regional policies regarding the expansion of rights within Mercosur. These policies include methods used to control a fluctuating population in various social spaces and the various tricks of border residents to haggle and circumvent personal document controls in those border areas. The main interest is to understand the international border as a social experience, a continuous expression of social practices that is in constant dispute. Specific border situations that occur daily are a social and political resource. For example, on the boundary between Paraguay and Brazil, many pregnant women—*brasiguas* and Paraguayans—go to hospitals in Brazilian border cities to give birth to their children and register them as Brazilians. The reasons for these displacements are free health care in Brazil, access to education, free vaccines, and the possibility of registering their children so that they can have rights like any Brazilian while registering them in Paraguay as well. The Paraguayan women living on the border with Argentina do the same (Coelho Albuquerque, 2012).

Boundaries, migration, and refugees

During the last few decades, literature has been written considering borders as a result of migratory movements, which is in line with what some authors have indicated (Alden, 2012; Walters, 2011; Casas-Cortes et al., 2014). This type of immigration is a topic that has acquired very significant relevance in light of recent globalization. Specifically, this is probably the turning point in terms of scientific reflection on borders.

For this reason, we have previously addressed the matter of the legal and socio-economic distinction that is usually made between migrants and refugees. The former is usually understood in economic terms and the latter as potential asylum seekers. However, in practice, this distinction becomes confusing and very difficult to demonstrate, given that there has been a growing refusal of many states to manage refugee applications or simply just making difficult their concession. Accordingly, the legal status of refugee and asylum at the international level is in crisis. These people usually remain in a no-man's-land situation, in a legal limbo that affects them both in the countries they have entered and at the borders where police and administrative controls are usually carried out. In addition, it represents a significant obstacle for the daily work carried out by humanitarian organizations. Appropriately, Olayo's assertion in the chapter on the us-Mexico border is relevant. Given the extent of vigilance and control throughout the Mexican territory, it has been transformed into a "border zone" or a "vertical zone." Humanitarian organizations manage these methods that have been expanded to include migrant shelters.

The role of humanitarian organizations can often be contrasted with the institutional power of police authorities and criminal mafias that do business using the needs and sufferings of migrants. Their presence, whether of a civil or religious nature, is noted in all the borders studied in this book.

When it comes to the protection of migrants and refugees at the borders, the Global Migration Pact is more welcoming than the papal proposal and the Cartagena Declaration on Refugees adopted by several Latin American countries in 1984. Indeed, while the first makes a general mention of protecting them, the last two (the papal manifest and the declaration of Cartagena) clearly express their adherence to the principle of non-refoulement and their rejection of arbitrary and collective expulsions. In fact, the

Cartagena Declaration recommended an extension of the definition of the term "refugee" to include persons threatened by widespread violence, foreign aggression, internal conflicts, human rights, and other circumstances that seriously affect public order.

Migration is a co-constituent of the border, a site of conflict and as a political space. These migration forces and movements challenge, cross and remodel borders. They are creating a movement that is stabilized, controlled, and managed by different state agencies and political schemes. Besides, it is relevant to see how the frontier is used as a selective, stable, and controllable tool of differential inclusion. Because of this necessity, a theoretical challenge arises not only to describe migration as an active force but also to understand and accommodate how migration intervenes in the centre of our theoretical discourse (Casas-Cortes et al., 2014, p. 15).

These discussions have been modulating a series of new concepts that aim to explain the reconfiguration of migration and borders as a permanent dialogue between both actors. Thus arise issues such as border regime, protection policies, outsourcing/externalization, humanitarianism, reterritorialization, and deterritorialization.

New concepts that try to explain recent phenomena regarding borders and migrations

Let us begin with the term border regime. The term border regime signals an epistemological, conceptual and methodological change in the way we perceive and research borders. Walters (2011) encourages us to "denaturalise" the border because the border regime symbolises a radically constructivist approach to studying the frontier. This means that "what is naturally given," tends to understand the border as something fixed and immobile dictated from a higher instance. The constructivist approach understands that borders have been constructed gradually because of different political tensions. Therefore, we must analyse the processes by which that border image is generated. This includes not only a government's perspective but also the production of borders from a migration perspective (Casas-Cortes et al., 2014, p. 15).

It is commonplace in the interdisciplinary field of border studies that the frontier can only be conceptualized as being formed and produced by multiple actors, movements, and discourses. An example would be the migratory flows that take place on the border between Angola and

the Democratic Republic of the Congo and others in Africa today. These migrants include refugees, economic migrants, temporary border workers, women, men, merchants, farmworkers, professional clandestine workers, children who cross the border to go to classes in schools in the Democratic Republic of the Congo, students who go to Kinshasha university, or people who are going to receive medical assistance at hospitals in the area. There are important family networks on both sides of the border, and many migrants cross without any documentation. They just cross based solely on ethnic affiliation to hold celebrations and ceremonies. This means that not only are the State and its institutions' participant but also the hosts of groups and individuals (Tsianos & Karakayali, 2010).

Therefore, recent studies try to overcome the underlying binary logic of structure and agency taking into account that the border is a site of constant and repeated encounters, tensions, conflicts, and disputes instead of seeing the construction of borders as belonging to a unitary and straightforward organizational activity.

As Sciortino (2004, cited by Casas-Cortes et al. 2014, p. 15), a border regime is a

> mixture of implicit conceptual schemes, a creator of territorial tensions between bureaucracies and waves and waves of 'botched jobs' to address emergencies causing cracks, ambiguities, and more tension. The life of a border regime is the result of constant repair work through practices or, in the words of the Transit Migration project; a regime is a "more or less ordered set of powerfully complex practices and knowledge". (Karakayali & Tsianos, 2007, p. 13)

On the other hand, Protection Policies is the attempt to make visible the policies at stake in the current refugee protection regime. While the refugee protection regime tends to be presented as strictly humanitarian and apolitical, there is a growing awareness that such a claim of protection cannot be thought of outside the political sphere. For example, the status of UNHCR (United Nations High Commissioner for Refugees) stipulates that its work "will be entirely non-political...". However, despite this, it is clear that the protection provisions can never be "entirely non-political," since it is interrelated with the following highly political issues: Who can legitimately ask for protection? Against what dangers will the protections be offered? What are the terms and conditions of the protection provided? Moreover, whose voice is heard in the debates on these issues?

If migration is viewed as a force that defines and tries to produce what the frontier is and at the same time re-conceptualize the frontier conveniently, it should be noted that this requires a methodological change. This is what Walters (2011) proposes, reviewing Foucault's work on governance and Poulantzas's analysis on the organization of the state in which he defines it as an aggregate of struggles and societal forces. It requires considering the contextual perspective on power and addressing the particular sensitivity due to unstable dynamics and emerging phenomena. The border exhibits all of these characteristics.

Behind these negotiation processes between border and migration, there is a deep power struggle. Migration forces borders, when it can evade them, and they resist to be addressed. However, the power struggle is played out as a political one by establishing sectors in favour of hardening and closing the borders and others open to keeping them open or moderately open. The reflection of Alden (2012) and Walters (2011) on the development of government policies to make borders insurmountable leads certain sectors of several societies to assume a series of commitments that prevent such a situation. Nevertheless, it is also significant how the action of migrants can acquire a political and vindictive character as is the case of the caravan of Honduran migrants who have organized to reach the United States of America in concerted action in defiance of the President's attacks and threats.

We refer to a recent phenomenon in an international context that is becoming increasingly relevant: the outsourcing of borders. The externalization of borders refers to the process of the territorial and administrative expansion of a State in the management of its migration and border policy affecting third countries. This process directly involves state officials in the outsourcing of borders, the territorial sovereignty of other countries, and the externalization or the outsourcing of border control responsibilities to the national armed forces of another country.

Consequently, the externalization of the borders modifies the understanding of what a frontier is by reformulating who, where, and how the frontier is developed. It is a process of rethinking borders beyond the dividing line between nation-states and by understanding the idea of borders as management practices and administrative-political management that includes several states. Outsourcing is an explicit effort because it intends to stretch the border "in such a way that it expands institutional management of the border and at the same time, reformulates sovereignty in new

ways" (Casas-Cortes et al., 2014, p. 19). Therefore, the definition of borders does not refer to the territorial limit of the State but to the management practices implemented to catch up with the migrant (potential or recurrent) wherever they may be.

Thus, it is not necessarily the case that third countries cede or lose their sovereignty. However, through agreements of a commercial-economic and political nature these third states assume the responsibility and management of migratory flows to "prevent" the departure of their nationals to other countries to European countries, or of those migrants who are in transit through their country. It is clear that this situation must be considered in terms of the negotiations between more powerful or developed states and developing states. This means that these negotiations are not carried out on a level playing field. It would be difficult to imagine, for example, that a sub-Saharan country could outsource its borders to other sub-Saharan states and even more so to developed states due to its institutional and economic weakness in the concert of nations.

In the few last decades, the practise of outsourcing includes several particularly significant examples. One is the Neighbourhood Policies and Migratory Routes Initiative of the European Union under the Global Approach to Migration signed in 2005. The second case refers to the historical background of prohibition and maritime detention in the Caribbean area, and the third concerns the current policy of the Pacific Solution by the Australian government. Each of them presents a series of issues related to sovereignty and territory, the blurred distinctions of inside and outside, the emergence of the safe humanitarian frontier, and the matter of an outsourced state agency. The management of border outsourcing maintains the idea of exteriority that is used to displace some sovereign responsibilities and border control technologies across the legally defined borders of state territory. It, therefore, reconfigures and acquires other dimensions not initially foreseen in line with the concept of "methodological nationalism." This implies that the nation-state is the natural and political form of the modern world (Wimmer & Glick Schiller, 2002).

Its focus has been on tracking migrants and learn how they move through different political and geographical spaces as well as trying to govern before, during and after their movement across the border. Consequently, the movement of people and things, new technical surveillance devices and new processes of sovereignty and supranational government redefines border regimes. If borders are what we have come to assume as the limits

of legal sovereignty in International Law, we have to ask ourselves where do the jurisdiction and sovereignty of the state begin and end in these new border regimes.

In addition, one of the concepts that has been recently incorporated into the vocabulary of Borders and Migrations is Humanitarianism. Its main driver is Walters (2011) who understands humanitarianism as a complex field including specific forms of governmental logic and also the activity of certain non-governmental or organizational actors and not so much as a set of ideas and ideologies.

One of the main justifications of the externalization of borders arises in the language of humanitarianism. Here, outsourcing has become a fundamental strategy of what Walters (2011) has called the "humanitarian frontier." Such humanitarian factors and discourse play an increasingly important role in contemporary border regimes (Mezzadra & Neilson, 2013; Walters, 2011). In such processes, humanitarian and security discourses are simultaneously used to protect the rights of immigrants and reinforce the police strategies of the border and how migration is governed. The enlistment of humanitarian and security agendas, the hallmark of the European Union border regime, has recently been reinforced through the handling of tragic events such as what happened on the island of Lampedusa in Italy. Agencies and politicians of the administration and migration management respond to such events with calls to mobilize agencies that manage European borders to block migrants before they attempt to cross dangerous sea borders and embark on risky journeys.

While humanitarian programs could disrupt certain norms of the state category, it is necessary to recognize how the exercise of humanitarian power is connected to the realization (materialization) of new spaces. Given the redefinition of particular places as zones and crises as humanitarian emergencies, authority confers certain experts legitimacy and the ability to move quickly through networks of help and intervention, or the willingness to consider those populations in those areas as "victims." Therefore, Debrix's observation (1998) that humanitarianism implies reterritorialization over deterritorialization should be considered, understanding that deterritorialization is when migrants "lose" their territory to go to another country. This often means leaving behind their traditions and customs, losing their identity, breaking with their region of origin, and adopting new customs and ways of life wherever they may reside. However, according to Debrix's (1998), migrants tend to recover

and strengthen their local, territorial identities and values which is why they reterritorialize, that recovers the link with their history, traditions, and customs regardless of where they may be.

The civil society organizes across borders to support "victims" or migrants. Such is the case of the Jesuit Migrant Service (JMS) and other entities in the triple Andean border of Peru, Chile, Bolivia; the southern border of Spain; or the Patronesses that support the travellers of the train "The Beast" that crosses Mexico.

Humanitarian zones can materialize in various contexts, especially in conflict zones, to alleviate hunger and against the backdrop of a failed state, especially if the current borders of the states themselves become zones of humanitarian government. It is a significant step to overcome the predisposition to fundamentally consider the security of borders to the detriment of the rights of citizens. The Venezuelan exodus across borders in South America and the so-called "caravan of Honduran migrants" (in actuality it is a Central American caravan) emigration to the United States of America crossing several Central American and Mexican borders is one example. These states have not used violence to prevent their entry and have provided support and humanitarian attention to immigrants both institutionally and by way of civil societies.

Furthermore, two other interesting aspects deserve consideration, such as the materialization of the humanitarian frontier, in particular fields of knowledge, and the constitutive role that politics play by making and changing humanitarian borders. Fassin (2007) understands humanitarian government as the administration of human collectives in the name of a higher moral principle in which he sees the preservation of life and the alleviation of human suffering as having the highest value. For Fassin, it would not only be characteristic of a particular state or a non-governmental organization, but he understands it in terms of a complex assembly of particular forms of humanitarianism.

On the other hand, Walters (2011) considers that there are two different visions regarding migrations. The first is the logic of power based on security, and the second is the use of humanitarian logic at the border. However, both should be reconciled to carry out truly fair policies towards migrants at the borders.

From a humanitarian perspective, specific forms of authority (be it medical, legal or spiritual) as well as certain governmental technologies (such as mechanisms to obtain funding and training of volunteers,

administrative assistance, shelters, documentation of injustice and the dissemination of abuses), should be much more flexible and capable of adapting. According to Walters (2011), this must awaken our ability to perceive "a broader political and moral logic that works on both levels, in and outside the institutional forms of the State" (p. 144).

Methods of study and analysis of borders and migration

Here we come to the methods that would be useful to study the link between migration and the border. The ethnographic analysis of the border regime starts from the perspective of human flows and migration trajectories. The border regime constitutes a multi-scalar and multidimensional space of conflict and negotiation and thus requires an approach using various methods. These methods include not only the stock of ethnographic methods such as participant observation, interviews, and discussion groups but also the political analysis and genealogical reconstruction of migratory processes at the border.

This mixed methodological approach seeks to understand transversal, micro-social, and porous migration practices and trajectories. The aforementioned facilitates a detailed analysis of the discourses, programs, large-scale institutions, points of intersection, and the interrelation of the intricate knowledge of power and its maps (Casas-Cortes et al., 2014).

Although it cannot apply to all borders, these approaches today are powerful methods for governing mobile populations and migration. Although the border constitutes a site of conflict and struggle, an analysis of the regime allows us to understand the current social, economic, political, and even cultural conditions at the border.

The genealogy of the frontier would surely give a central place to the study of changing regimes of knowledge in terms of which borders have been marked and defined by particular objectives and functions. These regimes plan to govern the borders. By the same token, the linear boundary is only able to emerge once the states begin to acquire the forms of knowledge and the administrative capacity that allows them to monitor, map, and mark their borders. Specialized knowledge also plays an essential role in the creation of the border.

Therefore, it is also necessary to study the techniques and the tools that have been designed by a variety of technologies and heterogeneous

administrative practices: maps of the territory, the creation of positions and training of specialized officials at the borders, and architectures of fortification in the daily experimentation of bio-digitized forms of surveillance.

Recent historical stages in the dynamic frontier and migration

Two recent events have exerted significant influence on the reformulation of border dynamics and migration. The Schengen agreement is a good starting point because, in terms of border control and regulation in the European Union, it has been key.

For Walters (2011), when the Schengen agreement was approved in 1985, it represented a crucial moment in the configuration of this "frontier-migration" dynamic. Schengen cannot be understood within the traditional dynamics of war and peace, nor can it be understood in terms of a geographic territory as a source of power, but rather as a site of biopolitical management. In fact, contemporary literature related to borders associates the border with immigration, and global population flows as if these concepts were the essence of the border.

Schengen is a globalization and regionalization economic policy project. The European Union aims to strengthen its borders in the face of the growing patterns of globalization migration (Walters, 2011). After the establishment of controls and surveillance of the internal borders of the European Union two decades after the first Schengen agreement, border externalization policies within which Spain has had an important role related to Africa, both Morocco as with the sub-Saharan countries.

A second world event that has caused a series of control policies was the unfortunate attacks of September 11 in the United States. Subsequently, the United States and other European countries developed a series of control and surveillance measures that have certainly restricted the freedom of movement between many borders. This has led to a policy increasingly focused on border security and often to the detriment of the rights of citizens to move and cross borders. In this respect, Alden (2012) has commented that the United States, which traditionally had not been especially concerned with border surveillance, has undertaken the most ambitious expansion of governmental power in modern history by enforcing border security and trying to stop illegal immigration. The US intends to ensure that the only migratory flow that accesses US territory is legal.

For this reason, measures have been implemented, such as fencing on the border with Mexico or agreements with Central American countries regarding control and surveillance of the southern border of Mexico along with Central America.

Instruments to manage migratory mobility

Below a series of instruments are referred to that are used to manage migratory mobility at the borders. These instruments manage not only land borders, but maritime ones as well.

As Alden (2012) points out, an enormous mechanism has been created to manage, monitor, and control the southern border of the United States with Mexico and with Canada, although to a lesser extent of the latter. This mechanism uses different types of instruments and technological devices that work to control people's movements and is often carried out through the subcontracting of private surveillance services. There are also public mechanisms such as Frontex in the European Union that are used to monitor the Mediterranean.

One of the tools used by the European Union is the policy of outsourcing through the development of what has been called neighbourhoods for political mobility. Programs such as "Euro-Med" and "Euro-East" have been implemented in foreign countries, restructured as regions of influence of the European Union. Therefore, Algeria, Egypt, Israel, Jordan, Lebanon, Libya, Morocco, Palestine, Syria, and Tunisia are included in the Euro-Mediterranean zone. While Armenia, Azerbaijan, Belarus, Georgia, Moldova, Russia and Ukraine are included in the "Euro-East" program. Both regions are in the process of "non-adhesion integration."

Selected mobility programs and border patrol measures have been included as "clauses on migration" in economic and logical investment agreements, establishing, on the one hand, permits and visas; and on the other hand, agreements to reinforce borders and repatriation.

In addition, there are attempts to coordinate migration strategies articulated through experiments such as the Migration Routes Initiative. This reorients border management away from a line defence focus (even if it is a moving borderline) to establish border control as a series of points along an itinerary. It demands transnational coordination between the so-called "countries of origin, transit, and destination" to intercept and

detain migrants on their journeys, miles away from white borders. In particular, West African routes have been heavily inspected and closed by a series of transnational-level police operations such as Operation Hera by Frontex and Operation Seahorse run by the Spanish. These are now being introduced across the length and breadth of the Mediterranean (Casas-Cortes et al., 2014).

Frontex, the European Agency for the management of operational cooperation at the external borders of the Member States of the European Union, started operating in 2005. Its mission is to improve the integrated management of the Union's external borders and strengthen cooperation between national border authorities. Its headquarters is located in Warsaw, Poland.

After an evaluation in 2011, and in response to calls from the Commission and the European Council to strengthen its role and operational capabilities against illegal immigration, the agreement by which Frontex was created was modified, increasing the cooperation potential of the Agency. This was included in the European Pact on immigration and asylum adopted in 2008 and the Stockholm Program adopted in 2009.

The main tasks of Frontex are:
- Planning and coordinating joint operations carried out by Member State personnel at external, maritime, land, and air borders.
- Coordinating joint return operations of foreign citizens
- Elaborating common standards and instruments for the training of national agents of the border guard
- Conducting risk analysis (for example, periodic assessments of the capacity of States to cope with threats and pressures at external borders)
- Assisting the Member States that require an increase in technical and operational assistance at external borders (for example, in the case of humanitarian emergencies and maritime rescue or when certain countries face specific and disproportionate pressure on their borders)
- Creating European teams of border guard agents (EBGT) for deployment in joint operations, pilot projects, and rapid interventions
- Developing a rapid response system in which teams of border guard agents participate and forms part of a database of equipment and resources available for deployment in the event of a crisis.

Therefore, Frontex can be studied as a tool used in the humanitarian frontier because of its role in maritime surveillance. This maritime monitoring saves lives by rescuing people who are in danger of dying due to poorly constructed vessels or victims of human trafficking. This area of study, although sometimes disputed, can be seen viewed as the previously discussed double logic: the logic of power centred on surveillance and control and the humanitarian logic more focused on migrants.

The Migrant Interdiction Program (MIP) is a program of the United States that includes the immigration detention facility in Guantanamo Bay. This program has been operating since 1991 and has been called Alien Migration Interdiction Operations in the Caribbean region. Ryan (2010) has defined it as the third form of extraterritorial control, the detention of vessels at sea as an action taken by the states to prevent non-citizens from "reaching their intended destination" (p. 22). Different from other forms of offshore control, this refers to migrant use of irregular channels to access a country and not maritime migrants that access a country through regular routes. Under the MIP, the United States intercepts maritime vessels outside US waters to prevent the entry of non-American citizens into its territory without authorization. Most of the detentions carried out by the MIP take place in and around the Straits of Florida, the Canal de los Vientos, and the Mona channel where the United States maintains a constant presence of North American Coast Guard vessels (US Coast Guard).

At the Guantánamo Bay military base, the detainees are arrested to determine if they have well-founded reasons to fear persecution in their home countries and if they should be allowed to access the refugee system. Those who are not admitted are deported, while those at risk of being tortured in their home country remain in Guantánamo until they are relocated to a third country.

Finally, there is the Pacific Solution. This was the name given to the Australian Government policy that consisted of transporting asylum seekers to detention centres located in the nation-islands in the Pacific Ocean, preventing their access to Australian territory. This policy, implemented in the period 2001-2007, had support from the Liberal-National Party, the ruling party at the time, and the opposing Labour Party.

The Pacific Solution (Pacific Solution) consisted of three main strategies:

- Thousands of islands were separated from the migration zone of Australia or Australian territory.

- The Australian Defense Force carried out Operation Relex to intercept vessels carrying asylum seekers.
- Asylum-seekers were held in detention centres in Nauru and in Papua New Guinea where their refugee claim was settled.

Laws were drafted to implement this policy. The Howard government developed this policy in response to the Tampa Affair in August 2001 and implemented by the then Australian Minister of Immigration Philip Ruddock shortly before the 2001 national election.

Rudd's Labour Party dismantled this policy in 2008. However, in 2012, the Labour government reintroduced a similar policy reopening the Nauru detention centre and the Manus Island detention centre. The successive governments continued this policy, thus blocking the access to Australian territory for asylum seekers.

It is forecasted that the use of other types of political and administrative instruments will increase in order to monitor and control borders. This is what happened with the humanitarian refugee crisis in Europe in 2015 and 2016. Countries in Eastern Europe such as Hungary, Slovenia, and Croatia established hurdles to stop and prevent the entry of migrants and refugees from Syria and other African and Asian countries.

Proposals for better governance of the migration and borders link

The Global Compact for Safe, Orderly and Regular Migration (GCM) (United Nations, 2018) signed in Marrakesh on 10 December 2018, by more than 150 countries represents a non-binding global work program. Its purpose is to achieve safe, orderly, and regular migration. This pact has five objectives that are directly linked, such as objective 11, or indirectly linked such as objectives 7, 8, 9, or 10 to migration at the border. Specifically, objective 11 refers to the management of borders in an integrated, safe, and coordinated manner with an emphasis on favouring regular migration and avoiding irregular migration. It protects the human rights of all migrants, regardless of their migratory status, it is non-discriminatory and that takes into account gender and children. The latter is also referred to in objective 7 in an attempt to address and reduce vulnerabilities for migrants. Related to these purposes is objective 8 that aims to save lives and undertake coordinated international initiatives regarding missing migrants. Objective 9 seeks to

prevent and combat the smuggling of migrants. Finally, objective 10 focuses on combating human trafficking. All of them refer to international cooperation as a key instrument for dealing with different situations, including cross-border ones.

The Catholic Church (2017) has also contributed its bit to the preparation of the Global Migration Pact with a document called *Responding to the Challenges of Refugees and Migrants: Twenty Action Points for Global Agreements*. It is based on four principles: Accept, Protect, Promote, and Integrate. The main proposal about the issue of migration at the borders refers to promoting the increase of safe and legal routes for migrants and refugees, "prohibiting arbitrary and collective expulsions," and always respecting the principle of "*non-refoulement*" (no return). Likewise, it adopts humanitarian corridor programs that guarantee legal entry by providing humanitarian visas to people in, particularly vulnerable situations. It also develops adequate training for border agents; ensuring that migrants, asylum seekers, and refugees have access to basic services including legal ones; guaranteeing the protection of those fleeing from war and violence; and seeking alternative solutions to detention for those who enter a country without authorization.

Conclusions

The historical evolution of the conception of the frontier is centred on the definition of territorial limits between states. With the fall of empires at the beginning of the 20th century, a reflection focused on the changes caused by the emergence of a critical variable, migration appeared. At the same time, the development of social sciences, human geography, political science, sociology, and anthropology has been remarkable. These areas of study have enriched the discussion with new perspectives of analysis and the elaboration of new concepts. The third aspect refers to the use of new methodologies. Historical context influences these three aspects and often defines their functioning and explains them.

One of the salient features of the analysis of borders and migration is that the nation-state is present in both formulations. When we talk about borders and migration, the focus is on the nation-state as well as the conceptualization of a performative formulation. When we consider borders, we do so from the perspective of the nation-state. The nation-state defines

who is inside the territory and who is outside; therefore, who has a series of rights, and who does not? The question that arises is whether one can truly reflect on border and migration from a perspective different from that of the nation-state, being that many migrants put their life at risk because they do not have support for recognition of citizenship.

It is necessary to underline the confrontation that exists between the nationalist position and the cosmopolitan position regarding citizenship, the border, and migration. In the great battle between the cosmopolitan position counting on globalization and transnationalism on the one hand, and the nation-state on the other, it is still premature to say which side will win. If one observes the changes that the former has favoured regarding the notion of citizenship and how migration is configured transnationally, we might believe that they will emerge victorious. However, it has also been observed that the nation-state is resilient and that while it resists, it also makes its position more flexible by reformulating the notion of citizenship, incorporating perhaps the status of double nationality. This facilitates the crossing of borders for migrants who have it, but this status is still restrictive because irregular immigrants are left out. We can look at what has happened with the refugee crisis in Europe during the last decade. It reveals how states recover and strengthen borders to stop the entry of immigrants and refugees. Moreover, the more serious aspect is that it takes place within a supranational structure that seeks to overcome border restrictions.

From a cosmopolitan perspective, there should be recognition of citizenship for all migrants, regular or otherwise; respecting the rights of migrants settled in a country, travelling in several countries and crossing borders. In our study on migrations at the Ibero-American borders (Ares & Eguren, 2017), we can see precisely the strength of the nation-state. Border studies from the region point out that borders are the fruits of delimitation processes around the figure of the nation-state. These processes have taken time. So much that some of them have been formulated in Latin America and the Caribbean for less than a century. This supports the assertion of Lord Curzon of Kedleston (1907), more than a century ago, of the great challenge that it posed for states to define and agree on borders.

Another important aspect is that, although in the beginning borders were delimited nationally; that is, by the states themselves and according to the idea of the nation-state in the Ibero-American borders, three different situations occur:

1. The externalization of borders: The United States to Mexico and Central America and Spain to Morocco and sub-Saharan countries within the European Union's policy. Now there is the agreement between the European Union and Turkey to stop the emigration of Syrian refugees.

2. The administration and management of borders within a dynamic of regional integration such as is the case of the Andean Triple Frontier (Chilean-Peruvian and Bolivian) when belonging to Mercosur.

3. The clearly nationalist or national methodological dynamic of Colombia with its neighbouring countries, Ecuador and Venezuela. This dynamic also has a strong presence in the countries above, including Mexico and Central America.

However, these three dynamics live a constant tension with the nationalist methodology or the rampant nationalism in each society. A variation in the definition and administration of borders are often the result of this dynamic. For example, in some states, the nationalist claim is reflected in the idea that this nation is only for nationals, and that has led to legislate against people of foreign origin. Even behind the concept of outsourcing, an expelling nationalist perspective lives there.

Another relevant characteristic is that, although national political motives delimited the borders in the 19th and 20th centuries, recent migrations and the populations settling on both sides of the border come into play as a relatively new critical element.

It is necessary to further our knowledge of the lives of those with common ethnic origin living on both sides of the border. This situation remains latent and relatively hidden because politically, states are interested in dealing with migration in transit or migration that intends to settle in its own geographical contours. The inhabitants of the borders see this interest as restrictive that now prevent them from moving as freely as they had before. This phenomenon is seen in Aymaras, at the triple border of Bolivia, Chile, and Peru; Mayas, at the southern border of Mexico with Guatemala; Mexicans, at the northern border with the United States; the Berber Rifeños between Melilla, Spain, and Morocco; and the ethnic communities that share the border between Angola and the Democratic Republic of the Congo. The current political borders are a significant obstacle for the traditional communities that have settled there for centuries.

The migrants want to continue negotiating, exchanging, and interacting on both sides of the borders, often having relatives on both sides. Political boundaries are more bothersome than geographical conditions because these usually do not involve a separation impossible to overcome since many times; there are no natural limits such as rivers, streams, mountains, or deserts. Traditionally migrants moved without much difficulty, and maybe they could do it today. A recent example is the Venezuelan exodus to border countries, especially with Colombia and Brazil (Koechlin & Eguren, 2018). Although states have indeed installed checkpoints, the territory is vast and often easy to access from another side.

On the other hand, nations sometimes use their populations, promoting their movement across borders to extend their territory, especially border. There is a compelling case where the Chilean border was extended by moving the landmarks that separate the borders after the 2001 earthquake in Tacna. The purpose was to gain territory in Peru (Rojas, cited in Ares & Eguren, 2017).

Finally, one of the most sensitive aspects of the borders is the issue of personal and physical security of migrants. All who have died travelling from Mexico to the United States due to mafias and the arbitrariness of the armed forces; or the thousands of deaths on the journeys from Africa to reach the Mediterranean should not be in vain. Physical borders have become very dangerous places for migrants. Thus, we suggest concerted international action to provide some security for migrants, because the safety of vulnerable, defenceless human beings should be above the protection of the state.

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MÉXICO

THE US-MEXICO BORDER: MORE THAN A POLITICAL LINE

Alejandro Olayo-Méndez, S. J.

On 13 October 2018, a group of Honduran migrants left San Pedro Sula in a 'caravan' headed toward the United States. Travelling mostly by foot, they were fleeing violence and seeking a better life for themselves and their families. On 19 October, the caravan reached Mexican territory, and the group grew from hundreds to thousands with rough estimates[1] between 3,000 to 7,000 migrants. Days later, a second group of approximately 1,800 Central Americans arrived at the Southern Mexican border, and a third group of around 500 migrants from El Salvador also reached the Mexican border on 30 October. By 2 November 2018, three groups of migrants, which included children, women, and families mostly from Central American countries, were moving through Mexico intending to reach the US-Mexico border.

Political responses from the United States and Mexico were varied. President Trump tweeted several times about the caravans. He warned Central American governments that aid would be cut unless they stopped people from fleeing their countries. He criminalized migrants claiming the presence of Middle Eastern people[2] among them, warned migrants not to continue or military force would be used, and even likened the movement of migrants to a US invasion. President Trump tweeted on 29 October 2018 "Please go back, you will not be admitted into the United States unless you go through the legal process. This is an invasion of our Country and our Military is waiting for you!" (Trump, 2018). Mexico's government strengthened security and migration controls at its southern border and offered migrants to apply for asylum. Also, the Mexican government established a temporary program called *Estás en tu casa* (You are Home) offering

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1   These estimates are based on reports from *Secretaría de Gobernación* and the IOM (International Migration Organization).

2   President Trump (@realDonaldTrump) tweeted on 22 October 2018: "Sadly, it looks like Mexico's Police and Military are unable to stop the Caravan heading to the Southern Border of the United States. Criminals and unknown Middle Easterners are mixed in. I have alerted Border Patrol and Military that this is a National Emergency. Must change laws!"

migrants temporary employment, health services, and access to education for their children. Benefits were contingent on enrolment in the program as well as permanence in the states of Chiapas and Oaxaca. This response sought to dissuade migrants from entering Mexico and showing the United States government that Mexico was capable of managing migration flows.

Local humanitarian groups, many of them faith-based, aided the caravan during their journey through Mexico. Churches and local communities scrambled to offer as much support as possible, especially to children and women. But migrant shelters that exist all across migration routes in Mexico are not designed to house thousands of migrants (see Morello, 2018). Thus, local and state governments had to step in to guarantee safety, shelter, and food for migrants as the physical demands of covering the journey mostly on foot took a toll on them. The Red Cross maintained a presence providing emergency support. The IOM advocated for migrant human rights and fair treatment while the UNHCR focused on those interested in applying for asylum in Mexico. In spite of all the media attention, the risk of violence against migrants always remained. Furthermore, tensions were still present, and the journey up north remained uncertain at all times.[3]

According to the World Bank (2019), in 2018, Honduran remittances represented close to 18% of its gross domestic product (GDP), 19% for El Salvador, and 11% for Guatemala. These statistics indicate the presence of these immigrant groups in the United States. Thus, an American job market that feeds off of unskilled migrants and the possibility of sending remittances to their home country still remains a strong pull factor for Central American nationals. However, the movement of migrants through Mexico is anything but new. In the past few decades, migrants travelling in groups have moved through Mexico either attempting to reach the United States or trying to raise awareness regarding human rights violations against migrants in Mexico. Marcelo Pisani, IOM Regional Director for Central America, North America, and the Caribbean, said: "The caravan phenomenon in Central America is another expression of a migration process that the region has been facing for quite some time… It is a mixed migration flow, driven by economic factors, family reunification, violence, and the search for international protection, among others" (IOM, 2018). The timing of this event, so

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3   At the moment of completing this document there were three large groups of migrants in Mexico. One reached Mexico City, another one was in the state of Oaxaca, and the last one was still in the state of Chiapas.

close to the United States mid-term elections, brought added media coverage and fostered a highly contested political climate.

The movement of migrants through Mexico, the political responses aimed to control them, the emergence of humanitarian actors that support migrants, asylum seekers, and deportees, and the permanent threat of violence illustrate how US-Mexico border dynamics go beyond geographical and political markers. Applying the concept of 'bordering practices' (Vaughan-Williams, 2009, p. 39), this chapter considers migration patterns or irregular migrants, deportees, asylum seekers, the proliferation of migration controls, surveillance in Mexico, the emergence of humanitarian actors, and an emerging violent situation as the main dynamic to understand the current state of the US-Mexican border that has been externalized to the Mexican southern border (Olayo-Méndez, 2017; see also Mountz, 2011)

Bordering practices beyond the US-Mexico border

Borders are more than political lines prescribing territorial limits. They function as spaces for economic and social exchange and have become expressions of power that determine who belongs and who does not (Popescu, 2012, pp. 9-27). Hence, we need to move from viewing borders as fixed places to an understanding of bordering practices which refer to those activities that may affect the constituting, sustaining, or modifying of borders (Vaughan-Williams, 2009, p. 39). Such practices appear as processes, practices, discourses, symbols, institutions, or networks through which power works and include not only "discursive or emotional landscapes of social powers," but also "technical landscapes of control and surveillance" (Johnson et al., 2011, p. 62). Bordering practices may be intentional or unintentional; and performed or fostered by state or non-state actors, including citizens, private security companies, and other people engaged in processes of human mobility. The focus on bordering practices encourages attention to 'everyday' practices of control over mobility and the effects of those controls in people's lives and different social interactions (Parker & Vaughan-Williams, 2012, p. 729).

Ariel, a 29-year-old Honduran migrant, was on his fifth journey to the United States when I met him. He travelled for the first time in 2008. That time, he was able to enter the United States irregularly, lived there for two years and was deported in 2010. After waiting four years, Ariel departed again from Honduras to the United States in August 2014. He hoped a friend

could lend him the money to cross the US-Mexico border. He left Honduras with 500 USD, worked sporadically, and stayed six months in Mexico City. During his journey, he slept mostly near the train tracks, used few migrant shelters, and begged as a means of survival to cope with the journey. He has been deported from the Mexican cities of Palenque, Hermosillo, Saltillo, and twice from the city of San Luis Potosi. During his journeys, he was robbed and beaten several times. Mexican migration authorities authorized him to remain in Mexico for humanitarian reasons because he was robbed in the state of Oaxaca. Rather than staying in Mexico, he tried to reach the border with the United States, this time without worrying about authorities or migration checkpoints, but mindful of the criminal gangs at the US border.

> Migration authorities have chased me many times… but, every time I have been able to get farther. You learn how to evade checkpoints and be careful with Police…one has to be very careful; migration authorities and police are everywhere… at the border, one has to be careful not only of the authorities but of *la mafia* (criminal gangs). Border towns are very hot [meaning dangerous]. (Ariel)

Ariel's story illustrates how a migrant can travel through Mexico attempting to reach the United States multiple times with different outcomes. Every time he is reaching different points along the journey and resetting it every time he was deported from the country. No matter the route, each time he encountered different migration controls and checkpoints. These are 'everywhere' as Ariel said. In a way, he experienced over and over 'bordering practices' aiming to control his movement.

Migration patterns of irregular migrants, deportees, and asylum seekers appear not only at the US-Mexican border but also along the routes migrants have used for decades. Their presence elicits different responses ranging from migration policies that aim to manage and control their movement to local humanitarian responses which emerge to ease the vulnerability that all these groups experience. Furthermore, these dynamics emerge in a generalized context of violence in Mexico. The changing nature of migration patterns in Mexico and the bordering practices that appear with their movement lead us to imagine that there is a border beyond the political line between Mexico and the United States. Bordering practices have emerged beyond the original political limits of the US-Mexico border (Menjívar, 2014; Andersson, 2014, p. 21; Rumford, 2006, pp. 158-159) to the

point that the Mexican border has been called a "vertical border" (Rigoni, 2007, p. 1; Anguiano & Trejo-Peña 2007, p. 51; Meyer & Brewer, 2010, p. 5), an "elastic border" (Camacho, 2015, p. 11), "*un país frontera*"—country as a border zone—(Sandoval, 2005), and an "arterial border" (Vogt, 2017).

Migration routes and migration patterns in Mexico

Initially, scholarship about migration patterns and dynamics in Mexico concentrated on the US-Mexico border regions and focused on Mexican migration to the United States. While there are reports that Mexican migration to the US has reached its lowest point in years, there has been an average of 540,000 Mexican deportees in the past five years (Department of Homeland Security of the United States, 2016). However, current migration patterns in Mexico—especially irregular ones—include a wide range of nationalities attempting to reach the United States and an increasing number of asylum seekers.

Central Americans remain the largest group moving irregularly through Mexico. Still, according to data from the *Instituto Nacional de Migración* (National Migration Institute), in recent years there has been an increase in the number of irregular migrants from other nationalities. In 2016, Mexican migration authorities detained over 17,000 Haitians. Between 2016 and 2018 an average of 3,000 African nationals mostly from Cameroon, Congo, Ethiopia, and Eritrea have attempted to cross Mexico irregularly. During those same years close to 5,500 migrants from Asian countries, mostly India, Bangladesh, and Nepal tried to cross Mexico without authorization (UPM, 2016; 2017; 2018). Irregular migrants often have mixed motivations for attempting to reach the United States; these range from the desire to leave poverty and improve their livelihoods, family reunification, and fleeing from violence. Interviews with irregular migrants from Congo, India, and Bangladesh at detention centres in Mexico indicate the existence of smuggling networks that use migration routes starting in South America (Olayo-Méndez, 2018).

In the case of refugees, the number of applications for refugee status has had an upward trend in the past ten years reaching over 14,000 applications for asylum in Mexico during 2017 (SEGOB, CONAPO, Fundacion BBVA Bancomer, & BBVA Research, 2017). Still, many irregular migrants seeking refugee status try to cross Mexico to file their claim in the United States. In

most of these cases, violence often emerges as the main reason for seeking refuge somewhere else. After all, the presence of irregular migrants from other countries and the increasing number of asylum seekers has added to the complexities of the US-Mexico border that has moved beyond its political line (IOM, 2017).

Within Mexico, there are well known and frequently travelled routes that irregular migrants follow on their way to the United States. Mappings of those routes often coincide with the infrastructure of freight trains that run from the southern end of Mexico to the northern end, as well as with the road infrastructure Over the years, these routes have been used, developed, and maintained by networks of Salvadorans, Guatemalans, and most recently Honduran migrants (Rodríguez-Chávez, 2014; Sørensen, 2013, pp. 238-239). Figure 1 shows these routes and indicates the main cities where Mexicans are deported from the United States.

Irregular Central American migrants and migrants of other origins are especially visible and vulnerable along migratory routes because they often use the cargo train system to travel through Mexico (Figure 1) (Hagan, 2006, pp. 1554-1561; Sørensen, 2013, pp. 246-247). An increase in violence, extortion, kidnapping, mutilation, death, and accidents add to the already physically exhausting experience of travelling on top of freight trains (CNDH, 2009; Rosales Sandoval, 2013, pp. 216-217; Sørensen, 2013, pp. 238-240; Rodríguez, 2016; Vogt, 2017). The increase in violence mainly resulted from the so-called 'war on drugs' declared in 2006 during former President Felipe Calderón's mandate, as well as the rise of other criminal actors with particular agendas (Morton, 2012). Furthermore, other social and political factors have contributed to a generalized climate of violent events, like the disappearance of 43 teacher trainees in the state of Guerrero or the increasing number of *feminicidios* (female killings) in different states (Amnesty International, 2017, pp. 250-254; Rodríguez, 2016; CIDH, 2015). Recently and with more frequency migrants have decided to move in caravans as a form of protection from violence. While the strategy works in the short term, it still raises the question of for how long communities and humanitarian organizations throughout Mexico can support a large number of migrants at once and how states both Mexico and the United States respond to these movements.

Casillas (2008) has indicated that both main and secondary migration routes exist and that these could be differentiated by functional distinctions such as long or short, safe, economical, alternative, or any possible combination. Migrants or smugglers may use parts of the main route and
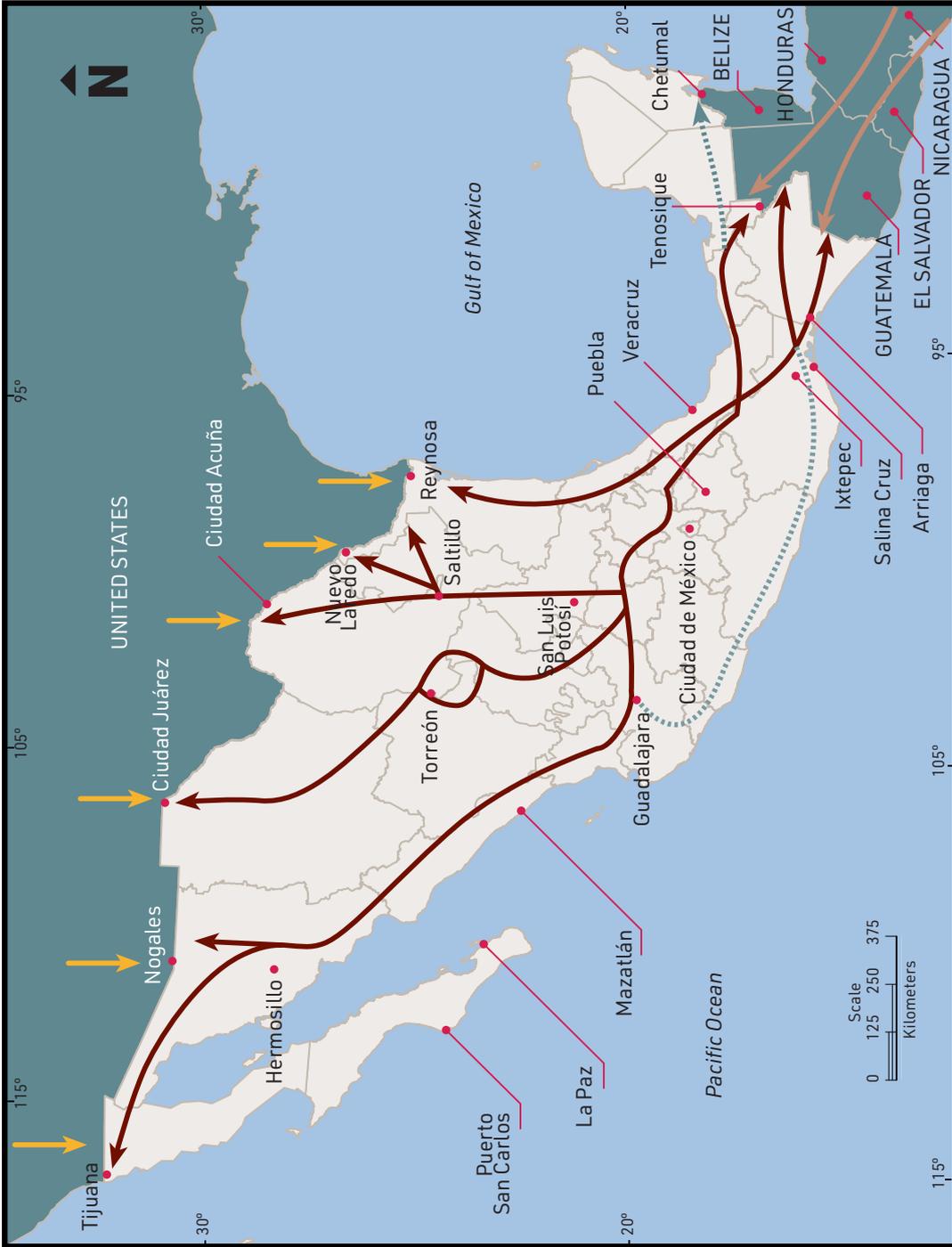
Figure 1. Mainland routes used by migrants from Central America and other countries
Source: Adaptation from Casillas (2006) and Olayo-Méndez (2018).

then get to other regions through secondary paths. Their choice of direction depends on a series of factors that range from preference to criminal activity to migration control. Often, migrants may take diversions only to return to the original pathway once the migration control or the threat of criminal gangs has been averted. Another significant consideration is that other groups may use these routes for different purposes. Thus, migrant trajectories may overlap with drug trafficking routes and those regularly used by the general public.

Overland paths are the most used and freight trains are the most frequently chosen mode of transportation by migrants with the least amount of resources. Land routes are narrow in the southeast because of Mexico's geography but diversify from central Mexico onward, mainly due to the railway infrastructure. These may be activated or deactivated depending on the variety of factors mentioned earlier. For example, if part of the main route has a new migration control checkpoint, a secondary road may be activated. As Casillas (2008) states, migrants use the existing infrastructure to move through Mexico, because "there is no need to create new routes or means of communication other than those that already exist […] migrants do not make their own routes; they make existing ones their own" (p. 148).

While return and circular migration are often seen as separate dynamics in their own right because of the complexities and scope that they may entail (Brachet, 2012), migration dynamics at the us-Mexico border and throughout the country cannot be properly understood without the consideration of the number of deported Mexicans arriving at different towns at the border between Mexico and the us, which appear in Figure 1 at the Mexican northern border.

Central American migrants

From a historical perspective, the Central American movement within the region has been constant. Internal migration movements characterized the region from the colonial expansion (19th century) until the 1970s (Hamilton & Chinchilla, 1991; Sørensen, 2014, p. 46). Usually, labour market opportunities drove these migration patterns (Sørensen, 2014, pp. 46-47; Casillas, 1992, pp. 1-8). In the second half of the 1970s and throughout the 1980s, armed conflicts in the region led to the displacement of many of its residents. The vast majority remained internally displaced, but some found asylum opportunities in the us,

Canada, and Europe. After conflicts ended, many returned, but others stayed in the countries where they had taken refuge. This to some extent was the pivotal moment of social network formation (Hamilton & Chinchilla, 1991; Casillas 1992, pp. 11-15; Sørensen, 2014, p. 46; Alba & Castillo 2012, pp. 8-9). Currently, 20% of Central American migration still occurs within the region while the rest goes towards other countries (Sørensen, 2014, p. 47). In recent years, the main destination for Central Americans has become the US. Today, there are 4.6 million Central Americans (documented and undocumented) living there. Over the past five decades, Central American immigrants' share of the total immigrant population has grown from less than 1% in 1960 to almost 8% in 2011. Since 2000, the number of undocumented entries from Central America to the US has more than doubled (Stoney & Batalova, 2013; Sørensen, 2014, p. 47; Casillas, 1992, pp. 12-13).

Push and pull factors, increasing violence, and the possibility of sending remittances continue to be significant when Central Americans make decisions about whether or not to migrate to the United States (Castillo, 2003; Casillas, 2008; Sørensen, 2014, pp. 53-56). For some Central Americans (Guatemalans, Salvadorans, and Nicaraguans), migrating may be easier since they have a long history of social networks. For others, like Hondurans, the situation is more complicated since their migratory patterns developed later on (Rodríguez-Chávez, 2014; Sørensen, 2013, pp. 239-243). In any case, crossing Mexico has become a key step for irregular migrants (Casillas, 2008, p. 141), who are classified as those who are entering, transiting, staying, or working in Mexico without the necessary authorization or documents required by immigration regulations.

Calculating the number of irregular migrants moving through Mexico—especially those from Central America—poses a challenge, and obtaining an exact number would be difficult. Available numbers often come from the composite of three sources: records from detentions by Mexican migration authorities, records from detentions by United States migration authorities at the southern border of the United States (which assumes that a certain number of irregular migrants can cross Mexico), and estimates of the growth of the undocumented population living in the United States (this assumes that many other migrants are able to cross Mexico and successfully enter the United States). It is important to note that records are always from migrant events, which means that statistics do not distinguish if a migrant has been detained more than once in a year (Rodríguez-Chávez, 2016, pp. 4-6). Figure 2 below shows the composite of these statistics from 1995 to 2015.
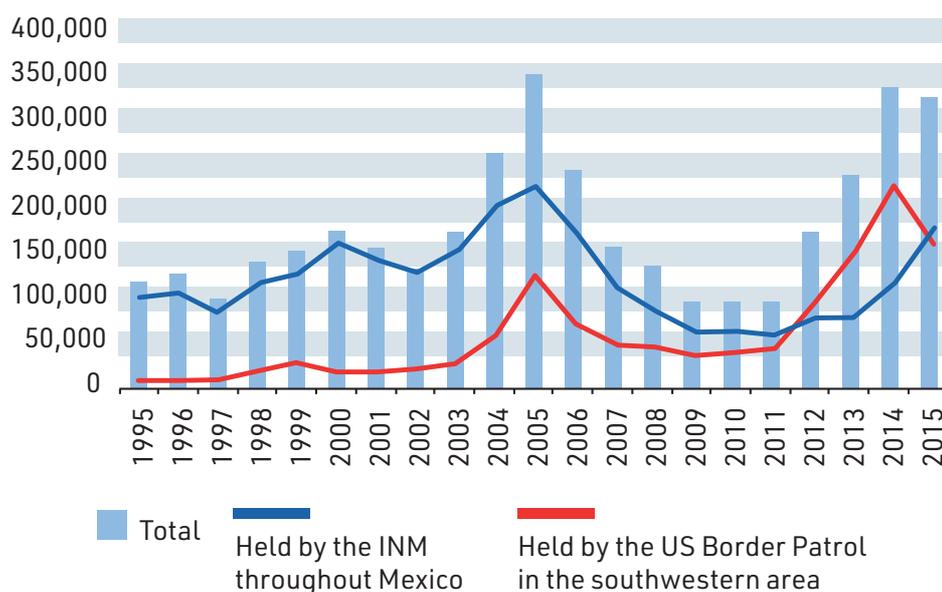
Figure 2. Number of migrants detained by Mexican and American Migration
Authorities between 1995-2015
Source: Rodriguez (2016).

As illustrated above, numbers remained stable until the end of the 1990s. In 2000 and 2001, around 145,000 Central American migrants were detained in Mexico; by 2004, the number had risen to approximately 200,000 (Ogren, 2007, pp. 212-213). On average, between 2005 and 2007 there were close to 150,000 detentions of migrants in Mexican territory, most of them from Central American countries. Even when official statistics of the number of detentions decreased by 2011 (SEGOB, 2013), the figures do not include the number of migrants capable of crossing the Mexican border without being detained. Variations in the increase and decrease of detentions respond to changes in the labour market and migration policies (Montoya-Ortiz & González-Becerril, 2015). Thus, it is estimated that between 150,000 and 400,000 migrants travel through Mexico each year (Casillas, 2008, p. 143; CNDH, 2009; 2011; Rodríguez-Chávez, 2016). These statistics do not include the recent events from the end of 2018 to mid-2019.

Deported Mexicans

As stated earlier, to better understand migration dynamics in Mexico, it is necessary to consider the number of deported Mexicans returning to their country. In the past five years, an average of 540,000 Mexicans have been
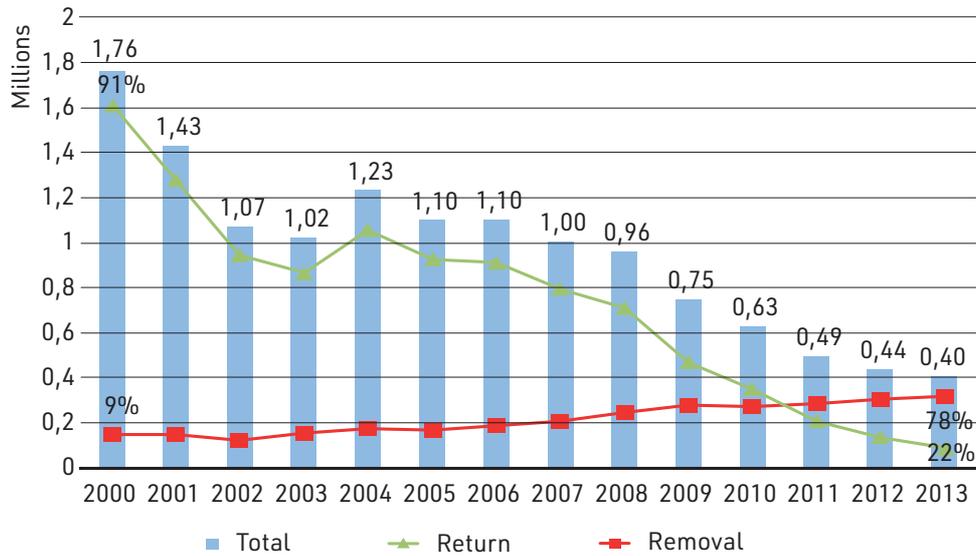
Figure 3. Mexicans deported from the United States from 2000-2013
Source: Department of Homeland Security of the United States (2016).

deported from the United States. Additionally, it is significant to note the change in the characterization of deportations, as there has been an increase in removals and a corresponding decrease in voluntary returns. On the one hand, 'removal' is a term used by the United States government instead of 'deportation.' removal is often accompanied by a period of detention, either in a jail or a detention centre depending on the case (Rosenblum, Meissner, Bergeron, & Hipsman, 2014; Gandini, Lozano-Ascencio, & Gaspar Olvera, 2015). On the other hand, a voluntary return refers to those departures not based on a removal order (deportation) and often do not have a legal precedent for the deportee. Figure 3 shows the number of deported Mexicans removed from the United States between 2000-2013.

While in 2000, 91% of deported Mexicans were removed from the US under the label of 'return,' in 2013, 78% were deported under the label 'removal.' As opposed to the more neutral connotation of the former term, the label 'removal' has criminal consequences attached to it. This shift in labels reflects what Stumpf (2006) has called 'crimmigration,' which refers to a current trend in immigration law that blurs the boundaries between immigration law and criminal law (Stumpf, 2006, p. 10; Hartry, 2012, p. 6). In practice, this means attaching both criminal consequences to immigration violations and immigration consequences to criminal conditions. The surge

in enforcement leads to an increase in the criminalization of migrants, as well as the professionalization of smuggling, which, in turn, creates a vicious cycle. Furthermore, the number of deportations and increasing internal enforcement in the us creates an environment of fear and insecurity, which can be characterized as 'legal violence' (Menjívar & Abrego, 2012).

Furthermore, American migration authorities use several deportation practices that frequently put deported Mexicans at risk of being kidnapped, extorted, or killed. These practices include repatriating migrants to cities with high levels of drug-related violence and criminal activity, returning migrants in the middle of the night when services and migrant shelters are closed, using 'lateral deportation' to return migrants[4], and failing to return migrants' belongings (meaning that migrants may return to their country without any money or identification) (Isacson, Meyer, & Davis, 2014).

This data provided an idea of the volume of irregular migrants and deported Mexicans who travel through Mexico. Migration patterns are multidirectional, and these patterns often change due to contextual circumstances, policy changes, and enforcement practices. In the case of Mexico, regardless of the outcome of their migration trajectories, a good number of migrants still transit to reach the United States, and many deported Mexicans return to border towns with different needs and intentions for their next steps after deportation.

These migrants and deportees are economically stratified (Sládková, 2016) migrants run into the ever strengthening security systems of nation states. Migrants' access to mobility (finances and networks, which means that some migrants may have more resources available for their migration trajectories or upon return, which decreases their vulnerability. In reality, not all Central American migrants or Mexican deportees need support. Thus, only those migrants and deportees who have the least amount of resources or have the highest needs use the humanitarian support that has emerged in Mexico. Still, it is estimated that around 30,000 migrants and deportees use the services of at least one migrant shelter during their migration trajectories each year (REDODEM, 2015; 2016; 2017).

Due to the increasing violence and migration controls in Mexico, migrants in precarious situations are led to the use of humanitarian

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4   Migrants detained in one sector may be deported through a far distant city, which constrains migrants' ability to contact any social network—this is especially dangerous for women who may be separated from travel companions.

organization services. The figure of 30,000 migrants a year may represent less than 10% of the total number of migrants and deportees moving through Mexico. However, depending on their own resources, humanitarian organizations must exercise considerable effort to provide adequate services to migrants and deportees consistently. Furthermore, the interactions between migrants and deportees and humanitarian organizations reveal that while migrants may receive care and aid, other forms of facilitation and control exist at the same time.

Refugees and the emergence of a mixed flow

A growing number of migrants remain in different migrant shelters or points along the migratory route, and many of them are in the process of being recognized as refugees. Those who are denied refugee status after months of waiting are left in limbo. Many attempt to continue their journeys north, but others stay close to the shelter areas. There are still others who attempt to move to bigger cities. Few return to an uncertain reality in their home countries.

The increasing numbers of forced migrants and asylum seekers make it necessary to mention their presence in Mexico. Figure 4 shows the upward trend of people applying for refugee status and the number of people granted said status in the past ten years. Three reasons, among others, may explain this upward trend: First, social violence—especially gang-related violence—has increased in recent years, displacing a growing number of people. Second, governments in Central America have been unable to secure protective measures for their population. And third, humanitarian organizations in Mexico have started to accompany and represent people applying for refugee status. Until 2016, around 90% of the applications corresponded with people from Central America. In 2017, apart from Central Americans, an increasing number of people from Venezuela applied for refugee status in Mexico. The growing presence of refugees contributes to the emergence of a mixed flow. With the presence of the migrant caravans at the end of 2018, Mexico received 29,630 applications for refugee status. The numbers keep a dramatic upward trend reaching 70,302 applications for in 2019 (Comisión Mexicana de Ayuda a Refugiados [COMAR], 2020). Additionally, the ways migrants become asylum seekers and their decisions after being denied refugee status add to the dynamics present in Mexico's migration process.
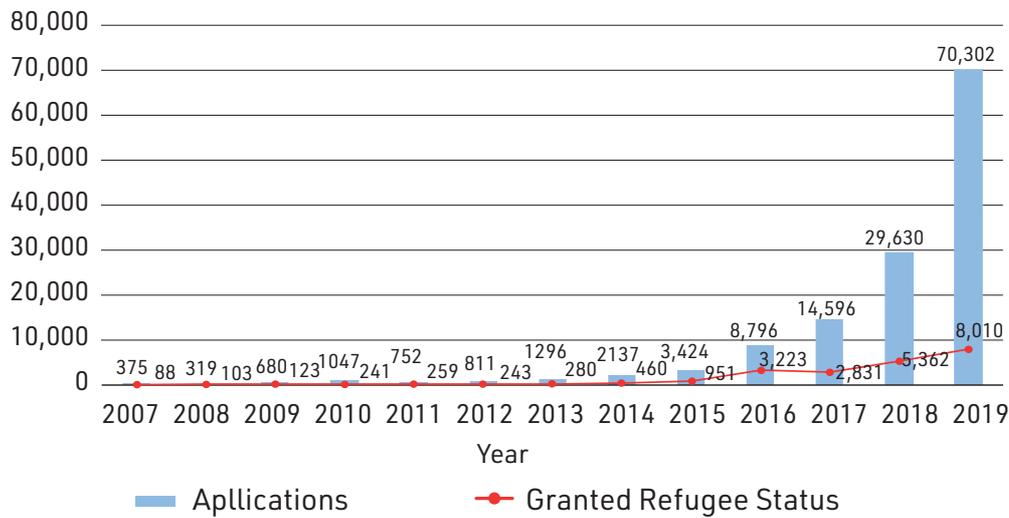
Figure 4. Applications for Refugee Status vs people Recognized as Refugees. Data from 2007-2017

Source: SEGOB et al. (2017).

In all, these statistics on the number of deportations from Mexico and the United States, as well as the increasing number of people applying for refugee status, show that migration patterns in Mexico are dynamic. They include not only the movement towards the United States but also towards the south. The movement south is caused by deportations from the United States to Mexico and by deportations from Mexico to different countries in Central America. Migration patterns in Mexico must include people recognized as refugees settling in Mexico, and those migrants from Central America and other countries who may consider Mexico as a final destination. Poverty, violence, and migration policies increase the vulnerability of these groups that may need support or protection at different stages of their migration journeys. Hence, these patterns of migration, as well as people's precarity, have given rise to the emergence of humanitarian actors in Mexico.

While deported Mexicans return to border towns in the northern part of Mexico, the presence of other migrants to reach the United States is not limited to the US-Mexico border. The presence of migrants and asylum seekers appear all over the country, and the efforts by the Mexican government to 'manage' migration create border like dynamics all across the country. Furthermore, the United States provides Mexico with diverse support

through different initiatives such as Plan Puebla-Panama, the Mesoamerican Initiative, and the Merida Initiative. A case could be made to say that the United States has externalized its Southern border to the Mexican border with Guatemala (Olayo-Méndez, 2017; Alba & Castillo, 2012, p. 13; Isacson, Meyer, & Smith, 2017, pp. 24-26). The analysis of control practices and surveillance is key to understand how bordering practices exist all over Mexican territory and not only at the border with the US.

Fixed borders, mobile borders, and the increasing number of detention centres

Detection, detention, and deportation strategies are some of the most visible forms of internal enforcement that exist today (Menjívar, 2014, p. 360). Migration controls and surveillance in Mexico occur in two ways: at fixed places (that could be located at the geographical borders of the country or different fixed points along main roads) and with mobile units that could set up temporary checkpoints at any time in different parts of the country.

FIXED POINTS OF MIGRATION CONTROL

Mapping migrant trajectories allows for the identification of particular points where migration controls operate. Migrants' narratives often describe how migrants sometimes go around checkpoints at the border with Guatemala. Other times narratives describe getting off the train to circumvent a checkpoint after passing the town of Palenque in southern Mexico or having to walk around the checkpoint of Playas de Catazajá also near Palenque. Further along the route through the Gulf, migrants referred to the need to be aware of a checkpoint near Chontalpa, located right before the town of Coatzacoalcos. Migrants entering through the state of Chiapas and travelling along the Pacific route mentioned a checkpoint around the town of Pijijiapan, where they often experienced aggressive migration raids. All of these checkpoints are located either near the train tracks or along main roads. In one way or another, migrants become aware of these checkpoints either by word of mouth or through information gathered at migrant shelters.

At these fixed points of control, migration officers board commercial buses and request identification from passengers, questioning them about the purpose of their travels. Those who are unable to provide identification are detained.

MOBILE MIGRATION CONTROL POINTS

The other principal form of migration control in Mexico appears in the form of mobile migration control units that could be stationed anywhere along the main roads or the train tracks. The Mexican government enabled 120 provisional-mobile stations in 14 states during 2016 (REDODEM, 2016, pp. 69-72; Díaz-Prieto, 2016). By law, police groups can perform surveillance and migration control checks. Hence, different states in Mexico have migration, military, and other police officials patrolling main roads, train tracks, ports, and coastlines. Since 2001, there has been an increase in the number of police and military actors along the southern border due to the security approach taken in the region after the terrorist attacks of 9/11. Federal police, migration officials, Army and Navy personnel, and state and local police are among the actors that patrol the region. While programs like the *Merida Initiative* and the *Programa de la Frontera Sur* have aimed to foster development and security in the region, in practice, they try to decrease irregular migration coming from Central America and control drug cartels and trafficking organizations (Herrera-Lasso & Artola, 2011, p. 11).

The dynamic of these mobile units often require screening and questioning the passengers in vehicles or on public transportation. Along different migration routes, there are mobile checkpoints run by federal police, by members of the Army, and by migration authorities along the roads. Some of the strategies used for policing are x-ray screening and vehicle searches. Furthermore, any of these actors can question people transiting the region. Migration officers, as well as federal police, can ask for some type of identification. If travelling by bus, migration officers and federal police stop and board the vehicle at different mobile checkpoints. They screen the travellers on the bus, and if they perceive someone to be of a different nationality, they ask for identification and an explanation of the trip's purpose.

Migration controls along the train tracks often involved detaining the train in different places to verify that no irregular migrants were riding on top. The existence of these mobile units demands migrants' complete alertness and attentiveness to any information that can be gathered along the way. The last hurdle a migrant wants, deep into Mexican territory, is to be caught by mobile units of migration control. Figure 5 depicts a mobile unit with migration authorities and a vehicle from the federal police stationed along one of the main interstate roads along the southern border in Mexico.

Figure 5. Checkpoint along an interstate road in Southern Mexico. On the left is a vehicle from INM (Migration Institute) and on the right, a federal police vehicle
Source: Photo by Alejandro Olayo-Méndez.

Increase in detentions

Despite the increasing number of detentions in southern Mexico, the evidence from detentions in other parts of the country suggests that control practices operate throughout the country. Accompanying these practices is the emergence of many detention centres in Mexico. Some scholars have described the migration routes in Mexico as *la ruta del encierro* (the route of confinement) (Sin Fronteras IAP, 2013), a description that comes from the increasing number of detention centres that have appeared all over the country. In 2000, there were 25 *estaciones migratorias* (detention centres) in Mexico, located in Mexico City, Sinaloa, Chihuahua, and Tamaulipas. Of these locations, five centres are in the latter two cities, which are in northern Mexico. The other 20 were in southern states like Guerrero, Oaxaca, Tabasco, Chiapas, and Veracruz. The fact that most detention centres were in southern Mexico indicated the country's intention to contain irregular migration patterns coming from the south. By 2005 the number increased

to 52 detention centres, still mostly located in southern Mexico. The number decreased to 48 by 2007 due to irregularities in the management of the detention centres that were brought to light by the CNDH (Mexico Human Rights National Commission) (Casillas, 2008, pp. 145-146). By the end of 2016, there were 32 detention centres and 26 substations throughout the country. Every state in Mexico but one has at least one detention centre (INM, 2016a). These changes in the number of detention centres—that reach the point of covering almost all national territory, as well as the refinement in the size and operation—, reflect the evolution of migration policies and the trend to manage migration patterns throughout the country.

Detention centres can hold irregular migrants for up to 15 working days, provide food, shelter, and special accommodations for particular groups (women, minors, families), and offer access to medical assistance, psychological services, and legal services, including access to consular services in some cases. Substations, by contrast, can hold migrants either for 48 hours or up to seven days. Often, migrants are transported from substations to detention centres, where they remain until the Mexican government arranges for their removal from the country. Figure 6 shows the location of the detention centres and the substations.

The return

When discussing migration control and surveillance, most of the attention has been given to those moving north, in other words, to irregular migrants moving through the corridor to the United States. The work of many organizations that advocate for the rights of irregular migrants and asylum seekers reinforces this trend. However, attention to deportees, both Mexican and Central American, is underdeveloped and the effectiveness of government programs for deported Mexicans, who are returned to dangerous cities at the northern border of Mexico, remains in question.

Deported Mexicans are often returned through various cities along the US-Mexico border. They frequently return without money or identification, and to places where they have limited possibilities for trying to contact their networks. Thus, many deportees risk becoming the prey of criminal groups in border cities or collusion with commercial bus companies. Sometimes, criminal groups kidnap deported Mexicans for ransom, or extort them in cases where they want to return to the United States.
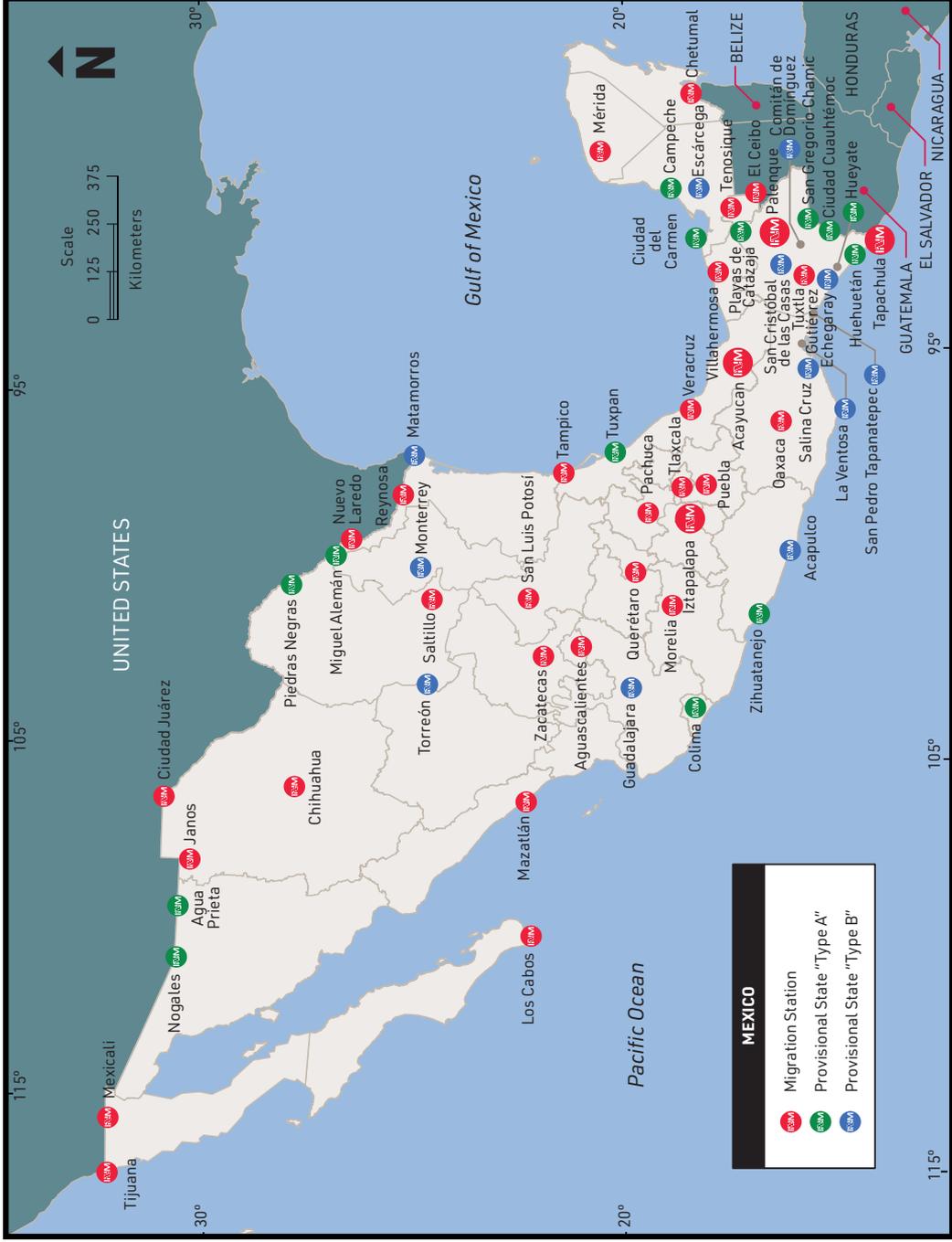
Figure 6. *Estaciones Migratorias* (Migration Stations/Detention Centers) in Mexico in 2013

Source: INM (*Instituto Nacional de Migración*).

Due to the increasing number of Mexicans returning voluntarily or after deportation from the United States, the Mexican government has collaborated with IOM to improve the repatriation program called *Somos Mexicanos* (We are Mexicans). It has opened 11 reception centres across the northern border states. The goal of the program is to make the repatriation process safe, ordered, humane, and respectful of the returnee. The program also offers information regarding other resources that are available to support social reintegration after deportation, communication with the consulate in case deportees want to file claims against foreign authorities. It also provides medical and psychological assistance, local and international phone calls, information about local shelters, support for transportation to the place of origin, or repatriation documents that may temporarily serve as an official ID (SEGOB, 2017).

However, the process of return varies across border cities. Larger cities have better reception centres and more resources available to support deportees. In practice, the Mexican government 'receives' the deportee and scrutinizes them to ensure they are of their stated nationalities. The next step consists of registering deportees and providing them with the documents that serve as identification. Yet, many local police officers do not recognize the documents and few banks or wire transfer companies accept them as a valid form of identification (IDs are essential in Mexican territory for most financial transactions). When no large reception centre exists, deportees are dropped at the international bridge by American border authorities. In these cases, there is often confusion over what the next step is. While the government provides some immediate assistance at points of entry, there is no long-term or even medium-term assistance. The government instead pushes its policy of 'returning to the place of origin' or 'the place where the person could be useful' and pressures deportees to move quickly to the towns where they were born or where they have family members. In other words, there is no support from Mexican authorities to help migrants move to another border town. Figure 7 below depicts a group of Mexicans who were just deported from the United States through the city of Reynosa as they were waiting to be registered by the Mexican government.

The repatriation program demonstrates that migration controls also exist for returning patterns of migration. However, deportees are not the only population the Mexican government caters to; Mexican authorities have developed good reception programs for Mexican migrants living in

Figure 7. Deported Mexicans arriving at the ɪɴᴍ Reception
Center in Reynosa, Tamaulipas
Source: Photo by Alejandro Olayo-Méndez.

the United States who return to their country for vacation. The program, called *Bienvenido a Casa Paisano* (Welcome Home Co-national) sponsored by the Mexican government, has developed a series of recommendations for returning migrants visiting the country that help them navigate dangerous routes through Mexico (ɪɴᴍ, 2016b). Federal police will occasionally escort caravans of returning Mexicans during the Christmas and summer vacation periods. Additionally, a new program emerged called *Amigo Centroamericano* (Central American Friend). This program tends to Central Americans residing in the United States who travel through Mexico on their way to their home countries in Central America (ɪɴᴍ, 2016b).

Programs for the reception of deported migrants and programs supporting documented migrants (Mexicans and Central Americans) living in the United States indicate that migration patterns in Mexico also move south. At the same time, these programs reveal the ways that migrants are

treated differently depending on their status and potential contributions to the country. While deported Mexicans receive limited support as they return to their country, security and safety operations shield Mexicans and Central Americans—with visas or regular statuses in the us—from organized crime. These programs also highlight that migrants perceived as heroes are treated differently because they can contribute to their country even when abroad and that migrants perceived as failures are also treated inconsistently because of deportation (Schuster & Majidi, 2015; Martínez-Saldaña, 2003).

Fixed border controls, mobile border practices, an increasing number of detention centres, repatriation programs, and assistance for visitors residing elsewhere are evidence of a process of border internalization and different expressions of migration management. Thus, it is evident that the management and control of migrant populations in Mexico do not occur solely at the geographical and political borders of the country. Instead, management and control, which are features of the us-Mexico border, emerge and move through different routes and in a variety of directions along with the Mexican territory.

The constant threat of violence

There is no doubt that violence influences state policies and practices, shapes and reshapes boundaries, and creates categories of exclusion. Slack, Martínez, Lee, & Whiteford (2016) state that violence at the border includes institutional violence that causes border-crossing deaths, structural violence provoked by factors that increase poverty and inequality, and informal types of migrant abuses by smugglers and other actors in the smuggling of migrants, as well as drug and arms trade. "Examining the different types of violence that people experience in their attempts to cross the border, upon apprehension, during incarceration, and ultimately, when returned to Mexico makes visible the routinized abuse of a marginalized population through the militarized logic of security" (p. 13).

The increase in criminal activity through the Mexican territory is partially due to an overlap between the migratory routes and the routes used by drug traffickers and criminal gangs since drug traffickers and migrants occasionally use the same main or secondary roads to move through the country (Casillas, 2008, pp. 143-146; Casillas, 2006; cndh, 2009; Rosales Sandoval, 2013, pp. 216-217; Sørensen, 2013, pp. 238-240, 250-254). Similar rises

in violence and risk have been seen at the border cities where Mexicans arrive after deportation. This is consistent with a general increase of violence in Mexico where different groups (organized crime, drug cartels, and criminal gangs) strive to preserve their particular agendas. Their goal is not to overtake the state, but rather to constrain its intervention so the groups can continue their illicit operations. Often these groups collude with government officials and local police (Arias & Goldstein, 2010; Santamaría, 2015).

In its 2017 annual report, REDODEM—a network of migrant shelters—documented the different types of violence migrants experience during their journeys. They offered a regional comparison showing that the Southern region of Mexico continues presenting high levels of violence against migrants, especially in the states of Chiapas, Veracruz, Oaxaca, and Tabasco. States like Guanajuato, Jalisco, Estado de Mexico, and Queretaro located in the Central and Western regions present upward trends of violence. The most commons types of violence along the journey are robbery, beatings, extortion, kidnapping, and abuse from migration or police officers. Among the perpetrators of violence, there are criminal gangs, different local and federal authorities, migration authorities, and smugglers. Ethnographic narratives from Vogt (2012) and Brigden (2013) confirm these findings and reports, as they have analysed the violence and exploitation migrants experience, and the ways these experiences shape their journeys.

Sánchez (2011), Martínez (2013), and Slack (2015) documented the experiences of migrants at the crossing point, explaining the interplay between violence, smuggling, and deportation contexts. Sánchez (2017) indicated that physical violence, sexual assault, homicide, labour trafficking, extortion, and kidnapping are some of the most common abuses that occur along migrant trails and at the US-Mexico border. There is also the correlation between migrant deaths and environmental exposure (Slack, Martínez, Whiteford, & Peiffer, 2013; Slack et al., 2016) However, the violence dynamics at the border are more complex and nuanced than a simple correlation with clandestine cross-border migration. Violence takes specific forms in specific markets and is not random in nature (Sánchez, 2017, pp. 18-19).

Nevertheless, the kidnapping of migrants and asylum seekers is of considerable concern at the border. "Kidnapping acts are most often described as those carried out by crews who rob smugglers of the migrants they transport. These actors, known in the region as *bajadores 3* retain migrants until a ransom fee from their friends or families is secured. Migrants

report being subjected to emotional abuse, intimidation, beatings, sexual abuse, and torture" (Sanchez, 2017, p. 19; see also Slack, Martínez, Whiteford, & Peiffer, 2015; Slack, 2015; Rivera Sánchez, 2015).

As a result of the violence and the precarious conditions for the migrants during their journeys or after deportation, humanitarian aid organizations—shelters, soup kitchens, and human rights organizations—managed by local NGOs have emerged to assist and advocate for migrants and deportees. Slowly, these humanitarian groups have gained prominence and have impacted the Mexican political landscape as well as the bordering practices that appear all over migration routes and Mexican borders.

The role of Casas de Migrantes (Migrant Shelters)

The vulnerability may increase if a migrant is poor or lacks active networks. While migration literature considers that poor migrants move less frequently and less further away (Skeldon, 1997, p. 8), data shows that despite meagre resources at their disposal, poor migrants do move. Those with few resources or limited access to their networks rely on other resources to cope with the more challenging events during their journey and still embark on long journeys. One of the resources they rely upon is the support offered by humanitarian organizations that assist migrants and deportees in distress along Mexico's migratory routes.

Many of these local humanitarian organizations are faith-based, while few are NGOs with no particular faith affiliation. The assistance they provide consists of food, shelter, medical care, legal assistance, educational instruction on human rights and health—especially AIDS prevention—, and information about the risks and dangers on the route. In addition, there are other places along the route that provide food and medical care, though not shelter (Olayo-Méndez, 2013, p. 27). While these organizations can be distinguished as *albergues* (shelters), *comedores* (soup kitchens), and *centros de atención* (attention centres), they are commonly known as *casas de migrantes* (migrant shelters) or simply shelters (IOM, 2012). The differences between these organizations consist mostly of the types of services they can provide to migrants, deportees, and most recently to asylum seekers. A shelter usually offers overnight stays for migrants. In contrast, soup kitchens provide food and health care during specific times, but no overnight stays, and attention centres offer only information and emergency assistance.
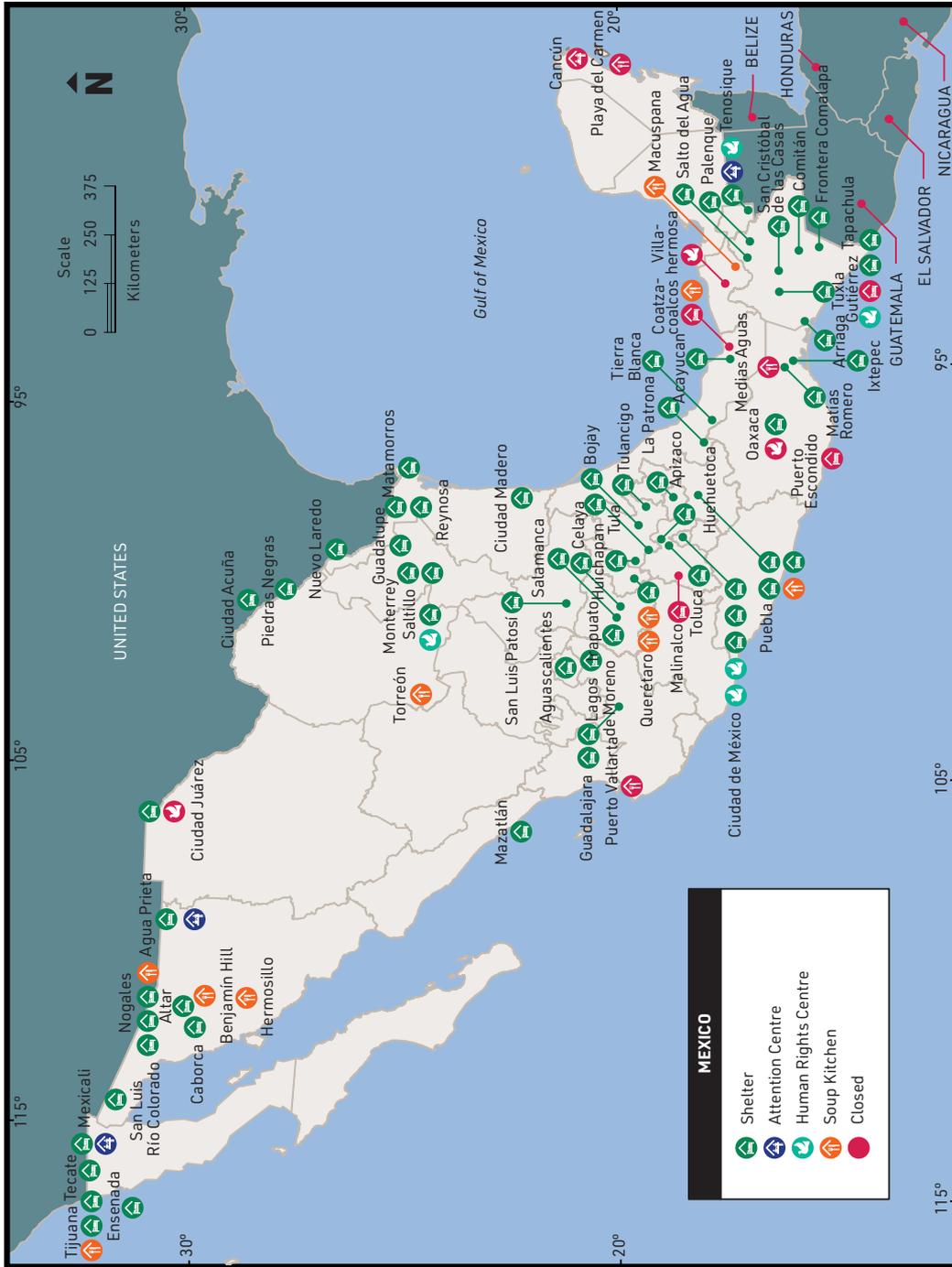
Figure 8. Humanitarian Aid Actors along Migration Routes in Mexico until 2017

Source: Adaptation from DPMH (2012) and Olayo-Méndez (2018).

Initially, migrant shelters appeared at the northern Mexican border to aid migrants crossing into the United States (DPMH, 2012). Records indicate that the first formal shelter appeared in the city of Tijuana and started operations in 1987. By the end of 2017, there were 71 humanitarian organizations aiding migrants, deportees, and asylum seekers and refugees. Additionally, there are six Human Rights Centres that advocated for migrant rights, among other causes. Figure 8 below shows the current distribution of *casas de migrantes*, with a clear concentration of organizations working in central and southern Mexico, but with a continuing presence in the north.

While most shelters and soup kitchens have operated along the migratory routes defined by the freight train system in Mexico, some have started to appear on secondary routes and in urban areas that previously did not have a significant migratory presence. This change comes as a response to increased border control and violence—ranging from extortion, robbery, and physical assaults to kidnapping by criminal groups—that forced migrants to shift their journeys toward more isolated areas (Castillo, 2003; Hagan, 2008, p. 162). Another significant change was that 90% of the migrant population tended by the northern shelters was comprised of deported migrants from the US. This change resulted from the increasing number of deportations from the US in recent years (Manenti, 2012, p. 42; DPMH, 2012, p. 39). However, migration patterns can change rapidly in Mexico. During 2016, some of the northern shelters tended to a significant number of Haitians, Congolese, and other African migrants who sought to file for refugee status in the United States (Peters, 2016; Semple, 2016; Tourliere, 2016).

Humanitarian organizations serving migrants in Mexico evolve continuously. Initially, most shelters and soup kitchens offered *ad hoc* humanitarian aid. As the needs of migrants and the socio-political circumstances changed, the services that the shelters and kitchens provided also developed, and educational functions were added (Hagan, 2006, p. 1562; DPMH, 2012). Other specialized services included programs to facilitate phone calls to places of origin and reception of money transfer services (Vogt, 2012, p. 56; DPMH, 2012, pp. 91, 111, 175).

As a result of these shifts and trends, humanitarian organizations have adjusted their services to fit the changing profiles of migrants better. Shelters report an increase in requests for help from homosexual, transsexual, and transgender migrants, as well as an increase in legal support and representation for people applying for refugee status. Regulations and facilities have been adjusted as necessary to ensure the safety and fair treatment

of these diverse populations (Brigden, 2013, p. 317; DPMH, 2012, p. 34). Another population that has been identified is 'migrants in a train situation' (*migrantes en situación de tren*), as *casas de migrantes* staff refer to them. This population consists mostly of migrants who did not reach their objectives along the way and consequently did not reach their final destinations. Sometimes, they ride up and down on trains along the route or remain in the locality. Many of them have substance abuse problems, show trauma from some type of violence committed against them, and are poor (DPMH, 2012, pp. 34-35). Others who failed in their attempts to cross the border remain at the outskirts of border towns living in deplorable and unsanitary conditions (DPMH, 2012, p. 35). Many of these migrants eventually find their way to *casas de migrantes* in search of help.

The work of humanitarian organizations in Mexico not only illustrates the link between humanitarian aid and migration but also reveals the variety of ways through which humanitarian assistance is delivered to migrants and the ways this assistance changes according to the needs of migratory patterns. While discussing the origins of humanitarianism, Wilson and Brown (2009) claim that "faced with the suffering of others, humanitarians maintain that their ethical response arises from emotions: compassion, sympathy (in the 19th century), and more recently, empathy" (p. 2). The ethos of many of these shelters in Mexico is rooted in these humanitarian sentiments and concerns.

An evolving situation

Migration patterns in Mexico have changed rapidly from the end of 2018 to the middle of 2019. While Central American migration is not new in Mexico, intense media coverage of migrant caravans from the late 2018 and early 2019 has put the issue in sharp focus in both Mexico and the United States. Migrant Caravans or 'Migrant Exodus'—as migrants call it—were both a combination of opportunity and a strategy to protect themselves from violence, smugglers fees, and corrupt officials. Their members are poorer than migrants who pay smugglers. Also, these caravans included an increasing number of families and unaccompanied minors, which transformed the face of migration patterns through Mexico.

The political responses to the influx of Central Americans varied as the situation became more and more politicized. The Mexican government approached caravans with adversarial, protective, and controlling practices.

By the end of January 2019, the Department of Homeland Security of the United States (DHS) announced it would ask some asylum seekers arriving at the US southern border to remain in Mexico while their applications will be processed. This policy is known as the Migrant Protection Protocols (MPP) or 'Remain in Mexico.' The program was initially implemented in Tijuana/San Diego, Mexicali/Calexico and then Ciudad Juárez/El Paso by mid-March and recently Nuevo Laredo/Laredo was added. By mid-September 2019, estimates indicate that 60,000 asylum seekers were waiting in those cities for their claims to be processed (Kao & Lu, 2019). Due to economic pressures, the Mexican government has toughened its implementation of migration policies and deployed close to 6,000 of the Mexican National Guard to manage migration flows at the Southern Mexican border. This move in a way fulfilled Trump's campaign promise that Mexico will pay for the wall. Thus, Mexico not only is paying for the wall, Mexico also became the wall.

Nevertheless, migrants and asylum seekers journeys are still evolving just as much as migration and asylum policies are changing. For example, the Trump administration announced that it would deny asylum protections to migrants travelling by land to enter the United States from the Mexican border. The US Supreme Court confirmed this on 11 September 2019, allowing the Trump administration to bar most Central American migrants from seeking asylum in the United States, while the legal fight plays out in the courts.

Migrant shelters at border cities are overwhelmed and often scramble to offer differentiated services because they receive a mixed population that includes irregular migrants, migrants seeking asylum in Mexico, migrants seeking asylum in the United States, and returned/deported Mexicans.[5] While this article was being finished, the presence of people seeking asylum in the US and having to wait in Mexico presented a humanitarian challenge for the Mexican and US government. Some of the challenges are:

First, the use of waiting times as deterrence. Migrants seeking asylum in the United States often have to wait in Mexico for several months before their safety and mental health for humanitarian workers and asylum seekers.

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5   Visits to shelters in the cities of Tijuana, Ciudad Juarez and San Luis Potosi were made with the support of the Refugee Studies Centre at the University of Oxford and the Swiss FDFA research and dissemination fund.

Second, migrants seeking asylum in the United States often have to wait in Mexico for several months before their hearing with migration authorities. Conversations with asylum seekers indicate that many of them will have to wait several months to even present themselves for the first time at an immigration court in the United States. People interviewed in Ciudad Juarez and Tijuana in June 2019 did not have judicial appointments until April 2020. While there is a backlog of cases in immigration courts at the border, 'waiting' is also used as a deterrence or deflating strategy. Additionally, many of them lack the necessary information about how to present their case to migration authorities in the US.

Third, Mexican authorities lack a defined model to receive and support migrants through the MPP or 'Remain in Mexico' policy. Conversations with migration authorities described a process to take asylum seekers to migration authorities to obtain a court date. However, asylum seekers are returned to Mexican migration authorities and then distributed to different shelters without vital information or indications on how to go about their case. The expectation is that these asylum seekers will receive attention at the shelter where they are assigned. The Mexican government ran a pilot of such a shelter in Ciudad Juarez. Still, the model does not consider the medium- and long-term needs of people having to wait long times of having to present themselves on different court dates in the US. The lack of international actors has also been evident, although IOM runs a voluntary repatriation program.

Fourth, after the lack of information, safety and mental health are some of the main concerns for the migrant and asylum seeker population. Shelters located in border cities are often exposed to the generalized levels of violence that exist in Mexico. Thus, some shelters do not allow migrants to go outside. Without enough staff and planned activities, idleness becomes one of the main issues. Children, women, and men face the challenge of spending entire days without activities other than taking their meals and the contributions they can make at the migrant shelter. Other shelters have no support from the government, like the one run by 'Jesus' Ambassadors' in Tijuana or Respetttrans a LGBTQI+ shelter in Ciudad Juarez. This situation creates sanitation hazards or requires migrants to contribute financially to the shelter.

Finally, tensions have emerged between humanitarian workers, migration authorities, and the Mexican national guard. These tensions have led to threats directed at some shelters in the Northern region of Mexico

and abuses from authorities against migrants and asylum seekers on top of the generalized violence that exists at border cities.

Conclusions

The analysis of the US-Mexico border cannot be limited to the dynamics emerging along political and geographical lines. In practice, the whole Mexican territory has become a 'border zone' or a 'vertical border' for those who intend to enter the United States or return to Mexican territory after deportation. Mexican migration policies, their enforcement, and the different regional agreements between the US and Mexico have fostered the emergence of this 'vertical border.' In a way, the United States has externalized its southern border and Mexico has become a forceful guardian of it. This leads to border mobility and control practices appearing all along migration routes in Mexico reshaping our understanding of the border.

Migration patterns have diversified and are not limited anymore to Mexicans. They include migrants from Central American and occasionally extra-continental migrants from African or Asian countries. This signals to a migration system that is not limited to a region that may include Mexico and Central America. Furthermore, migration patterns include a return direction that brings back deportees. Additionally, the presence of asylum seekers and refugees adds to the diversity and complexity of migration patterns that move through Mexico. The migrant caravans or the *Exodo Migrante* (Migrant Exodus) as participants call themselves are a sign of patterns that have existed for a while. As much as migrants, deportees, and asylum seekers try to reach the United States, not everybody makes it. If unable to reach the intended destination, some return to their places of origin, others decide to stay in border towns like Tijuana. Some may never quite establish themselves and end up homeless, or some may die or disappear along the way or attempting to cross the border.

In response to the different migration patterns, border control practices, surveillance, and detention have appeared all over Mexico. These everyday practices reshape not only geographical border dynamics, but also the way migrants move through Mexico. Often the result is increased vulnerability as migrants are forced to move in even more clandestine ways. These control practices affect people's lives and their social interactions. As resilient as migrants are, every journey or deportation takes a toll on the individual.

Violence is always an omnipresent threat that reshapes migrants' journeys and migrant trails at different points of the route as well as border dynamics. Violence also reshapes how state and non-sate actors operate or support migrants, but in many cases, violence and abuses are committed by authorities. While robbery, beatings, and injuries are common experiences in migrants' and deportees' journeys, being kidnapped at any point of the journey seems to be one of the biggest concerns for migrant advocates and migrants themselves. Indolence and a lack of interest from the authorities, as well as fear of retaliation from perpetrators, lead to an underreporting of these events.

The emergence of humanitarian organizations adds another significant actor in the migration dynamics along migration routes. While migrant shelters serve distinct populations at different points of the journey, there is no doubt that they become safety nets or oasis for migrants, deportees, refugees, and asylum seekers. Either by protecting them from violence, serving as respites where migrants can recharge to continue their journey or as somewhere to ponder the next steps. Nevertheless, due to internal dynamics and contextual elements, migrant shelters also exercise control practices and surveillance. Their presence also reshapes migrants' journeys as they seek their support along the way or at the US-Mexico border.

Finally, continuous changes in policy and implementation make the border between Mexico and the United States, as well as the migration routes in Mexico, an evolving reality. There is uncertainty at all levels on how things may unfold. Migrants, asylum seekers, humanitarian workers, and communities, in general, suffer the consequences of raising immense political pressures and ethical concerns. These events may lead us to ponder the words of Pope Francis during the 2019 World Day of Migrants and Refugees: "It is not just about migrants, but about all of us" (Pope Francis, 2019).

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CHILE-PERÚ: BORDER MIGRATION FLOW

Miguel Yaksic

Introduction

This chapter explores the various aspects that characterize and define the border that Chile and Perú share. This territory has become increasingly complex in migratory terms, especially since Chile has become one of the most important migratory destinations in South America. While this chapter will focus on the Chile-Perú border, there will inevitably be references to the border that both countries share with Bolivia, mainly because specific migratory routes head south through Bolivia.

This article begins with a description and characterization of the territory and the cross-border relationships between the inhabitants of Tacna (Perú) and Arica (Chile), two cities increasingly connected through labour and commercial networks. In addition, this territory will be addressed as crucial regarding the migratory and refugee movements of thousands of people.

After the socio-demographic characterization of the border, the central part of the text will focus on Peruvian and Chilean State compliance of international human rights obligations. This analysis will further investigate the vulnerabilities to which migrants are exposed to in a continually changing context. Accordingly, the emphasis will be both on Venezuelan migration and human smuggling.

The circumstances at the Chile-Perú border are changing rapidly, and local realities are altering and transforming migratory flows. There is, consequently, a significant shortage of studies, publications, or updated and reliable statistics that would allow us to understand the magnitude and characteristics of this new reality. Therefore, this chapter has been constructed based on exploratory and descriptive research of an ethnographic nature based on participant observation and qualitative research techniques. Since the bibliography is scarce and the context is subject to continuous transformations, bibliographic sources, statistics, and data are limited or outdated. That is, they serve little to understand where the most severe violations of migrant human rights, in situations of vulnerability, are taking place.

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For the preparation of this chapter, 28 Venezuelan migrants who were in Tacna during the first week of January 2019 were interviewed. They were all waiting for the opportunity to continue their trip to Chile. In addition, civil society organization workers from organizations such as the Jesuit Migrant Service (*Servicio Jesuita a Migrantes* [sjm] in Spanish) (Santiago and Arica), *Encuentros* (Lima and Tacna) and *Casa del Migrante* (Tacna) were also interviewed. Interviews were held as well with representatives of the *Instituto Nacional de Derechos Humanos* (National Institute of Human Rights) in Chile and with prosecutors from the *Fiscalía Nacional* (National Prosecutor's Office). Finally, different international organization workers from both sides of the border were also interviewed.

Likewise, observations were made at the International Terminal of Tacna, the streets of Tacna, at the Chilean border control in Chacalluta, in the waiting room of the offices of specific non-profit organizations, and *Casa del Migrante* in Tacna. Specialized bibliography was consulted, and updated information was requested from the relevant platforms for access to public information of the Transparency Portal of the State of Chile. The Bolivian, Peruvian, and Chilean press was also reviewed.

Characterization of the Chile-Perú border

If we incorporate Bolivia, the Chile-Perú border is a triple border with Bolivia sharing a border with both countries (see Figure 1). The *Línea de la Concordia*, established by the 1929 Treaty of Lima established that the Province of Arica belonged to Chile and that Tacna belonged to Perú, and divides Perú and Chile. This treaty came into effect some decades after the Pacific War, which took place between 1879 and 1883, and pitted Chile against Peruvian and Bolivian allies. Up until then, the Province of Arica belonged to Perú and Antofagasta belonged to Bolivia. After the war, both territories became part of the State of Chile. This war has influenced the relationship between these countries to this day.

It is still a territory characterized by historical territorial conflicts. As recent as 27 January 2014, the International Court of Justice ruled on the so-called *triángulo terrestre* (land triangle), a territory whose sovereignty had remained polemic between Perú and Chile for many years. The Court's ruling defined the bi-national maritime boundary and its starting point. In parallel, the plurinational State of Bolivia filed a case against Chile with
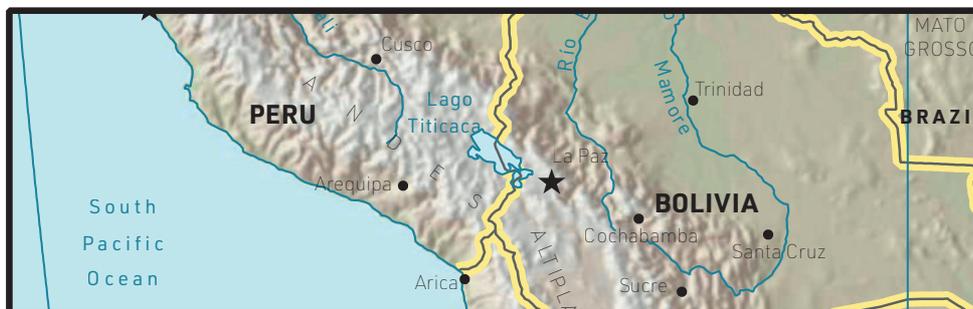
Figure 1. South America Map

Source: Wikimedia Commons.

that same Court to demand sea access and redefine the Treaty of Peace and Friendship of 1904 that established the borderline between the two countries. The end of the Pacific War implied a sort of 'Chileanization' process over the former Peruvian and Bolivian territories.

Geographically, the south of Perú and the north of Chile are desert territories. To the west lies the Pacific Ocean and to the east the Andes mountain range and the *altiplano* (highlands). The *altiplano* that Bolivia, Perú, and Chile share today has been an area inhabited since ancient times by the Aimara indigenous communities, peasant farmers and merchants who have adapted their lives to that territory despite its height.

In the Tacna province, 346,000 people reside (*Instituto Nacional de Estadística e Informática* [INEI], 2017), while in the region of Arica and Parinacota there are 226,068 residents (*Instituto Nacional de Estadística* [INE], 2017). Tacna and Arica are cities situated very far from the capitals of Perú and Chile. Arica is 2,042 km north of Santiago, while Tacna is 983 km south of Lima. Tacna and Arica are separated by only 58 km, and La Paz is 286 km away from Tambo Quemado/Chungará, the border with Chile. That border crossing is located at 4,678 meters above sea level and 203 km to the east of Arica. The trip by land from Tacna or Arica to La Paz takes about eight hours if the border control is speedy. These distances help us understand the geographical context of the Chile-Perú border.

In the southeast of Perú and the southwest of Bolivia, there is an important immigration border control city called *Desaguadero*. It is a city of about 10 thousand inhabitants on the Peruvian side and about 6 thousand on the Bolivian side. There is only one border control between Perú and Chile, *Santa Rosa* on the Peruvian side and *Chacalluta* on the Chilean side of the *Línea de la Concordia*. Since August 2017, these controls have been integrated, streamlining procedures and reducing travel times.

Borders are limits, but also relationships. They are limits and territories where people develop relationships that have social, economic, cultural and environmental implications. According to the Chilean *Policía de Investigaciones*, which is in charge of border control, 3,557,717 people entered Chile through the border control of Chacalluta in 2018 (*Policía de Investigaciones*, 2019). Of those crossing the border, 1,665,927 were Chileans, 1,613,541 Peruvians, 129,432 Venezuelans, 54,073 Bolivians, 36,359 Colombians, 16,376 Argentines, and 14,689 Ecuadorians. Twenty-two stateless migrants applied to enter Chile through this border control (see Table 1).

Table 1. Number of people entering Chile through the Chacalluta border control in 2018

Country	Number of people entering Chile
Chile	1,665,927
Perú	1,613,541
Venezuela	129,432
Bolivia	36,359
Argentina	16,376
Ecuador	14,689
Brazil	6,729
United States of America	2,417
Spain	1,908
France	1,903
Germany	1,542
Paraguay	1,019
Other countries	65,853
Stateless	22
Total	3,557,717

Source: Policía de Investigaciones & Ministerio del Interior, Chile.

Concerning departures from Chile to Perú, the total number was 3,437,588, only 120,129 fewer people than those admitted. Of those migrants, 1,671,287 were Chileans, followed by 1,612,152 Peruvians, 55,783 Bolivians, 25,779 Colombians, 18,841 Argentines, 12,713 Venezuelans, and 11,974 Ecuadorians. Out of 129,432 Venezuelan migrants, 116,719 remained living in Chile, proving their migratory intentionality (see Table 2).

Table 2. Departures from Chile through the Chacalluta border control, 2018

Country	Number of Departures from Chile
Chile	1,671,287
Perú	1,612,152
Bolivia	55,783
Colombia	25,779
Argentina	18,841
Venezuela	12,713
Ecuador	11,974
Brazil	6,987
United States of America	2,325
Spain	2,112
France	2,197
Germany	1,794
Mexico	1,082
Paraguay	1,056
Other countries	11,506
Total	3,437,588

Source: Policía de Investigaciones & Ministerio del Interior, Chile.

These numbers show how cross border relations flourish in this region. Peruvians travel to Arica to work, and Chileans travel to Tacna to shop and to go to the hospital (Rojas, Amode, Koechlin, & Jimenez, 2017, p. 102). Private health care often has lower prices in Tacna, 39% of patients (468,177 cases) treated at *Hospital de la Solidaridad* de Tacna in 2013 were Chilean (Rojas et al., 2017, p. 104).

Labour and economic migration flow into Chile better than Perú and Bolivia because it exhibits socioeconomic indicators. According to the World Bank, in 2018, GDP per capita in Bolivia was USD 7,873, in Chile USD 25,222, and Peru USD 14,418 (World Bank, 2018). Life expectancy at birth was 71.5 years, 79.5 years, and 78 years in 2016, respectively (World Health Organization, 2019). Along with these indicators, the exchange rate favours those who work in Chile and spend in Tacna. This explains, among other reasons, that migratory waves are mostly from Bolivia and Perú to Chile. The economic activities near the border are related to agriculture, fishing, tourism, and commerce all of which have a high percentage of informal labour (Rojas et al., 2017, p. 102).

Migration

Apart from the commercial and cultural exchange, the Chile-Perú border has become a key place for migrations in Latin America. Since the return of democracy in the 1990s, Chile became an interesting destination for regional migrants. The first wave of migrants was from Perú, which was mainly headed to Santiago and was the largest foreign community in the country until 2018 when the Venezuelan community outnumbered it.

According to the *Departamento de Extranjería y Migración* (Chilean immigration and migration department) yearbook of 2005-2014 (DEM, 2016), 105,070 foreigners were living in Chile in 1992. That figure increased to 305,212 in 2010 and 410,988 in 2014; 74.9% of migrants were South American citizens, 31.7% were Peruvians, 16.3% Argentines, 8.8% Bolivians, 6.1% Colombians, and 4.7% Ecuadorians. Venezuelans barely constituted 1.9%, and the Haitians were registered within the category "other countries."

However, the April 2017 census indicated a very different reality. At that time, the total number of foreigners residing in Chile was 746,465, representing 4.4% of the country's population. The Peruvian community was still the largest with 187,465 residents, representing 25.2% of the total resident foreign population; followed by Colombia with 105,445 residents, representing 14.1% of the total population of foreign residents. In third place were Venezuelans with 83,045 (9.9%), Argentinians with 66,491 (8.9%) and Haitians with 62,683 (8.4%). Dominicans living in Chile at the time of the census were at 11,926 (1.6%) and Cubans at 6,718 (0.9%) (INE, 2017).

In the Metropolitan Region of Santiago, 65.3% of the foreign population lives and only 18,015 (2.4%) of foreigners residing in the border region of Arica and Parinacota (INE, 2017). Nevertheless, data released by the Chilean Government in February 2019 notes that the total number of foreigners residing in Chile went up to 1,251,255 inhabitants, representing 6.6% of the country's population. The Venezuelan community is the largest with 288,233 residents, followed by Peruvians with 223,923, Haitians with 179,338, Colombians with 146,582, and Bolivians with 107,347. Information announced by the Government through the media in July 2019, points out that the Venezuelan community is reaching approximately 400,000 people.

There has been significant growth in Venezuelan and Haitian migration. Dominican and Cuban statistics stand out because they represent the nationalities with the highest rates of irregular/illegal entries into Chilean territory.

A significant part of the Peruvian, Colombian, Dominican, Cuban and Venezuelan migration has entered Chile through the border with Perú; therefore, migration is a common and well-known phenomenon in this border area. Peruvian migration, which is mainly for work and economic reasons, is the largest in the border area. A critical aspect of this phenomenon is circular migration, namely, migrant workers who travel to Arica from Monday to Friday to search for a job and on weekends they return to their homes in Tacna. Spending a morning at the Arica International Bus Terminal allows one to observe this occurrence. Dozens of both Peruvian and Bolivian men and women wait in the street for a van to pick them up and offer them work. The most common job offers for men are in construction; service industry jobs for women, and farm work in the valleys of Azapa and Lluta for both. A similar labour phenomenon occurs in the area of *El Rápido*, in the valley of Azapa 34 km from the city of Arica. Early in the morning, it is easy to find groups of Bolivians and Peruvians waiting to be picked up to go to work in the fields. Most of the labour supply is informal and temporary; which is far from being decent work.

One of the lesser-known and least studied migration flows, and one of the most vulnerable, is the Bolivian migration to the valleys of Azapa and Lluta in Arica. Arica is a coastal city with an arid and desert climate in which two fertile transverse valleys open up. These valleys constitute a critical agricultural area for production. The harvested fruits and vegetables are intended for Arica and Central Chile, especially in the winter, and most labour offers come from undocumented Bolivian and Peruvian

workers. Consequently, their salaries are meagre. They make a daily wage of USD 11.50 for a working day that lasts between 10 and 12 hours (Rojas et al., 2017, p. 130).

Many of these migrant workers belong to non-settled circular migration flows. Others, however, have settled in slums without potable water or electricity. Besides, a significant number of children work with their parents, usually after school. The vast majority of the ethnic profile of Bolivian migrant workers in the valleys of Azapa and Lluta are Aimaras. Theirs is a trans-generational migration of people that have been descending from the *altiplano* to the valleys to find work to survive for centuries.

By 2015, 28% of the inhabitants in the informal settlements along the border area were migrants. Informal settlements refer to houses made of lightweight material, dirt floors, and no access to drinking water or a sewage system (Rojas et al., 2017, p. 131).

Civil society organizations at the border

The Jesuit Migrant Services (SJM) has offices in Tacna, La Paz and Arica. In Tacna, they serve people who attempt to cross the border or who have already been rejected by Chilean authorities. During the last few years, SJM in Tacna has received Colombian migrants coming mainly from the Valle del Cauca area. They attempted to enter Chile as tourists (there is no tourist visa requirement for them) in order to get 90 days' permission to stay and then remain as residents expecting to get a work visa. Many of them, when rejected at the border by the officers of the *Policía Internacional*, a branch of the *Policía de Investigaciones*, have no other choice than to go to the SJM for assistance and advice.

Since the start of 2018, the largest percentage of migrants entering civil society offices is of Venezuelan origin. Civil society organizations offer migrants advice in order to facilitate their entry into Chile. They are advised, for example, that they need to carry a "travel bag" (money to show they have economic solvency, between $500 and USD 1,000), and to prove that they are entering Chile as tourists and not as migrants. Many Venezuelans, who left their country without any prior planning, overlook their right to seek asylum. Several Venezuelans arrive in Tacna and are out of money and incapable of sustaining their basic needs. If they do not have a place to spend the night, they are referred to *Casa del Migrante*, a shelter run by the Scalabrini Foundation.

In Tacna, the Scalabrini Mission has a house called the *Santa Rosa de Lima Casa del Migrante*. It is a shelter that accommodates up to 60 people. The shelter has had to adapt to the growing population of migrants and demand for housing. In 2017 they welcomed approximately 500 migrants, in 2018 1,234 migrants. Almost 900 of them were Venezuelans, some 150 Colombians; and the rest were Cubans, Dominicans, some Peruvians, and one Chilean. The vast majority of them were on their way to Chile. On the day of the observation visits and interviews, there were 16 children housed at the shelter.

Human rights analysis of the Chile-Perú border

IMMIGRATION POLICY AND LEGAL FRAMEWORK

The *Policía de Investigaciones* is the institution responsible for migratory control and foreigners in Chile. It is made up of civilian police officers that depend on the Ministry of the Interior and Public Security. In Perú, the border depends on the *Superintendencia Nacional de Migraciones* (National Migration Superintendence). It is not a policing institution, but a civil organ and is attached to the Ministry of the Interior.

At the border, people who intend to enter Chile have three legal ways to do it. The first is to apply at the border for a tourist permit that lasts up to 90 days. Latin American and Caribbean nationals do not need a consular tourist visa except for Cubans, Dominicans, Haitians (as of April of 2018) and Venezuelans (as of June 2019). The second way people can enter is with a stamped temporary residence visa or tourist visa in a passport processed at the Chilean consulate in the country of origin. The third way is by requesting recognition of refugee status.

The Chilean State created a visa specifically for Venezuelans. Since 16 April 2018, the Chilean State granted the new "Democratic Responsibility" visa for Venezuelans given out only in the Chilean consulates in Caracas and Puerto Ordaz. It allows for a one-year residency in Chile that can be extended and enables Venezuelans to request naturalization. A passport and a Criminal Record Certificate stamped by the Ministry of the People's Power of Foreign Affairs are required to apply for this visa, along with a payment of USD 30 if it is approved. The severe political crisis is making it increasingly more difficult to obtain a passport, a Criminal Record Certificate, or even to have USD 30 to pay the cost of the visa.

By 31 December 2018, 93,912 Democratic Responsibility visas had been requested in Chilean consulates in Venezuela. However, only 19,244 had been granted, 19,399 were in the process, 22,254 were denied, and 32,486 were pending (*Ministerio de Relaciones Exteriores*, 2019). Of the 28 people interviewed in Tacna, they all intended to enter Chile, but only two knew of the existence of this visa. Those two people had been waiting six months to get their passport, and the need to emigrate was so urgent that there was no time to wait; they had to leave Venezuela by land and head to Chile. Therefore, this policy is inconsistent with its goal of granting protection to people who flee Venezuela because of the crisis.

This Democratic Responsibility visa is similar to the Peruvian Temporary Permit of Permanence (PTP in Spanish), a visa created mainly to address the Venezuelan crisis, and it enables people to work, study, and access different services. As of 25 August 2018, Peruvian authorities have begun to require a passport from all Venezuelans who cross the border. Until then, asylum seekers received the Andean Migration Card at the border, which enabled them to reside in Perú temporarily. Only Venezuelan migrants who entered Perú before 31 October 2018 could request the PTP. From then on, the only step left for Venezuelans to do is seek recognition of refugee status.

The Chilean *Cámara de Diputados* (House of Representatives) approved on 16 January 2019 the government proposed migration draft law that eliminates the possibility of changing the migratory category from tourist to resident. The new law will require applicants to request a temporary residence consular visa in their own country. The Senate still needs to approve the bill, and until that happens, someone who enters as a tourist could seek to reside in Chile and process the visa while in the country.

This chapter focuses on, first, the threat of the rights of migrants and asylum seekers, namely, those from Venezuela, and second, the human smuggling migration flow. Human rights violations occur while travelling from Perú to Chile. Legislation and public policies have not been able to respond to the changing context described here.

THE VENEZUELAN CRISIS

From 2014 onward, the Venezuelan political crisis has been the cause of the emigration of more than three million people (UNHCR, 2018). As of 31 December 2018, there have been 393,985 Venezuelan asylum seekers. The crisis is worsening, and every day as thousands of Venezuelans leave their country. As of 31 October, there were 110,000 documented Venezuelan nationals and

156,000 asylum seekers residing in Perú. On that same date, the number of residents with regular migratory status in Chile was 130,000, and there were 2,915 asylum seekers (UNHCR, 2018). The migration flow is overgrowing, and the statistics cannot keep up with the migration growth rate. In Colombia, UNHCR has supported the administrative registration of more than 440,000 undocumented Venezuelans residing in the country. On 21 December 2018, the newspaper *El Comercio del Perú* reported updated migration figures following the National Superintendence of Migration. As of 31 October, 395,000 requests for a Temporary Permit for Permanence had been filed. According to the Superintendence in Perú, by 31 October 2018, there were more than 635,000 Venezuelans in Perú (*El Comercio Perú*, 2018).

The vast majority of Venezuelans are arriving in Perú through Tumbes, on the border with Ecuador. People arrive with humanitarian needs: water, medical services, shelter, and food. Many families request help with bus tickets to continue their trip to Lima. UNHCR, together with the IOM, and the Red Cross, have opened care centres in Tumbes to cover some of the humanitarian needs of these Venezuelan migrants.

All of this growing Venezuelan migratory pressure on Perú is strongly impacting its southern border with Chile. Since 22 June 2019, the Chilean government imposed a tourism visa to Venezuelans, untimely changing migration conditions. This measure created a humanitarian crisis leaving hundreds of people stuck at the Peruvian side of the border. By July 2019, roughly 800 hundred migrants, including children, remain stranded in Tacna. They became homeless people camping outside the Chilean Consulate hoping to get a permit to enter Chile.

In interviews, national and international civil society organization workers state that many of the Venezuelans who come to Tacna intending to continue their trip to Chile arrive uninformed and with an idealized view of the country. They think that the entrance will be as accessible as it was in Colombia, Ecuador, and Perú. They believe that showing their birth certificate is enough to enter Chile, as it has been the case to enter regularly in other countries.

UNHCR has had a presence in Perú only since 2017. Today, they have already opened offices in Lima, Tumbes, and Tacna. In Chile, in addition to the Santiago office, they have recently opened an office in Arica.

The migratory profile is changing. In the beginning, they were more educated and mostly males. Now women, children, and the elderly are also included. The socioeconomic level is also changing. Venezuelans who

migrated to the south were those who were better off economically. Now, socially and economically disadvantaged people are also emigrating.

Historically, neither Perú nor Chile has been significant destination countries for asylum seekers. According to the figures presented above, today, Perú is a high-ranking destination on the world map of countries that receive asylum applications.

In Chile, the reality has also changed. In 2010, the State of Chile received 277 refugee applications, a figure that remained more or less constant until 2015 when it jumped to 633. Since 2016, the increase has been rapid with 2,300 refugee applicants that year, 5,726 in 2017, and 5,677 in November 2018 (Subsecretaría del Interior de Chile, 2019). As we will see further on, this number does not coincide with the asylum applications registered at Chacalluta.

In fact, asylum applications at the northern border of Chile have grown. In 2013 there were only 35 applications for recognition of refugee status and all applicants were of Colombian nationality. In 2014 that number rose to 76 Colombian applicants, and in 2015 it had decreased to six, which is mostly explained by the new government and its more open migration policy. In 2016, 28 applications were received, one from Algeria, 21 from Colombia, and six from Cuba. In 2017, the number went up and diversified. Out of 165 applications, 35 were from Colombia, 107 from Cuba, two from Dominica, one from Perú, one from the Democratic Republic of the Congo, 12 from the Dominican Republic, and only six from Venezuela. In 2018, 8,149 people from 19 countries applied for asylum at the Chile-Perú border (Table 3). It is worth noting that 7,970 of them were Venezuelan out of a total of 129,432 people that entered Chile through Chacalluta. There were also four asylum seekers from the Vatican State and two stateless persons (*Policía de Investigaciones*, 2019). There are not official 2019 figures, but Venezuelan asylum applications have exploded this year.

RIGHTS VIOLATIONS AT THE BORDER

A common theme in the interviews with public officials, non-profit staff, and migrants is the difficulties Venezuelans experience when requesting recognition of refugee status at the Chilean border. There are a high number of rejections, and the admission requirements seem to be very discretionary.

This coincides with one of the major concerns expressed at the Sixth Meeting of the *Red de Protección de Fronteras* in November 2018 (Border Protection Network) organized by the Pastoral of Human Mobility of

Table 3. Asylum seekers Chilean control Chacalluta border with Perú, 2018

Stateless	2
Colombia	81
Cuba	39
Dominica	3
Ecuador	2
Haiti	1
India	1
Iraq	9
Italy	1
Jordan	1
Dominican Republic	16
Swaziland	2
Taiwan	1
Vanuatu	5
Vatican City	4
Venezuela	7,970
Vietnam	7
Zambia	1
Total	8,149

Source: Policía de Investigaciones & Ministerio del Interior, Chile.

Bolivia, the *Fundación de Ayuda Social de las Iglesias Cristianas* (a human rights religious organization, FASIC), and *Encuentros, Servicio Jesuita para la Solidaridad* (SJS)—a Jesuit non-profit organization in Perú, in partnership with the UNHCR and several other civil society organizations working at the triple border, Bolivia-Chile-Perú[1]. A cause for concern was the rejection of border refugee applications. Instead of applying the Geneva Convention of 1951 and law 20,430 that establishes provisions on the protection of refugees, *Policía de Investigaciones* officers carried out on several occasions an interview prior to the procedure to request the recognition of refugee status. Moreover, the fact that Venezuelans are often characterized as purely economic migrants is also worrisome.

Given the growing rejection at the border, Venezuelan migrants have begun using the same route that Dominican, Cuban, and Colombian migrants have already been using. This route goes from Tacna to the Desaguadero passage on the border with Bolivia and to where Lake Titicaca drains, to La Paz and then on to Pisiga, a small town on the border near the Chilean town of Colchane. This passage is located in the altiplano at almost 4,000 meters above sea level. In Pisiga, a Catholic community of nuns has maintained a shelter for years to receive rejected migrants at the border with Chile for the same reasons as the ones at the TacnaArica border. During July 2019 these nouns report they are sheltering about 220 Venezuelan migrants and asylum seekers every night in a shelter built to accommodate 20 people.

Testimonies given at the interviews are consistent with the significant number of rejections at the Chilean border. Migrants who attempt to enter as tourists but cannot prove that they are travelling to Chile or tourists that do not have enough money to show economic solvency are frequently rejected and obliged to return to Tacna.

The arbitrariness is such that word has spread about the best times to try and enter Chile as tourists. Some officials can be less demanding than others, and entry attempts can turn into conversations that frequently are not registered. A person may try to enter two or three times until they are permitted to enter Chile. There is no precise criterion for admission at the border, a consequence of an outdated Chilean law.

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1   The conclusions of this meeting were collected in a report that has been distributed by e-mail, which has not been published in any of the websites of the participating organizations because it is only a working material for the organizations that participate in the Network.

For asylum seekers, things get even more complicated. The *Policía de Investigaciones* has installed at the Chacalluta border control two containers and an improvised outdoor waiting room. The interviews are pre-admissibility conversations for requesting recognition of refugee status. That is, a person that requests to be recognized as a refugee, instead of fulfilling the mandatory non-refoulement principle and admitting the person to the procedure for obtaining refugee status, a conversation takes place, which it is not registered, it can last several hours, and in many cases, it ends with the rejection of the asylum seeker.

Civil society organizations that work for the advancement and protection of migrants and refugee rights have called this conversation between the applicant and the police officer "pre-admissibility." Here a border officer illegally evaluates whether asylum seekers comply with the requirements for recognition of refugee status. The law does not provide this interview, and it constitutes illegality. In one interview, a Venezuelan adult woman related that she had requested refugee status recognition. Since she was carrying a passport, the officer recommended that she enter as a tourist, but because she was carrying little money with her, they gave her a tourist permit for 30 days and not for 90 days. Accounts from other interviewees were consistent with this one. Under the Geneva Convention of 1951 ratified by Chile in 1972 and law 20,430, a person in need of international protection must be admitted into the country and allowed to present their application before any office of the *Departamento de Extranjería y Migración* (Immigration Department) or any of its provincial offices. The request should be examined by the commission of the Refugee Section of the Department. The case is sent to the *Subsecretario del Interior* (the second authority at the Ministry of Interior) who has the authority to grant or not grant the recognition. In the meantime, the applicant should receive a visa that enables he or she to reside legally in the country while awaiting the resolution and it is, therefore, not up to the border officer to decide whether or not a person can apply for asylum.

A lawyer representing three Venezuelans who were refused permission to request international protection presented a claim before the *Contraloría General de la República* (The General Comptroller of the Republic), which issued a dictum that establishes that the *Departamento de Extranjería y Migración* must adjust its actions to allow people to access the procedure to apply for asylum (*Contraloría General de la República de Chile*, 2019). The interview should only take place in order to gather the information that must then be sent to the competent authorities.

The trip from Tacna to Arica can be made by private or public transportation. People who migrate to Chile usually travel by public transportation, either by bus or taxis that can carry five passengers. Similar to Colombian Afro-descendants being rejected at the border due to discriminatory practices, public transportation officials have begun to deny trips to Venezuelans. If they are rejected at the border, the carrier company must return them to Tacna, 35 km north of the border. Taxis raise the cost for passengers from Venezuela or in some cases refuse to provide them with any transportation. It is not uncommon to see people walking towards the border.

One of those interviewed in Tacna was a 20-year-old Venezuelan youth who along with three other young men had walked through the desert from Tacna to the border only to be rejected. In a vehicle, they were returned to Santa Rosa—the Peruvian border control—and then a Peruvian citizen gave them a ride back to Tacna. The stories are all so consistent from civil society organizations, public officials, and from migrants that the *Policía de Investigaciones* ask transporters not to bring Venezuelans to the border.

A 27-year-old electrician from the Venezuelan city of Maracay was collecting money to travel to Chile to join his family. He managed to save USD 150, but by the time he reached the Chilean border, he had already spent all of it. He spent two years trying to get a passport unsuccessfully. Other young people reported having been dismissed from work because they did not vote for President Nicolás Maduro in the last election. Another relates that they voted 16 times for Nicolás Maduro in the same election. It took them two days to leave Venezuela. The military stopped the buses and seized their belongings. Of all the interviewees, only two of them knew about the Democratic Responsibility Visa but considered it was impossible to obtain. To obtain a passport usually takes several months. All of them, however, decided very quickly to leave Venezuela because of fear, not having a job, and because they did not have any money. A consular visa is not a viable alternative in critical cases like this.

A woman who was sheltered at the *Casa del Migrante* (Scalabrini shelter) in Tacna, told in an interview that she left her home in Venezuela when her son began to show signs of malnutrition. Five months pregnant, she left the country, and when she arrived in Ecuador, she suffered a heart attack, interrupting her pregnancy. In Ecuador, they managed to find her place to live for a while where her husband could work selling sweets on the streets. From Ecuador, they migrated south to Chile. They were able to enter and stay in Arica. Her husband was able to get work, but they lived very precariously.

They decided to return to Tacna and have been staying at the *Casa del Migrante* for 20 days, not knowing what to do or where to go. Stories like these are widespread in border towns, despair and uncertainty abound.

It was observed in Tacna during January 2019 that there was an impressive number of Venezuelans wandering around the city, asking for money, selling candies on the streets, or waiting at the international bus terminal to get on a bus to go to the border. Many taxi drivers deny transportation to the border because they know that bringing back these passengers is an expense for the transport company. The crisis has increased, and since June 2019 hundreds of Venezuelan migrants are camping in Tacna as they hope to get a permit to enter Chile.

A critical issue present in all interviews is that Venezuelan children under the age of nine do not have a national identity document and only carry a birth certificate. The parents have no way of showing that those who accompany them are indeed their children. At the border, the *Policía de Investigaciones* has been obliged to refuse the entry of children under the age of nine who have not been able to show documents proving filiation with their parents. It is required by law in order to avoid any possibility of smuggling children. In those cases, families have no alternative but to seek asylum. Some *Policía de Investigaciones* officers state that the refugee status might be exploited. However, if the Venezuelan State does not issue the documents that its citizens require to be able to migrate safely, there is no other alternative.

National Institute of Human Rights officers point out that, as a result of conversations held between the *Policía de Investigaciones*, specific civil society organizations, and the Institute itself, particular measures were taken to be more flexible in cases of children who do not carry a national identity document and avoid the separation of families.

HUMAN SMUGGLING AT THE CHILE-PERÚ BORDER

The *Fiscalía Nacional* (National Prosecutor's Office), which is the State agency responsible for carrying out criminal investigations and prosecuting felons, began to investigate crimes of human smuggling in the northern border region of Chile in 2015. In September of 2012, the State of Chile imposed a consular tourist visa that makes it difficult for citizens of the Dominican Republic to obtain. Since that visa came into effect, the number of expulsions of Dominicans from Chile increased by 174% annually. An average of 90% of these expulsions was due to irregular entry into the State of Chile (Policía de Investigaciones, 2019).

By the end of 2018, the Chilean judiciary pronounced sentence on the first illicit smuggling operation, which operated along the Bolivia-Chile-Perú border. The leader of the band was a Peruvian woman living in Tacna. She had to be extradited to Chile to be tried in court. She led a band that coordinated human smuggling from the country of origin to the destination country of arrival and in this case, from Santo Domingo in the Dominican Republic to Santiago de Chile. The network was made up of smugglers who also operated in Ecuador, Perú, and Bolivia.

According to information provided by the National Prosecutor's Office and processed by the Public Security Division of the Ministry of the Interior of Chile and requested through the Transparency Law, there have been 315 cases of human trafficking formalized between 2010 and 2017 (*Fiscalía Nacional*, 2018). In each of those cases, there may have been many parties involved. Of those human trafficking cases, 81% were cases of irregular entry through the northern border of Chile with Perú and Bolivia, and of those involved, 64% were of Dominican nationality. The three prosecutors interviewed for this investigation believe that the number of formalized cases was much lower than the actual total number of smuggling cases.

The border that divides Chile and Perú is very porous, and there are scarce resources to control it. Those interviewed mentioned one hundred irregular entries daily at the Chile-Perú border. This border historically was a minefield, although under the Ottawa Convention it has been almost completely dismantled. However, the altiplano rains have led to rivers overflowing and the uprooting of mines from their original location. In the last 40 years, 194 people have fallen victim to these landmines (Attanasio, 2018). Those who illegally enter Chile from Perú, walk along the shore or along the train tracks to avoid these landmines.

According to data requested by the transparency platform and delivered by the *Carabineros de Chile* (the uniformed police), 2,349 people were detained in 2018 when entering Chile through an irregular route along the border between Chile and Perú. Of those detained, 1,292 were Cuban, and 922 were Dominican. Chile requires that these citizens obtain a tourist consular visa. This requirement has encouraged irregular entry and the illegal trafficking of persons. The number of Cubans increased from 202 in 2017 to 1,292 in 2018 (see Table 4). (*Carabineros de Chile*, 2019).

Table 4. People arrested for clandestine entry into Chile at the border with Perú from 2017 to 2018

Nationality	2013	2014	2015	2016	2017	2018	Total 2013-2018
Dominican	0	75	417	585	947	922	2,946
Colombian	81	213	42	37	32	43	448
Bolivian	20	3	36	44	2	0	105
Peruvian	39	23	26	8	11	18	125
Haitian	0	2	3	23	2	4	34
Cuban	2	0	6	12	202	1,292	1,514
Ecuadorian	3	13	1	2	8	24	51
Argentinian	0	0	1	0	1	1	3
Venezuelan	0	0	0	1	1	38	40
Congolese	0	0	0	0	1	0	1
Brazilian	0	0	0	0	0	1	1
Panamanian	0	0	0	0	0	1	1
Syrian	0	0	0	1	0	3	4
Swedish	0	0	0	0	0	1	1
Chinese	0	0	0	0	0	1	1
French	4	0	0	1	0	0	5
Spaniard	0	1	0	0	0	0	1
Kenyan	0	0	1	0	0	0	1
Ethiopian	0	0	1	0	0	0	1
Palestine	0	0	0	1	0	0	1
Total	149	330	534	715	1,207	2,349	

Source: *Carabineros de Chile* (2019).

It is striking that 40 Venezuelans are already on that list. In the interviews in Tacna, Venezuelan migrants who run out of money and are in a state of despair seriously consider the possibility of entering Chile clandestinely. On the other hand, although only four Haitians appeared on the list in 2018, many think that number will grow given that Chile has imposed various entry requirements on them.

The Chilean Navy has cameras that record the shore at the beach. Irregular entries are recorded, but when the prosecutor's office reviews them, it is already too late, and many are already in Arica, where it is tough to find them. Illegal Cuban entries have grown, displacing Dominicans who had been the most numerous since 2012, the year in which the State of Chile imposed a consular visa for Dominicans.

Cubans travel by plane to Guyana, where a visa is not required. From there they enter Brazil, cross the Amazon and head for Perú, passing through Rio Branco, in the Brazilian state of Acre, to cross into Perú through Puerto Maldonado, in the province of Madre de Dios. From there they go to Cusco and continue to Arequipa until they reach Tacna, on the border with Chile.

Although the figures of Cuban and Dominican smuggled persons are low regarding the total number of migrants, they still represent significant and complex cases. New international illicit associations have been created where frequently women suffer sexual abuse. In 2016 a Dominican woman died abandoned by her smuggler in the altiplano at 4,000 meters above sea level, a few meters from the Chile-Bolivia border.

It is common to see bands of smugglers in the International Terminal of Tacna trying to attract migrants to take them to Chile through a clandestine route. So far, the evidence has shown that restrictive policies often have negative consequences on the life and dignity of migrants.

Denied entry or rejections of migrants into Chile in Chacalluta have been common in recent years. In 2012, 6,355 people were sent back due to very unclear and non-specific reasons. Due to incompliance of immigration regulations, 6,094 were denied entry, three for not obtaining the proper documentation to enter as a tourist, 48 for having criminal records, and 210 for other reasons. Of those rejected, 3,063 were Ecuadorian, 1,617 were Colombian, and 1,573 were Peruvian. The rest were divided among several nationalities. In 2013, the number of denied entries increased to 11,093, with Colombians making up the majority with 4,805 rejections, followed by Perú with 4,360 rejections. Numbers fell to 1,771 in 2015, which is probably due to

migration policies driven by the new government (*Policía de Investigaciones*, 2019). It is not uncommon that rejected migrants at the border attempt to enter Chile through a clandestine passage with the help of smugglers.

Conclusions and recommendations

This chapter has sought to characterize the Chile-Perú border with the most up-to-date information possible, trying to demonstrate changing contexts and emerging challenges. The primary sources of information have been observations and interviews at the border to obtain ethnographic and qualitative material and Transparency Law that allows access to public information to obtain the most up-to-date figures possible. In fact, most of the information has been updated as recently as December of 2018 or even January 2019.

The Venezuelan crisis has worsened and Colombia, Perú y Chile receive most of the Venezuelan migration. Many people are travelling to Chile through its northern border. Some as migrants and some as asylum seekers. Due to the continuing growing number, the government is imposing stricter controls on those entering Chilean territory. This measure has created a humanitarian crisis, and hundred o Venezuelans are stuck in Tacna living in deplorable conditions. When closing the edition of this chapter, the situation was changing rapidly.

The information gathered shows that international organizations and civil society organizations play an increasingly relevant role in protecting the rights of migrants, in particular, those who are rejected at the border and those who are stranded without knowing what to do. The evidence indicates that the Venezuelan migration flow will increase, becoming increasingly more precarious. People are migrating in progressively more unsafe conditions.

The reality at the border shows that a number of the migration policies designed by the government do not work to manage migratory flows or to protect the fundamental rights of migrants. Tourism visas imposed by Chile on principally black Caribbean countries (Cuba, the Dominican Republic, and Haiti) have favoured the creation of human smuggling networks and increased irregular entry into the State of Chile.

It is essential that new institutions, both in Chile and Perú, facilitate migratory regularity. Restrictive migratory frameworks and rigidities that hamper regularity do nothing but turn migration into social vulnerability.

This is particularly visible at the triple border and demands solutions according to the particular migratory reality of this territory. The illegal practice of submitting asylum seekers to a pre-admissibility interview needs to be rectified. In Tacna, the work carried out by NGOs of registering cases of those rejected in a discretionary manner could be fundamental.

The Democratic Responsibility Visa created by the Chilean government in April of 2018 has proven to be inefficient in the protection of Venezuelans who travel to Chile with the hope of entering as tourists or asylum seekers. The state authorities receiving Venezuelan migrants must understand that a passport or criminal record certificate cannot be required of citizens of a State incapable of issuing them. It has been suggested that civil society organizations in Arica and Tacna develop a border observation network to detect and register cases where the authorities engage in illegal acts, such as the denial of asylum applications.

It is also recommended that the Chilean State review the requirements for the Democratic Responsibility visa in order to offer a viable alternative for Venezuelans seeking to migrate regularly. It seems necessary to offer international protection to Venezuelans, especially if the migration flow continues growing. The number of Cubans illegally entering Chile is increasing quickly. A closer look at this phenomenon seems critical to understand why this migration flow is growing and determine whether they are being smuggled in or not.

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Internal migration from one state to another within the Indian subcontinent, similar to that of migrants from one country to another in any part of the world, cause great challenge due to cultural, linguistic, ethnic differences. Some examples are:

- More than 300 people across six districts of Gujarat [Western India] have been arrested for inciting violence against the state's migrant population, following the rape of a 14-month-old in Himmatnagar district. Fearing a further backlash, migrants are making a bolt for their home states of Uttar Pradesh, Bihar and Madhya Pradesh [Central and North India] (Doval, 2018).

- Assam [North East] migrant worker killed in Kerala [South]: 'More than 50 men watched… nobody bothered to help' (Kashyap & Philip, 2016).

- On 19 October 2008, Maharashtra [Western India] Navanirman Sena (a regional political party) activists beat up north Indian candidates who were appearing for the all-India Railway Recruitment Board entrance exam for the Western region in Mumbai (Gaikwad, 2008).

- On 24 November 2007, Assam tribals [originally from Central India], who were demanding the tribal status in Assam were attacked brutally, and around 20 tribals were killed, though the government claims that only two were killed. A tribal girl was stripped naked, molested and chased naked on the street (Talukdar, 2007).

- On 4 December 2009, migrant workers, predominantly from Uttar Pradesh and Bihar [Central North], have been brutally attacked in the industrial town of Ludhiana in Punjab [North West India] (Fazal, 2016).

One can prepare a litany of such attacks that have been going on in many states in India. These incidents are a symptom of a broader malaise

taking place all over the world. On the one hand, we have globalization and everyone talks of the world as having become a 'global village'. Actually, this interconnectedness is only for economic take over by multi-national corporations or individuals like Jeff Bezos, Mark Zuckerberg and so many others. In terms of human relationships, the world is also becoming more sectarian, class-based and racist. Nationalist fervour and narrow parochial sentiments have led to an increase in passionate and bitter conflicts in the last few decades.

On the other hand, human migration driven by natural calamities like earthquakes, famine and drought coupled with humanmade calamities like war and economic plunder has compelled people to seek out other places to eke out a living. This is due to extreme distress because no one likes to move away from the place of his birth. This forced nomadism has increased dramatically ever since India embarked upon the 'New Economic Policy' in 1991. Economic liberalization and Privatization has had aggravated and forced people to migrate due to extreme poverty, misery and lack of employment opportunities. Economic Globalization with all its interrelated political, environmental and social factors has also substantially affected and destroyed the entire planet, its ecosystems, biodiversity, land use, and conservation policy.

This chapter looks at the status and patterns of internal migration in India from the perspective of how it has affected marginalized communities, particularly the *dalits*[1], tribals, unorganized sector, women and children. The chapter will focus more on the inter-state 'distress migrants' and not on 'development migrants' who move out of the state for economic progress.

Demography of India and the violent history of migrant workers

India is a sub-continent in Asia with a population of 1.32 billion by 2017, the second largest in the world after China. The country is divided into 29 Linguistic States and 7 Union territories. Each state is like a country when

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1   Dalit means 'divided', 'broken' or 'oppressed'. While the Hindu caste system categorized the people into 4 *varnas* (classes or types), the people who were kept out of the caste ladder were called '*avarnas*' meaning outside the caste (*varna*). They were considered 'untouchables' and they were meant to do the menial jobs. The Indian Constitution in 1950 grouped them as 'Scheduled Castes' (refer to FN. 10). On the other hand, 'dalit' is a name the oppressed people have given to themselves to affirm their identity and dignity.

compared to Africa or Europe with a distinct language, culture, tradition and social pattern. There are 122 languages spoken in the country, of which only 22 are recognised as official languages according to the constitution.

After independence in 1947, the country was reorganised in 1956, from the then existing princely states into States based on the languages spoken by people in a particular area. Henceforward, language division became the political borders for states often impeding people's flow from one state to another, although the Constitution of India (1979) [art. 19 (1) (d) and (e)] states, "all citizens shall have the right … to move freely throughout the territory of India; to reside and settle in any part of the territory of India." Naturally, jingoistic communalism based on language created biases and murderous hatreds. The first agitation to redraw borders for a separate state on the linguistic principle was in Maharashtra, which succeeded in 1960.

As soon as this was achieved, the attention turned to violent attack and removal of *lungiwalas* (the Tamilians of South India, among whom *lungi* is the form of attire among men) from the city of Bombay by political opportunists. Eventually, Shiv Sena, a political party formed in 1966 by Bal Thackeray, a political cartoonist, spearheaded the violent movement against the South Indians whom he depicted as 'ugly, grotesque figure' and called them 'South Indian vultures' (Hansen, 2001, p. 50).

The major complaint designed to raise negative emotions was that the South Indians stole the jobs from the locals. The anti-migrant theme sold well politically, although it did not stop the migration from other states. After two decades, the anti-migrant ire shifted from South Indians against the *bhaiyas* of Uttar Pradesh and Bihar, whose mother tongue was Hindi. However, the claim of 'stealing the job of the locals' was illusory since the labour market in Bombay was strongly segmented on caste and class lines, and the migrants could never enter into the jobs of native Marathi speakers. Yet, once the ugly jingoism began, such anti-migrant movement began to spread over to other states such as Karnataka, Assam and Gujarat.

In Assam, for example, the 'sons of the soil' movement became quite violent too. Historically, Assam was a major area of settlement for tribals from central India to migrate and work in the tea gardens and oil fields. The Bengali Hindus occupied the bureaucracy and lived in urban areas, and Bengali Muslims from Mymensingh settled as peasants after clearing forest lands. Biharis and Nepalis worked as labourers, and Marwaris and Punjabis went as traders. The migration was further triggered when close to 2 million Bengalis from Bangladesh entered Assam between 1971 and 1981 (Tumbe,

2018, p. 222). The Nellie massacre of hundreds of Bengali Muslims in villages near Guwahati in 1983 remains one of the worst episodes of anti-migrant violence in the country. The main demand of the Assamese movement has been to deport the illegal Bangladeshi immigrants. The crisis continues even today with the publication of the updated National Register of Citizens (NRC) for Assam on 30 July 2018, to weed out the illegal immigrants from Bangladesh who entered after 24 March 1971. The crisis has further deepened with the passing of Citizenship Amendment Act (CAA) on 11 December 2019 dividing the nation based on religion.

The xenophobic violence against migrants in some of the states has been on the rise in the last two decades due to large-scale distress migration taking place particularly from the central and Eastern states to the Western states of Gujarat, Maharashtra and Punjab and the Southern states of Kerala, Tamil Nadu and Karnataka.

Status of migration in India

Studies on internal migration have been very few because migration has never been considered an important demographic issue due to the small volume of internal migration compared to the total size of the population (Bose, 1983, p. 136). Large-scale migration of people took place soon after independence due to the creation of the Muslim country of Pakistan carved out by the British and agreed to by the power-hungry politicians of the day. About five million Hindus and Sikhs left Pakistan for India, and about six million Muslims moved into Pakistan from India, being the highest mass transfer of human population in history. This massive intra-South-Asian migration became quite limited after independence. After this religious migration, the major migration is internal and voluntary, mainly due to economic and social factors.

The population census and National Sample Survey (NSS) have remained the most important sources of demographic and internal migration data in India. Analysis of inter-district and inter-state migration has been made based on birthplace statistics collected in all the censuses from 1881 onwards. It was not until 1961, however, that birthplace was classified as *rural or urban* and migration from there as 1) *intra-district*: within the district of enumeration, 2) *inter-district*: outside the district but within the state of enumeration, 3) *inter-state*: outside the state of enumeration but within India, 4) or from outside India (Khadria, 2010). Information on the

duration of residence at the place of enumeration was also collected for the first time in the 1961 census. The 1971 census refined these statistics by including a question on "place of last residence" and the 1981 census included yet another question on "reasons for migration."

Historically, migration in the Indian sub-continent has been low. Researchers like Bhagat (2009) and Rajan (2016) have attributed this to the prevalence of caste system, joint families, traditional values, diversity of language and culture, lack of education and predominance of agriculture and semi-feudal land relations. However, the rapid transformation of the Indian economy, improvement in the levels of education and that of transport and communication facilities, the shift of workforce from agriculture to industry and tertiary activities, among others, are the new impetus influencing mobility pattern of Indian people in recent times.

Table 1. Size of Internal and International Migrants Based on Place of Last Residence, India, 1971-2011 (in millions) (Bhagat, 2009)

Census	Total population	Total Migrants	Internal Migrants (%)	International migrants	international migrants to total (%)	Total migrants to total population (%)
1971	548.1	159.6	29.1	8.1	1.4	30.6
1981	659.3	200.5	30.4	6.0	0.9	31.3
1991	814.3	220.7	27.1	5.9	0.7	27.8
2001	1028.6	309.3	30.0	5.1	0.4	30.4
2011	1210.8	453.6	NA	11.4[*]	NA	37.4

NA: not available;
Source: According to the World Bank Report (2011)[2].

2   Census of India 1971, Series 1, Part II- D(i) Migration Tables; Census of India 1981, Series 1, India, Part VA& B (i), Migration Tables (Table D1 and D2); Census of India 1991, Series 1, India, Part V, D series, Migration Tables, Vol. 2, Part 1, (Table D2); Census of India 2001, Tables D2, Compact Diskette, 2011 Census, Registrar General and Census Commissioner, India: New Delhi.

The last official census done in 2011 shows the total number of internal migrants was 453.6 million based on place of the last residence (37.4% of the total population). As seen in Table 1, the number of internal migrants has tripled since 1971, from 159 million in 1971 to 454 million in 2011, with a decadal increase of 144.3 million (7%) internal migrants between 2001 and 2011. Of these 144 million migrants during the last decade, 60 million were inter-state and 80 million inter-district. "The first-ever estimates of internal work-related migration using railway data for the period 2011-2016 indicate an annual average flow of close to 9 million people between the states" (Government of India, 2017, p. 265). It is generally accepted that migration slowed down during the decade 1981-1991 because of increased unemployment and sluggish growth in the Indian economy.

While internal migration increased gradually, international migration decreased steadily since 1971. Due to the unavailability of complete census report, it is difficult to state the international migration data. According to Connor (2017), India is the top source of international migrants with one in twenty migrants worldwide born in India. In 2015, nearly 15.6 million people born in India were living in other countries. Of this, nearly half live in three countries, namely, United Arab Emirates, Pakistan and the United States. At the same time, India has one of the world's lowest emigration rates, with only 1% of the birth population living outside the country.

On the other hand, India is also one of the top destination countries for migrants. Connor (2017) states that

> as of 2015, about 5.2 million immigrants live in India, making it the 12th-largest immigrant population in the world. The overwhelming majority of India's immigrants are from neighbouring countries such as Bangladesh (3.2 million), Pakistan (1.1 million), Nepal (540,000) and Sri Lanka (160,000). (para. 5)

Patterns of internal migration in India

Caste, social structures and historical precedents play an essential role in shaping patterns of migration. Study (Deshingkar, Khadelwal, & Farrington, 2008) shows that there are two kinds of migration among more impoverished strata of society today. One is called 'distress migration',

undertaken by the poorest and most disadvantaged social groups, mainly the *Dalits* or Scheduled Castes (scs), tribals or Scheduled Tribes (sts) and Other Backward castes (obcs[3]). This category typically works in brick-kilns, unskilled construction, loading and unloading, agriculture (such as harvesting, potato collecting, cotton pollination, sugarcane cutting, etc.), domestic work in cities, or work in tea shops and other menial jobs. Although this kind of migration allows only slow asset accumulation, it prevents downward slides into abject poverty. Working conditions are not much different from bonded labour with limits on personal freedom, long working hours, debt bondage and underpayment. Children from *dalit* and tribal families are widely employed in brick-kilns, textile markets, agricultural sector and tea shops, and are particularly exposed to all forms of exploitation.

The other type is the migration undertaken by better-off groups with a little more education and skills, more assets and higher social standing. Other Backward Castes (obcs) are heavily represented in this kind of migration, typically in small industrial units of garments, shoes and bag making, embroidery, security services, hospitality industry, plumbing and carpentry. Although many of these jobs are in the informal sector, this kind of migration often leads to substantial remittances to families from places of origin, leading to asset accumulation and investment which can help to exit poverty. Studies (Deshingkar & Akter, 2009) showed that Bihari migrants remitted Rs. 4.5 billion in 2006 through post offices in addition to an equal or higher amount sent through electronic transfers. Orissa migrants remitted an estimated Rs. 20 billion in 2007, and, in Mumbai, migrant money orders account for much of the Rs. 9 billion sent back to Uttar Pradesh, Bihar and West Bengal (Overseas Development Institute [odi], 2006) in 2005. This does not cover the cash that migrants carry back themselves, which is likely to be several times this figure. Migrants also take back clothes and electronic items.

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3   Scheduled Caste (sc) are the *dalits* or the untouchables within the Hindu caste system. Scheduled Tribes (st) are the indigenous people of India. Historically both these groups were the most disadvantaged people of India. According to 2011 census, the scs and sts comprised about 16.6% and 8.6% respectively. They are 'scheduled' castes since the list of such lower castes and tribes are listed in a Schedule within the Constitution of India. Besides, there is another category called Other Backward Castes (obcs), a collective term used to classify castes that are educationally and economically disadvantaged under the caste category. This group comprised 52% of the population in 1980 and shrunk to 41% in 2006.

Table 2. Size and Growth Rates of Migrants by Migration Type, India, 1971-2001

Migration Type	Size 2001 (in millions)	distribution 2001 (%)	Growth Rate (%)		
			1971-1981*	1981-1991*	1991-2001**
Intra-district	193.5	61.6	24.9	8.3	37.0
Inter-district	74.6	23.7	44.3	13.7	26.3
Inter-state	41.1	13.1	28.1	11.7	53.6
International Migrants	5.1	1.6	-9.1	-6.1	-13.4
All Migrants	314.3	100.0	27.0	9.8	34.7
Total Population	1028.6	--	24.7	23.7	21.4

* Excluding Assam and Jammu and Kashmir
** Excluding Jammu and Kashmir; There were 633, 3, and 297 thousand in 1971, 1981 and 1991 respectively who do not belong to any of the type of movement. In 2001, the unclassifiable migrants were only 418.
Source: Census of India 1971, Migration Tables, Part II-D (i); Census of India 1981, Migration Tables, Part V-A and B (i); Census of India 1991, Migration Tables, Volume 2, Part 2; Census of India 2001, D2 Tables, Compact Disk; Census Commissioner and Registrar General, India, New Delhi.

As shown in Table 2, a majority of migrants are intra-district migrants (62%) within the state itself. Most of the intra-district migrants are females who customarily change their parental households and join their husband's households after marriage (Srivastava & Sasikumar, 2003). The share of inter-district and inter-state migrants is 24 and 13% respectively. However, it may be noted that the growth rate of inter-state migrants has been very high (54%) during 1991-2001 compared to previous decades. There is no doubt that inter-state mobility has considerably increased during 1991-2001 coinciding with India's economic liberalization program initiated in 1991. Figure 1 shows the net migration flow at the state level with duration 0-9 years based on place of the last residence in the 2011 census. The net in-migration is mainly found in developed states like Punjab, Haryana, Maharashtra, Gujarat and Delhi where pull factor is stronger. These states attract population from almost all states.
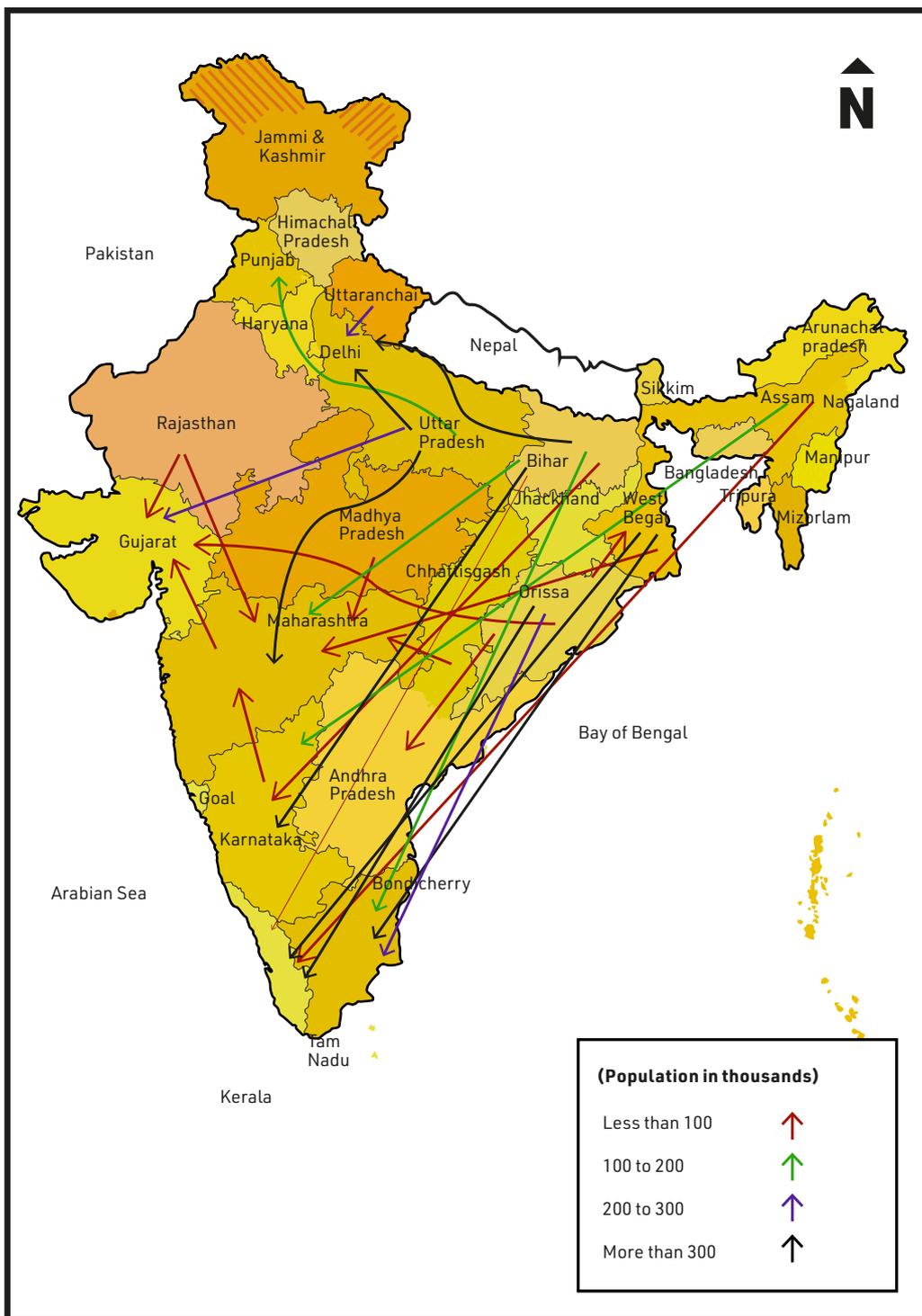
Figure 1. Migration in India between 2001-2011

Source: Migratory flow map drawn by the author based on the data
available from various sources including 2011 Census.

On the other hand, most of the remaining states are net out-migrating, but not all of them are poor states. The notable example is the state of Kerala and Tamil Nadu that are socially and educationally the most developed states of India. A large population from these two states is also migrating to the Gulf countries (Zachariah, Kannan, & Rajan, 2002). During the two decades, the number of people migrating from the states of Bihar, Uttar Pradesh, West Bengal, Orissa, Jharkhand and Assam to Kerala and Tamil Nadu has increased steadily due to high labour requirements in agriculture, manufacturing sector, construction industry and service sectors.

According to Census of India 2011 (Indiastat, n.d.), the total number of internal migrants was at 453.6 million as opposed to 94.3 million in 2001. While the rural to rural migration increased from 53.3 million in 2001 to 271.1 million in 2011, rural to urban migration increased rapidly from 20.5 million in 2001 to 182.5 million in 2011. Seeing the rate of growth between 2001 and 2011, one can only imagine the growth between 2011 and 2018 with an enormous growth in a corporate land grab, ecological calamities, poverty and increasing communal and ethnic tensions.

Table 3. Reasons for Migration with duration from 0 to 9 years (Census, 2001)

Reason for migration	Number of migrants (in millions)			Total migrants (%)		
	Persons	Males	Females	Persons	Males	Females
Work/ Employment	14.4	12.3	2.1	14.6	37.3	3.2
Business	1.1	0.9	0.2	1.2	2.7	0.3
Education	2.9	2.0	0.9	3.0	6.0	1.3
Marriage	43.1	0.7	42.4	43.8	2.1	64.8
Moved after birth	6.5	3.4	3.1	6.6	10.4	4.7
Moved with household	20.0	8.3	12.3	20.9	25.2	18.8
Other	9.5	5.2	4.3	9.6	15.8	6.6
Total migrants	98.3	32.9	65.4	100.0	100.0	100.0

Source. Census of India (2001)

The Census reports have always defined migration based on the place of birth. For the first time, the 55th round of National Sample Survey (NSS) of 1999-00 covered short-duration migration and defined migration as: "persons staying away from their usual place of residence for 60 days or more for employment or better employment or in search of employment" (NSSO, 2001 as quoted in Deshingkar & Akter, 2009, p. 3). It estimates that roughly 1% of the Indian population or 10 million people migrated temporarily (NSSO, 2001) while Overseas Development Institute (ODI, 2006) report estimates it to 12.9 million. However, this is also a gross underestimate because the data do not properly count part-time occupations and short-term migrations. The actual figure probably lies at around 100 million (10% of India's population) (Deshingkar & Akter, 2009, p. 3, 28).

Census 2001 gives a list of seven reasons for migration (see Table 3). While Work or employment was the most important reason for migration among males with 37.3%, marriage was the most important reason for female migration with 64.8%. A comparison with earlier censuses also reveals the increasing importance of employment or work as the reason for migration in case of both males and females. The number of male migrants with duration 0-9 years reporting employment or work as a reason for migration increased by 49% compared to 24% increase among female migrants. This shows that the rise in female migration for employment is just half that of the male migration.

Although the official reasons cited in the census may be true, it is not limited to these seven alone. A large number of people are forcefully displaced due to mega-dams, Special Economic Zones, corporate land grabs for mining and industrialization in the name of 'public purpose' and economic growth and development. Such projects take place often in the areas where farmers, tribals, *dalits* and OBCs live. Of the 60 million displaced people because of mega projects, between 1947 and 2000, as many as 10-20 million tribals have been displaced by 'development' projects (Padel & Das, 2011, pp. 143-180; Fernandes, 2005; 2007). Besides, decades of rural distress and collapse of millions of livelihoods in agricultural and its related occupations have accelerated the distress migration in India.

CONFLICT-INDUCED IDPS AND MIGRATION IN INDIA

It is very difficult to estimate the total number of conflict-induced IDPs in India (Internal Displacement Monitoring Centre [IDMC], n.d.) as there is no central government agency responsible for monitoring the number of

people displaced and returning, and humanitarian and human rights agencies have limited access to them. In addition, no UN agency has an overall overview of the situation. NGOs and civil society organizations have generally focused on specific displacement situations in India rather than on the overall situation. The displaced whose numbers are known are usually those living in camps and registered there, and it is not known how many people live in displacement outside of camps. A conservative estimate of the total number of people displaced by conflict and violence would be at least 650,000 as of August 2010. It is highly probable that many of the IDPs who have moved out of camps have not been able to return to their homes or find durable solutions to end their displacement. In many cases of conflicts, as in the case of Orissa victims, at least 50% of the IDPs migrate to cities and townships or even to other states where they will be able to live peacefully and start anew. Though the state has not counted them in the census or NSS studies as migrants, they should still be considered as IDPs in India.

According to the Norwegian Refugee Council (2010), the following people are living in displacement due to armed conflict, communal and ethnic violence and human rights violations in India as of August 2010. The number given here is only of those who are living in the camps.

KASHMIR CONFLICT: 265,000 PEOPLE
250,000 Kashmiri Pandits displaced from the Kashmir Valley since 1990 (Reuters AlertNet, 2010, as cited in the NRC report, 2010)[4]; About 15,000 people in Poonch district of Jammu and Kashmir state who were cut off from their land and livelihoods by border fencing in 2009 (The Hindu, 20 December 2009).

CONFLICTS IN NORTH-EAST INDIA: 208,000 PEOPLE
47,000 people displaced by Bodo-Muslim and Bodo-Santhal violence in 1993, 1996 and 1998 and staying in camps in Kokrajhar and Bongaigaon districts of Assam state (Asia Centre for Human Rights [ACHR], 2009; ACHR, 2009); 125,000 people displaced by Bodo-Muslim violence in 2008 staying in camps in Darrang and Udalguri districts of Assam state (ACHR, 2009; AITPN, 2009); 4,000 people displaced by violence between Khasis and Nepali-speakers in 2010 in the Assam-Meghalaya border region; and 31,703 Brus displaced from Mizoram state to Tripura state in 1997 and 2009 (Press Trust of India [PTI], 2010).

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4   All the references in this and the next section are from 2010.

NAXALITE CONFLICT IN CENTRAL INDIA:
AT LEAST 148,000 PEOPLE

40,000 Adivasis living in displacement at the end of 2009, of whom half were staying in camps in Chhattisgarh and half were scattered across Andhra Pradesh; 8,000 Adivasis living in displacement in West Bengal (AI, 2010, p. 167); More than 100,000 people displaced from Chhattisgarh since June 2009 (Deccan Chronicle, 12 June 2010).

COMMUNAL VIOLENCE IN GUJARAT
AND ORISSA STATES: AT LEAST 29,000 PEOPLE

19,000 people displaced in 2002 by Hindu-Muslim violence in Gujarat state living in 86 relief colonies in Gujarat state (Government of India Report, 2009, p. 6); At least 10,000 people displaced in 2007 and 2008 by Hindu-Christian violence in Orissa state (Christian Solidarity Welfare, 2010, p. 20; Indo-Asian News Service [IANS], 2008).

Major migrant employing sectors regarding SCs, STs, OBCs, women & children

All three major sectors of the Indian economy, namely agriculture, industry and services, employ vast numbers of migrant workers. The empirical data shows that the major subsectors using migrant labour are textiles, construction, stone quarries and mines, brick-kilns, small scale industry (diamond cutting, leather accessories, etc.), crop transplanting and harvesting, sugarcane cutting, plantations, rickshaw pulling, food processing (including fish and prawn processing, salt panning), domestic work, security services, sex work, small hotels and roadside restaurants/tea shops and street vending (Deshingkar & Akter, 2009 p. 24). The information and data available are not conclusive, but it points out to an increasing number of SCs, STs and OBCs in many of these sectors.

Migration among the tribals in Central India was very limited to seasonal and intradistrict for many years. But in times of drought migration increased manyfold as their entire livelihood depended very much on seasonal work (Toppo, 2007, p. 77)[5]. It was a land loss to the *zamindars* (landlords)

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5   Toppo says, in 2000, 21 out of 30 districts of Orissa were under severe drought and consequently the number of migrants was estimated at 100,000.

after the Permanent Settlement 1793 that forced them to migrate. Today it is deforestation and development-induced displacement and other forms of impoverishment & livelihood loss that forces them to move out of their land. Typically, most tribals collect *tendu* (Diospyros melanoxylon) leaves or work in the lands of big farmers. Today many of them have started moving out to nearby mines as casual labourers and to work in the construction sites, or else send one member of the family to the town to find work.

It is interesting to note that the major migration of tribals, who call themselves as *adivasis* (original inhabitants), as a group (*Oraons*, *Mundas* from Chotanagpur and *Santals* from Santal Parganas) was to Assam to work in the tea plantation after the Chinese brought in by the British had revolted against work in the plantations in 1860. Within 3 years around 84,915 *adivasis* were recruited for the plantation works, and by 1884-85, nearly 45% of the labourers were *adivasis* (Toppo, 2007, pp. 99-100). Most of these *adivasis* were given false promises, by the recruiters. Some *Oraons* and *Mundas* were also taken to the Sundarban area in West Bengal to clear the forest for cultivation and to Andaman and Nicobar islands. Today a majority of them move out to other states, not because they want to migrate, but because of land alienation and denial of their right over land, forest, and other natural resources.

In the following three economic sectors, we shall look at migration from the perspective of *dalits*, tribals, women, children and other backward castes.

AGRICULTURE[6]

Peak season operations in agriculture continue to be performed by migrant labour. For example, there were more than 819,000 migrant workers, mainly from Uttar Pradesh and Bihar, in rural Punjab in 2007, accounting for 23% of the workforce engaged in agriculture sector activities. Although most find work for only 50 days in a year in agriculture, they migrate in the hope of finding casual jobs in urban areas after the peak seasons of wheat harvesting, paddy sowing and paddy harvesting are over. Many are absorbed by small industries. Similarly, paddy transplanting and harvesting in the Bardhaman region of West Bengal attracts around 500,000 migrant workers every season, mostly Santals from other districts of West Bengal.

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6   The major data given in these three sections on Agriculture, Industry and Services are taken from Deshingkar, & Akter (2009).

- *Sugar cane cutting:* Major sugar cane producing states are Maharashtra (40%), Gujarat and Karnataka. The industry employs more than a million cane-cutters who are almost always SC, ST and OBC migrants with little or no land in the poor, arid districts of the Marathwada region. The cutting cycle lasts for six months, from November to April/May. Cane cutters usually migrate in families and are recruited by a contractor against advance payment. The contractor provides very basic accommodation without proper sanitation. Access to fuel and drinking water are difficult, and this increases the work burden on women. While the earnings from such work are good compared to work in the village of origin, the working and living conditions are so poor that they have been named as one of the most exploited labour groups in India by researchers such as Jan Breman (1990) who famously said that "even dogs are better off." But the most severe cost of such migration is that children who accompany their parents miss school and eventually drop out altogether, thus creating a cycle of illiteracy and slave labour. A study in six districts in Western Maharashtra by the Centre for Development Research and Documentation in 2003 found that roughly 200,000 children migrate with their parents and half of them are in the highly vulnerable age group of 6-14 (Adhikari & Shree, 2020). According to Smita (2006, pp. 32-33), an NGO working on education for migrant workers' another 200,000 migrate from the Khandesh region in Maharashtra to sugar factories in Surat in Gujarat, and 100,000 migrant workers come into Belgaum in Karnataka each year.
- *Cottonseed farms:* Cottonseed production is concentrated in five states, namely Andhra Pradesh, Gujarat, Karnataka, Maharashtra and Tamilnadu. It relies heavily on *migrant child workers*. These five states account for more than 95% of the area under cottonseed production in the country. From 2003 to 2004, nearly 55,000 acres were under cottonseed production in the country, out of which Gujarat accounted for 26,000 acres, Andhra Pradesh 14,000 acres and Karnataka 4,000 acres. Venkateswarlu estimates that roughly 286,000 workers were employed in cottonseed farms in Gujarat in 2003-04. Of these, around 91,000 were children in the age group of 8 to 14 years. His calculations for Karnataka show that nearly 26,800 child labourers (7-14 years) were employed in cottonseed

farms around 2003-2004 and 88% of them were girls. A large number of the child migrants in cotton fields in Gujarat are tribals from southern Rajasthan (Katiyar 2005, cited in UNDP Report, 2009). A UNICEF case study (2016) found that 60% of the children working in cottonseed fields have dropped out of school, and 29% have never attended school as about half of them began working before the age of 11.

- *Food Processing:* There were 7.85 million workers, mostly *women*, directly employed in the food processing industry including Sea Food and Marine Products factories in 2001-2002, and this number was expected to grow to 8.6 million persons in 2006-2007 (Ministry of Labour, 2008). The size of the food processing industry has been estimated at over USD 70 billion by the Ministry of Food Processing, contributing 6 to7% of the GDP.

INDUSTRY

After Independence, when Nehru began to build his modern industrial temples in India, particularly in the resource and mineral-rich land of Chotanagpur the government acquired a vast amount of land from the people for Tata steel in Jamshedpur (3,564 acres), Heavy Engineering Corporation in Hatia (9,200 acres belonging 12,487 families), Bokaro steel Limited 1,018 acres 12,847 families) and Central Coalfields in Hazaribag and Dhanbad (Toppo, pp. 101-102). This was, in fact, a migration of tribals due to forced displacement.

- *Construction Industry:* United Nations Development Programme (UNDP, 2009) report states that the Construction industry provides direct employment to at least 30 million workers in India. Trade Unions estimate that there were roughly 40 million migrant construction workers in India in 2008. It attracts both skilled and unskilled workers, although more impoverished and *lower caste/tribe migrants* tend to remain in low-paid unskilled jobs. A research study by Mosse, Gupta and Shah (2005) in southern Madhya Pradesh revealed that 65% of households included migrants who worked mainly in the construction sector. Migration has long been a livelihood strategy for tribals from the southern districts. Many migrate to the neighbouring states of Maharashtra and Gujarat.

  The poor, drought-prone district of Mahbubnagar in Telangana region of Andhra Pradesh is well known all over India for its

construction workers, the majority of whom are *dalits*. They are often recruited by contractors and agents who pay them only less than one-third of the actual wage. The living conditions of these workers are appalling. Harassment by the police, urban authorities and contractors is common. Women and girls face constant sexual abuse and harassment. Violation of labour laws is widespread with the result that migrants are underpaid and excluded from public services. On the whole, construction workers do not have access to social security, compensation for injuries, access to drinking water or healthcare. India has the world's highest accident rate among construction workers. A recent ILO study, as cited in Kumar & Vishnuvarthan (2014), shows that 165 out of every 1000 workers are injured on the job.

- *Brick Kilns*: Brick kiln is another industry that employs a large number of *low caste and tribal* circular migrants. ILO report states, as cited in Gupta (2003), that there are 50,000 brick kilns all over India, employing, on an average, 100 workers. Brick-kiln workers often migrate with their wives and children, and if women are counted as well, the number of brick kiln workers in India is at least 10 million. They live on-site and are highly exploited. The UNDP report (2009) gives an example of two streams of brick kiln workers, namely the migrant tribals from Western Orissa to Andhra Pradesh and the migrant *dalit musahars* from Bihar to Uttar Pradesh and West Bengal. Action Aid estimates 200,000 people are migrating to Andhra. They work for more than 12-15 hours a day and are paid Rs. 170-200 for 1000 bricks made. A national televised news states based on a study (NDTV, 2017) that one-third of the total workforce in brick kilns were children, of which 65 to 80% were between the ages of 5 and 14. A large number of people belonging to the *musahar* caste, literally meaning rat eaters, migrate from Bihar to brick kilns in Uttar Pradesh and West Bengal where they stay for 7-8 months in a year. The situation of children and women are worse off than others in these places.

- *Textile/Garment/Silk Industry:* The textile industry in India, including the garment industry, is the largest foreign exchange earner among all other industrial sectors and provides direct employment to around 35 million people (Ministry of Textiles, 2001). Study

shows that in the garment industry, a sub-sector of the textile industry, there were 1,001,000 garment workers in 2004 (Mezzadri, 2008). Sericulture employs roughly around 6 million people at various stages of production. Surat has become the primary destination for many of the textile industry workers as well as diamond cutting and polishing industry workers from Eastern states of Orissa and Bihar. A Times of India report (Desai, 2003) mentions 500,000 Oriya workers in Surat; Narasimham (2004) estimated that there were roughly 800,000 Oriya labourers in Gujarat of which 80% work in the power loom and diamond polishing businesses. The reasons cited for such a massive migration are the super cyclone in 1999 and drought in 2000. The report states that most of the migrants initially were from the upper castes. However, towards the end of the last decade, migration streams had a high proportion of *dalits* in these industries. Oriya migrants to Surat have been named in AIDS control projects as a highly vulnerable group.

- *Mines and quarries:* In India, the value of mineral production has more than tripled since the sector was 'liberalised', from about Rs. 250,000 million in 1993-94 to more than Rs. 840,000 million in 2005-06, an astounding growth rate of 10.7%. According to Centre for Science and Environment, Delhi the contribution of mining to the nation's GDP has stagnated at 2.2- 2.5% for more than a decade now because it contributes very little to the exchequer through taxes and royalties. Estimates of the number of people working as casual labourers in small mines vary from 2 million in Rajasthan, 4-5 million in quarry works in Maharashtra. Much against the claim of an increase in employment in the mining industry by PricewaterhouseCoopers PwC (2015), McKinsey & Co. (2014), the Ministry of Mines in India and mining companies, the actual data shows only a downward trend in the last 20 years. Yet license to mining and acquisition of land continue to increase through every government.

- *Leather Industry:* Leather industry with an economic value of around USD 2 billion employs roughly two million people. One of the major centres of the leather accessories industry is in Dharavi, Mumbai (the largest slum in Asia). The industry now attracts large numbers of migrants from Bihar and Uttar Pradesh. The

footwear industry employs children and makes them work at small working units to evade legal hassle. For example, migration among the *dalits* in Barhi village in Madhubani district of Bihar is extremely high, with 60-75% of households having at least 1-4 members outside the village.

SERVICES

- *Domestic work:* With the rise of the middle class in India, domestic work has emerged as an essential new occupation for migrant *adivasi* women and girls, particularly from central India. In fact, there is no comprehensive data on the magnitude of domestic workers in the country. As per the 32nd Round of National Sample Survey Office (NSSO) (1977-1978) (as cited in Neetha, 2004), there were 16.8 lakh female domestic workers as against 6.2 male domestic workers. A recent report by UNDP (2009) says that some 20 million people (mainly women and girls) migrate for domestic work to Mumbai, Delhi and other large cities from the eastern states of Bihar, Orissa, Chhattisgarh, Jharkhand, Assam and Mizoram (Deshingkar & Akter, 2009. p. 24). Roughly 20% of these workers are under the age of 14. Another study by Indian Social Institute of domestic workers in Delhi (Jha, 2005; Kujur & Jha, 2008) shows that although domestic work has brought higher incomes to many women and their families, it is still far from decent work being characterized by long working hours, low wages and hardly any social security. There are two types of domestic workers, namely live-out and live-in. In Delhi (Jha, 2005), the maximum number of live-in domestics are from Jharkhand (51.82%) followed by Orissa (12.73%), Goa (10%), Chattisgarh (3.64%), Assam (3.64%) and West Bengal (1.82%). The major feeding districts of Jharkhand are Gumla, Ranchi and Palamau; Jashpur and Raigarh in Chattisgarh and Sundargarh in Orissa (Neetha, 2004). Live-out domestics are mainly from West Bengal (36.56%), Uttar Pradesh (30.32%), Tamilnadu (15.70%) and Bihar 11.83%) (Neetha, 2004). Looking from the community perspective, one finds that the majority of the live-out domestics are from the Scheduled Castes (80.65%), mostly Hindus (98%), illiterate (55.7%) and are married women. On

the other hand, live-in domestics are mostly *adivasis* (92.73%), Christians (88%) and unmarried (89.2%) (Neetha, 2004).[7]

The primary reason for live-ins to migrate was unemployment (96%) in the villages, while it was poverty (92%) for the live-out domestics (Shalini, 1993). The decision to work as domestics has been mostly by the women themselves as this gives them independence and economic freedom. In a documentary film directed by Kukreja (2009) shows that the majority of the *adivasi* girls working in Delhi are looked at as immoral. Hence many of them find it extremely difficult to get settled in life. They also do not have any identity as *adivasis* as they have no voters' ID or bank account etc. They are looked at as mere breadwinners for the family. The need for enacting a comprehensive legislation to protect the rights of domestic workers is urgent.

- *Rickshaw pulling:* According to the Centre for Rural Development (CRD, n.d.), which runs self-employment programme of rickshaw bank, there are around 8 million cycle rickshaw pullers in India and 95% of them do not own the rickshaws but hire them daily. Around 100,000 rickshaws are operating in Delhi. Most of the rickshaw pullers in Delhi are from Uttar Pradesh and Bihar and belong predominantly to Scheduled castes or tribes or other backward castes. In Kolkata, though only 6,000 rickshaws were officially licensed back in 1945, there were around 30,000 rickshaws in 1990, pulled by approximately 100,000 pullers (Jeyaraj, 1990). The study showed that 98% of the rickshaw pullers were *dalits* from Bihar, and a few from Uttar Pradesh and Orissa. In 2005, the West Bengal government decided to completely ban rickshaws in Kolkata, which resulted in protests and strikes by the pullers. Probably, this phenomenon of *dalits* being the predominant pullers in Kolkata and Delhi is not different in other major cities of the country. Most of the pullers in Kolkata stated that they started pulling rickshaws only as a last resort and not because of choice.

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7   In 1970s and 1980s most female domestics were found to be widows, deserted and older women. But today it is mostly unmarried younger women. The survey of ISI in 1993, showed that the employers preferred young tribal women, as they are more reliable, obedient and efficient in domestic work, especially in taking care of babies and the elderly.

- *Restaurants, Dhabas, Tea shops:* Nearly all urban centres are dotted with thousands of small, illegal restaurants, *dhabas* (roadside eateries) and tea shops and these mostly run on migrant labour. Child labour is high in this subsector and is driven by poverty, typically employing children from extremely poor *dalit* or other backward caste families. Although there has been a ban on child labour in such establishments, this is completely ineffective in practice and restaurant, and *dhaba* owners openly employ children.

- *Sex workers:* There are no formal estimates of sex workers, but a widely circulated figure among HIV control agencies and NGOs is 2 million for the whole of India (Nambiar, 2012). Research on migrant sex workers by the Population Council in India shows that increasing number of poor and illiterate women are drawn into sex work because the returns are higher in this occupation than almost any other that they can enter. A study of Dandona et al. (2006) showed that contrary to popular perceptions, a majority of sex workers were not trafficked into the trade (only 1-5% had been trafficked), but had begun working in the trade because of poverty and debt. Another study (Deshpande, 2008) showed that a significant proportion of sex workers are seasonal migrants and commuters. In the town of Tenali in coastal Andhra Pradesh for example, many sex workers migrate or commute from nearby villages. This may be true of many other cities like Kolkata where a good number of women commute daily from the villages to Kolkata city to operate as 'flying squads' on roadside rather than from brothels.

- *Municipal Workers/Manual Scavengers:* Despite the ban on manual scavenging in India in 1993, there were around 1.3 million manual scavengers in India[8]. There are about 10,000 to 15,000 manual scavengers in Bangalore city. Navsarjan Trust[9], an Ahmedabad-based NGO working among *dalits*, has documentary proof of the continuance of manual scavenging and is campaigning for its abolition. On behalf of 35 *safai karamcharis* (manual scavengers) in Ranpur town in Dhandhuka taluk, it initiated legal action in 1995

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8   http://www.theindian.com/newsportal/health/inhuman-bondage-13-million-manual-scavengers-exist-in-india-despiteban 100223461.htm

9   Video Documentary film titled, 'Lesser Humans'.

for the prosecution of government officials on the charge of negligence due to the continuance of the practice. The Ranpur case has become something of a landmark in the campaign for the abolition of manual scavenging (Thekaekara, 1999). In January 2007, when the government announced the rehabilitation scheme for manual scavengers, official figures showed that there were 324,000 of manual scavengers. Orissa had 16,386, followed by 15,352 in Bihar; 15,213 in Madhya Pradesh; 13,320 in Maharashtra; 11,896 in Tamil Nadu; 9,426 in Uttar Pradesh; 8,740 in Gujarat; 6,708 in West Bengal; 5,750 in Jharkhand and 1,085 in the Capital city of Delhi. Ironically, 11 out of the 18 states, which the government lists as having manual scavengers, had in their affidavits in the Supreme Court claimed they did not have a single one, and the practice had been eradicated.

Costs and risks of migration

ON THE COMMUNITY

Since independence, various five-year plans aimed at the removal of poverty and reducing inequality. The New Economic Policy (NEP), which came into reality at the prescription of IMF and World Bank, changed this whole perspective. "The long-cherished principles of growth with justice, social responsibility and accountability, equity and self-reliance have been rendered obsolete with the new slogans of liberalization, privatization, globalization, efficiency and competitiveness" (Pathy, 1995, pp. 11-12).

In this competitive process, only fittest can survive, and the weaker are ultimately thrown out. The previous section of this paper, has clearly shown that the benefit of the New Economic Policy (NEP) of 1991 has gone more to the ruling class, upper class, wealthy farmers, big traders, MNCs, industrialists, professional managers. It has adversely affected the very existence of marginalized groups such as *dalits* and tribals, particularly the women and children among these groups and in the informal and non-formal sector workers of our country. The Bihar ex-Chief Minister, Laloo Prasad Yadav once defined the economic reforms as …"a conspiracy of the upper castes to deprive the backward classes and the *dalits* of their own rights…" (Panini, 1995, p. 47-48).

Ever since the country embraced NEP in 1991, the whole nation has undergone an economic upsurge due to liberalization of the market and

privatization of many public sector undertakings. Still, unfortunately, the social sector has suffered much. Apart from neglecting the social sector, the livelihood of the poor is being transferred to the corporate sector and the middle class. One can see it, among others, in the extent of deforestation and displacement by development projects. "Traditionally forests have met more than 50% of the food, fodder, medical and other needs of the forest dwellers, particularly the tribals. Forests that were 40% of India's landmass in the mid-19ᵗʰ century had come down to 22% at independence and are around 13% today" (Fernandes, 2000).

Looking from the perspective of migrants, one can recognise that they are rarely seen as full citizens in their places of work. They lose their voting rights, no possibility of identity (e.g., tribals are not recognised as tribals in some states), no free health care, no subsidised food and no fuel under the Public Distribution System (PDS). They cannot access free education for their children. Often regarded as illegal residents, they are subjected to harassment from both the administration and the police. Since they do not, and usually cannot save money in the banks, they face the constant threat of losing their hard-earned savings by theft. They face discrimination because they belong to the disadvantaged groups such as *dalits* or tribals. Women and girls face sexual harassment at workplaces and other common places, do not receive 'equal pay for equal work' and face problems of corruption and bribing. Most stay in unhygienic conditions with very little space for privacy, proper drinking water, food and other basic amenities. They can hardly access the labour provisions when any damage or accident takes place.

Poor migrants are often employed at risky jobs in industries, exposed to hazardous chemicals and long working hours. Migrants are susceptible to infectious diseases because of the poor, crowded and unhygienic living conditions. They are identified as the high-risk group by the National Aids Control Organization. They also face exclusionary processes that prevent them from acquiring new skills and moving up the job ladder. They face a constant threat of violence from the local people as happens in Maharashtra or Assam. They have no job security and are not protected by labour laws of the country. Because the migrants live in a different place and culture, they try to find their own ethnic or religious groups for their support, which often results in ghettoisation leading to ethnic clashes and communal violence.

Positively, migration has provided better earnings, better food, clothing and housing. The earning invested in agriculture, small enterprises,

education of children, health care, housing, etc., has improved the well-being of the household members. Those who have migrated to other states experience a different culture and can see the importance of learning one another's culture and language. Negatively, it has created a great hunger for consumer goods among the young and has brought in a culture more in the style of Bollywood film culture, which creates a false image of life. Money becomes the primary concern and value often at the expense of family, religion, culture and human values. Family life and family relationships suffer, as the family is often not living together. Male migration from nuclear families leads to loneliness, frustration and increased work burdens for women. The frustration of not having a job or not earning enough leads the migrants to drinking and other bad habits even to suicide. Since children do not get the needed affection and love from both the parents when one of them is a migrant worker, the growth of the child remains incomplete, leading to various difficulties and personal problems.

The Commonwealth Games (CWG) held in Delhi in 2010 is a clear example of such serious violations by the Central and state governments. At the CWG work site, unskilled workers were paid Rs. 85 to 100 per day as against the stipulated minimum wages of Rs. 142 for eight hours of work and with overtime for 12 hours, they should have been paid Rs. 284 (Mishra, Chaudhry, & Kothari, 2010, p. 6). Most of the workers lived in makeshift tents at the construction site itself. For those who had been provided temporary housing, it is extremely inadequate. Six to eight labourers have to share 10 feet by 10 feet brick huts. The huts had roofs of tin and asbestos. There was no electricity, ventilation or space to cook. In one of these camps, around 100 workers had to sleep on bunk beds in a dormitory, and the workers call it *murga khana* (Chicken shed) (Mishra et al., 2010. p. 6). Discrimination in wage payment, late payment, child labour and other evils that are found in construction sites were typically found in the CWG work sites. Most of the workers were from Bihar, Jharkhand, Orissa, Madhya Pradesh, Uttar Pradesh, West Bengal and Punjab. Public interest litigation (PIL) filed by Peoples' Union for Democratic Rights (PUDR) states that 49 workers had died at various Games sites (Mishra et al., 2010).

None of them received any compensation for the death. According to one source, around 50,000 adult "beggars" and 60,000 children "beggars" would be removed from Delhi for the duration of the Commonwealth Games. They would be housed in camps on the outskirts of the city. Mr. P.

Chidambaram, home minister admitted in the Rajya Sabha (Upper house of the Indian Parliament) on 31August "In my prima facie view, using Rs. 678 crores out of scsp (Scheduled Caste Sub Plan) to the Commonwealth Games infrastructure appears to be wrong" (TNN, 2010). This shows clearly where the country's options are.

As per the government statistic[10] given on its website on 10 September 2010, there are 577 formally approved SEZs and another 155 in-principle approved SEZs. These SEZs will require 204,148 hectares of land. With the already existing 40% of displaced tribals and 20% *dalits* in the country due to mega projects till 1990, this acquisition of land from the tribals and *dalits* is going to increase the migration many folds and deprive them of their very livelihood. Many of the tribals and *dalits* who did not own land and depended very much on the forest and agricultural labour for their very existence were not able to avail the compensation that is paid only to the landowners.

The report of Saxena, Parasuraman, Kant and Baviskar (2010) on Vedanta Mining in Niyamgiri hills clearly showed how the company had violated all the laws and how it has affected the tribal people and the entire environment. It mentions that 1.21 lakh trees would be cut, damage the wildlife sanctuary and severely damage the livelihood of 28 Kondh villages with a total population of 5148 people. This is only one SEZ project that has been stopped. What would happen to the other areas where the SEZs are going to be established? What would be the cost on the environment in these areas? How many people would be affected? Where will they go?

The communal violence that has been taking place, especially in the last three decades cannot be merely looked from the perspective of ethnicity and religion. If one has to understand the various dimensions of communal violence, especially in this post-modern period of accelerated urbanisation and industrialisation, we must look at it from the perspective of migration as well. Weiner (1988) has analysed the social violence, particularly communalism regarding multi-ethnic syndrome.

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10 This information was taken on 15 June, 2016. Presently this data is not available, since the new Central Government has updated the data on 31 July 2018. The present factsheet gives a different data without giving the amount of land acquired for the SEZ Projects. It can be consulted here: http://sezindia.nic.in/upload/5b98e7e7e01ffFACT-SHEET.pdf

1oe mentions two crucial factors in the process of migration which cause tensions. They are 1) Limited local resources: the migrants, as well as the local community, compete with each other to corner as much benefit as possible. This creates a certain sense of antagonism between the two groups. The migrants, since they do not have other socio-cultural, political securities, try to make the maximum use out of the available resources. 2) Integration into the local community: When the migrants move to a new place, they carry with them their ethnic and cultural attributes. For migrants, the social structure and cultural systems of both the places of origin and destination are affected by migration—their perspective centres around ethnicity and ethnic interactions and also integration and cohesion with the local community. If there is a widening gap between these two communities, then there is bound to be tension.

Eisensladel (as cited in Banu, 1994, p. 2409) calls this as resocialization of the immigrants. He mentions three elements that are needed, namely a) Acculturation: learning of several new roles, norms, customs of behaviour, b) Personal adjustment so that there are few or no indices of personal disorganization and c) Institutional dispersion, that is, immigrants are not concentrated in one sector of the economic, political, ecological or cultural spheres and hence cease to have a separate identity. When the immigrants come to the host society and begin to assume the role of a dominant group in one of the spheres of the community's life, there is bound to be conflicts with the local group.

ON THE ENVIRONMENT

Human migration from rural to urban together with the growing population and globalization trends of movement of capital, goods and services have greatly affected the environment and the ecosystems. At the beginning of the 19th century, there were around 25.9 million persons, or 10.8% of the country's population living in urban areas. After that, it gradually increased and by 1971 one-fifth of India's population had become urban. Between 1951 and 1981 India's urban population increased two-and-a-half times from 62.4 million to 156.2 million and it was the third-largest urban population in the world and was much higher than the total population of any country except China, Soviet Union and the United States in 1980-1981 (Rao, 1986, pp. 39-40). The growth in the urban population is attributed mainly to migration from rural to urban areas. The situation has worsened after the globalization process. Urbanization increases the per capita demand for energy, material

goods and services (Mukherji, 2006). Hence, it automatically puts pressure on natural resources, agriculture and the forest frontier.

Several ecological trends interact with migration. Global warming and climate change alter the temperature and precipitation patterns, which in turn affects agriculture, grazing, forestry and fishing and enhances desertification and the rise in sea level. This leads to natural calamities such as drought, flood, cyclone, hurricane and even desert fires. Global warming also affects biodiversity through destruction and disruption of species' habitats. All these, in turn, lead to the migration of people to more promising regions and urban areas (Meyerson, Merino, & Durand, 2007). Besides, population growth drives the states to go for expansion of food production systems, such as high-breed varieties, that are often not conducive to the local climatic conditions and requirements, and which are highly dependent on water, energy, chemical fertilizers, pesticides and other insecticides.

In many cases, these agricultural systems prove to be environmentally unsustainable, leading to abandonment and subsequent human migration (Meyerson et al., 2007). Many existing agro-products are unsustainable in terms of groundwater and energy. Rapid growth in urbanization has created large cities with unhealthy water, soil, pollution of various types as well as expanding demand for energy and natural resources.

Globally, several million hectares of forest cover are lost each year (Food and Agriculture Organization of the United Nations [FAO], 2005[11]. In India large areas of forest land, protected and preserved by the *adivasis* for centuries, are now taken over by the government in the name of development of the country. This has aggravated the migration pattern in these areas. Such unsustainable industrialization and mining in the protected forest areas transform the landscape and biodiversity of regions with short-term economic benefits and long term adverse environmental effects.

Migration brings in a loss of human capital in the villages, and it adversely affects the local environmental sustainability. The flow of financial remittances by the migrants back in their places of origin can have both positive and negative effects for conservation and the protection of the environment and biodiversity (Meyerson et al., 2007).[11]

11 A 2005 report by the United Nations Food and Agriculture Organization (FAO) estimates that although the Earth's total forest area continues to decrease at about 13 million hectares per year.

Challenges of migrants and IDPs in India

For some, the word 'migrant' may evoke images of people at their most vulnerable condition at the borders. Others may see migrants as people who 'steal their jobs' and 'take off the taxpayers' money' (UNDP, 2009). The borders have become death traps for millions. Crossing over to the 'promised land' for survival is becoming difficult and dangerous. The survival instinct in human beings makes them risk their lives, knowing well that there is danger or even death ahead at the borders. Border abuses, trafficking of children and women and sexual violence are in abundance. Detention centres are more criminal than prisons.

On the other hand, there are also difficulties in the receiving countries: ghettoisation and lack of acclimatisation to the new culture, among others. The local people and the governments expect them to lose their socio-cultural identity and assimilate the new culture, maybe too quickly. Besides legal challenges, the major socio-cultural challenges every migrant as well as the people in the receiving countries face are quite similar. For example, acknowledging and respecting the socio-cultural diversity and identity of the other, social participation, cohesion, integration, and above all, respecting the other as a person with rights and dignity.

The inflow of migrants into a particular place often generates xenophobic tendencies and reactions among the local population. They feel that the migrants have stolen their jobs, and they are protected and pampered with the taxpayers' money. Sadly, the politicians use 'migrants' as scapegoats for their own political career. The political populism conveniently uses the issue to gain more votes demonizing the migrants and putting them at higher risk.

The above scenario is clearly visible at the international borders, though not obviously seen at the internal borders of states within a country like India. As mentioned earlier under the section of demography, India is a continent with a population of 1.32 billion, with many cultures, languages and traditions. The borders of a particular State are like an international border, though not legally. As seen in the Migration map of India (Figure 1), the primary destination states are in Southern and Western India. The Business Standard described Kerala as Dubai for Bengali migrants (27 July 2012) and 'a promised land' (1 September 2012). No one is stopped at the borders of States in India, and the Indian Railways help in cheap travels throughout

the nation. However, the socio-cultural problems the migrants face in the destination States are almost the same, if not worse to that of international migrants. Some of the problems faced include the following.

XENOPHOBIA

The anti-*lungiwalas* movement of the 1960s, anti-*bhaiya* movement of 1980s by Shiv Sena in Maharashtra, 'sons of the soil' movement in Assam, similar such anti-migrants agitations and attacks in Gujarat, Karnataka, etc., are only examples of the xenophobic tendencies. Today the north Indian migrant workers in Kerala are the soft targets for the police, state administration and the locals. Martin, a Jesuit who works among these migrants in Kerala, says

> this xenophobia is alarmingly increasing. There are several reported cases where north Indian migrant workers were beaten up, lynched and killed based on suspicion and rumours. In Chennai, police and scores of bystanders watched a migrant worker beaten to death in 2012. A few even cheered and egged on the mob. Some screamed 'north Indian thief. (Martin, Gonsalves, & Sharma, 2017, p. 27)

LANGUAGE, FOOD AND OTHER CULTURAL BARRIERS

Learning a local language is a major challenge for the north Indian migrants in South India. The four major languages of South India, namely Tamil, Malayalam, Telugu and Kannada are of Dravidian family, each with a different script. The language spoken by migrants from north India, on the other hand, are Hindi, Odiya, Bengali, Assamese, etc., are of Indo-Aryan family, again each with a different script. Much against the popular belief of the international community, often promoted by the right-wing Hindu fundamentalist groups and politicians in India, Hindi is not the common language spoken by everyone leave alone being the mother tongue.

Most of the migrants who come from rural areas of these states speak only their mother tongue and cannot converse sufficiently well in Hindi. Neither the local people in South India are conversant in Hindi. Hence, communication with local people and employers, travelling, accessing government benefits, medical facilities, reading and writing and integration with the local culture and food habits are major challenges

for migrants. A case cited by Martin et al. (2017) can help understand the problem better. Dipen Konra, a tribal youth from West Bengal while travelling in an overcrowded train in Kerala missed getting back into it after he got down to fetch water. Since he could not communicate in the local language Malayalam, he was taken to the police station. While at the police station, he attempted to escape. Inadvertently, he entered the adjacent airport compound. Suspecting him to be a terrorist he was arrested, beaten brutally, legs and hands broken he fell unconscious. Dipen was sent to prison for 9 months. At the intervention of the state human rights commission, he was released and sent back home, but with one hand and one leg dysfunctional.

EXPLOITATION, DISCRIMINATION AND NON-PAYMENT OF WAGES

The vulnerability of the migrants is vivid, especially when it comes to working hours, safety measures, hazardous jobs and low wages compared to the local workers. Migrants are forced to do long hours of work that are dirty, dangerous and degrading jobs under inhuman conditions. There are times when employers disappear at the time of payments after extracting maximum labour for months. Migrant contractors and sub-contractors who exploit them with plenty of promises while snatching away part of the wages is a common phenomenon. Any effort to form workers' union to demand the rights of workers are crushed, and the leaders are even falsely accused, arrested and punished.

SEXUAL ABUSE AND GENDER VIOLENCE

Women migrants are the most vulnerable. Women face double victimisation: their wages are lower than that of men, and they are sexually abused and harassed. For example, 80% of Bangalore's garment factory workers are women, and these women undergo high levels of sexual harassment and violence at the workplace (Sisters for Change, 2016). Most of these women garment workers are young, unmarried and are from SCs and STs. Many of them are from the north-eastern states of Odisha, Jharkhand and West Bengal. The study found that one out of every 14 women garment workers experienced physical violence, and 14% complained of rape and sexual abuse.

TRAFFICKING AND BONDED LABOUR

Migrant workers are susceptible to human trafficking and become bonded labourers. According to a report of the Bonded Labourers Review in the

State of Karnataka (Prabhu, 2015), a total of 7,646 people are allegedly forced to work as bonded labourers in different districts of Karnataka. 333 bonded labourers including children were rescued from Tamil Nadu brick kilns in 2015 (New Delhi Television [NDTV], 2017, as quoted in Martin, 2017, p. 33).

<p style="letter-spacing:0.15em">HEALTH HAZARDS, ACCIDENTS AND DEATHS</p>
Migrant workers are vulnerable to health hazards and infectious diseases due to deplorable living conditions often provided by the employer at the work sites. Martin et al. (2017) say,

> there is no arrangement for toilets, drainage, ventilation or provision for clean drinking water or light. […] Due to dangerous working conditions and lack of safety measures, migrant workers are highly prone to accidents and deaths. However, in cases of accidental injury and deaths, migrant workers are often denied rightful compensation. (pp. 33-34)

And citing Manorama, they say, "minimum 50 dead bodies of inter-state migrant workers reach the hospitals for post mortem every month in Kerala." These are the only cases that have been registered. Probably unregistered cases maybe double the number of registered ones.

The challenges faced by internal migrants within India, as in the case of international migrants all over the world, are not limited to the above six areas. It is important to recognise that the challenges and problems faced by the migrants as well as the local people are global phenomena. They are acute, unimaginable and are quite complex. Hence, this calls for a collective response at all levels: global, regional and local.

Possible responses

Migration, being an expanding global phenomenon today, requires a global response. As Kofi Annan (2015) said,

> for starters, leaders of destination countries—whether in Europe, Africa, the Americas, Asia or Oceania—should not turn their back on the desperate and wretched. For many elected officials, migration poses a complex political dilemma: how to reconcile their citizens' demands with the interests of migrants. They must find the courage to make the case for a humane migration policy. (para. 4)

Here are a few potential responses that people can make at various levels.

AT THE LOCAL LEVEL

As Pope Francis invited the Christian community and everyone, we must learn to *welcome, protect, promote* and *integrate* the migrants into the communities. As Kofi Annan (2015) said, "They [the migrants] are fleeing poverty, war or oppression or are searching for a better life in a new land" (para. 9).

Local communities, religious institutions and NGOs may help in providing essentials such as food, clothing, lifesaving medicines, and hygiene kits. They can also support with legal and psychological counselling; protect children and women from violence and abuse; promote a sense of acceptance; establish interaction with the local communities; and help migrants and their families integrate themselves into local communities while acknowledging the differences that exist in the language, culture, and habits are an essential part of this call.

People at all levels can create awareness, educate others and strengthen collaboration and people's participation using existing social integration mechanisms and cultures. Social media must be used to unite people rather than dividing them based on differences.

AT THE NATIONAL LEVELS

The politicians and governments must acknowledge that the migrants are not there to 'steal their jobs' but rather contribute to the economy of the country.

National governments must encourage NGOs and social scientists to study the phenomenon and make laws, policies and schemes that will help the migrants to integrate themselves into the local communities based on scientific evidence. They also should create mechanisms for cultural exchange among people such as food festivals, cultural programs such as dance, music, theatre, etc.

Finally, it is crucial to provide migrants with legal and psychological support as well as the necessary assistance to access the facilities that are available only for the locals.

AT INTERNATIONAL LEVELS

The Global Compact for Safe, Orderly and Regular Migration, expected to be the first inter-governmentally negotiated agreement, prepared under the

auspices of the United Nations in December 2018 in Morocco, is an outstanding attempt. It is hoped that this will cover all significant dimensions of international migration holistically and comprehensively. This is a very positive indication.

It is important to build greater alliances and networks among nations and states. In addition, these organizations need to monitor and ensure that the national governments and state actors do not violate the various UN declarations, where they are signatories, such as the declaration on human rights, the declaration on the rights of indigenous peoples, etc.

The above responses are not a comprehensive list of answers to the growing phenomenon, but it serves as a pointer for better understanding and greater collaboration among all.

Conclusions

We have seen that the development induced displacement and forced migration of millions of marginalized communities like *dalits* in Asia, indigenous people, women, children, unorganized labourers and youth all over the world is continuously increasing. They have become the most vulnerable victims of the lop-sided development that is being promoted by the governments supported by the market-oriented corporates. The poor have become a mere commodity to be used and thrown. The present developmental paradigm of the world has dispossessed a large number of people of their very livelihood, forcing millions to live in inhuman conditions. The gap between a few rich and the majority poor has increased manifolds. Recently, both the markets as well as the environment have given signs that call for a radical change of approach, a paradigm shift—a paradigm that will be inclusive, holistic, sustainable, and environment and human-friendly. Such a paradigm will have to emerge from below, from the people. The poor are determined to engage in a democratic struggle to assert their economic, social and cultural rights along with civil and political rights. The call is quite clear. Are we ready to join them and be with them?

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Characterization of the Spanish Southern Border

AN OVERVIEW OF THE EUROPEAN SOUTHERN BORDER

There are mainly three entry routes of migratory flows to Europe from the Mediterranean area: the eastern, central and western routes (Figure 1). In a broad sense, these three routes, or the route they form together, would make up what is called the Southern Border in the European area. From the perspective of the Spanish-Moroccan Southern Border, we will focus our attention on the socio-demographic characteristics of the flows in the routes of the western Mediterranean.

These routes had traditionally been travelled by Moroccan and Algerian citizens who sought to reach France, Italy and Spain. However, in recent years the number of Immigrants from West, Central and even North-East Africa has increased.

The UN Refugee Agency (UNHCR), the International Organization for Migration (IOM) and the agency Frontex (2015a; 2015b) publish maps that facilitate the task of comparing the importance of each migratory route to southern Europe, and it is worth reviewing their analyses. In the data provided by UNHCR on the situation of arrival flows in the Mediterranean, there has been a reduction in the arrival of migrants from 2015 to the present day: 1,015,078 in 2015, 362,753 in 2016, 172,301 in 2017, and 56,585 to 30 June, 2018. The western route has traditionally been the least used of the three Mediterranean ones, but in 2017 this trend began to change. Since 2015, on the Eastern route (Greece and Cyprus) figures have been decreasing from 856,723 (2015), 173,450 (2016), 29,718 (2017) to 17,103 on 17 August 2018. In the central route, the trend has reversed in recent years going from 153,842 (2015), 181,436 (2016), 119,369 (2017) to 19,193 on 17 August
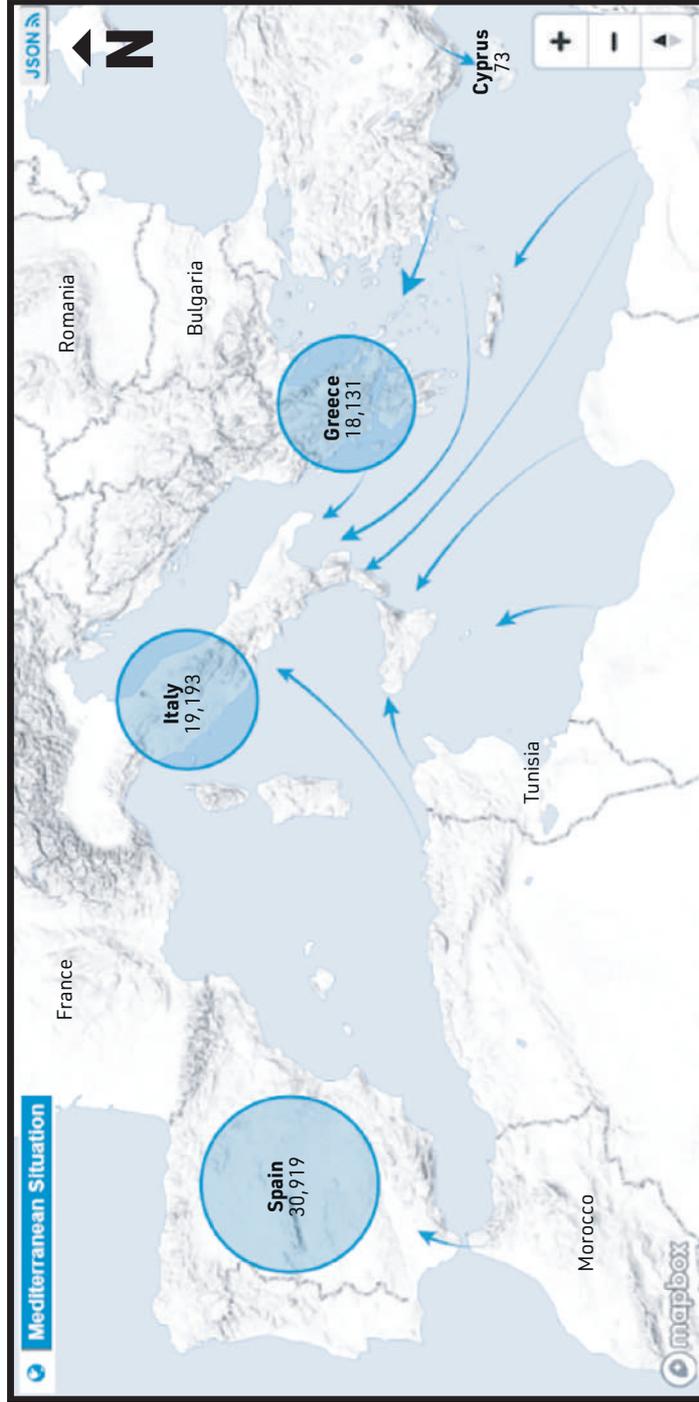
Figure 1. African migratory routes to Southern Europe

Source: UNHCR (n.d), *Operational Portal. Mediterranean Situation* (consulted on 20 August 2018).

2018. However, in the western route, there has been a rebound from 5,283 (2015), 8,162 (2016), 22,103 (2017) and 30,919 on 17 August 2018. However, the irregular migration that is flowing through Spain's southern border has never been comparable to the flows that have arrived countries such as Italy, Greece and other Balkan countries (see Figure 2).

To better understand the route to the European Union through the western Mediterranean, it is crucial to pay close attention to what is considered the Spanish "Southern Border."

CHARACTERIZATION OF THE SPANISH SOUTHERN BORDER

Let us check the map of Spain and its surroundings, as published by the National Geographic Institute (Figure 3).

In the north, the peninsular land border is clear with France and Andorra. The western border with Portugal (sometimes defined by the Miño, Duero, Tajo and Guadiana rivers, or the "raya") and the southern border with the British colony of Gibraltar are clearly marked as well. The various places of Spanish sovereignty are shown in Figure 4.
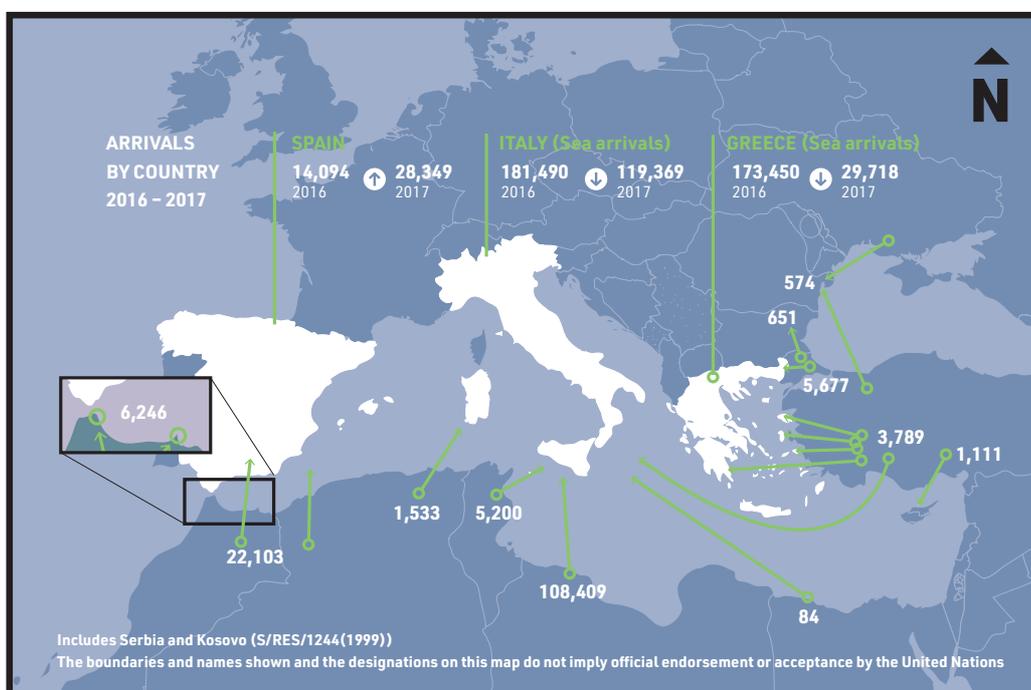
Figure 2. Detections of irregular border crossing

Source: UNHCR (2018a).
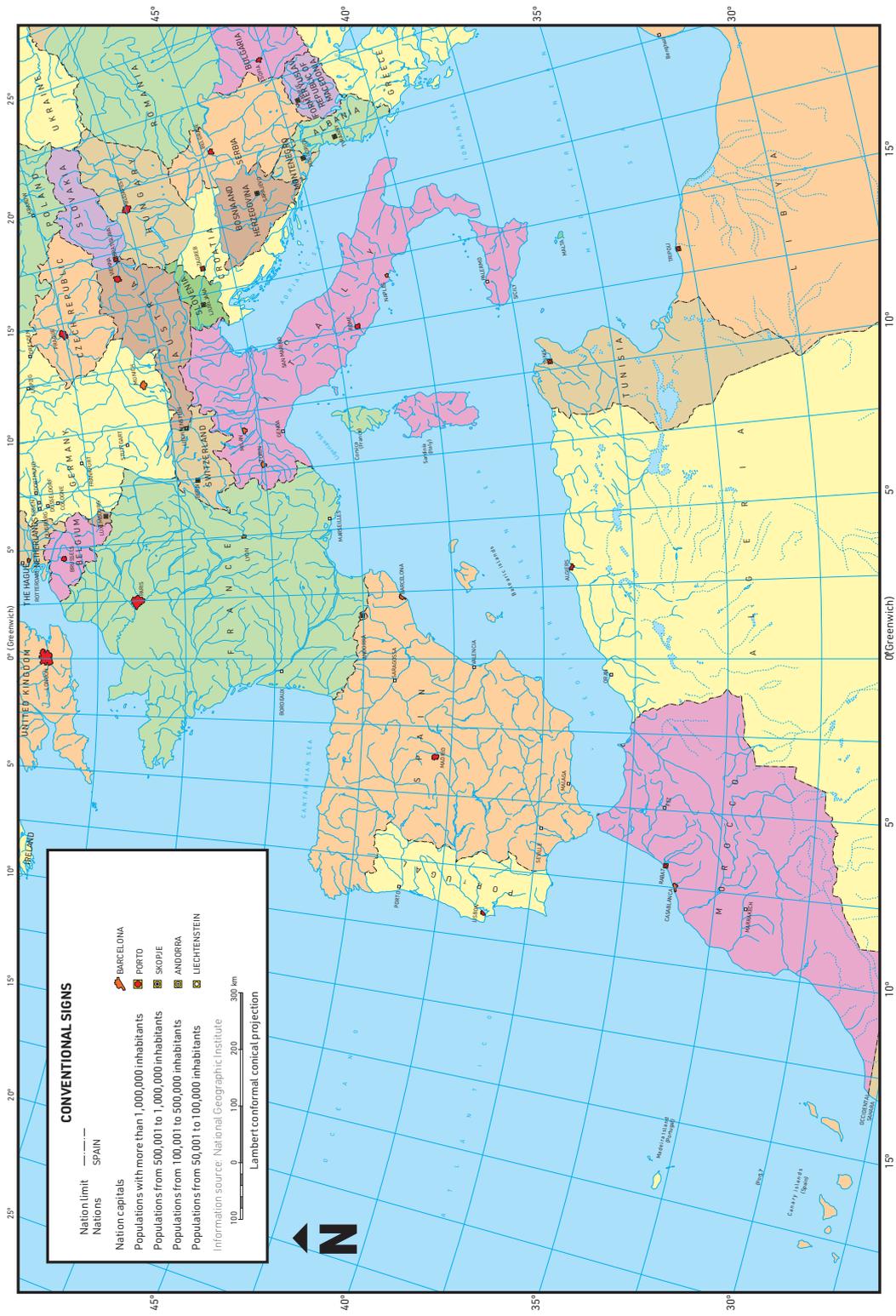
Figure 3. Spain and its surroundings

Source: National Geographic Institute.
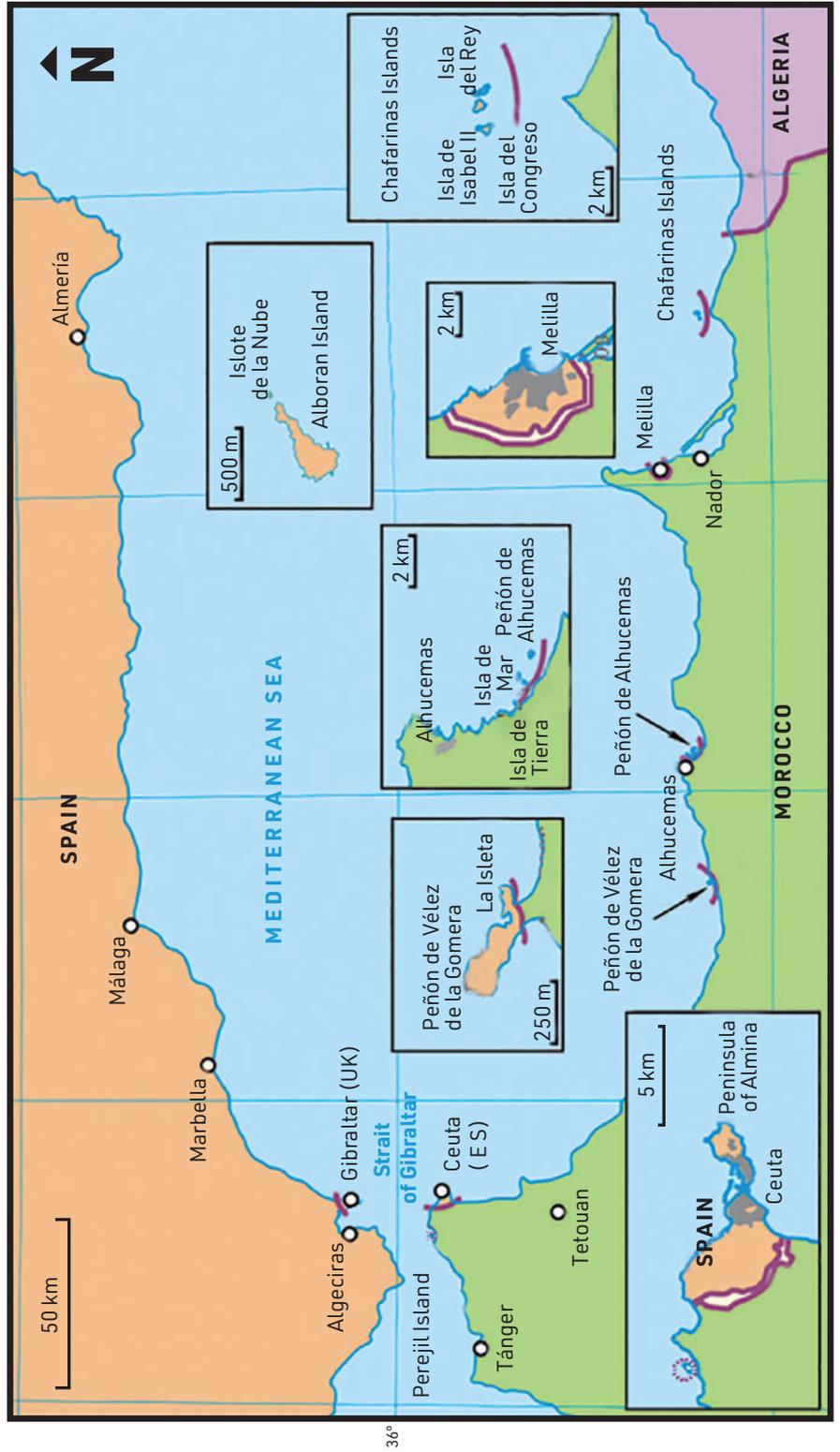
Figure 4. Autonomous cities of Ceuta, Melilla and other places of Spanish sovereignty in North Africa

Source: Wikipedia (2007).

The maritime borders can be added to the land borders: on the coastline or in its projection to 12 nautical miles from the marine coasts where they reach jurisdictional waters, or at 200 miles from the zone of economic influence. One could even include the border posts at international airports, as they regulate access to Spanish territory for those travelling by air.

For irregular arrivals of people who want to access Spanish territory, the following stretches of coastline constitute the southern border:

Table 1. Spanish coasts associated with the concept of the Southern Border: territory, length and situation

Peninsular coasts		
Alicante/Alacant	244	Mediterranean Sea
Murcia	274	Mediterranean Sea
Almería	249	Mediterranean Sea
Granada	79	Mediterranean Sea
Málaga	175	Mediterranean Sea
Cádiz	285	Mediterranean Sea and Atlantic Ocean
Subtotal	1,306	
Insular and North African coasts		
Illes Balears	1,428	Mediterranean Sea
Mallorca	606	Mediterranean Sea
Menorca	295	Mediterranean Sea
Ibiza	235	Mediterranean Sea
Formentera	82	Mediterranean Sea
Las Palmas	815	Atlantic Ocean
Fuerteventura	298	Atlantic Ocean
Gran Canaria	252	Atlantic Ocean
Lanzarote	187	Atlantic Ocean
Santa Cruz de Tenerife	768	Atlantic Ocean
Tenerife	336	Atlantic Ocean
La Palma	162	Atlantic Ocean
El Hierro	107	Atlantic Ocean
La Gomera	97	Atlantic Ocean
Ciudad de Ceuta	26	Mediterranean Sea
Ciudad de Melilla	12	Mediterranean Sea
Subtotal	5,706	
Total	**7,012**	

Source: National Geographic Institute.

The southern border is understood in terms of the migratory movements that cross the African continent into Spanish territory. It is interesting to observe the routes marked by de Haas (2007) in Figure 5.

The Spanish southern border is projected further into African territory. Morocco has land and borders with Spain, mostly in the Mediterranean. However, there also exists another border in the south of Morocco between the Canary Islands and the territory in Western Sahara under Moroccan administration in Western Sahara is the border with the Canary Islands. Algeria is a country of transit to Morocco, although it is the occasional point of departure for boats of boats trying to reach the coasts of Almeria, Murcia, Alicante and the Balearic Islands. Vessels have sailed from Mauritania and Senegal, trying to either reach the Canary Islands or Morocco. All of these countries have agreements with Spain to implement various migration control devices. It also has an agreement with Mali, which is an important transit route to Algeria. Suffice it with these notes to describe the Spanish southern border (see Table 2 and Figure 6).

These are numbers that should be compared with those published by Frontex, also in a diachronic perspective (see Figure 7).
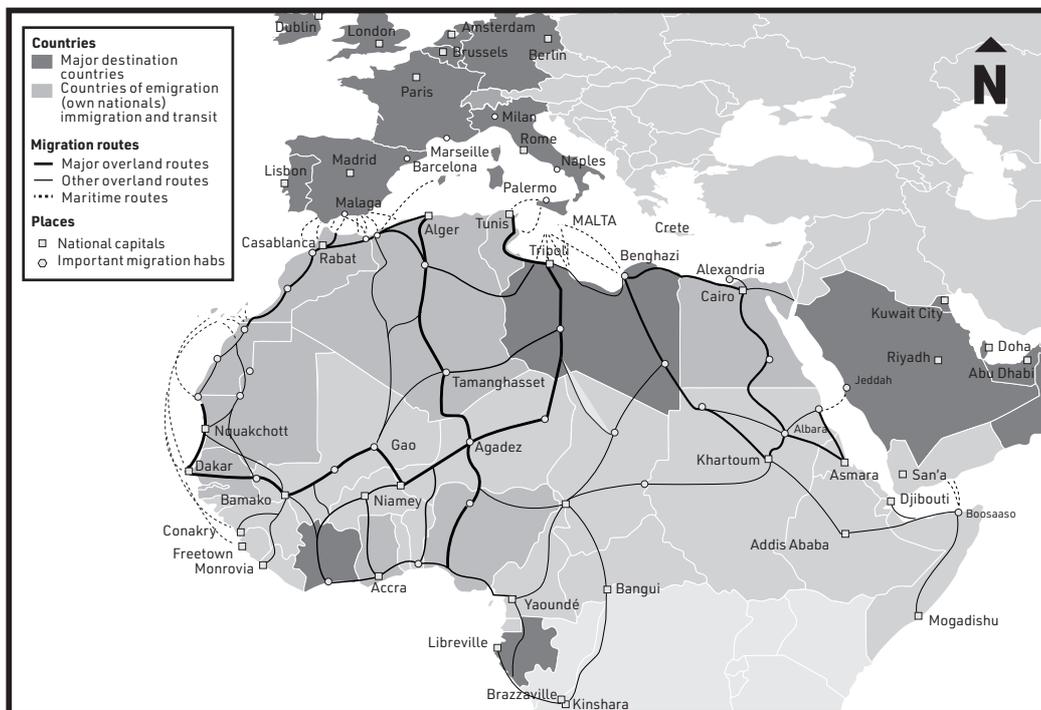
Figure 5. Migratory routes through North Africa
Source: de Haas (2007).

Table 2. Number of people of sub-Saharan origin irregularly entering Spain by sea (2006–2017)

Year	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Spain	39,180	18,057	13,424	7,285	3,632	5,443	3,804	3,237	4,552	5,312	8,115	21,175	56,010
Peninsula and Balearic Islands	7,502	5,579	4,243	5,034	3,436	5,103	3,631	3,041	4,256	4,437	7,410	20,757	54,703
Canary Islands	31,678	12,478	9,181	2,246	196	340	173	196	296	875	705	418	1,307

Source: Ministry of the Interior. Biweekly reports - Fight against irregular immigration 2018 (data from December 31, 2018).
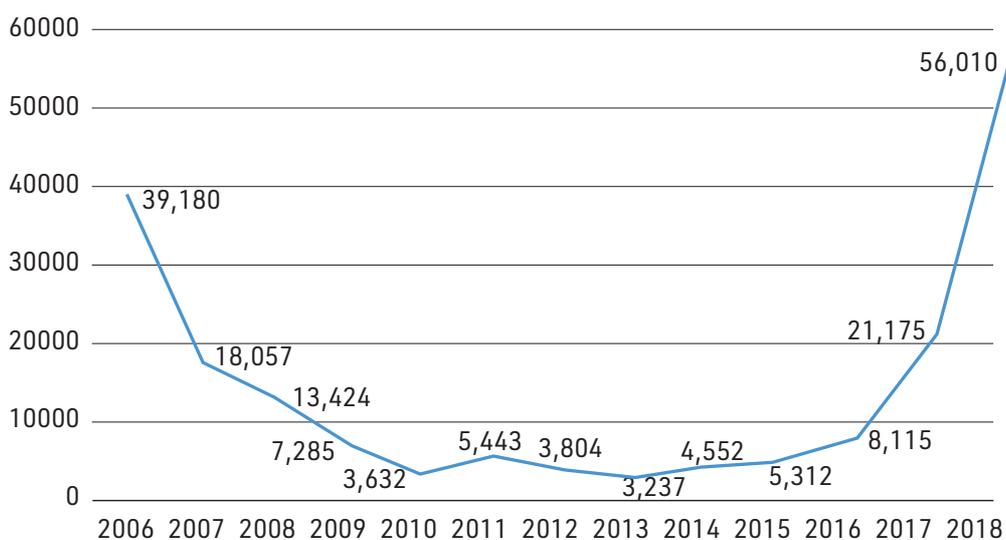
Figure 6. Number of people of sub-Saharan origin irregularly entering into Spain by sea (2006-2018)

Source: own elaboration based on data from the Ministry of the Interior. Fight against irregular immigration (data from July 31, 2018).
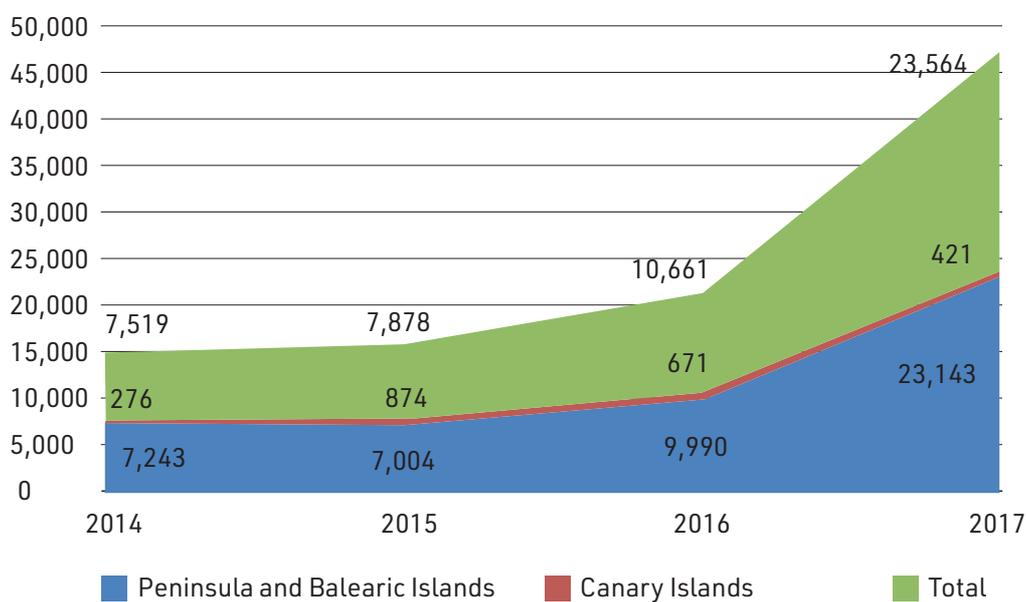
Figure 7. Irregular migrants detected on the western Mediterranean route by sea and land (2014-2017)

Source: own elaboration based on data from Frontex (2018).

Description of the socio-demographic characteristics of migratory flows

PROFILES OF THE POPULATION THAT ACCESS THE EU THROUGH THE SPANISH SOUTHERN BORDER

According to data from UNHCR (2018b), Guinea, Morocco, Mali, Cote d'Ivoire, Syria, Gambia, Algeria and Senegal, are the bulk of predominant nationalities of people who carried out their migratory trajectories through the routes of the western Mediterranean.[1] Some of these countries have faced severe conflicts and wars, such as Syria and to a lesser extent Mali. Figure 8 illustrates the breakdown of migratory flows:
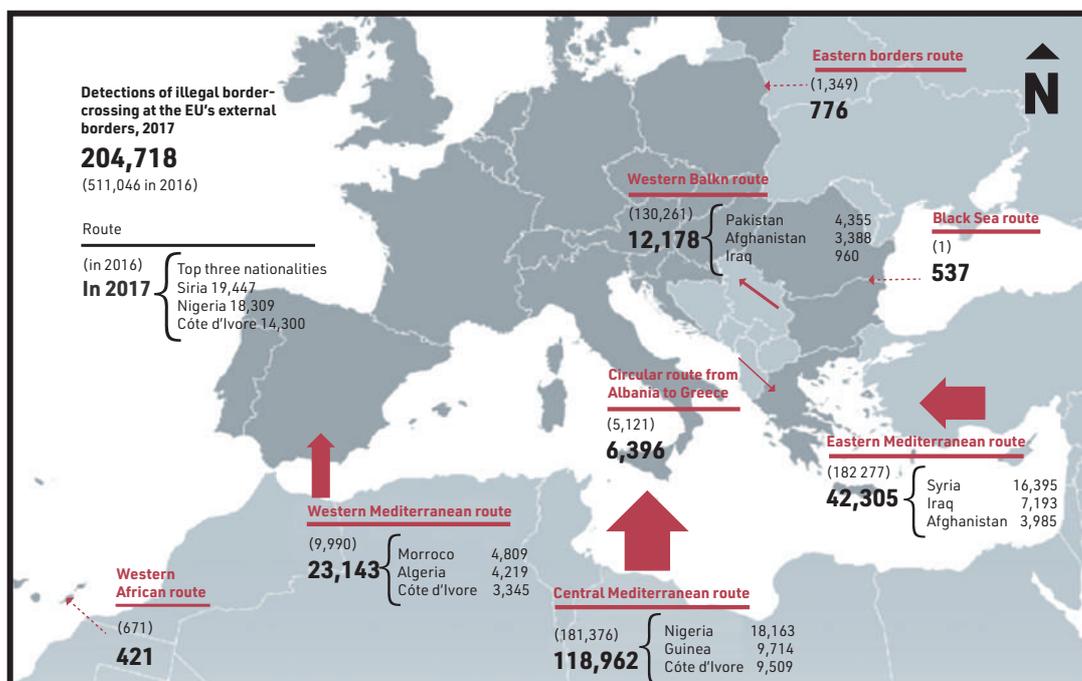
Figure 8. Main nationalities of people who cross the EU borders irregularly
Source: Frontex (2018).

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1   These UNHCR data are in line with the data obtained in the INE on the most numerous nationalities of people born in Africa who currently reside in Spain.

The main objective of most migrants when they arrive in Morocco is to reach Europe. However, they usually spend more time than expected here due to the difficulties in entering Spain.

In general terms, 90% of migrants who arrive in Spain do so regularly as tourists—with or without a visa, depending on the case—, but, after exceeding three months of stay, are officially considered "irregular." Only 10% of migrants, arriving in small boats through the Strait of Gibraltar, come from sub-Saharan Africa.

For at least several years, the difficulties of entering Spain in recent years have turned a transit country like Morocco, into a destination country for some communities. In some way, it can be understood that the profile of migrants in Spain and Morocco has been differentiated. For that reason, it would be good to study the profiles differently on both sides of the border.

An important element to take into account is the mixed migrant profiles in these routes, coexisting with asylum seekers, involuntary migrants (trafficking in persons), unaccompanied minors all in search of a more dignified life for themselves and their families in origin. However, they all experience harsh travel conditions and are exposed to many risks.

Spain

The flow of irregular migration across the Mediterranean is not the most critical in absolute terms. It is no less true that the trend has been increasing in recent years.

As mentioned previously, since 2013, Morocco, Algeria, Senegal, Cameroon, Nigeria and Guinea are the countries with migrants that predominantly carried out their migratory trajectories through the routes of the western Mediterranean. Since that year, Syria has been occupying a more important position. At present, Guinea, Morocco, Mali, Cote d'Ivoire, Syria, The Gambia, Algeria and Senegal are the most numerous nationalities in this order. Table 3 shows this change in the trend.

As for asylum seekers, according to Eurostat and Ministry of the Interior (Spain, 2014), 30,445 applications were received in 2017, a figure that is almost double that of 2016 requests. The deteriorating situation in Venezuela has boosted these figures with 10,350 requests. In fact, one out of every three applicants for protection comes from a Latin American

country. Despite this increase in Spain, they represent only 5% of asylum seekers throughout the EU. In 2017, the second nationality with the most asylum seekers was Syrian, with 4225 applications. The presence of Syrians remains significant among asylum seekers. Colombia, Ukraine, Palestine, Algeria and El Salvador are the rest of the countries that follow them on the protection list. Some countries, such as Colombia and Ukraine follow the growing trend that comes from 2016.

Table 3. Evolution of applicants for international protection in Spain (2004-2018)

Years	Applicants	(%)
2004	5,553	-
2005	5,257	-0.56
2006	5,297	0.007
2007	7,664	44.88
2008	4,517	-41.06
2009	3,007	-33.43
2010	2,744	-8.75
2011	3,422	24.71
2012	2,588	-24.37
2013	4,502	74.38
2014	5,947	31.89
2015	14,881	150.12
2016	15,755	11.13
2017	31,120	50.62
2018	55,600	80

Source: own elaboration based on data from Eurostat and Ministry of the Interior (Spain) (2014).

Morocco

Migration flows in Morocco seek Europe as their main destination, although sometimes the time of stay in the country is usually several months, even years (Reifeld, 2015). In some cases, it is becoming a destination country for some countries in the African context (Reifeld, 2015; IOM, 2018). Morocco includes within its regular migration statistics, migrant students and migrants in search of employment. The students come mainly from Mauritania, Senegal, Guinea-Bissau and Chad. Regarding domestic employment, the Philippines and Indonesia are the two nationalities in highest demand (IOM, 2015).

Concerning irregular migration, Cameroon, Nigeria, Guinea-Conakry, Senegal, Mali and Cote d'Ivoire represent the largest communities (IOM Morocco, 2014). Some of these nationalities do not need to apply for a visa to enter as a tourist in Morocco. There has been an increase in the flow of Cameroonians in recent times.

Migrant women in Morocco come mainly from Nigeria, Cameroon and Mali. Most women travel alone but within travel groups. More than half are mothers, and a high percentage become pregnant on the road. The vast majority of Nigerians arrive in the country through sexual exploitation networks, as do a good number of Cameroonians. Mafias control these women, and they use voodoo as one of the control tools. The neuralgic points of the illegal traffic in these routes are Agadez (Niger) and Gao (Mali). Arlit (Niger) is the great nerve centre of human trafficking and prostitution. In 2014, the number of Cameroonian women trapped in trafficking networks for sexual exploitation in Morocco exceeded the number of Nigerian women.

As for the countries of origin of asylum seekers, of the 2,635 applications received in 2014, were from Syria (27%), Congo (21%), Côte d'Ivoire (15%), Mali (7%), Cameroon (7%) and Nigeria (6%), according to UNHCR Morocco.

PULL AND PUSH FACTORS

According to a study carried out by the IOM Morocco (2014), on the routes from the Western Mediterranean to Spain, push factors have a higher influence than pull factors, placing the "need to flee for a situation of instability," whether by war or armed conflict, or of strong adverse social and economic pressure, at the top of the list (see Figure 9).

Countries of Origin	Morocco	Spain
Push Factors • Poverty • No livelihood options • Lack of regular employment • Low wages • No ooportunity for education • Aspiracional migration • Search for stability • War / conflict • Persecution	**Pull Factors** • Relatively higher salaris • Land borders with Europe/ proximity • Regularisation • Employment • Relatively safe journey to Europe **Push Factors** • Lack of jobs • Difficulty crossing over • Ill treatment	**Pull Factors** • Standars of living • Oppotunities for education • Respect for human rights • Presence of networks • Protection/status • Returning with family **Push Factors** • Relatively unfavorable welfare system • No job opportunities

Europe, Gulf countries, Western and Southern Africa — Economic migrants — Asylum seekers

Libya, Tunisia, back to origin

Figure 9. Pull and push factors in the migration process in the Southern Border
Source: IOM (2015).

The hope for a better future is a great aspiration held by migrants and their families, which corroborates that migrant flows do not belong to the most impoverished classes in their countries.

There are some points of inflexion that act as points of repulsion and attraction. On the one hand, some migrants are carrying out the migratory process with some support from their family. When this little thread breaks on the road, many decide to give up. On the other hand, when they observe close positive experiences of "migratory success," along with a personal invitation or accompaniment, there is a strong lever effect.

ROUTES THAT CONVERGE IN THE WESTERN MEDITERRANEAN

The route through Mauritania

Most of the Senegalese move from Dakar, towards Nouakchott (Mauritania), then Nouadhibou, entering Morocco towards Bir Gandouz (Morocco). From there to Dakhla and Laayoune, and later heading north to cities such as Casablanca, Rabat, Tanger, Oujda and Nador.

The desert route

Anglophone migrants generally come through Agadez and Gao's Francophones. From both points they converge in Tamanrasset (Algeria),

passing through Ghardaia, and then through Algiers or Oran, through Maghnía and entering Morocco towards Uxda (Morocco).

Routes from Morocco to Spain

The traditional route by sea consists of crossing the Strait of Gibraltar from Tangier to Tarifa, or from Senegal and Mauritania to the Canary Islands. In the case of routes by land, from Morocco to the enclaves of Ceuta and Melilla. In recent years, maritime routes have also been created from Morocco to these two Spanish autonomous cities, as well as other maritime routes to other enclaves in the south of the peninsula.

The legal framework of migratory flows at the Spanish southern border

Spain is one of the routes to Europe through the Mediterranean Sea, together with Italy (Central Mediterranean) and Greece (Eastern Mediterranean). The route is heavily regulated and difficult to access, due to Spain's close security forces cooperation with Morocco and other countries of West Africa. Arrivals to the southern border include small boats landing in Andalusian coasts and arrivals to the autonomous cities of Ceuta and Melilla, in African territory, through water, fence or by hiding inside cars.

Given its status as a European maritime border and the only European land border with the African continent, Spain faces the challenge of an agile identification between people who try to access irregularly with those have protection needs from those who try to access Spain in search of a better life. Proper border management would require a global approach to asylum and irregular immigration. However, the practice shows the immense difficulties of Spain and Europe to balance the humanitarian aspects and the guarantees of individual rights with concerns about security and migratory control, in favour of the latter.

Deaths in the Mediterranean and higher arrivals in recent years have made migration and asylum a susceptible issue in Europe. The management of the Spanish border is mainly Spanish competence, but, increasingly, the need to move towards European border management is evident. It would mean a reform of the current legal framework, based on autonomous national policies, which are causing serious friction among the Member States and enormous additional suffering for migrants.

ACCESS TO TERRITORY

The Law 4/2000 on the rights and freedoms of foreigners in Spain and their social integration (LOEX) includes three procedures in case a foreigner tries to access Spain irregularly, i.e., outside the authorized border posts: devolution, return and the rejection at the border.

The LOEX establishes certain legal guarantees that must preside over immigration control procedures:

- The right to effective judicial protection
- The right to free legal assistance in administrative procedures that may lead to their devolution or return from Spanish territory and in all proceedings related to international protection
- The right to assistance of an interpreter
- The right to appeal decisions regarding the devolution or the return
- The prohibition of collective expulsions

The general framework: devolution and return

The National Police have exclusive jurisdiction over the processing of return and expulsion files. The resolution is adopted by the territorial governmental authority (Sub-delegates of the Government or Delegates of the Government).

- *The Devolution*

The devolution (art. 58 LOEX) applies whenever a foreigner tries to enter irregularly in Spain or has contravened an earlier entry ban. Article 23 of the Royal Decree 557/2011, of April 20, which approves the LOEX Regulation, (the "Immigration Regulations"), develops the regime of the return.

The devolution procedure seeks to stop completion of the irregular entry, without the need to issue a return decision. It is required that the security forces frustrate that pretension at some previous or immediate moment upon entry into Spanish territory.

Unlike the return, the devolution is not, in a legal sense, a sanction, but a governmental measure of immediate reaction against a violation of the legal order. The Constitutional Court STC 17/2013, stated that the devolution could not carry an entry ban.

Article 23.6 of Immigration Regulations provides that:

> Even when an evolution resolution is adopted, it cannot be executed and will be suspended in the case of pregnant women and if the

measure could pose a risk to pregnancy or to the mother's health, or for sick people where the measure may pose a risk to their health.

- *The return*

Article 57 of the LOEX provides for return as a possible sanction in those cases where an immigrant is in an irregular situation in Spanish territory—lack of residence permit—, "prior processing of the corresponding administrative file and a reasoned resolution that values the facts of the offense." Therefore, a foreigner staying in Spanish territory without proper authorization commits an administrative offense which may lead to a return decision. The return is a sanction, and it entails an entry ban into Spain (extensive to the other countries of the Schengen territory) for a period of between three and ten years.

Ceuta and Melilla: First Final Provision of Law 4/2015, of March 30, for the protection of citizen security

Organic Law 4/2015 of 30 March 2015 on the Protection of Citizen's Security modified the LOEX by adding a new disposition ("the Tenth Additional Disposition") that established a special regime for Ceuta and Melilla. Foreigners detected while trying to cross the border into Ceuta and Melilla may be pushed back in order to prevent their illegal entry in Spain.

- *Tenth Additional provision. The special regime of Ceuta and Melilla*
  - Foreigners detected in the territorial border of Ceuta or Melilla trying to overcome the elements of border contention may be rejected in order to prevent their illegal entry into Spain.
  - The rejection will be carried out respecting the international laws of human rights and international protection to which Spain is a party.
  - Requests for international protection will be formalized in the places authorized for this purpose at border crossings and will be processed in under the provisions of international protection regulations.

The law established a new procedure, "the border rejection", for the two autonomous cities, but it does not detail the content of such procedure. Since the beginning, the "rejection on the border" disposition has caused numerous and well-founded doubts about its legality and interpretation. The Spanish Ombudsman, for example, issued recommendations that

rejections at the border be respectful of the jurisprudence of the Constitutional Court and international regulations. It recommended that whenever a rejection occurs at the border, an administrative resolution is issued, with legal assistance, an interpreter and the indication of the possibility to appeal. Also, the foreigner must receive information on international protection and on the possibility of availing himself of it. Finally, the Police must verify that the foreigner is not a minor or a possible victim of trafficking. The Government rejected these recommendations. Pushbacks also take place at sea, which is a hazardous practice. The number of people reaching Ceuta and Melilla by sea has grown in 2017, constituting around half of the entries, and a 140% increase since 2016 due to increasing difficulties to cross the land border.

The "push back" practices were prosecuted by the European Court of Human Rights (ECHR) in the case of ND and NT vs. Spain. The ECHR has sentenced against Spain on 03.10.2017 condemning these practices for the violation of arts. 4 of the Protocol ECHR —prohibition of collective expulsions—and art. 13 ECHR—the right to an effective remedy. However, extrajudicial pushbacks still take place regularly despite the recent sentence.

INTERNATIONAL PROTECTION

Spain is part of the Geneva Convention of 1951 and the New York Protocol of 1967. The right of asylum in Spain is included in the Spanish Constitution (art. 13.4) and regulated by Law 12/2009, of 30 October, regulating the right of asylum and subsidiary protection ("Asylum Law"). The Asylum Law provided for the drafting of an implementing Regulation but unfortunately, and despite the nine years since its entry into force, it has not yet been drawn up. The Office of Asylum and Refuge (OAR), under the Ministry of the Interior, has the exclusive competence to process applications.

The right to protection exists even if the border has been crossed irregularly. Article 23.6 of the Immigration Regulations states that:

> Even if a return resolution has been adopted, it will not be executed and its enforcement will be suspended when a request for international protection is formalized, until it is resolved or the application is not admitted [...]. The admission to processing of the asylum claim will allow the applicant to enter the territory in order to continue with the asylum claim and the applicant will be allowed to legally and temporarily stay in Spain while the application is under examination.

However, neither European nor Spanish law regulates access to the territory of asylum seekers. Article 18 of the Asylum Law provides, exceptionally, for the possibility of "humanitarian visas" that would allow applying for international protection at the Consulates and Embassies. However, this possibility has not been developed legally in Spain and, therefore, does not apply in practice.

Previously we mentioned that, since 2015, there is a special control regime for irregular entries to Ceuta and Melilla. The tenth additional provision provides that applications for international protection shall be formalized in the places authorized for that purpose at border crossings and shall be processed following the provisions of international asylum law. However, the complex and controversial situation in Ceuta and Melilla does not guarantee access to the asylum procedure. For example, African people cannot access border crossing points. Access to the asylum offices of the border posts of Ceuta and Melilla implies having been able to cross the Moroccan border post previously, which is unfeasible for sub-Saharan citizens.

The asylum procedure should not last more than six months, although the deadlines are much longer in practice. Asylum seekers are not deprived of liberty in Spain while their immigration status is analysed, and they have guaranteed access to health, housing, education, employment, etc. The coverage of basic needs is guaranteed for the first six months, although it is not fulfilled in practice because the reception system is underfunded, and the number of places is insufficient.

GROUPS IN A SITUATION OF GREATER VULNERABILITY

Unaccompanied minors

Many foreign minors arrive at the border unaccompanied. They are children and adolescents and so should be treated rather than as foreigners. The need for protection of this group is included in the LOEX (Article 35) and the Immigration Regulations (Articles 189-198), which establish a specific regime for unaccompanied foreign minors. It is also enshrined in various international treaties that Spain has signed, fundamentally the 1989 Convention on the Rights of the Child. In particular, the Committee places special emphasis on the need to guarantee rights and essential principles.

The Spanish Framework Protocol on Unaccompanied Minors (2015) aims to cover all those cases in which the minor may run some risk or situation of vulnerability. In particular, its second paragraph establishes:

1. An Unaccompanied Foreign Minor (MENA) is understood to be a foreigner under eighteen years of age who is a national of a State to which the European Union's regime does not apply and that arrives in Spanish territory without an adult responsible for him, either legally or according to custom, appreciating the risk of the child's vulnerability, as well as any foreign minor who once in Spain is in that situation, in accordance with Article 189 Immigration Regulation.

2. This Protocol also applies to:

a) Foreign minors found at risk for having entered clandestinely in national territory or trying to cross the Spanish border posts together with an adult that pretends to be his parent, relative or responsible for the child, that do not provide truthful or reliable documentation of the alleged link, and where an objective danger for the full protection of the child is appreciated.

b) Foreign minors who are in a situation of patent abandonment or lack of protection, meaning that they are at risk of being subjected to human trafficking networks.

c) Foreign minors travelling as stowaways on board of a ship or aircraft that is in a Spanish port or airport.

The biggest problem faced by unaccompanied foreign minors entering irregularly to Spain is the determination of their age. The procedures followed by the Office of the Public Prosecutor for Minors have been severely questioned by civil society and the Ombudsman because they systematically lead to filiation as adults and their expulsion, therefore, from the child protection system.

In Ceuta and Melilla, the insufficiency of the resources of the reception system causes that many unaccompanied foreign minors are in a street situation. In Ceuta, the situation has improved thanks to a city programme and the University of Málaga launched in 2018 to address the causes leading these children to impoverished situations.

The problems in documenting the legal residence of minors supervised by the Autonomous Communities and by the protection entities of Melilla and Ceuta when they reach adulthood are also worrisome. Unfortunately, these children often reach the age of eighteen without residence authorisation.

Women victims of trafficking

Spain is a country of destination for trafficked persons, and it is also a country of transit. During the period 2013-2016, the main countries of origin were Romania (306 victims), Nigeria (104), China (100), Paraguay (58) and Bulgaria (42). Fifty identified victims were Spanish nationals. The vast majority (84%) were women and girls trafficked for sexual exploitation. However, these figures do not reflect the actual scale of human trafficking in Spain and that labour exploitation is probably underreported ("GRETA publishes second report on Spain", 2018). For example, the Jesuit Service to Migrants of Spain (SJM-E) and the University Institute of Studies on Migration at Comillas Pontifical University (Madrid) published in 2016 the report *No Protection at the Border - Human Rights at the Southern Border between Nador and Melilla*. According to it, English speaking sub-Saharan women are victims of trafficking in 95% of cases (Manzanedo, Ferré, Castaño, Reues, Buades, & Iglesias, 2016).

Article 177 bis of the Spanish Criminal Code (CC) criminalises human trafficking, and the Immigration Regulations (articles 140 to 146) establishes the procedure for the protection of victims of trafficking. Formal identification of victims is done by the Police and depends on the presence of sufficient evidence for the initiation of criminal proceedings. The minimum length of recovery and reflection period for victims is 90 days. The law also grants trafficking victims the possibility of a temporary residence permit based on their co-operation with the authorities or owing to their situation. There is a National Action Plan to combat trafficking for sexual exploitation (2015-2018), as well as a Framework Protocol for the Protection of Victims of Trafficking.

Further, Organic Law 8/2015 of 22 July 2015 and Law 26/2015 of 28 July 2015 on the protection of children and adolescents include provisions relevant to the protection of children against all forms of violence, including trafficking.

The Spanish Parliament adopted in December 2017 a State Pact against Gender-based Violence, which includes the elaboration of a comprehensive law against trafficking for sexual exploitation.

THE EXTERNALIZATION OF THE BORDERS

Ceuta and Melilla are the only land borders Europe shares with Africa. The Spanish-Moroccan Agreement on Readmission was signed in 1992, one of the first bilateral agreements between an EU Member State and a third country to return migrants. Since then, Moroccan authorities have controlled entry into both cities. Moroccan forces strategically detain Sub-Saharan Africans before they can reach the Spanish Border Asylum Office. It is clear that the Moroccan Government uses the border to exercise political pressure on agriculture and fisheries negotiations.

In Morocco, there is remarkable cooperation of the Special Forces. These special forces act aggressively against the camps of Sub-Saharan Africans living in inhuman conditions in the Moroccan forests surrounding Ceuta and Melilla, which they dismantle and frequently destroy as often as several times per week. The situation is continually deteriorating due to the growing securitization of the borders and the increasing cooperation between the EU and Morocco.

Description of the aspects and situations of greater vulnerability in the border

VULNERABILITY IN ORIGIN: CAUSES

There are many reasons as to why people leave their homes. Unfortunately, many people leave their countries because of wars and conflicts. Economic reasons often force people to look for a better life. Many people migrate because of a high criminality rate, natural catastrophes, government persecution, ethnic and religious reasons, family reunification and persecution for gender reason, among others.

VULNERABILITY DURING THE TRIP

People live traumatic experiences during their trip to Morocco. There are impressive stories about the crossing of the Sahara Desert.

It is relatively common to find people who suffer psychological stress, caused by the traumatic circumstances that they lived in their country of origin (war, persecution), or that they experienced during the trip. Once they leave their countries of origin, they often suffer exclusion and rejection in the countries through which they pass, and this continues even when they reach their final destination.

Migrants are victims of trafficking during the trip. Trafficking networks try to take advantage of their situation of defencelessness. At times the security forces of the transit countries not only do not protect migrants but also take advantage of their position of power. Circumstances such as abuse, theft of money or documentation, harassment, are frequent throughout the trip.

Many women are victims of sexual violence on their journey to Morocco and even when they arrive. Of the two main routes of access to Morocco (through Mauritania to the south, or Algeria through the border in Uxda to the east), it is in the latter where women bear a higher risk of being raped.

VULNERABILITY ON HOLD: LIVING CONDITIONS IN MOROCCO

After travelling thousands of kilometres by land from the countries of West Africa (Senegal, Mali, Ivory Coast, Nigeria), crossing the desert through Mauritania, Mali or Niger towards Algeria to Morocco; or, as in the case of Syrian refugees, by plane from Beirut to Algiers, migrants are already at the gates of Europe.

With the cooperation of the governments of transit countries, the European Union is increasingly reinforcing the control of its external borders. It is increasingly difficult to access the land borders of the Spanish enclaves in Moroccan territory of Ceuta and Melilla. It is also difficult to use small boats to cross the sea and reach the Spanish coasts.

In addition, at the request of King Mohamed VI, the XXI African Union Summit held in Nouakchott in July 2018, adopted the establishment of the African Migration Observatory in Morocco. This observatory will be responsible for gathering information and developing the exchange of information and coordination among African countries.

Although these initiatives are a strong support to the migratory reality, it nonetheless that the new Moroccan policy does not imply the abandonment of a security policy based on the repression of the attempt of irregular exit towards Spanish territory. Some unacceptable practices have been modulated: the migrants detained in the raids of settlements, or in their attempt to move to Ceuta or Melilla, are no longer "abandoned" in the desert, nor are they expelled to Algeria by Uxda. Now they are moving away from the border.

Nador has now become the main point of concentration of sub-Saharan migrants on the way to Spanish territory. These immigrants try to shorten their stay as much as possible: They try to collect the price that

a group must pay to charter a zodiac that leads them to the peninsular or Melilla coasts as soon as possible. Sometimes, their despair makes them jump the fence of Melilla when they do not find the possibility of paying the freight. Despite the willingness to shorten the stay, it is common to extend the stay one or more years.

Mount Gurugú is located between Nador and Melilla. There are several settlements on the slope by the slope that falls on Melilla. The forest is used by migrants (usually the most destitute) to wait for an opportunity to jump the fence.

Other settlements are a little further away from Melilla and are found in the municipality of Selouane. They take refuge there trying to collect money to charter boats (zodiacs) to cross the Mediterranean (usually to Motril and Adra, and on occasion to Melilla). They also remain in these settlements to recover from the stress and harassment suffered in the Gurugú. These settlements house groups are less numerous than those of Mount Gurugú. They are usually organized by nationality or language and comprised of high numbers of women and children, who are, frequent victims of trafficking networks. Here, the socio-sanitary work of the Diocesan Migration Delegation is more complicated. Members of trafficking networks make it difficult for women to access resources and threaten reprisals if they receive help. Women respond to NGO questions with evasive or learned discourses when asked about nationality, age, situation, intentions, etc. This tactic with which the networks protect their interests affects the lack of protection of the women: making it difficult, for instance, for them to pass the nationality and coherence test in case of applying for asylum due to trafficking when they reach Spanish soil.

VULNERABILITY AT THE BORDER

As we approach and observe the physical borders between Spain and Morocco, we see that border control practices are sometimes far from being respectful of human rights, and cause vulnerability and added suffering to migrants.

Today, the way of entry that today raises more concern is scaling the fence that separates Morocco of Melilla and Ceuta. People seeking to scale the border are aware of the serious dangers involved in the jump. NGOs that care for migrants describe the strong impact of seeing faces broken by the violence of the blows received, injuries of a certain depth in the skull for the same causes, injuries to the spine, broken bones, etc. Moreover, up until the tragic events of the beach of Tarajal (Ceuta) on 6 February 2014,

eyes dishevelled or lost by the impact of rubber balls fired by the Spanish security forces. As a result of these events, the Spanish Civil Guard stopped using this type of riot gear in its border control tasks.

This action of the Civil Guard had a significant media impact for its tragic result. It highlighted a practice continues to occur at the borders of Ceuta and Melilla: the so-called "hot returns" or illegal expulsions. The Jesuit Service for Migrants Spain, together with other civil society organizations, filed complaints with various institutions, including the European Commission (2015), calling for an in-depth investigation into these events and the purification of responsibilities (Comisión Española de Ayuda al Refugiado [CEAR], 2014). In August 2018 there was an unprecedented event in which the Spanish Government returned 116 migrants from Ceuta in less than 24 hours to Moroccan territory, according to an agreement it had signed with Morocco in 1992. More than 50 NGOs, including the SJM-Spain, have presented a statement in which they denounce how the Government has not only violated the protocol of the pact but the own Law of Aliens.

The Spanish government modified the immigration law trying to legalize this type of practices. In recent years, due to the harassment of the Moroccan auxiliary forces and the reinforcement of the border barriers by Morocco, the attempts to scale the fence have drastically reduced.

One route of entry continues through the border post, through the purchase of Moroccan passports (a method used by Syrian refugees) or hiding in one of the vehicles that cross the border daily.

The other route of entry into Spain is by sea, either to Melilla or the coasts of the province of Cádiz or Málaga. In the attempts to reach Melilla, crossing by swimming is sometimes attempted, not without danger; others use inflatable tires or small boats. In most cases, these attempts are aborted by the Moroccan or Spanish security forces.

VULNERABILITY IN CEUTA AND MELILLA

The border reality between Morocco and the autonomous cities of Ceuta and Melilla presents a tense and aggressive atmosphere. Some NGOs refer to indiscriminate violence of the Spanish and Moroccan security forces to suppress sporadic protests.

A special mention is the Temporary Immigrant Stay Centres (CETI). Unlike the CIE (Foreigner Internment Centres), the Ceuta and Melilla CETIs are open centres managed by the Ministry of Employment and Social

Security. In general terms, the CETI lacks adequate infrastructure, facilities and equipment for the population it houses, especially during long periods of stay. Sometimes there have been situations of saturation, overcrowding and vulnerability. The ease of obtaining "sexual services" inside the CETI reveals the particular vulnerability of women.

The people who decide to request asylum have to remain in the CETI of Melilla without transfer to the Peninsula, which causes enormous frustrations, and few requests. Melilla and Ceuta are excluded from the Schengen agreement of free movement by the internal borders of the European Union so that migrants cannot travel freely to the Peninsula. According to the law (Europa Press, 2015), the asylum procedure cannot exceed three months, but in practice, the term is extended between three months and three years.

Asylum seekers have a special mention. According to Spanish and EU regulations, the CETI is not an appropriate place for its reception, as has been denounced by both UNHCR, the Ombudsman, and other NGOs ("Defensor del Pueblo denuncia que situación Oficina de Asilo es 'insostenible'", 2018).

Despite the overcrowding and perceived shortcomings, the local associations describe the stay in the CETI as good. Migrants receive blankets, food and medical attention, and can circulate freely around the city between 9:00 and 23:00. In addition, Spanish NGOs are allowed to provide different services.

Different proposals

SHORT-TERM PROPOSALS

Hot returns

We believe that hot returns and the use of violence are morally unacceptable practices that put people's lives at risk. For this reason, it would be advisable that they cease to be carried out, since, besides, contravene the Community legality.

Protection in transit

We urge that resources be invested in guaranteeing the protection of people who have been abandoned many times to their fate in the middle of the Mediterranean Sea.

Access to the asylum application

The creation of asylum and international protection offices in the border posts of Ceuta and Melilla is a good practice of the Ministry of the Interior. Nonetheless, we believe that the mission of these offices will not reach full potential if it is not accompanied by some complementary measures, essential to guarantee that access to international protection at the border:

- Access to the border of persons entitled to international protection must be facilitated. Currently, Moroccan auxiliary forces prevent access to the border in compliance with police cooperation agreements with Spain. A new agreement or protocol of action between the Moroccan and Spanish governments is necessary.
- Asylum seekers and immigrants cannot be mixed in the CETI since the situation and rights of these two population groups are very different, and because they are contemplated in Spanish and European legislation. The creation of asylum offices in the border posts of Ceuta and Melilla must be accompanied by a reception mechanism for international protection applicants according to the CAR (*Centro de Acogida a Refugiados*) model, which works satisfactorily in the peninsula.
- Requests for international protection in Ceuta and Melilla have faced two deterrent obstacles for years: the impossibility of moving to the peninsula while the procedure is being carried out, and the very long deadlines until the requests are resolved. This last point has been accelerating in many cases.

MEDIUM-TERM PROPOSALS

Convincing measures against trafficking networks and prostitution.

An overwhelming and clear response against human trafficking networks is necessary. Although measures have been taken within the EU, we believe that the measures must also go through international agreements between the governments of the countries in which these criminal networks operate, seriously undermining the dignity and fundamental rights of people.

Regularization policies

We find the regularization campaign that took place in Morocco years ago interesting, and we applaud the one that was reiterated several times in Spain a few years ago. We think that a good policy of regularization

certainly helps integration and the safeguarding of rights, as well as the construction of social fabric.

Information campaigns

It would be very interesting that in the strategic points of the migratory routes, the necessary information could be distributed so that the migrants know their rights in transit and the offices or places they could go in case of need.

LONG-TERM PROPOSALS

Observatories for Human Rights at the border

We think that it essential to promote the placement of international observers of human rights in the southern borders of Europe. They should be recognized by the States and with the full freedom of movement to be able to elaborate independent stories on the ground that do not exist today in the context of human rights at the borders. We welcome the creation of the African Observatory of Migration in Morocco.

Ensure the monitoring of migration policies

It is very important to ensure the monitoring of immigration policy both in Spain and in Morocco and other neighbouring countries with migratory cooperation agreements with Spain and Europe. This in order to support, both through public actors and civil society, that these policies are developed in a framework of respect for human rights.

Protection of life at the border

It is crucial to defend and support initiatives aimed at establishing mechanisms that ensure the protection of human lives and effective protection mechanisms at borders, especially for refugees and vulnerable migrants.

Cooperation and readmission agreements

Regarding readmission agreements and other cooperation agreements with third countries signed by Spain, Morocco or the EU, we think it is vital: (a) to ensure that the agreements contain sufficient guarantees of the human rights of migrants and refugees; and (b) that the execution of these agreements be supervised in order to ensure that the rights of repatriated persons are guaranteed.

Replace current EU legislation on migration, refuge and asylum

We defend the need to replace current EU legislation to allow more effective and equitable "burden-sharing" among the Member States in dealing with asylum claims and the monitoring of human rights at the borders.

Expand the resettlement

We believe it is essential that the resettlements of vulnerable people with international protection in North Africa, as well as in Mauritania and Senegal, be expanded.

What about international cooperation?

The vast majority of people who migrate do so because of situations of conflict, war, hunger or difficulties in safeguarding their fundamental rights. We believe that reinforcing a policy of cooperation and solidarity with the countries in greatest difficulty will make it possible for millions of people not to be forced to leave their lands, in many cases living authentic personal and family calvaries.

What about integration?

Finally, we would like to continue encouraging our governments to reinforce social coexistence in our plural and multicultural societies (Iglesias, Urrutia, Buades, Estrada, & Vicente, 2018). Placing only balance in border control, and not investing in hospitality, in integration, leaves hundreds of thousands of people adrift in different enclaves and peripheral neighbourhoods of our cities (Ares, 2017; Hospitalidad.es, n.d.). We believe that a good investment in integration is an investment in the future of our societies and our world.

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Social characterization of the border and migratory flows

GEOPOLITICAL SITUATION: AN INTRODUCTION
TO THE WESTERN BALKANS

The European Union (EU)'s eastern external border stretches more than 3,000 km from northern Finland to Greece. The EU borders with Russia, Belarus, Ukraine, Moldova and Turkey; but also, with a group of countries of former Yugoslavia (Serbia, Montenegro, Bosnia-Herzegovina, Macedonia). Although obviously, it is an area of access to the EU, its role has always appeared mitigated in the general context of migration in Europe. This is because, on the one hand, some migratory movements originate in the region itself, especially from the countries of former Yugoslavia facilitated by easy access to visas or work permits within the EU's neighbourhood policies. Especially for five countries since 2012: Albania, Bosnia and Herzegovina, Montenegro, Serbia and Macedonia. Another reason for the more secondary role-played by these countries in access to Europe is that they became an added administrative filter for those who wanted to accede to the Union (see Figure 1).

Figure 2 shows that the Western Balkan route had a minimal impact on migratory movements in the European Union until 2013 when the crisis in Syria transformed it into a priority access route for more than two million people from 2015-2016. The figures can give an idea of how disruptive this period is and how it occurs in a region with very limited capacity to deal with migratory flows. In fact, this route, which has been considered a minority and insignificant route, has reached its full potential during this period of crisis, returning to 2012 figures. Because of all the attention, it has attracted during this enormous displacement, and it has drawn even more attention at the European level (Taleski, 2017).

Figure 1. The Balkans Route
Source: The Refugees Map (n.d.).
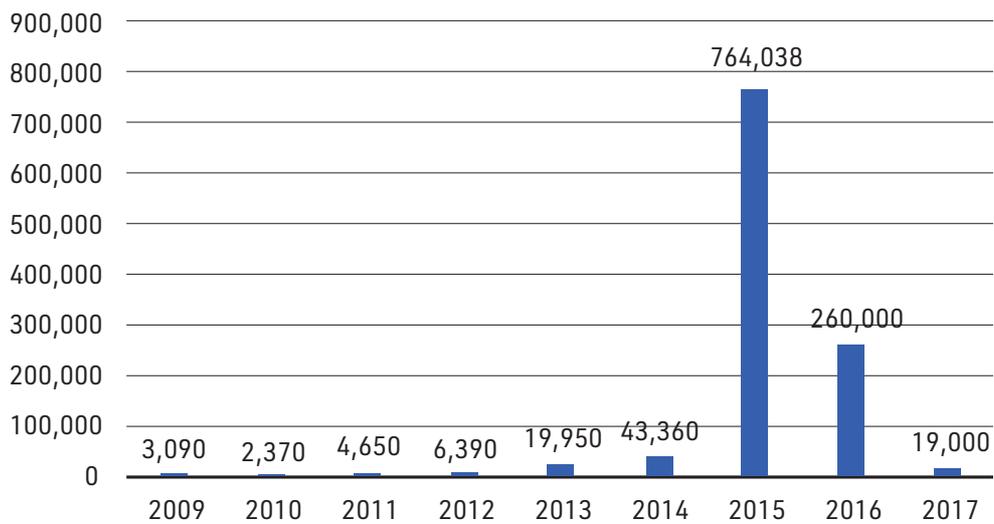
Figure 2. Number of illegal border crossing using the Western Balkan Route
Source: Taleski (2017).

This study concentrates on four countries: Macedonia, Serbia, Croatia, and Hungary. The main reason for this is that the image of countries in transit is quite similar (reception and transit conditions, push backs, and human rights violations). Moreover, the Jesuit Refugee Service (JRS) is present in these countries enabling us to bring our experience as an organization on the ground to this border analysis. Finally, the fact that some of the countries are members of the EU and others are not, gives an idea of the difference in capacities and requirements in the protection regimes of people crossing different borders.

In addition to the lack of resources to respond adequately to this sudden increase in new arrivals, governments acted with successive—or simultaneous—closures of their borders causing groups of displaced persons to be suddenly trapped in some of the stages of their movements. These sometimes-temporary border blockades and some blockades have been prolonged, such as in Hungary, added enormous pressure to the humanitarian crisis, especially in 2016. However, this dynamic of border closure is still active intermittently, and for example; very recently, Serbia has become one of those traps where 17,000 people have amassed.

Macedonia

Macedonia is a country vulnerable to severe floods and landslides exacerbating the problem of an increased population in a small country. The EU Humanitarian budget has consistently contributed funds to Macedonia due to the increased number of refugees and because of the high rates of natural disasters. During the last few years, Greece has continually blocked Macedonian hopes of joining the EU and the North Atlantic Treaty Organization (NATO) (Beale, 2016). This conflict not only made the refugee crisis worse but also contributed to the closing of the Greece-Macedonia border in 2016 that left around 13,000 refugees stranded at the border. Adding to the closing of the Greece-Macedonia border, Serbia closed its border with Macedonia that same year (2016).

Currently, Macedonia is facing a political crisis due to the unexpectedly low turnout by voters in a historic referendum to rename the Balkan state last September 2018. The change of the name from the Former Yugoslav Republic of Macedonia (FYROM) to North Macedonia would have been a significant step forward to renew its relationship with Greece and to speed up Macedonian membership into the EU (Smith, 2018).

Serbia

The state's treatment of migrants in 2016 was primarily influenced by the policies of the neighbouring countries and decisions taken at the EU level. The March 2016 agreement between EU and Turkey, the so-called EU-Turkey Statement, was aimed at reducing the influx of refugees and migrants to the EU and consequently led to stepped-up control of the EU's external borders and the "closure" of the Western Balkan Route (WBR).

Under the amendments to the Hungarian State Border and Asylum Laws, which came into effect on 5 July 2016, the Hungarian police can automatically push back all persons apprehended without valid documents or visa within eight kilometres of its borders with Serbia and Croatia, without providing them with the possibility of seeking asylum in that state. As of September, Hungary gradually limited the number of foreigners in the so-called transit zones on the border with Serbia, who could access its asylum procedure every day. The two transit zones established near the Horgoš and Kelebija border crossings were the only places through which refugees and migrants could lawfully enter Hungarian territory and access its asylum procedure (Belgrade Centre for Human Rights, 2017).

Croatia

Because of the barriers built between Hungary and Serbia, and the new laws to stop migrants entering Hungary illegally, on 16 September 2015, the refugee/migratory route was redirected towards Croatia.

An official "corridor" was set-up by the Croatian authorities a few days after, and special bus and train services were introduced for the transportation of refugees and migrants from the Serbian to Slovenian border in the days and months that followed.

The temporary reception centre was opened in Opatovac on 20 September 2015, followed by the opening of the so-called Winter Reception Transit Centre in Slavonski Brod, on 3 November 2015. The beginning of 2016 was marked by a polarized political climate at the European level and the arrival of the new government in Croatia. Along with Austria and Slovenia, Croatia introduced new border restrictions on 9 March 2016 and migrants remaining in the Country were transferred to one of the two Asylum Seekers (AS) facilities.

For countries such as Croatia, the closure of the route has led to a dramatic relative increase in the number of people seeking asylum, which

has proved challenging for an asylum system receiving no more than a hundred applications in previous years. Alongside the challenge of restricted access to the territory for those in need of protection, renewed political impetus for reaffirming EU rules regarding asylum seekers under the Dublin Regulation and making the Member States responsible them.

The application of the Dublin system had an impact on Croatia's policy on access to its territory for those seeking protection. The new Croatian Government committed to limiting migration through stricter control of its land border.

This strict control of the borders by the Croatian police continues to this day (see Figure 3), increasing the concern in the European Commission of Human Rights, civil society, the migrants, and the refugees themselves. In fact, in 2018, many acts of violence, thefts and collective expulsions by the police have been detected on the Croatian border with Bosnia ("Council of Europe urges Croatia", 2018).

Figure 3. Migrants forced back into Bosnia after crossing into Croatia (2018)
Source: Guardian graphic (2018).

Hungary

In 2015, the Hungarian government initiated a publicly financed xenophobic propaganda campaign targeting immigrants in general and refugees/asylum-seekers in particular. This campaign was followed by the so-called "national consultation on immigration and terrorism," a politically motivated propaganda act. By September 2015, the government essentially dismantled the Hungarian asylum system through several legal amendments and non-legal measures, including a decision to erect a barbed-wire fence first along the Serbian-Hungarian border, then on the Croatian-Hungarian border. Two transit zones were created along both the Serbian and Croatian border sections where immigration and asylum procedures are conducted and where buildings required for conducting such procedures and housing migrants and asylum-seekers are located. The two transit zones along the Serbian border are Tompa and Röszke while Beremend and Letenye are the transit zones along the Croatian border.

MIGRATORY FLOWS: SOCIO-DEMOGRAPHIC COMPOSITION (SEX, AGE AND NATIONALITY)

Macedonia

According to information provided by the Red Cross Society in Macedonia during July and August 2015, over 62,500 refugees passed through the country (International Federation of Red Cross and Red Crescent Societies [IFRC], 2015). Moreover, by the end of 2015 over 815.00 refugees and migrants crossed through FYROM, Displaced persons mostly arrived from Syria, Iraq and Afghanistan, After the closure of the so-called Western Balkans route and the entry into force of the EU-Turkey deal, arrivals dropped in 2016 to around 90 000 (European Commission, 2018).

The data gathered by the International Organization for Migration (IOM) in 2018 reports that there has been a considerable decrease in the migration flow through FYROM after the implementation of the EU-Turkey Statement in 2016. During January to June 2018, authorities registered a total of 1,098 migrants and asylum seekers, which is 100 times less than 85,000 registered in the same period back in 2016. In 2018, the top 3 countries of origin of migrants registered in Macedonia were: Iran (38%), Afghanistan (15%) and Pakistan (10%). The same report shows that 63% of the total migrants registered at the beginning of 2018 were adult males, 18% adult females, and 19% of children. Unaccompanied minors made up 92% of the children (IOM, 2018).

Hungary

The Asylum Information Database (AIDA) report (2017) shows that applicants for refugee or protection status in Hungary were 3,397 in 2017. On this total, the rejection rate was 69.1%. The top 3 countries of origin of the applicants were Afghanistan, Iraq, and Syria.

Table 1 provides a gender/age breakdown of the total number of applicants in 2017.

Table 1. Gender/age breakdown of the total number of applicants (2017)

	Number	Percentage (%)
Total number of applicants	3,397	-
Men	2,156	63.5
Women	1,241	36.5
Children	-	-
Unaccompanied children	-	-

Source: IAO (2017).

FACTORS OF ATTRACTION AND EXPULSION

The EU-Turkey statement, adopted by the EU Member States and Turkey on 18 March 2016 (European Council, 2016), is the agreement by which Turkey commits to readmitting all migrants who have travelled irregularly from Turkey to the Greek islands. In return, the EU agrees to resettle one Syrian refugee from Turkey for each Syrian person sent back. Also, the EU will pay six billion euros by the end of 2018 to support Turkey to provide for the more than three million Syrian refugees that the country hosts.

Human rights organizations have heavily criticized this agreement because it implies that the EU regards Turkey as a safe country to send people back to, including refugees from countries such as Syria and Afghanistan. If this was the case, Greece could, according to EU asylum legislation, quickly dismiss asylum applications from people arriving on the islands claiming Turkey will provide them with protection if needed (JRS Europe, 2018). This is a questionable assumption as Turkey is not fully party to the Refugee Convention. Turkish law provides a special regime for Syrians, who are granted some form of protection; however, they often live in challenging conditions and without access to formal employment or welfare.

In practice, relatively few people have been sent back to Turkey by way of the EU-Turkey statement. This is in part due to decisions made by the Greek Asylum Committees and the Courts, in individual cases, stating that Turkey could indeed not be considered a safe precedence country. Another factor is that the significant backlog in the examinations of asylum claims in Greece makes asylum procedures very slow. Ultimately, this situation has led to further complications because Turkey has only agreed to take people back from the Greek islands.

Therefore, in order to keep refugees on the islands in case, their asylum claim is rejected, and deportation becomes necessary, the Greek authorities refused to move people to the mainland pending their asylum procedure. This has resulted in overcrowded reception centres and inhuman living conditions for asylum seekers on the Greek islands. These poor conditions have led to a ruling on 18 April 2018, by the Council of State, Greece's top administrative court, that migrants landing on Greek islands must not be held there while their asylum applications are being processed (Gotev, 2018). The EU-Turkey statement also shows that the EU is not taking moral responsibility towards refugees in a sufficiently severe manner. Considering that Turkey already hosts more than three million Syrian refugees, one would expect the EU to show some solidarity by welcoming those refugees who arrive in the EU from Turkey, rather than trying to send them back.

Hungary: Factors of expulsion

Irregular entry into Hungary through the border fence is punishable by actual or suspended terms of imprisonment of up to ten years—or the imposition of an expulsion order. During the court hearing, the criminal procedure is not suspended when the defendant makes an asylum claim, which could be considered by the court under Article 31 of the 1951 Refugee Convention.

MIGRATORY FLOWS' DYNAMIC: MIGRANTS IN TRANSIT, ENTRANCES, DEPORTATIONS, CIRCULARITY

Macedonia

A transit centre at Vinojug, on FYR Macedonia's border with Greece, is where refugees and migrants pass through on their journey further into Europe. The UN Refugee Agency (UNHCR) and partner organizations

provide food, water, medical care, psychosocial support, and information for refugees who take the train towards the border with Serbia.

The UNHCR also provides information on how to access the asylum system in the country. In October 2015, an average of 6,300 refugees passed through the camp every day, and that number grew to 10,000 by the end of October 2015. With the closing of the border between Greece and Macedonia, the influx of refugees decreased from 815,000 refugees in 2015 to only 89,197 in 2016.

Serbia

The practice of the Border Police Station Belgrade (BPSB) at Nikola Tesla Airport remained unchanged in 2017. According to the BPSB assessment, 31 foreigners who did not meet the requirements to enter Serbia were detained in the transit zone at the airport. They remained in the transit zone as long as the company they were travelling with did not provide them with a seat on a return flight (to their country of origin or a third country). In other words, foreigners may be detained in the transit zone for periods ranging from a few days to several weeks.[1]

As had been the case in previous years, refugees expelled/returned from Hungary are still facing difficulties in accessing the asylum procedure in 2017. It is not clear what the official stance of Serbian authorities vis-à-vis such cases are. However, in light of several incidents wherein the Belgrade Centre's intervention was required, asylum seekers with case files from accelerated asylum proceedings conducted in the Tompa or Röszke transit zones in Hungary, or who had been readmitted to Serbia, were denied the possibility of expressing the intention to seek asylum. In a case involving three Syrian refugees whose asylum applications had been dismissed in Hungary, persistent advocacy on the part of the Belgrade Centre's lawyers was required before the Serbian authorities agreed to allow them to access the asylum procedure.

Hungary

The two transit zones along the Serbian border are located in Tompa and Röszke. They consist of a series of containers that host actors in a refugee status determination procedure.

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1 In one of the cases, an asylum seeker was detained in the transit zone for more than 30 days: ECtHR, Arons v. Serbia, Application No 65457/16.

The HHC successfully halted the deportation from open centres to the transit zones—and thus to arbitrary detention—of 9 vulnerable asylum-seekers (8 unaccompanied children and one pregnant woman) by obtaining two interim measures from the ECTHR just before the March 2017 amendments went into effect.

ROUTES

Macedonia

The 2016 closing of the Macedonia-Greece border left many migrants stranded in transit centres in Northern Macedonia where living conditions were less than ideal (European Commission & European Civil Protection and Humanitarian Aid Operations, 2018). This changed the minds of many refugees, as travelling further North seemed impossible. Rather than continuing further into the EU, many migrants instead settled in Serbia or Hungary in search of asylum.

Figure 4. Migrant routes through the Balkans to Germany
Source: Deutsche Welle (2018).

It seems that the former "Balkan route"—that used to lead from Greece through Macedonia and Serbia to Croatia or Hungary—has now changed. In fact, since early 2018, there has been a new route (see Figure 4). Because the Serbian border with EU countries is practically impassable now, refugees are trying to reach Croatia via Albania, Bosnia and Herzegovina instead (Puric, 2018).

At the same time, the European Commission (2018) signed an agreement with the former Yugoslav Republic of Macedonia on actions to be carried out by the European Border and Coast Guard Agency (Frontex). The deal was meant to strengthen border management and to combat irregular migration and smuggling. For this reason, the EU border and coastguards are due to increase to 1,300 personnel from 300 by the end of 2014. The European Commission has proposed expanding numbers even further, 10,000 staff.

Serbia

In July 2016, the Serbian Government adopted a decision to form mixed patrols of the army and police to strengthen the border with FYROM and Bulgaria. The decision came in response to refugees and migrants' facing increasing difficulties in leaving Serbia to Croatia or Hungary.

The beginning of 2017 was marked by the images of downtown Belgrade where between 1,200 and 1,300 migrants stayed mostly in barracks near the main bus station. In 2017, 6,199 persons expressed their intention to seek asylum in Serbia. This figure indicates the continuing trend of a drastic reduction in the numbers of registered asylum-seekers that started in 2016, which is not surprising given the practices of border authorities of the countries on the so-called the Western Balkans Route. These practices include collective expulsions and inhumane treatment of refugees while migrants have become a daily reality at European border crossings. This is represented in H.M.'s story below:

> On his journey to Serbia, H.M. passed through Turkey, Greece, and FYROM. At the time H.M. left Syria, the so-called Western Balkans Route was officially open and refugees were enabled to travel towards EU member states unimpeded. For this reason, neither he nor thousands of others on the basis of whose origin one could assume to be in need of international protection, did not consider Greece, FYROM, Serbia, Croatia or another country along the WBR as a country of final destination. (Belgrade Centre for Human Rights, 2018)

THE LIFE IN THE BORDERS: COMMUNITIES, CAMPS, LIVELIHOOD

Croatia

The strict control of the borders by the Croatian police continues to this day increasing concern in the European Commission, civil society, migrants, and refugees themselves (see Figure 4). In fact, in 2018, many acts of violence and collective expulsions by the police have been detected on the Croatian border with Bosnia ("Council of Europe urges Croatia", 2018).

Articles from *The Guardian* report on conditions of migrants who are sent back to Bosnia from Croatian territory:

> Velika Kladuša, a makeshift field camp on the outskirts of the town is home to about 400 people. Basic tents made from wooden sticks and tarpaulin provide temporary shelter for those planning a crossing, and those arriving back from violent returns. (Walker, 2018a, para. 10)

Moreover, The UNHCR latest "Desperate Journeys" 2018 report shows that this agency and partners in Serbia and Bosnia and Herzegovina received reports of some 2,500 refugees and migrants allegedly pushed back from Croatia with over 1,500 of them reporting denial of access to asylum procedures (including over 100 children). Additionally, over 700 people reporting allegations of violence (See Amnesty International, 2018a; "Croatia: Asylum Seekers Forced Back to Serbia", 2017).

The majority of the migrant's report stressed health needs because of the poor conditions when travelling, being deported, sanitation, hygiene, and housing. These conditions pose additional risks and can increase health care needs, particularly for the most vulnerable (women, children, people with disability). Adequate housing conditions, malnutrition prevention, protection measures, adequate sanitary facilities, and early access to healthcare are essential to avoid short-term and long-term complications of chronic, infectious, dental, and mental health problems.

With regards to women and children: 32% of the medical consultations were conducted with women, 5,3% with children between 0-3 years and 15,1% with children between 4-17.

Absence of irregular menstruation has also been diagnosed mainly among women and girls, especially between age 15 and the early twenties, which is likely to be a consequence of stress. Women and girls are among

the most vulnerable in the migrant population and have to bear challenging and dangerous situations.

The children, aside from respiratory infections and diarrhoea, have suffered from various types of scratches, lacerations, fractures, burns/scalds, sprains, strains, etc. Most children deported from Austria, Germany, and seven other European countries (Dublin III) have developed night-time urination symptoms (secondary enuresis) (Medecins du Monde Belgique, 2017).

Hungary

As of 28 March 2017, asylum applications can only be submitted in the transit zones and all asylum seekers, excluding unaccompanied children below the age of 14, have to stay at the transit zones for the whole duration of their asylum procedure. The asylum procedure in the transit zone is, therefore, a regular procedure and no longer a border procedure.

The asylum procedure in Hungary starts with an assessment of whether a person falls under the Dublin procedure. If this is not the case, the IAO proceeds with an examination of whether the application is inadmissible or whether it should be decided through the accelerated procedure process. This decision shall be made within 15 days.

On the other hand, the police are authorized to push back irregular migrants, who wish to seek asylum in *Hungary,* to Serbia across the border fence without any legal proceedings or opportunity to challenge this measure (AIDA, 2017).

Immigration policy and the legal framework for refugees and migrants

MACEDONIA

For refugees and migrants, the FYROM had signed and ratified the 1951 and 1959 the Geneva Convention and acceded to the 1967 Protocol. Thanks to the recent asylum law amendment on 18 June 2015, the refugees have the opportunity to apply for asylum at the FYROM border and receive a document authorizing them to travel legally to Skopje and to have their asylum claims registered within 72 hours. On 9 September 2015, the European Commission issued an EU regulation proposal establishing an EU common list of safe countries of origin and amending Directive 2013/32/EU. The proposal also includes the FYROM. The closure of the Balkan route

in March 2016 left some 1,200 migrants and asylum seekers stranded in Macedonia. In October 2016, the government extended the state of emergency, introduced in 2015, which provides for military police patrols along the border. According to the Ministry of Interior, during 2016 the police "prevented"—a euphemism for "pushbacks"—more than 25,000 irregular entry attempts from Greece (Global Detention Project, 2017).

Asylum seekers

The law on Foreigners exempts asylum seekers from immigration control measures. There are, however, reports of people being detained after lodging asylum claims. Potential claimants have been kept in detention centres when a court regards them as witnesses in other cases. Human rights organizations have repeatedly criticized this practice. The Law on Foreigners does not specify whether recognized refugees can be detained (Global Detention Project, 2017). There are also no national law regulations safeguarding the rights of stateless persons.

SERBIA

As stated in the United States Department of State (USDOS) annual report on Human Rights (2017), Serbian law provides for the granting of asylum or refugee status, and the government has a system for giving protection to refugees. The asylum office within the Ministry of Interior is responsible for implementing the system but lacked the capacity, resources, and trained staff to do so effectively.

In December 2016, the authorities enacted a Decree regarding the recognition of refugees in Social, Cultural and Economic Life ("Integration Decree"), which anticipates that assistance in accessing the labour market as an integral part of the integration. Assistance is to be provided by the Commissariat for Refugees and Migrations and is to form part of every individual beneficiary of refugee status' integration plan. The assistance includes assistance in gathering all of the necessary documents for registration with the National Employment Service, the recognition of foreign degrees, enrolling in additional education programs and courses in line with labour market requirements and engaging in measures of active labour market policy.

In line with the provisions of the decree, the Commissariat for Refugees and Migrations organized Serbian language courses in summer, however, the number of persons granted asylum attending the course was minimal.

Since it came into effect in January 2017, the Integration Decree foresees the need for assistance by the Commissariat for Refugees and Migrations for refugees entering the educational system. The Commissariat is to assist recognized refugees who are children and enrolled in pre-school, elementary, and high school education. This also includes illiterate adults who are to be enlisted in adult literacy programs in cooperation with the Ministry of Education. The assistance provided to children includes textbooks, other education material, assistance in having foreign degrees recognized, learning support, and financial support for engaging in extracurricular activities.

CROATIA

The JRS reported problems concerning the conventional system. For example, there is a system of segregation in the asylum system, a separate toilet for refugees and a separate waiting room. Also, there have been reports of racist statements from the general practitioner in the ambulance near the Reception Centre in Zagreb.

Regarding psychological support during 2016, the massive increase in the numbers of asylum seekers in Croatia led to needs for additional psychological support. In that respect, psychological counselling and support were also provided by several other organizations in 2016:

- The Society for Psychological Assistance (SPA) 298 provided psychological counselling mainly organized on their premises. Information on their activities for clients is also available online.
- The Croatian Law Centre provided psychological counselling by way of two projects for potential and recognized victims of torture among asylum seekers.
- The Rehabilitation Centre for Stress and Trauma also provided psychological support with psychosocial workshops and group sessions. Within that period, 14 persons were included in individual psychological counselling and 58 in group counselling.

Support Programs for their integration (Asylum Information Database, 2017)

- Reception support: accommodation, initial information, follow up on various issues related to maintenance and daily needs (laundry), procurement and distribution of necessary items (hygiene, clothes, etc.).

- Individual and family psychosocial support based on needs/capacities assessment.
- Support for unaccompanied, separated children.
- Specific care provided for persons with mental health difficulties and potential victims of torture and trauma abuse.
- Educational and recreational activities with children; support in school work.
- Introduction to Croatian culture, customs, and habits.
- Group and individual work with single women, including individual talks aimed at the prevention of human trafficking and sexual and gender-based violence (SGBV).
- Conflict and violence prevention, workshops on the prevention of human trafficking.
- Sports activities inside and outside the reception centres.
- Croatian and English language courses.
- Hygiene promotion and health education.
- Job Centre.
- Library.
- Hairdresser salon.
- Information available, practical support in daily life.
- Referral to the Ministry of Interior, Croatian Law Centre health care, specialized psychological and mental health care, advocacy and support to help solve different issues.
- Community meetings in Kutina and Zagreb (*Vox Populi*).

Karim's story is one of the testimonies collected in the JRS Europe report (2018):

In the last three months, I tried crossing into Croatia 20 times. Every time, the Croatian police sent me back to Serbia". This is how Karim began his interview with JRS workers in Serbia. His journey to Europe was an experience similar to that of so many like him. He travelled to Iran, was pushed back to Afghanistan, traveled again through Iran to Turkey where he stayed for two months, and then spent 20 days in Bulgaria, a few months at JRS's Pedro Arrupe Safe House in Serbia, and then made multiple attempts to pass through Europe's gate into Croatia.

Karim and a friend tried several ways to cross into Croatia. Their first attempts on foot were immediately intercepted by Croatian border guards who promptly pushed them back into Serbia. Next, it was a train. "We saw a slow-moving train, so we jumped on board. It stopped just after it crossed the border, so we jumped out and hid; we jumped back on as soon as it started to move again." Karim and his friend took the train to the stop just before Zagreb, Croatia's capital, where they decided to jump off and proceed on foot, thinking it would reduce their risk of getting caught.

According to Karim, a police car came and brought them back to the Serbian border. He told JRS in Serbia that the officers were wearing black coats so he couldn't see their uniforms. Karim and his friend said they wanted to apply for asylum in Croatia, but were denied.

HUNGARY

Asylum seekers often complain that they were not properly informed or that they did not understand the grounds of their detention and the length thereof. The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) confirmed this and made an explicit recommendation to the Hungarian government. They noted that this situation appeared to be less problematic in Békéscsaba, where an IAO information office was open every weekday and asylum-seekers could ask for updated information (Council of Europe, 2016).

The government recently announced that they are stopping all Asylum, Migration, and Integration Funding (AMIF) funding for 2019 on which NGOs providing integration support relied on.

Refugee children are often not enrolled in regular classes with Hungarian pupils but placed in special preparatory classes. Integration with the Hungarian children, therefore, remains very limited.

In April and June 2016, as a result of legislative changes, all forms of integration support were eliminated. Therefore, since the entry into effect of Decrees 113/2016 and 62/2016 and the June 2016 amendment to the Asylum Act, beneficiaries of international protection are no longer eligible to any state support such as housing support or additional assistance.

Moreover, asylum seekers no longer have access to the labour market. They are neither entitled to work on the premises of any of the reception centres nor at anywhere else.

Another obstacle for the integration and acceptance of migrants and refugees in Hungary is still hindered by the powerful anti-immigration narrative (Walker, 2018b).

Human rights analysis. Vulnerabilities in the country of origin, during the journey

MACEDONIA

A third of refugees in Macedonia are children. UNICEF has begun to set up child-friendly spaces where they are supplied with warm food and clothing.

According to Amnesty International Report of 2017-2018 (2018b), asylum seekers and migrants, including unaccompanied children, were unlawfully detained at the Reception Centre for Foreigners as witnesses in criminal proceedings against smugglers. They were detained for an average of two weeks after which they were released. Most applied for asylum but left the country shortly afterwards.

Macedonia remains a transit country where people face several dangers, among them human trafficking and detention (Macedonian Young Lawyers Association, 2016). The ECOI Trafficking in Persons report, 2018, highlights that the government of Macedonia does not fully meet the minimum standards for the elimination of trafficking; however, it is making significant efforts. The government is now training first responders on victim identification and working with local authorities to establish local anti-trafficking action plans. Also, the government established an anti-trafficking Task Force, re-established mobile identification teams in four regions. It dispatched social workers to conduct proactive victim identification at border crossings and migrant and refugee camps (USDOS, 2018).

SERBIA

According to the data of the Ministry of Interior on the Republic of Serbia, over the last four years, 17,653 unaccompanied children expressed their intention to seek asylum in Serbia. Although all international standards and national regulations provide that all children, regardless of their legal status, should immediately be included in the educational system, the Republic of Serbia has been facing a huge number of migrants since the enforcement of the Asylum Law in 2008 and has not institutionally included children in the educational system until 2017. Therefore, many organizations only then started including refugee and migrant children in the educational system,

at first in informal, and later in formal education ("A School on the Road for Children Migrants", 2017).

Regarding the practice of misdemeanour courts in Serbia, certain proceedings involving unaccompanied children were conducted without appropriate procedural guarantees (e.g., right of the child to follow the proceedings in a language they understand, to be assigned a temporary legal guardian in misdemeanour proceedings). Moreover, they concluded with convictions involving financial fines, protective measures of removal, or prison (not juvenile detention).

Unaccompanied children in Serbia who are not registered by the Asylum Office are without adequate legal status, which is why they are practically invisible in the system and deprived of a whole set of rights. The Committee on the Rights of the Child has recognized this problem in the recent Concluding Observations stating that appropriate procedures for their identification do not exist nor enough interpreters in the border areas. These factors increase the risk of unaccompanied children entering the country's territory not being identified as such and remaining deprived of the special protection they are entitled to.

There are no specialized bodies or authorities in Serbia's social care system, which would handle only unaccompanied migrant and refugee children. Reception of unaccompanied minor foreigners is at the Institute for Education of Children and Adolescents "Vasa Stajić" in Belgrade and the Institute for Youth Education in Niš, as well as the Home for Children and Youth with Developmental Disabilities "Kolevka" in Subotica and the Centre for the Protection of Infants, Children, and Youth in Belgrade.

The best interest assessment of children without parents or legal guardians in Serbia can have four outcomes: uniting the child with the family in the third country, resettlement to the third country with the assistance of the UNHCR, initiating the asylum procedure and local integration, and return to the country of origin.

HUNGARY

Under the Asylum Act, a person with special needs can be an "unaccompanied minor or a vulnerable person, in particular, a minor, elderly or disabled person, pregnant woman, single parent raising a minor child and a person who has suffered from torture, rape or any other grave form of psychological, physical or sexual violence, found, after proper individual evaluation, to have special needs because of his/her individual situation"

(Asylum Information Database, 2018). Hungarian law does not explicitly include victims of human trafficking, persons suffering from serious illnesses, and persons with mental disorders in the definition of vulnerable asylum seekers.

The UNHCR (2015) has observed that the assessment of the applicability of alternatives to detention is mostly restricted in practice to the applicability of asylum bail. In contrast, the other two alternative measures, such as the regular reporting requirement and the designated place of accommodation are rarely or not applied as standalone measures.

Conclusions: Challenges and political and humanitarian proposals

We believe it is appropriate to offer the conclusions of the report *Forgotten at the gates of Europe. Ongoing protection concerns at the EU's external border* (JRS Europe, 2018). Although the scope of the report is broader than the Balkan route, we believe that its content responds very adequately to what we have tried to convey in this chapter.

1. The absence of legal pathways into Europe for people in need of protection forces migrants to take incredibly dangerous and expensive journeys. People are forced to rely on a network of smugglers to ferry them across long distances paying exorbitant sums of money all the way. These journeys take them through deserts and mountains, across rivers and forests, in countries with societies hostile to people on the move, and in places where armed militias exploit them as goods to be bought and traded. EU and national attempts to close the most dangerous routes, such as in the EU-Turkey statement or the Memorandum of Understanding between Italy and Libya, are often presented by policymakers as measures that will save lives. However, in fact, people's lives are not saved; all that happens is that their misery is pushed further away from our consciousness. People still come because there are plenty of reasons why people are still in need of Europe's protection.

2. When people do survive their journeys and arrive at Europe's gates, they are pushed into spaces that often lie outside of Europe's zone of legality. People are violently pushed back at Europe's south-eastern borders without being given a chance to apply for asylum or otherwise explain why they have taken the long journey to Europe. This has happened not only in Croatia, but also in Hungary and Bulgaria

over recent years. Push-backs immediately deprive people of any chance to engage legally with any EU Member State authorities because they cannot start a legal procedure or formally state why they have arrived, neither can they legally challenge their push-back. Moreover, as we have seen, people keep trying to arrive even if they are pushed back multiple times at the same border. If people are not violently pushed away from Europe's borders, then they may be misled and misinformed by the authorities about their rights and obligations and where and how they can apply for protection. When people arrive, they are confused, do not know what they can and cannot do, and are exposed to conflicting pieces of information that come from the authorities, smugglers, and other migrants. Time and again, as we have not only seen in this report but also the JRS's experience, the lack of simple, reliable and continuous information provided in different ways to people at various stages of their entry to Europe, is a crucial reason why people may not apply for protection and are thus pushed into irregularity.

3. If people survive their journeys and pass through Europe's gates, they often find themselves geographically inside EU territory but not having truly "arrived." They may have passed an external border, but they now face several kinds of invisible borders that extend deeper into Europe. This is demonstrated by the poor and undignified reception conditions many of the people we spoke to experience after entry into an EU Member State. The overcrowded reception centres on the Greek islands force people into informal camps and even into homelessness. There are similarly poor reception conditions in Melilla and Sicily —a situation that forces some people to look elsewhere for dignified conditions that meet their basic needs, whether at train stations or on the streets. Other people face detention, which the JRS has long known significantly decreases people's chances of successfully claiming asylum as they are cut off from reliable information and legal help. Moreover, just like at Europe's gates, we find that even once inside an EU Member State, people who do not get access to useful information about their rights and what services are available to them are pushed to society's margins.

4. The Dublin Regulation, more than any other EU policy, pushes people outside of the law. Poor reception conditions and hindered access to protection motivates people to seek protection elsewhere in

Europe. It is quite logical: if they cannot find the protection, they need in one place, they will go elsewhere. However, the Dublin Regulation keeps people from doing this, forcing them to stay in EU countries where possibilities for protection are limited, where reception conditions are undignified, or where they remain separated from their families.

5. There must be a fundamental shift in the EU's policy to address the human rights emergency at its borders. People must have an opportunity to safely and legally travel to Europe to seek protection without further jeopardizing their lives. At the borders, people should experience standardized entry procedures that are the same at every border with clearly understandable ways to apply for international protection, or the ability to inform the authorities why they have otherwise arrived. In Europe, procedures must change so that families are more easily reunited with each other. People must be offered decent and standard reception conditions that meet their basic needs. They also must be informed about what asylum and immigration procedures they will experience, and how they can get legal and social help to navigate those procedures and exercise their rights. Detention should only be used as a truly last resort and only after alternative measures are exhausted. Asylum seekers should not be detained, and neither should migrant children and their families. The Dublin Regulation must be radically reformed so that people's preferences and protection needs are considered first. There must be a better way for the EU Member States to share responsibility for offering protection to people. Despite all of the difficulties, indignities, and abuses that asylum seekers, migrants, and refugees experience at Europe's borders, what is remarkable is that people still come. Many would still do so even if they were hypothetically given a second chance to decide.

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ANGOLA AND THE DEMOCRATIC REPUBLIC OF CONGO'S BORDER FROM A PLACE OF BUSINESS TO THE POINT OF ENTRY FOR ILLEGAL IMMIGRATION

Avelino Chico, S. J.

Introduction

This chapter discusses the effects of the border between Angola and the Democratic Republic of Congo (DRC) on international migration. Besides commerce, the flow of trucks, transport of plenty of goods, smuggling of diamonds, exchange of foreign currency, drug trafficking, traffic of fuel, timber, vehicles and basic supplies, the border between Angola and DRC serves as a gateway for both legal and illegal immigration. Those who enter illegally aim to work in the Angolan diamond mining areas of Lunda Norte, Lunda Sul, and Bié. However, there are some whose goal is the Angolan capital of Luanda. In Luanda, they seek to establish an informal sector as well as construction and trade. Others view Luanda as a place of transit, and their goal is to reach South Africa, Brazil, Europe, and the US. However, migrants also cross the border due to forced displacement. By May 2017, 50,000 Congolese refugees were forced to cross the border fleeing from insecurity, violence, ethnic cleansing, and political persecution in the region of Kasai and Central Kasai of whom 70% are women and children (United Nations High Commissioner for Refugees [UNHCR], 2017). They are being sheltered at the camp of Lóvua located in the Angolan province of Lunda Norte.

Nevertheless, Angola and the Democratic Republic of Congo's border is not only used by Congolese nationals, citizens are also using it from other Central and West African countries: Republic of Congo, Central African Republic, Cameroon, Chad, Senegal, Mali, Nigeria, Guinea, Sierra Leone, Ivory Coast, Liberia, Guinea-Bissau, Mauritania, and The Gambia. There are also Asian citizens, mainly Chinese, that are usually smuggled into the country by their Angolan counterparts. Some are carried in trucks, others in boats that land on Angolan shores, and others by way of rivers and lakes. Assisting the immigrants are the fishermen, traditional authority, church leaders, and border police. Since Angola may be a transit country and not a final destination for some, what takes place along Angola and the DRC border leads to boundary crossings and therefore, international migration.

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Throughout this chapter, boundary crossings will be explored from four different angles. First, a historical overview that argues for combining the approaches of looking at the flow of immigrants between the two countries. Second, a sociological perspective that seeks to understand the profound cause of boundary-crossing through Angola and the DRC. Third, an evolutionary approach based on the effects of this migration. Fourth, a legal framework which addresses the regulations on migration put in place by Angola as a labour receiving country as well as a country of immigration in the Southern Africa region just behind South Africa. Finally, the conclusion shall address a way forward to deal with migration and border management. Mass deportation and closure of borders may not be the solution for illegal immigration. These proposals lead to the emergence of mafia groups and human rights abuse. The education of young ones and highlighting the positive roles and benefits of migration seem to be the best solutions.

Historical overview

The land border between Angola and DRC is at least 2,500 km (Davidson, 1972, p. 58). In the 19th century, this territory was still part of the great Kongo Kingdom. The kingdom, whose capital was located in the contemporary Angolan city of Mbanza Congo in the province of Zaire, was established between the mid-1300s and the mid-1400s. The kingdom extended itself along the present-day northern part of Angola (Cabinda enclave), Republic of Congo (Brazzaville), and the Western region of DRC (Lukombo, 1997a). However, the division of this kingdom by the Portuguese, Belgian, and French colonial powers (at the Berlin Conference of 1884-1885) meant that the population belonging to the same clan remained divided (see Figure 1). For instance, we continue to have the Bakongo ethnic group in the south of the Republic of Gabon, in the south-west of the Republic of Congo, the DRC, as well as in the north of Angola. Rather than fragmenting ethnic identity, the division has strengthened it. Visiting relatives and performing certain traditional ceremonies along the borders and within these countries have been maintained (see Figure 2).
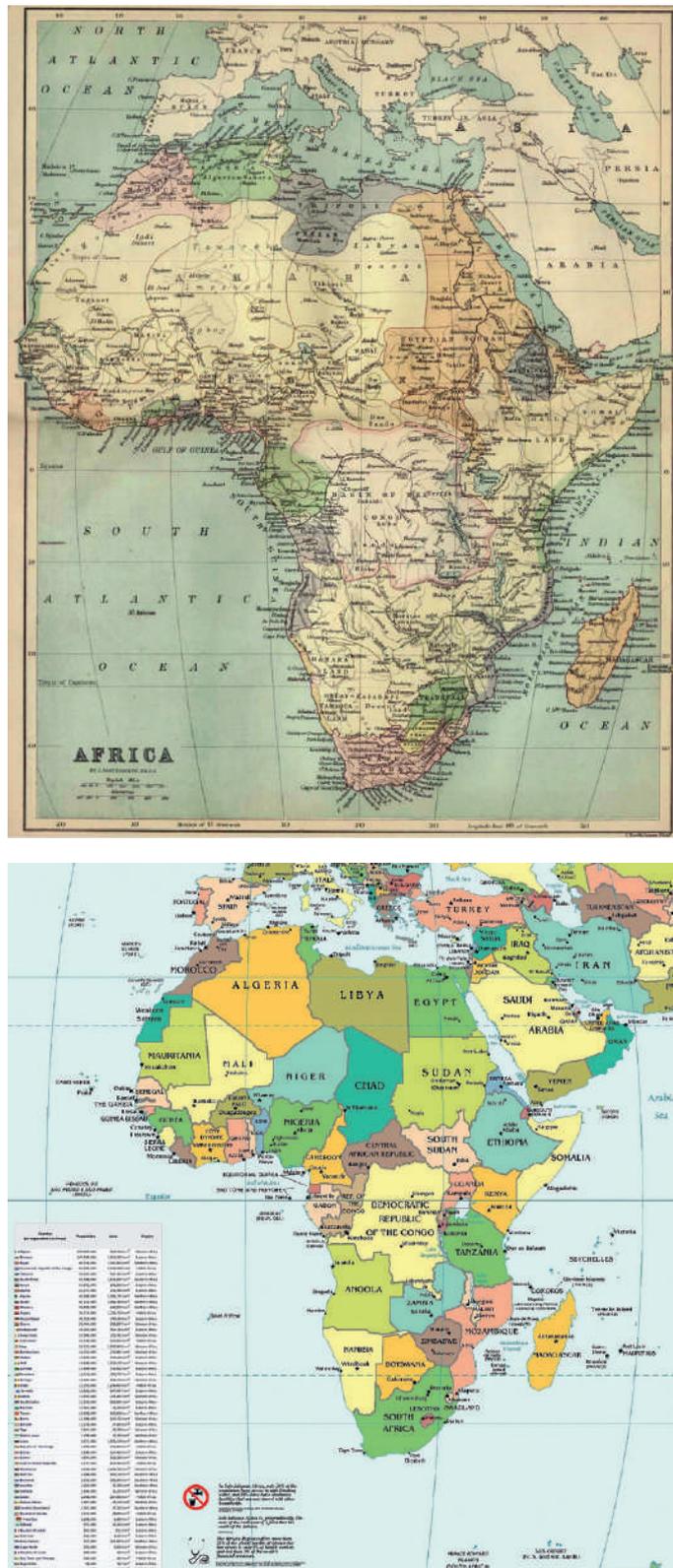
Figure 1. Maps of Africa before and after the Berlin Conference
Source: Google maps.

Most illegal immigration occurs within this social space, which does not coincide with national boundaries. There are cases of Angolan children who live along the border and attend school in the DRC. Some of these schools are located in the Congolese region of Kasango-Lunda, Popoka-baka, and Matadi. This is not something new. In the 1970s, many Angolan people were already being educated at DRC's schools with Swedish assistance (Sellstroem, 2003). The same happens with those seeking medical treatment in the DRC. Some cross the Kwango River, which separates the two countries in the Northwest and goes as far as Kinshasa (James, 2004).

Furthermore, as soon as the liberation struggle and the civil war erupted in Angola in 1961 and 1975 respectively, the Bakongo population in Angola crossed the DRC's borders to get to Kinshasa, Bandundu, Matadi, and surrounding neighbourhoods. The same is happening nowadays with the Bakongo and other ethnic groups from the DRC who are fleeing from political unrest, economic crisis, and social uncertainty (see Figure 3). Since the beginning of the rebellion movement against the former president Laurent-Désiré Kabila, more than 300,000 Congolese have attempted to cross the border to reach Angola (Ngolet, 2011).

It is worth to point out that the political situation in the Kongo Kingdom was always described as calm as well as peaceful (Thornton, 1983). The succession to the throne was initially by way of an election to prevent the accumulation of hereditary power. However, the only indispensable qualification for candidature to the throne was a descendant from *Ntinu Wene*, the founding king. That is why, at that time, Africans had shown a great capacity for handling the problems of political power and conflict resolution. Moreover, it may even be that the peaceful regulation of the 'community relations' has been their supreme accomplishment (Davidson, 1972). Therefore, in the Kongo Kingdom, as in others, great care was taken to prevent conflict and political unrest. Nevertheless, nothing was put in place to prevent people from moving from one place to another. Ancient lifestyle expressed itself not only in material culture but also hand in hand with migration across kingdoms, continents and oceans (Bellwood, 2013).

Figure 2. Todays' maps of Angola and DRC
Source: Google maps.

Figure 3. Map of DRC with locations where migrants depart to enter to Angola
Source: Office for the Coordination of Humanitarian Affairs (OCHA) (2005).

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Migration was and will always be part of humankind. Both in the pre-colonial and colonial period, the area that comprises Angola and DRC's border experienced a variety of migration. Apart from searching for security, escaping from the slave trade, and forced labour, migrations fled due to tax imposition and the search for land for settlement and farming. Migration occurred due to the search for 'fertile' forest to hunt in, to conquer territories to inhabit, or for trade. Moreover, the movement of people was also caused by ethnic conflicts, trade, and population pressure (Kabunda, 2011). Commerce not only included selling and exchanging merchandise but also the slave trade and forced labour. For instance, by the 15th and 16th centuries, slave trade had reached its peak in the Kongo Kingdom. The Portuguese settlers, who had arrived in the kingdom in the 15th century that included missionaries, teachers, tailors, carpenters, and other workers, demanded that their salaries should be paid in the exchange of slaves (Milagres & Santos, 2018). This and other factors had converted the Kongo Kingdom in the most powerful state on the African West Coast while kingdoms such as Loango and Ndongo were in a vassal relationship with Kongo (Pepetela, 1983).

Angola as a sending country

This section takes us back to 1975 when Angola was at war, which includes both the colonial struggle (1961-1974) and the civil war (1975-2002), which drove the country into poverty, social chaos, political unrest, economic disaster, and the persecution of activists and civil society (Faria, 2013). Apart from soldiers from South Africa (former Zaire), Cuban, Russian, Israeli and mercenaries from the United States were also involved in the conflict (Polack, 2013). National resources were only feeding the war and a few ruling elites who spent most of the country's petrodollars (De Oliveira, 2015). Between 1980 and 1990, the civil war damaged 80% of the economy and 80% of infrastructure and industry (Heywood, 2000). The number of casualties among civilians and soldiers that occurred during this period was also high: between 1975 and 1991, 340,000 people perished during the war (Clodfelter, 2017), and from 1992 to 2002 the number rose to 1,000 deaths per day (Stedman & Lyons, 2004). As a result, many people left the country.

Neighbouring countries such as the Republic of Congo, DRC, Zambia, and Namibia, were the major destinations for Angolan emigrants and refugees. By 2002, the Angolan refugees were estimated at 1.7 million (Carciotto, 2014). In addition, there were around 5 million Internally Displaced People (IDP) (Soares, 2015), and the Democratic Republic of Congo hosted the highest number of Angolan migrants. By the end of the civil war in 2002, there were more than 450,000 Angolan refugees in the DRC (Lopes, 2013). The figure is quite similar to the Congolese who are found in Angola at the moment. Nevertheless, Angola's diaspora was also found in Europe, America, and Asia. Tables 1-3 illustrate the countries, which hosted and are still hosting Angolan emigrants as well as their global distribution.

Table 1. Angola's emigrants (1990-2017)

Year	Emigrants (man)	Emigrants (women)	Emigrants	Emigrants (%)
2017	314,410	318,289	632,699	2.12
2015	302,929	308,391	611,320	2.29
2010	310,137	314,147	624,284	2.71
2005	335,869	344,536	680,405	3.43
2000	434,807	435,707	870,514	5.08
1995	333,757	334,521	668,278	4.52
1990	397,396	412,546	809,942	6.36

Source: Datosmacro.com (2018).

Table 2. Angolan emigrants, hosting country (2017)

Country	Number
RDC	197,499
Portugal	159,028
South Africa	65,716
Republic of Congo	41,856
Zambia	38,927
Namibia	34,405
France	21,610
United States	13,841
Great Britain	12,882
Brazil	7,897
Switzerland	6,966
Holland	5,221
Botswana	3,677
Spain	3,586
Canada	2,981
Cameroon	2,777
Belgium	2,747
Italy	1,901
Tanzania	1,488
Sweden	750
Gabon	748
Australia	608
Finland	565
Mali	543

Country	Number
Norway	522
Ireland	516
Russia	511
Cape Verde	379
Austria	375
Eritrea	348
Czech Republic	195
Venezuela	190
Denmark	181
Guinea	111
Cuba	90
Hungry	83
Filipinas	78
México	76
Poland	60
Chile	58
Colombia	56
Ecuador	43
Iceland	34
Egypt	27
Peru	15
Argentina	9
Greece	8
Bolivia	6

Source: Datosmacro.com (2018).

Table 3. Geographic distribution of Angolan emigrants

Country	Estimated (%)
Democratic Republic of Congo	31.22
Portugal	25.13
South Africa	10.39
Europe (except Portugal)	16
African countries (except DRC and South Africa)	13
USA	4
Brazil	0.26
Total	100

Source: International Organization for Migration (IOM) (2014).

In Europe, Angolan emigrants preferred Portugal because the two countries hold a long-standing relationship (Marinho, 2016). Language, culture, and affinity between the two nations played a significant role. Therefore, one can conclude that besides looking for safety, migrants quite often choose countries of a similar cultural background (Kapur, 2017). Moreover, with a mean age of 38 years old, among the Angolan diaspora some were highly educated. Still, the majority of them had only finished secondary and primary school, and some were illiterate (Tinajero, 2010). For instance, Angolan emigrants, who settled in Portugal were all from Angola's urban areas such as Luanda, Huambo, Benguela, and Huíla (Øien, 2007). Their education levels were the following: 15% had completed higher education, 56% secondary education, and 29% elementary education (Grassi, 2016). For this reason, they end up occupying jobs that require a lower education level such as craft and trade, and while 65% of them were economically active, 29% were unemployed.

Most of the Angolan immigrants integrated themselves well in the receiving countries. First, they conformed to the social and cultural values of the hosting countries. Second, they had developed a sense of belonging to hosting societies. Third, the receiving countries were quite welcoming, and this helped Angolan citizens learn the language, habits, and norms. Fourth, the integration of Angolan emigrants into these nations was also due to ethnicity and multiple identities. In other words, those who sought refuge in neighbouring countries found people from their ethnic groups. For instance, the Bakongo who migrated to the DRC and Republic of Congo

met other Bakongo, and the sense of belonging was never put into doubt. The same happened with the Herero people who fled to Namibia. However, professor Anthony Smith argues that ethnic communities are far too large to possess any kinship basis. He continues to assert, "their sense of common descent is only a myth, albeit a powerful one" (Gyekye, 1997, p. 97).

Multiple identities is expressed through *convivência* (conviviality) and *calor humano* (human warmth). These concepts or expressions have to do with how Angolan people sought to adapt in any context. They also refer to living together, intimacy, familiarity, sociality, social relations, hospitality, and solidarity. Thanks to the two terms, Angolan emigrants felt that they are individuals of multiethnic origin, and this helped them to learn from one another. In other words, *convivência* and *calor humano*

> were thus concepts that created a common base from which Angolan migrants understood their social world […] these concepts tended to be a starting point for sharing something with relatives and others outside their immediate family. A practice that would be more generally described as 'African hospitality' and 'African solidarity. (Øien, 2007, p. 25)

Unfortunately, these concepts seem not to apply it when it comes to hosting and integrating immigrants who are seeking a better life in Angola. Apart from considering them 'silent invaders,' immigrants are catalogued as 'parasites.'

Present day migration: Angola as a receiving country

After several attempts (the Alvor Accord in 1975, the Bicesse Accord in 1991, and the Lusaka Accord in 1994), Angola's hostile parties reached a peace agreement on 4 April 2002, in the Angolan city of Luena (Comerford, 2005). Not only did the peace treaty boost political stability as well as economic growth and social development, but the change was also felt in the area of migration. From a country of emigration, Angola had turned into a country of immigration. Its porous borders, natural resources, and job opportunities in the informal artisanal diamond mining in Angola's provinces of Lunda Norte, Lunda Sul, and Bié started attracting migrants from neighbouring countries as well as from Europe, Asia, and America.

Moreover, the historical contact between Angola and the DRC's cross-border activity is easily leading the Congolese and other African immigrants to Angola's diamond areas. Nevertheless, the major target for immigrants is to get to Luanda (Montes, 2002). The opportunities that this city offers attract many of them and 70% of foreign nationals who reside in Angola reside in Luanda (Instituto Nacional de Estatística [INE], 2016). Furthermore, the first glimpses of Angola's economic growth were felt in Luanda. Angola has 65% of the country's job offers, 75% of the construction industry, 63% of the informal family sector (street vendors), and administrative businesses are all in Luanda (Milando, 2009). For this reason, immigrants prefer Luanda to any other Angolan city.

> Luanda is full of a life that manages to overflow the adversities of the great city. The neighborhoods of shacks have surpassed the periphery and have spread throughout the territory of the capital. They shelter emigrants who have fled the war and seek with their families a better future in Luanda. This overflowing life can be felt in any of the main streets of the city or on the sand roads of the neighborhoods. The constant racking is also seen in the numerous markets that proliferate throughout the city. To buy and sell almost any place is good: the sidewalks, the middle of the roads [and] the doors of the houses. (García, 2005, p. 32)

The present-day migration along Angola and the DRC's borders is more complex, diverse, and dynamic. Most of its complexity is rooted in historical, cultural, political, economic, and social factors. Those who migrate across the border include refugees, economic migrants, temporary cross-border workers, female and male traders, farm labourers, professionals, clandestine workers. Some children who cross the border to attend schools in DRC, students who go as far as Kinshasa to apply for university education, and those looking for medical assistance in DRC's hospitals and clinics.[1] Moreover, the kinship between those living along the border has

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1 Besides from children who live along provinces bordering the Democratic Republic of Congo, young Angolan ones leave for this country to attend university. The former do that because most of these provinces lack schools for them. The latter prefer heading to DRC because fees are less expensive compared to those charged in Angola. These young ones come all over the country, not only from places near the border. In addition to that, despite having much better structures, both education and health services in Angola are very poor.

also served as a pull factor. Many cross the border on foot without any documentation and only ethnic affiliation. They leave in the morning and are back in the afternoon. This takes place not only along the Angolan and DRC border but also in various part of Africa (Kabunda, 2006). For instance, the Ewes in Togo cross the Aflao border to reach their counterparts in Ghana. They convene their members to attend celebrations and traditional ceremonies near the border (Adepoju, 2007, p. 164). They seem to alternate, for example, if this year the celebration or ceremony takes place in Ghana, next year it shall be in Togo. However, this cross-border foot migration has nothing to do with what it is taking place in the Mediterranean. At these African borders, migrants cross short distances on foot and are ethnically related. In contrast, migrants crossing the Mediterranean are expected to bribe officials and the risk of losing one's life is high (Arthur, 2012, p. 4).

Even though the colonial regime had established territorial boundaries and enforced various political schemes such as ethnic separation (Adepoju, 2003, p. 37), ethnic kinship remained intact. By and large, customs, traditions, rites, dance, and language had united people. For instance, just like what we saw during the Angolan civil war, entire villages in the north of the country were left unpopulated (Lukombo, 1997a) and Angolans settled in the DRC cities of Kinshasa, Matadi, Mbanza Ngungu, Kisantu, and Bandundu (Lukombo, 1997b). As soon as Angola finalized a peace agreement, and there were political stability and economic growth, migrant emigration began to increase.[2] In Southern Africa, Angola was among the nations with highest economic growth reaching 12.5% between 2004 and 2008 (Bras, 2015, p. 187) and 15% and 14% in 2005 and 2007 respectively (Fernandes, 2015). This economic boom was attributed to the country's reserves of diamond and oil. Crude oil accounts for 42% of Angola's GDP, 90% of exports, and more than 80% of government revenue (Forest & Sousa, 2006). Oil production was estimated at 1,651 million barrels per day, and in 2006 Angola saw its candidacy to the Organization of the Petroleum Exporting Countries (OPEC) approved (Conchiglia, 2008). In 2000, the diamond reserves were estimated at 40 million carats in alluvial deposits and 50 million in kimberlitic deposits (World Bank, 2007, p. 7).

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2   Soon after reaching peace accord in 2002, the economy of the country began to grow, likewise the Human Development Index. The latter has grown as two hundredths a year: 2000: 0.377; 2005: 0.446; 2008: 0.490; 2010: 0.504; 2011: 0.521; 2012: 0.524; 2013: 0.526; 2014: 0.532.

Table 4. Immigrants, asylum seekers and refugees in Angola (2007-2010)

	2007	2008	2009	2010
Immigrants	53,607	87,981	216,647	310,079
Asylum seekers	3,515	3,936	3,034	5,568
Refugees	12,343	10,537	10,696	10,618

Source: Milagres and Santos (2013).

Table 5. Immigrants in Angola (1990-2017)

Year	Immigrants (men)	Immigrants (women)	Immigrants	Immigrants (%)
2017	307,681	330,818	638,499	2.14
2015	304,635	327,543	632,178	2.37
2010	37,113	39,436	76,549	0.33
2005	30,240	31,089	61,329	0.31
2000	23,367	22,741	46,108	0.27
1995	20,755	19,058	39,813	0.27
1990	18,142	15,375	33,517	0.26

Source: Datosmacro.com (2018).

Citizens from West Africa, Central Africa, Europe, Asia and America saw Angola as *El Dorado* (a country of fabulous riches and opportunities). However, while the West and Central African people had made their way to Angola on their own, most of the European, Asian, and American citizens came under the umbrella of mutual aid and assistance agreements (See Tables 4 & 5). Moreover, the former found themselves in the informal sectors, street vendors and hawkers. The latter countries were backed by government policy and were involved in construction, the manufacturing industry, communication, marketing, and the petroleum industry. Furthermore, all of them arrive in the country with a contract and work visa or permit. The majority of them are involved in the National Planning and Housing Program (PNUH in the Portuguese acronym) approved by the government. The program includes the construction of one million houses all over the country as well as the construction of networks of water supply, wastewater disposal, road placement, public lighting and signage, social facilities and green spaces (Pereira, 2011). Apart from China, the government has signed

an accord with Portugal (Åkesson, 2018, p. 69) and Brazil to carry on with the PNUH. By 2015, the number of Chinese companies in the country was 1,500; Portuguese, 1,217; and Brazilian, 200 (Corkin, 2016).

The informal sector, mainly trade, has plenty of immigrants from West Africa. Most of them come from the DRC by crossing the border. In 2004, the country hosted more than 500,000 Congolese and quite a number of them were working illegally in diamond mines in northern Angola (Geenen, 2015). Immigrants from West Africa such as Guinea, Nigeria, The Gambia, Sierra Leone, and Mali are also working in diamond mines. However, they work predominantly in commerce, and in Luanda they run a variety of small shops (Gaibazzi, 2015). Apart from foodstuffs, they sell school supplies, hygienic materials, and soft drinks, have opened phone shops, printing services, and some even exchange currency illegally, usually called *kínguilas*. Moreover, while men are the ones running shops such as printing services and currency-dealers, women tend to be street vendors. Known as *zungueiras*, they are found early in the morning all over town selling food, drinks, water, clothes, and furniture.

West African women are particularly keen on selling *tangawisi*[3] and foodstuffs from the western part of Africa that contribute to Angola's economic growth. Despite financial hardship, which Angola has been facing since 2014, it is still a remittance-sending country (see Table 6).

Table 6. Migrants' remittance sent and received from Angola

	2010	2011	2012	2013	2014	2015	2016	2017
Remittance sent (USD millions)	38.9	43.4	43.7	44.9	44.7	43.1	42.7	46.9
Remittance sent (% GDP)	0.05	0.04	0.04	0.04	0.04	0,04	0.04	0.04
Remittance received (USD millions)	18	0.2	0.2	0	11.1	11.1	11.1	4.2
Remittance received (% GDP)	0.02	0	0	0	0.01	0.01	0.01	0

Source: World Bank (2019).

3   This is a drink made out of ginger. Apart from medicinal attributes, it is sought to have aphrodisiac qualities.

Illegal immigration is also registered daily . The border of Angola and DRC is once again the most porous for illegal entry allowing for mainly Congolese immigrants. Though there is no data, according to the Police Chief, Paulo de Almeida, there are more than half a million illegal immigrants in Angola ("Há mais de meio milhão de imigrantes ilegais em Angola", 2015). Deportations and mass expulsions have been the government's response to these kinds of flows (see Table 7). Human rights abuses occur during this process. On September 25 and November 5 2018, the Angolan government began with the so-called *Operação Transparência* and *Operação Resgate,* respectively. While *Operação Resgate* intends to close shops and business owned by illegal immigrants and subsequently deport them, *Operação Transparência* is meant to expel those carrying out illegal extractions of diamond and other resources in the Angolan Provinces of Malanje, Lunda Norte, Lunda Sul, Bengo, Luanda, Cuanza Sul, Cuanza Norte, Cuando Cubango, Bié, Moxico, Zaire, and Uíge. By October 16, 2018, more than 420,000 immigrants, mainly from DRC, were deported (Âgencia Lusa, 2018). The government also seized more than one million USD, 17,000 carats of diamonds, and 51 guns. Besides human right abuses, the government ended up expelling Congolese refugees who had fled conflicts from the DRC Province of Kasai and Central Kasai. That is why Michelle Bachelet, the UN High Commissioner for Human Rights, has called upon the government to halt deportations of migrants.

> International law and African Charter of Human and Peoples' Rights forbid the mass expulsion of non-nationals without individual assessment or other due process guarantees. In expelling such a massive number of people in such a short time, Angola has placed tens of thousands of families at severe risk. I call on the Government of Angola to halt any ongoing deportations until it can be assured that any returns will be carried out in full respect of the rule of law and the human rights of all affected migrants. I also urge the Government to ensure that security forces and others responsible for violations in the course of these expulsions are held accountable (United Nations [UN], 2018)

In fact, this situation is not something new. In 2016, François Crépeau, the UN rapporteur on the human rights of migrants, visited Angola. At the end of his stay, he stated:

In recent years, mass expulsions have been accompanied by allegations of human rights violations by Angolan security forces against migrants expelled from Angola, the majority of whom were Congolese. The situations of people in need of international protection were not taken into account during collective expulsions. Allegations of human rights violations, including sexual abuse and sexual exploitation, were also reported. Excessive bureaucracy and petty corruption have disproportionate effects on human rights protection, as they limit the access of irregular migrants to social services such as education, health care and justice. Immigration rules are not well known by law enforcement officials and, when they are, their implementation is hampered by the lack of proper institutional structures and by corruption. The overly stringent immigration rules often make being undocumented the only option for many migrants. Still, migrants continue to go to Angola to work, often in the construction and mining industries, and set up businesses, all of which contribute significantly to the economy. However, their status is rarely regularized, and they face exploitative conditions of work. (UN Human Rights Council, 2017, p. 4)

Table 7. Deportation of immigrants from Angola

Year	Number
2005	7,340
2006	15,617
2007	30,439
2008	17,058
2009	46,617
2010	15,667
2011	38,277
2012	37,728
2013	33,707
2014	50,726
2015	40,780
2016	81,904

Source: Milagres & Santos (2018).

As for the asylum seekers and refugees, according to Wellington Carneiro, a UNHCR senior official, Angola is one of the Community of Portuguese Language Countries (CPLP in Portuguese), which hosts the most refugees (Esteves, 2018). Refugees search for security and political stability; therefore, Angola turns into a major pull factor. Since the end of the war, Angola was not only seen as a stable country but 'an empire' in the Southern African Development Community (SADC). This is because firstly, the country reached a peace agreement without foreign intervention. Secondly, the merger of the two armies is an example of reconciliation throughout the continent as nothing related to ethnic cleansing has been reported (Jeffery, 2014); and thirdly, the capital city of Angola (Luanda) arose as the centre for peace and conflict resolution for the Great Lake Region. For the last three years, Angola presided over the International Conference on the Great Lakes Region (ICGLR) and has witnessed the arrival of Heads of State and Government of the ICGLR to its capital. Thanks to its role, a peace accord was agreed to in DRC, Central African Republic, Burundi, South Sudan, and Sudan. This development and the political scenario inspire confidence in refugees who seek safety and protection.

Nevertheless, the situation in neighbouring countries cannot be ignored. Since the removal of president Mobuto Sese Seko and the murder of president Laurent-Désiré Kabila, the DRC has not been at peace. Early in 2016, conflicts had erupted in the DRC Provinces of Kasai and Central Kasai next to Angola's Province of Lunda Norte. Since then, Congolese refugees have never stopped seeking refuge and protection in Angola (see Table 8). Though at peace, the Republic of Congo was facing political instability prompted by the opposition parties that wanted to stop president Denis Sassou Nguesso from running in the 2016 presidential election who has been in power since 1979. In addition, economic hardship was biting at the country due to the falling prices of crude oil. Those who were being persecuted by Sassou's regime, who had changed the constitution a year later after exhausting his two-term limit, started leaving for Angola. The same happened with refugees running away from the war in the Ivory Coast, Liberia, Sierra Leone, as well as the genocide in Burundi and Rwanda. The economic deterioration in Zambia and Zimbabwe also prompted their citizens to seek protection in Angola. At the moment, Angola hosts 68,436 refugees and 30,000 asylum-seekers (UNHCR, 2018).

Table 8. Refugees in Angola by their origin

Country of origin	Population (%)	Population
Democratic Republic of the Congo	53.0	36,374
Others	23.2	15,903
Ivoire Coast	9.4	6,448
Mauritania	8.3	5,709
Sudan	2.9	1,983
Sierra Leone	2.7	1,871
Rwanda	0.5	340

Source: UNHCR (2018).

There are eleven entry points used by illegal immigrants to enter Angola (see Table 9). First, in Cabinda, which appears to be the classic point of entry, immigrants use the following four channels to reach Angolan territory: road, air, river, and sea. A fluvial channel such as lake Tchukse is about 90 km from the town of Cabinda or 17 km from the town of Ybubu. For those who use roads, they bribe local authorities in order to pass through the borders of Yema, Beira Nova, Massabi, and Chimbuanda. Second, Zaire is also among the classic routes with three entry points: terrestrial, fluvial and maritime. On the border of Luvo (also called Lufu in Congo), one can find the routes used by immigrants. Thirdly, in Uíge other terrestrial and fluvial points of entry could be found. Fourth, Bengo also offers maritime and terrestrial channels. Fifth, Luanda is used by those holding a visa but also by others who enter through terrestrial and maritime channels, and migrants with visas enter through the International Airport. Sixth, Malanje-Lunda and Norte-Lunda Sul is a route used by immigrants whose aim is to work in informal artisanal diamond mining. The points of entry to this area are terrestrial and fluvial. In seventh place, Benguela has three channels: maritime, air, and terrestrial. Then in eighth place, Huambo has terrestrial and air channels. Ninth, Cunene is like Huambo and offers terrestrial and air facilities. Tenth, Moxico has terrestrial and fluvial channels. Eleventh, Cuando Cubango is similar to Moxico and boasts terrestrial and fluvial entrances.

Table 9. Points of entry used by migrants to get to Angola

Point of entry	Means	Foreigner origin	Activity	Observations
Cabinda	-air -fluvial -maritime -terrestrial	Congolese	-street trading -prostitution -cars' wash -robbery -money laundering	Immigrants use fake Angolan ID, bribe national church leaders, traditional authorities and border police.
Zaire	-fluvial -maritime -terrestrial	-Congolese -West Africa -Asia	-timber trade -forge ID -sale of fuel	Immigrants are helped by fishermen to cross Zaire River.
Uíge	-fluvial -terrestrial	Congolese	-commerce -forge ID	Border posts with major migratory incidence are the Maquela de Zombo and the Quimbata.
Bengo	-maritime -terrestrial	-Congolese -West Africa -Asia		Immigrants' target is to reach Luanda. The local population hides them in fishing boats, trucks and lorries carrying timber, charcoal, fuel and goods.
Luanda	-air -maritime -terrestrial	-Chinese -Congolese -West Africa	-street trade -barbershop -construction -mechanic -money exchange (*kinguila*) -taxi driver (*candongueiro*) -photograph -conductor	Entry point used by immigrants who do not depart from DRC and Congo. Many of them get in through 4 de Fevereiro International Airport with a tourist visa and fake documents.
Malanje Lunda Norte Lunda Sul	-fluvial -terrestrial	-Congolese -West Africa	Diamond mining	Entry point for immigrant's desire to work in informal artisanal diamond mining
Benguela	-air -maritime -terrestrial	-Congolese -West Africa	-informal trade -store -sale of frescoes	Those who fly the first land in Luanda and those who use the road depart from northern borders with DRC and Congo. The coast helps those using small boats.
Huambo	-air -terrestrial	-Congolese -West Africa	-informal trade -store	Beside northern borders, migrants use the southern ones with Namibia.
Cunene	-air -terrestrial	-Congolese -West Africa	-informal trade -store	Entry point used as an alternative to Zaire point of entry which is more secured

Point of entry	Means	Foreigner origin	Activity	Observations
Moxico	-fluvial -terrestrial	-Congolese -West Africa	-informal trade -store	The extensive eastern border with Zambia serves as the gateway.
Cuando Cubango	-fluvial -terrestrial	-Congolese -West Africa	-informal trade -store	The uncontrolled eastern border with Zambia and southern with Namibia exploited by immigrants

Source: Milagres & Santos (2018).

Even though immigrants are helped by the local population, including traditional chiefs, church leaders, and border police, immigrants spend a lot of money on their way to Angola. The expenditure involves not only forging an Angolan ID but also bribes and transport fees due to no restrictive immigration policy. For example, West African citizens often take the clandestine route through the Republic of Congo (Brazzaville) from here, traffickers take them by boat to Kinshasa (DRC). From Kinshasa, they are then dispatched to Matadi, one of the cities of the Bas-Congo Province ("Migrantes oeste-africanos para Angola passam por Baixo Congo", 2008). From Matadi, immigrants are transferred to Boma, the second largest city of Bas-Congo. Finally, in Boma, they are 'packed' into trucks carrying containers and carried to the municipality of Soyo, one of Angola's border cities with the DRC. Once in Soyo, immigrants make their way to Luanda by sea or by land. Along the way, they are assisted by locals looking to make money. From Kinshasa to Soyo, the traffickers do not charge less than 500 dollars; however, the cost ends up being much higher since immigrants are also obliged to bribe local authorities and police if or when they are caught at any point along the way. Thus, there is an urgent need to adopt legislation and migration policies that prevent these situations from arising and multiplying.

However, all of this seems to contradict how life carries on at the border (Crush, 2000). Angolans living at the border with the DRC as well as with the Republic of Congo, Zambia, and Namibia speak the same language and belong to the same ethnic tribes. In other words, there are the Bakongo people in Angola but also throughout the border with the DRC and the Republic of Congo. The Herero people are in Southern Angola and Namibia, and the Chokwe population can be found in Eastern Angola as well as in the southwestern part of DRC and northwestern Zambia. All of these factors make crossing the border much easier being that those living along the border have similar customs and ethnic roots.

Moreover, apart from their common origin, language, and culture, they know how to differentiate themselves from one another. For instance, the Bakongo people that settled in Angola differentiate themselves from those in DRC. Nsingi Afonso, an Angolan returnee from DRC, puts it well: "we speak the same language; however, some words are not pronounced in the same way, but the rest is all the same. We also knew that we were foreigners and they were Congolese" (Inglés, 2017, p. 36).

Angola's government seems to take into account how life is lived at the border. For example, popular traditional leaders let children from Angola attend school in the DRC provinces situated at the border. They also look the other way when people seek treatments at health centres or dispensaries found near the border. However, the problem is when other citizens use the same border to reach Luanda and the diamond mining areas. What is happening is that many Congolese far away from the border's villages as well as migrants from West Africa are making their way to Angola through the 2,500 km of the border shared between Angola and DRC. Others do not remain in Angola, they go as far as South Africa (Pugh, 2014), to Brazil, or Europe. There are many cases of Congolese migrants heading to Brazil through Angola. Most of them are pregnant women and travel with their children. Just in the first semester of 2018, 600 women reached Brazil's city of São Paulo and applied for asylum (Nova Notícia, 2018). Last year in 2017, the Brazilian Immigration Authorities recorded 2,036 applications (Idoeta, 2018). Some of these emigrants present themselves as Angolan citizens and demand asylum on the grounds of war and political persecution, but they forget that Angola has been at peace since 2002. Therefore, the government has been investing in border security and is acquiring modern surveillance tools. As we shall see, the legal framework and policies also seek to discourage it.

Legal framework and policies

Since the beginning of mass migration to Angola, the Angolan central government has approved eight main norms for visas, passport controls, and customs regulations. The laws are also meant to attract foreign investment and assign work permits for immigrants and foreign workers whose special skills fit the country's needs. However, these laws are also used to restrict the flow of immigrants, carry out deportations, discourage the inflow of unskilled immigrants, and preserve job opportunities for national citizens.

Angola adopted the Law Regulating the Legal Status of Foreigners in 2007. The Foreigners Law provides a legal framework for immigration control including grounds for immigration-related detention. The Angolan Constitution also contains relevant provisions—including on the freedom of internal movement, foreign travel, emigration, and repatriation—although the government has at times restricted these constitutional rights. Under the Foreigners Law, detention is compulsory when foreign nationals are denied entry or when they are subject to judicial expulsion after being found to be undocumented or present illegally in national territory. In both cases, irregular migrants are detained prior to their removal from Angola to their country of origin or of habitual residence. The Foreigners Law contains provisions for the judicial review of expulsion decisions. However, the possibility for judicial review is restricted as the administration of justice is concentrated in the Interior Ministry only and judges are not involved in verifying the lawfulness of detention. Consequently, migrants are often arrested arbitrarily and denied due process to challenge their deportation. (Global Detention Project, 2016, para. 4-7)

The eight laws are (see Table 10): Law 2/07 of 31 August, Legal Regime of Foreigners in Angola; Presidential Decree 108/11 of 25 May, Regulation on the Legal System of Foreigners; Law 7/15 of 15 June, General Labor Law of Angola; Law 10/15 of 17 June, Law on the Right to Asylum and the Status of Refugees; Law 2/16 of 15 April, Law on Nationality; Presidential Decree 43/17 of 6 May, Regulation on the Exercise of Professional Activity of the Non-resident Foreign Worker; Law 10/18 of 26 June, Law on Private Investment; the Constitution of the Republic of Angola (CRA) from 21 January 2010.

Also known as the "visa law," Law 2/07 aims at extending the typology of visas required to enter the country and attract foreign investment[4]. At the same time, Presidential Decree 108/11 is also a step forward as it grants multiple entries to ordinary visa holders (art. 57). These visas are given to those who wish to study and do business in the country. In this regard, the Presidential Decree assumes the role of attracting foreign investors. Law

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4   A new law of the Legal Regime for Foreigners in Angola has just been approved, the Law 13/19 of 23 May. The Law 13/19 replaces the Law 2/07 of 31 August. However, the new law is almost a copy of the previous one. It also aims at attracting the 'immigrants' investors'.

7/15 establishes a clear distinction between a nonresident foreign worker and a resident worker. While the nonresident foreign worker is subject to a special regime regulated by Presidential Decree 43/17, the resident worker is bound by the General Labor Law applied to national citizens. Law 10/15 and Law 2/16 regulate the policy of the right to asylum and the status of refugees as well as the acquisition of nationality, respectively. One of the strengths of Law 10/15 has to do with the assignment of refugee status on the grounds of natural calamities. However, the Law makes it clear that only those fleeing from neighbouring countries qualify for it (art. 32). In other words, these are citizens from DRC, the Republic of Congo, Zambia and Namibia. The Geneva Convention of 1951 does not refer to environmental refugees; thus, the Law 10/15 represents a step forward. The Constitution of the country grants immigrants who are in the country fundamental freedoms, protection, and equal treatment (art. 25).

Nevertheless, these regulations seem to be too strict and often undermine immigrant rights. First, under the Law 2/07, illegal immigration is a crime (art. 104), and detention is compulsory when a foreign is denied at entry (art. 18-19). The detention is also enforced when an immigrant is found without documentation or presents themselves in the national territory illegally (art. 104). Furthermore, mass deportation and immigration raids are conducted. For those who are expelled, the Law states that they cannot reenter the country for no less than five years (art. 32). Though the Law provides stipulations for the judicial review of expulsion, this is not always done. The time allotted for the enforcement of an expulsion order, fifteen days for a resident foreigner and eight days for a non-resident (art. 32), is not respected. Under *Operção Transparência,* the government expelled in less than a week more than 420,000 foreign nationals ("Governo angolano explica à ONU objetivos da Operação Transparência", 2018). On several occasions, they have used the army to enforce expulsions. Apart from considering the Law strict, François Crépeau, the UN special rapporteur on the human rights of migrants, on his mission to Angola said to "decriminalize undocumented migration, which while constituting a violation of some administrative rules, is not and should never be considered a crime" (UN Human Rights Council, 2017 p. 15).

The Presidential Decree 108/11 reinforces mass deportation and immigration raids. Instead of containing irregular immigration, the Decree ends up promoting the creation of mafia groups. The law on the right to asylum and the status of refugees limits people's freedom of movement. It boosts the

Table 10. Angola legislation on migrants

Law	Designation
Law 2/07 of 31 August	Legal Regime of Foreigners in Angola
Presidential Decree 108/11 of 25 May	Regulation on the Legal System of Foreigners
Law 7/15 of 15 June	General Labor Law of Angola
Law 10/15 of 17 June	Law on the Right to Asylum and the Status of Refugees
Law 2/16 of 15 April	Law on Nationality
Presidential Decree 43/17 of 6 May	Regulation on the Exercise of Professional Activity of the Non-resident Foreign Worker
Law 10/18 of 26 June	Law on Private Investment
CRA of January 2010	Constitution of the Republic of Angola

Source: own work.

creation of camps,[5] but since its promulgation, Law 10/15 has not been implemented. That is why many asylum-seekers do not hold any documentation. As a consequence, "vulnerable migrants—including asylum-seekers, pregnant women and minors are placed in administrative immigration detention […] systematic detention of asylum-seekers without any consideration of alternatives measures occurs on a daily basis" (UNHCR, 2014, p. 4). Finally, Presidential Decree 43/17, on the Exercise of Professional Activity of the Non-resident Foreign Worker, seems to favour the expatriates. The law states that they can be paid in foreign currency (art. 10). This goes against the so-called equal treatment reiterated in the Constitution (art. 25), and in this Decree (art. 11) national workers are all paid in local currency.

Conclusion

Angola and the Democratic Republic of Congo (DRC) share a land border of no less than 2,500 km. Seven out of eighteen of Angola's provinces neighbour the DRC, Cabinda, Zaire, Uíge, Malanje, Lunda Norte, Lunda Sul, and Moxico. Apart from encouraging trade, this border serves as a

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5   The creation of *Centro de Acolhimento de Refugiados e Requerentes de Asilo* (CARRA) is part and parcel of the Law 10/2015 (art. 27). The policy should be that of "out of camping" implemented by countries, such as Uganda and Ethiopia. This allows people to cultivate and secure their livelihood.

point of entry for both legal and irregular migration. While many immigrants who cross the border head to Angola's capital, Luanda, some of them use Angola as a transit country with to travel to Europe, Brazil, and South Africa. The border is comprised of eleven major entry points: Cabinda, Zaire, Uíge, Bengo, Luanda, Malanje-Lunda Norte-Lunda Sul, Benguela, Huambo, Cunene, Moxico, and Cuando Cubango. The foreign nationals who use these entries are mainly the Congolese, West African citizens, and the Asian population, mainly the Chinese. In Angola, their goal is to get to Luanda and the diamond mining areas of Lunda Norte, Lunda Sul, and Bié. Immigrants also target Angola's Provinces of Cuando Cubango, Cabinda, Huílam, and Moxico. There, they seek to exploit illegally other national resources such as wood, iron, mercury, and fishing.

As for the undocumented immigrants, they rely on the local population along their migratory adventure. The population to whom migrants entrust their adventure resides in the Angolan provinces situated along the border and those on the way to Luanda and the mining areas. These people include traditional chiefs, religious leaders, police officers, fisher mongers, and truck drivers. They help immigrants to cross the border, transport them in trucks carrying timber, charcoal, fuel, merchandise, and help them get fake documents. An example would be fishermen taking illegal migrants in small boats to the Angolan coast, crossing rivers and lakes such as the Tchukse and Ybubu (Cabinda), Zaire (Zaire), and Cuando (Cuando Cubango). However, these are not the only means to get to Angola. Some immigrants, mainly the Chinese and even those from Central and West Africa, land in Luanda International Airport as well as in Catumbela, Lubango, and Huambo. They enter as tourists and end up staying. Others acquire fake IDs and visas to outmanoeuvre the authorities. All of this is done with the help of local inhabitants who get money in exchange for letting immigrants enter the country illegally.

The absence of peace and stability in many regions of DRC act as a push factor and force many to abandon their country of origin. This also applies to other African nations whose social and economic situation obliges their citizens to abandon their countries of origin and look for a better life in Angola. However, Angola is also receiving immigrants who arrive under the government's National Reconstruction Program, mostly from China, Brazil, Portugal, and Cuba. These foreign nationals come with a contract and a work permit. Apart from construction, they work in hospitals, mining, and oil industries.

Nevertheless, some of them end up staying longer than their contract or visa and work in the private sector. However, African emigrants arrive out without any government backing. Most of them come from Central and West Africa and work in the informal business sector. They run phone shops, are in the frozen food industry, sell bakery products, run repair shops, and sell automotive parts and accessories. As for the asylum-seekers and refugees, Angola has tried to keep them out of the cities and keep them in camps and tents far from Lunda Norte.

However, keep them there has not been an easy task because of the strong presence of the Congolese community in the country. The same can be said of the West African population settled in Luanda, Huambo, and the diamond areas of Lunda Norte and Lunda Sul. These communities are the ones helping immigrants integrate. They also assist them in dealing with many challenges upon their arrival, such as how to get acquainted with different places in the city, to avoid immigration officials, get a job, and accommodation. Immigrants in Angola are hardworking, and one cannot ignore their contribution to the Angolan economy. Despite the financial crisis, Angola is still a remittance-sending country. The money sent by immigrants to their countries of origin is higher than the amount that Angola receives. Thus, rather than debating mass deportations and border closures, Angola should see these immigrants not as 'invaders,' but as human resources for the betterment of the country.

To accomplish this, the government should implement the following: first, the government needs to approve its immigration law. This law should address the matter of integrating foreigners. Once in Angola, immigrants should receive assistance to help them learn the language, culture, and customs of the people of Angola. Second, city councils should ensure proper integration of those residing under their administrations. They should also register them regardless of their migration situation or status. Unfortunately, this is not happening.

As a consequence, there are insufficient statistics and data concerning their population. Third, migration should be related to development. In fact, the new face of Angola shows it. Since the civil war ended, Angola's many cities have been changing. The country is constructing new buildings, houses, industries, soccer pitches, roads, hospitals, universities, and schools. All of this is due to immigrant workers in the construction industry. For the sending countries, development "plays a major role in shaping future migration pressures" (Dayton-Johnson, Katseli, Maniatis, Münz, &

Papademetriou, 2007, p. 65). Fourth, there is a need to continue educating children on the benefits the country is getting from migration.

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Introduction

The border between Colombia and Venezuela is the most active in both countries and one of the most dynamic in all Latin America and the Caribbean. Large migratory flows have passed through this border due to complications arisen in Colombia and Venezuela over the past years. It is seen as a critical border, affected by many economic, political, social, and cultural crises faced by the two countries. Migratory flows through this shared border have changed over time, depending on the living conditions in one country have served as an incentive to move to the other. Accordingly, the border is defined by two migratory flows in both directions.

Firstly, between 1970 and 2014 ("Farc: 34 años enquistadas en Norte de Santander", 2016), the internal armed conflict in Colombia and the oil boom in Venezuela led to a major migratory flow from Colombia to Venezuela. However, even when government-owned media in Venezuela claimed higher numbers (Ramírez et al., 2015)[1], more realistic statistics suggest that at least one and half million Colombians sought refuge[2] and economic alternatives in Venezuela (*Centro Nacional de Memoria Historica* [CNMH], 2018). On the other hand, from 2015 to 2017, the direction of the migratory flow changed.

1   President Maduro stated that there were 5.6 million Colombians in Venezuela. However, this is an exaggerated number compared to other figures provided by other governmental institutions. In 2011, a population census registered an estimated of 721,791 Colombians in Venezuela in addition to the 680,000 Colombians that may be irregular migrants for a total of 1.5 million (Ramírez et al., 2015, pp. 3-6). It is unclear if President Maduro includes in his calculations the children of Colombians born in Venezuela who would, in fact, be Venezuelans and the Colombians nationalized there.

2   Historic Memory National Center (CNMH, in Spanish) (2018, p. 131) reported 171,920 Colombians with the status of refugee or similar in Venezuela in 2017 for a maximum of 200,000 in precedent years.

Traditionally, migration dynamics in the Americas are marked by intra- and extra-regional patterns. In recent years, Venezuela has seen changes in its migratory processes and flows to traditional destinations have intensified, as well as new destinations in the region and the world. For the year 2015, 695,551 Venezuelans were reported to be living outside their country. In 2017, the numbers rose to 2,328,949 (International Organization for Migration [IOM], 2018) and in 2019 (the last update was on 6 June) this number rose to 4,001,917 (*Plataforma de Coordinación para Refugiados y Migrantes de Venezuela* (R4V), 2019). Currently, there is a predominant flow of migrants from Venezuela to Colombia, including Colombians returning to their country and Venezuelans who are crossing the border, to establish themselves temporarily, permanently, or as a first stop as part of a longer trip to other South American countries like Ecuador, Peru, Chile, or Argentina.

The number of Colombians who returned to their home country from Venezuela due to unfavourable conditions has continued to grow. In 2015, when the Venezuelan government closed the border, 1,500 Colombians were deported and 22,000 "voluntarily" Colombians returned (*Migración Colombia*, 2018b, p. 4) after being pressured by the Venezuelan government. That pressure escalated to the destruction of Colombians' houses in illegal shantytowns in San Antonio and Ureña, and there are reports of the Venezuelan government transporting Colombians in buses to the border and urging them to cross (*Servicio Jesuita a Refugiados en Colombia* [JRS-COL], 2016). Although the numbers are unclear, the balance between entries/exits of Colombians from/to Venezuela in 2018 shows until September a difference of approximately 300,000 people, which indicates that Colombians are trying to return to their home country (World Bank, 2018).

It is estimated that more than one million Venezuelans are already living in Colombia (*Migración Colombia*, 2019b), and it looks that this number will grow since the situation in Venezuela seems far from being solved. The economic, political, and social crises in Venezuela is creating an important intra-regional migratory flow from Venezuela to other Latin American countries triggering a humanitarian crisis in some of them, particularly in Colombia. This migratory flow and the critical situation taking place at the Colombian-Venezuelan border will be the topic studied in this article.

First, we will do a general characterization of the geopolitical situation on both sides of the border. Then, we will analyze the migratory flows, particularly the Venezuelan one, including its scale, its dynamics, and the profiles of the migrants, their demographic traits, and the lack of protections

they must endure. Subsequently, we will analyze the migration policies and the current legal framework in Colombia for migrants and refugees. Finally, we will analyze the state of Human Rights for Venezuelan migrants highlighting their principal vulnerabilities. We will address challenges and provide suggestions for public policy and humanitarian propositions.

Social characterization of the border and migratory flows

THE GEOPOLITICAL SITUATION AT THE BORDER

The border between Colombia and Venezuela is 2,219 kilometres long, which makes it the longest and most important for both countries. This represents important geopolitical challenges for formal and informal migratory processes on both sides of the border. Currently, the Colombian State is organized as a unitary and decentralized Republic composed of 32 regions (called *departamentos*) of which 7 share a border with Venezuela: Guajira, César, Norte de Santander, Boyacá, Arauca, Vichada, and Guainía (see Figure 1). The Venezuelan State, today known as República Bolivariana de Venezuela, is a Federal-State composed of 23 states of which 4 share a border with Colombia: Zulia, Táchira, Apure, and Amazonas (*Servicio Jesuita a Refugiados Latinoamérica y el Caribe* [JRS-LAC], 2017-2018).

THE GEOPOLITICAL SITUATION ON THE
COLOMBIAN SIDE OF THE BORDER

The border territory in Colombia is a region characterized by armed actors legal, and illegal (guerrillas, paramilitary groups, criminal gangs), which have transformed the social, political, economic, and security dynamics of the border. Nowadays, these illegal groups also have a presence in Venezuelan territory. For example, according to Insight Crime, the presence of the National Liberation Army has been demonstrated in 12 of the country's states (*Unidad de Investigación de Venezuela*, 2018). The dynamics of the territory foster firstly, human mobility and merchandising. At the same time, however, these same dynamics have given way to smuggling, human trafficking, and drug dealing strengthening illegal economies and parallel political institutions.

The National Liberation Army (ELN, in by its acronym in Spanish for *Ejército de Liberación Nacional*) is the most important actor in the territory. In the early 70s, this group settled close to oil exploitation areas and

Figure 1. Political-administrative map, Colombia and Venezuela border

Source: *Oficina de Coordinación de Asuntos Humanitarios de las Naciones Unidas* (2015).

the border with Venezuela. In the early 80s, another illegal armed actor, the *Fuerzas Armadas Revolucionarias de Colombia-Ejército del Pueblo* (FARC-EP)[3], arrived at the territory seeking to build a support network with small agricultural economies and to establish a strategic zone to transit from Venezuela to Ecuador using a chain of guerrilla fronts, which allowed them to connect with drug trafficking economies. A third illegal actor is a dissident group from the former Popular Liberation Army (EPL, by its acronym in Spanish for *Ejército Popular de Liberación*), called *Los Pelusos*, that arrived in the region of Catatumbo in 1996 seeking new funding sources and drug trafficking routes.

Moreover, in 1999, paramilitary groups arrived in the region in a violent armed incursion. From then on, different paramilitary groups have settled in the region, particularly in the towns where the FARC had established themselves and in coca-growing areas. The errors committed during the peace negotiations with the *Autodefensas Unidas de Colombia* (AUC)[4], between 2003 and 2004, fostered the appearance of the so-called post-demobilization groups known as *Bacrim*[5].

> This region is characterized for being one of the first manifestations of Bacrim in the country. Nowadays, there is an armed dispute for the control of the illegal economies in the border region that is lead by *Los Rastrojos* and *Los Urabeños* (today known as *Clan del Golfo*), mainly being drug trafficking, but also smuggling businesses such as gasoline, food, chemicals, hygiene products, extortion, kidnapping, blackmailing, forced displacement, human trafficking, sexual violence, and forced recruitment. (Torres, 2015, p. 23)

Additionally, the implementation progress of the peace agreement between the FARC-EP and the Government of Colombia is not very promising. The retreat of the FARC from the territories is just the retreat of one of the many actors in the Colombian internal armed conflict. Other guerrilla groups like the ELN and the dissident groups from the EPL still have a presence in the territory. Specifically, the ELN has taken advantage of the FARC

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3   This translates to Colombian Revolutionary Armed Forces-Army of the People.

4   Which translates to United Self-Defense Forces of Colombia.

5   Translator's note: Bacrim is short for *Bandas Criminales*, which literally means Criminal Gangs. However, in Colombia Bacrim refers to the groups that appeared after the failed demobilization of the paramilitary groups in the early 2000s.

retreat to expand its territorial control. The ELN is now the most powerful group in the territory, particularly in the Catatumbo region. Moreover, dissident groups from the former FARC guerrilla, who decided not to follow the peace agreement, have joined the different *Bacrim* or created their own fronts (JRS-LAC, 2018a).

Hence, the region has suffered the violence of many armed actors reinforcing and creating new violence and victims. According to the National Victims Unit, there have been over 7,902,897 victims registered in Colombia as victims of the internal armed conflict in the past 50 years and this figure includes 240,272 victims from the region of Norte de Santander. On that matter, Flórez (2016) claims that the predominant form of victimization in Norte de Santander is forced displacement (201,024 victims). However, this figure accounts for only those who have recourse to Law 1448 (2011), commonly known as *Ley de Víctimas y Restitución de Tierras*.[6]

Therefore, the position of the victims of the internal armed conflict in the region is complicated. There are several difficulties regarding mobility and access to information that victims must overcome to be able to access their rights and opportunities for reparations fully. Moreover, the Colombian State is not present in all parts of the region, nor does it provide the necessary policies that recognize the vulnerabilities of these victims and offer them the opportunity to progress. All of this contributes to their re-victimization. These conditions explain why Colombians, at some time, sought refuge in Venezuela and demonstrated the risks faced by those who return, as much as those who arrive for the first time.

THE GEOPOLITICAL SITUATION ON THE VENEZUELAN SIDE OF THE BORDER

Venezuela is currently facing a major economic, security and political crisis that has caused a massive exodus of Venezuelans to other countries, especially Colombia. According to the "World Economic Perspective" report,

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6 The Victims Law 1448 of 2011, seeks to establish a set of judicial, administrative, social and economic measures, individual and collective, for the benefit of victims, in a framework of transitional justice framework, to realize their rights to truth, justice and repair with guarantee of non-repetition (art. 1). Persons who individually or collectively have suffered damage due to events that occurred as of 1 January 1985, except in the case of land restitution, which will only be due to situations filed as of 1 January 1991, and until the expiration of the term of the law. Victims are those who have suffered damage as a result of violations of International Humanitarian Law (IHL) or by severe and manifest violations of international human rights standards that occurred during the internal armed conflict. (art. 3). (Law 1448, 2011).

while Latin America and the Caribbean had an average economic growth of 0.9% in 2017 and countries like Argentina and Colombia are registering a GDP growth of 2.9% and 1.8% respectively, Venezuela had an economic decline of -14.5% in its GDP (International Monetary Fund [IMF], 2018). In other words, local adverse conditions compared with favourable external conditions encourage migratory flows.

Furthermore, the Venezuelan economy has experienced a contraction of more than 30% since the oil crisis of 2014. The Government has not been able to pay their foreign debt (default) completely; the exchange and price control policies have destroyed the productive sector; the oil industry (95% of all Venezuela's exports) is collapsing, and the purchasing power of Venezuelans has been demolished due to hyperinflation (Bahar, 2018, p. 2). The International Monetary Fund estimates that inflation in Venezuela will reach 1,000,000 % in 2018 and that GDP will decrease by 15% in 2018 and 6% in 2019. If these estimations become a reality, the Venezuelan economy would have experienced a decrease of almost 50% in the last six years (IMF, 2018). This collapse of the Venezuelan economy is also related to the expansion of corruption at all levels.

However, the Venezuelan crisis runs deeper and includes political and social aspects. Politically, the Government stripped the National Assembly of its power, controlled by the opposition, and created a Constituent Assembly with authority over all Venezuelan institutions (International Crisis Group, 2018, p. 4). Socially, this severe economic crisis has caused food scarcity leading to almost 300.000 children on the edge of death because of malnutrition. The average Venezuelan has lost 10 kilograms in the last year because of lack of food (Rendon & Schneider, 2018, p. 2). There is not only a scarcity of food but of medicine as well. In addition to the malnutrition, the medicinal shortage has caused diseases that were eradicated a long time ago, such as measles or diphtheria, to reappear. Many Venezuelans have had to cross borders in search of medical care, which has contributed to the spreading of these diseases.

The social, economic, and political conditions in Venezuela have caused a humanitarian crisis, which is seen not only in the massive exodus that began in 2015 but also in the increase of social protests. The Venezuelan Observatory for Social Conflict (2018) reported 2,163 protests in July 2018, an average of 72 protest per day, which doubles the first semester data of 30 protests per day. These protests are caused by violations of economic, social, cultural, and environmental rights. There are also complaints about work

rights in the health, education, electric, and telecommunication sectors, as well as a rejection of deficiency in basic public services like drinking water, electricity, natural gas, and access to food and medicine (OVCS, 2018).

Bermúdez (2017) says that this scenario forces Venezuela to depend on financial support from China and Russia. Thus, it is unlikely that the economic crisis will affect other countries within the region. However, if there are interventions in the country´s petroleum potential functioning as investments for basic industries, Venezuela's internal recovery will be rapid. (Bermúdez, 2018, p. 166). In fact, this economic recovery would depend on the Government´s modification of its blockade, sanction policies, as well as its economic policy.

As a result of the Venezuelan crisis, criminality has risen. According to the Violence Venezuelan Observatory's (2018) 2017 report, 64% of crimes are not reported because of the lack of confidence in the justice system. In that same year, there was a rate of 89 murders per 100,000 people, for a total of 26,616 victims. This high rate is due to the decay in the quality of life among the Venezuelan people and the difficulty to access goods being that the rule of law, a social conflict regulator, is in a fragile state.

The increase of direct violence in Venezuela (homicides, kidnapping, extortions, among others) has a structural basis. According to Bermúdez (2018), the Venezuelan State structured and executed the so-called People Liberation Operations (OLP)[7] in which they carried out extrajudicial executions, arbitrary evictions, destruction of homes, "social cleansing," as well as the covering up of these crimes committed by State agents. These criminal gangs, which operate similarly to Colombian ones, are competing for the control of smuggling routes in border territory and the exchange control policies in order to generate huge profits. These disputes over territorial control are usually violent, and migrants face high risks.

Likewise, illegal mining has become a funding source for these illegal groups increasing their capacity to use violence within the territory and has expanded their reach to other illegal activities such as money laundering, human trafficking, and arms smuggling. Human trafficking puts Venezuelan women and girls at risk, who are forced into prostitution in Colombia and other countries. As for arms smuggling, weapons make their way to the black market through corrupted police and military men. (Bermúdez, 2018).

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7   As its acronym in Spanish for *Operaciones de Liberación del Pueblo*.

Features and dynamics of the migratory flow in the border territory

SCALE OF THE MIGRATORY FLOW

The previously stated conditions explain the scale of the migratory flow. Figures vary, depending on the source, between 4.0 and 5.5 million migrants. Whatever the case, these figures are worrying and give a general idea of the severity of the humanitarian crisis. R4V estimated that by 6 June 2019, there were 4,001,917 Venezuelans outside the country.

A survey conducted by Consultores 21 (2018) between April and June 2018 indicated that around 5.5 million Venezuelans have fled the country and that 40% more confirm their desire to migrate as well. Furthermore, 70% claim that they left because of the economic crisis, while 22% claim that they left because of political conditions. This explains three things: first, the migratory crisis is far from being over. Second, Venezuelans are fleeing the country because of the economic crisis, which is deeply tied to the political situation in the country; finally, Venezuelans do not think their situation will improve any time soon and therefore will be forced to migrate.

In a public statement in September 2018, Amnesty International said that the United Nations (UN) has established that there are at least 2.3 million of Venezuelans living outside their country and that 1.6 million of them have left since 2015. Likewise, the UN claims that 90% of Venezuelans have migrated to South American countries. Thus,

> this number along with the swiftness in which it has occurred, not only constitutes one of the more severe human mobility crises the region has known, but also has led the UN to state that the situation is approaching a crisis seen in other parts of the world, particularly in the Mediterranean Sea. (Amnesty International, 2018, p. 4)

The United Nations High Commissioner for Refugees (UNHCR), through the R4V platform (2019), calculates that between 2014 and 2018 at least 464,229 Venezuelans have applied for asylum all over the world. By June 2018, over 117,000 applications for asylum by Venezuelans have been received on 2018 surpassing the number of total applications received in 2017. Likewise, UNHCR calculates that around 60% of Venezuelan migrants are in an irregular situation, with no documentation, including those who cannot apply for asylum or any other type of legal status. This is mainly due to bureaucratic obstacles, long waiting periods, or the high costs of processing. Peru has

received the most asylum applications from Venezuelan refugees (227,325), followed by Brazil (99,858) and the United States (81,800) (R4V, 2019).

VENEZUELAN MIGRATORY FLOW TRENDS
AT THE COLOMBIAN BORDER

Two differences need to be established regarding the dynamics of the migratory flow. First, regular migration, or those who enter the country through authorized points, must be distinguished from irregular migration, in which migrants enter through numerous irregular points of entry along the 2,219-kilometre border. Secondly, a distinction among circular migration, transit migration, and migration seeking to stay in the destination country must also be made.

Regarding the distinction between regular and irregular migration, it is essential to consider the information provided by *Migración Colombia* as the official entity in charge of the immigration processes in the country. Colombia has seven official border-crossing points with Venezuela. These crossing points are distributed in the following way: La Guajira (1), Norte de Santander (3), Arauca (1), Vichada (1) and Guainía (1).

In 2017, the Venezuelan migratory flow in these seven authorized border-crossing points increased by 110% compared to the previous year (*Migración Colombia*, 2018c, p. 5). In fact, during that year Colombia registered 7,723,196 entries of Venezuelan citizens and 7,012,85 departures, which left 710,241 people who stayed in Colombia or transited towards other countries. Furthermore, there are several unauthorized border-crossing points all along the 2,219-kilometre border, which implicate a variety of risks to the migrants. These illegal crossing points are usually in zones where the State lacks sovereignty and are under the control of illegal armed groups or criminal gangs, which is why they have become convenient areas for illegal economies, human trafficking, drug dealing, and smuggling.

A survey assessing the needs of Venezuelan migrants conducted by UNHCR (2018) established that the main irregular border-crossing points are in the towns of Maicao, Cúcuta, Villa del Rosario, and Los Patios. In the Arauca region, crossing occurs in canoes across the Arauca River (UNHCR, 2018). UNHCR estimates that there are approximately 625,353 irregular Venezuelan migrants in Colombia, but this figure could undoubtedly be larger (R4V, 2019).

Regarding the distinction between circular migration, transit migration, and migration seeking to stay in the destination country, there

a few characteristics that need to be mentioned. First, circular migration constitutes a clear majority of all the Venezuelan migration in Colombia. Circular migrants are those who cross the border seeking for food, medicine, or work and then return to Venezuela where they continue to live. Thirty-seven thousand entries and 35 thousand departures are registered daily. Fifty-three per cent of entries use the International Bridge *Simón Bolívar*; 19% use the Paraguachón immigration check post, and 17% use El Dorado International Airport (*Migración Colombia*, 2018b). The use of the Border Mobility Card (*Tarjeta de Movilidad Fronteriza—*TMF in Spanish) is another indicator of circular migration. During two periods (between 16 February 2017 and 8 February 2018, and between 27 November 2018 and 7 January 2019), the Colombian State granted this Card in order to allow daily transit between the two countries and 2,540,382 Venezuelans were registered (*Migración Colombia*, 2019a). The TMF allows entry and temporary transit in the Border Zone.

Moreover, transit migrants are Venezuelans that enter the country as they transit toward other countries in South America (Ecuador, Peru, Chile or Argentina). To travel across the country with such scarce resources is an incredibly risky challenge for migrants. Large groups have been reported to have made this journey by foot in precarious vulnerable conditions. The Colombian media has named them the "Venezuelan wayfarers." An indicator of the magnitude of these transit migrants is the number of exits of Venezuelans through the Rumichaca Bridge, which borders Ecuador. According to *Migración Colombia* (2018c), there was a 600% increase in the number of Venezuelans crossing to Ecuador. The figures went from 32,000 exits in 2016 to 231,000 exits in 2017, reaching 710,404 in 2018 (*Migración Colombia*, 2018c; 2019a).

Several routes have been identified as used by Venezuelan migrants in their transit to other countries. Most of them use their passport to travel across the country. El Dorado International Airport is the main transit point for air routes. In fact, in 2016, 130,000 Venezuelans used this airport, in 2017 that number reached 177,000 (*Migración Colombia*, 2018c) and in 2018 that number increased to 228,575 (*Migración Colombia*, 2019a). The rest travel by land routes, whether on foot or public transportation. Among these routes, the most important is the one from Cúcuta to Rumicha, taking distinct routes to arrive at Bogotá and later, Ipiales. There is also a route from Bogotá to San Miguel, in the Putumayo region, where it is possible to cross the border with Ecuador (*Migración Colombia*, 2018d, p. 24).

The number of migrants who plan on staying in the country is still growing. The best indicators are the figures of regular migrants (69,373 people with Visas and a foreigner identification card) and people who have applied for the *Special Permanence Permit* (PEP in Spanish) that authorize them to stay in the country for two years. By 1 January 2019, 551,134 Venezuelans acquired their PEP.

Where are migrants settling in Colombia? Thanks to the work of *Migración Colombia*, it is possible to locate the places where the Venezuelan population has settled, as can be seen in Figure 2. Even though they are widely spread across the country, their presence is stronger in the following regions: Bogotá hosts 23.5% of Venezuelan migrants followed by border regions like La Guajira (11.7%) and Norte de Santander (11.4%). These three regions host around 50% of all Venezuelans in Colombia. They are then followed by regions like Atlántico (9.7%) and Antioquia (7.6%). Additionally, the regions of Nariño, Magdalena, Bolívar, Valle del Cauca, Santander and Arauca host around 3% and 5% of all Venezuelan migrants.
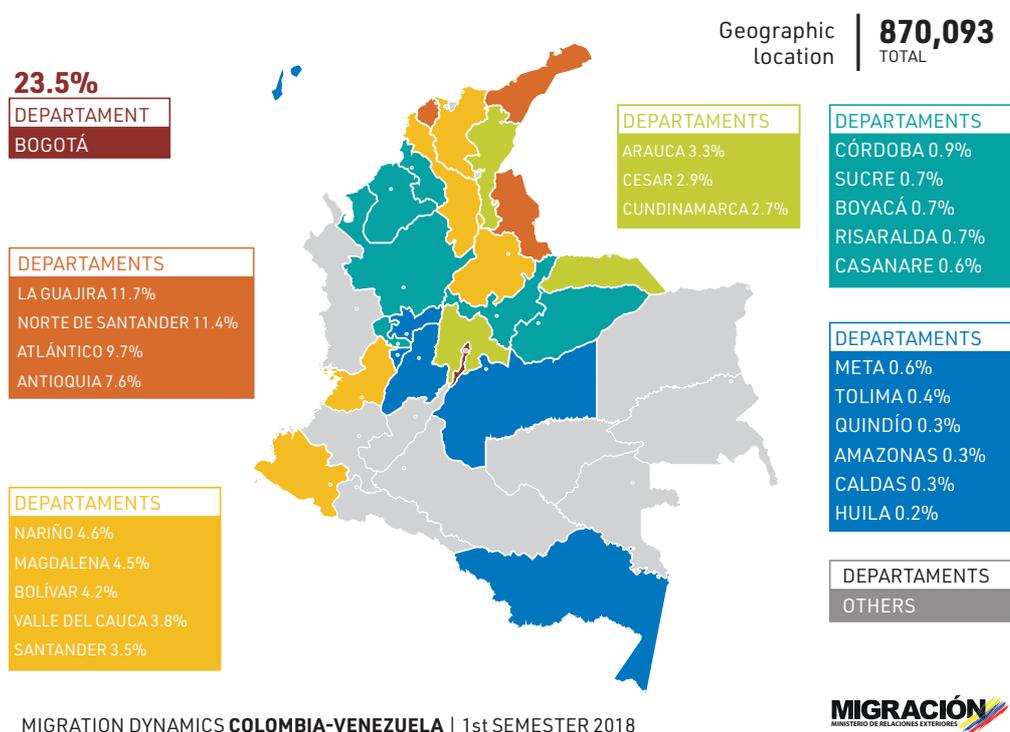
Figure 2. Map of Colombia. Migration dynamics of Venezuelan people.

Source: *Migración Colombia* (2018a).

MIGRATORY PROFILES AND PROTECTION VOIDS

According to JRS-COL Humanitarian report, the profile of Venezuelans who have received care in JRS' offices, particularly in Cúcuta, are the following:

Colombian-Venezuelan mixed families, particularly with children born in Venezuela and without Colombian nationality

This migratory profile experiences the following gaps in protection and humanitarian needs: (a) barriers to accessing the civil registry or the procedures to acquire Colombian nationality to those with the right to claim it; (b) illegal armed group pressure to participate in illegal activities; (c) barriers to access the education system due to the lack of documentation demanded by the National Education Ministry in Colombia; (d) barriers to access health-care for Colombian spouses and children who have not been able to acquire nationality; (e) difficulties to access emergency accommodation and decent housing (families are living in the streets); (f) lack of opportunities for generating income and accessing the labour market to facilitate integrating into the socio-economic system.

Exclusively Venezuelan families and people without an affiliation with Colombia and with humanitarian needs (medicine, food, among other basic needs)

This profile shows that the number of Venezuelans arriving in the country in an irregular migratory condition is increasing the number of several Human Rights violations and the risk of falling victim to human trafficking networks. Some of the protection gaps and humanitarian needs are: (a) difficulties to access travel documents in Venezuela; (b) barriers for children and teenagers to access the education system and risks of falling victim to illegal armed groups like the ELN and EPL in the Catatumbo region; (c) pregnant and breastfeeding mothers facing barriers to access health-care (pre-natal care and birth medical care); (d) malnutrition in children, teenagers and pregnant and breastfeeding mothers; (e) people with Sexual Transmitted Diseases unable to access medical care; (f) risk of statelessness for children born in Colombia whose parents are Venezuelans in irregular migratory conditions; (g) difficulties to access emergency accommodation and decent housing (families living in the streets). (*Servicio Jesuita a Refugiados en Colombia* [SJR-COL], 2016).

People and families in need of international protection seeking refuge in Colombia

People in need of international protection (PNIP) do not rely on humanitarian guarantees while their applications are being reviewed. Some protection gaps and humanitarian needs are: (a) lack of support and follow-ups for refugee applicant cases to access rights, especially healthcare and education; (b) Colombian State delays in its response to asylum applications which extends the applicants vulnerable situation; (c) absence of humanitarian aid programs for extreme vulnerability cases; (d) lack of psychosocial support programs to mitigate the emotional impact caused by forced migration; (e) risk of statelessness to the children born during the waiting period.

People transiting toward other Colombian cities and countries in the region

It is becoming frequent that Venezuelans cross the border to go to other Colombian cities like Medellín, Bogotá, Cali, Ibagué, and Pasto. Likewise, they are also entering the country as their first stop on a longer journey towards other countries, like Ecuador, Perú, or Chile. For these people, Colombia is sort of a "springboard country." They mostly claim "tourism" as the reason for entering the country. These types of migrants deal with informal labour conditions and often end up living in transport terminals while trying to solve their situation.

DEMOGRAPHIC FEATURES OF THE VENEZUELAN POPULATION IN COLOMBIA

First, there are more Venezuelan men (54%) than women (46%) in Colombia. For those who use the TMF, the balance is 53% men versus 47% women. For those who enter the country with their passport, the balance is 55% men versus 45% women. For those who travel with PEP, the balance is 55.8% men versus 44.2% women.

In regards to age, most Venezuelan migrants are young adults (18-40 years old), 64% use the TMF, 67% enter the country with their passport, and 76% use PEP (*Migración Colombia*, 2018b). Hence, most Venezuelan migrants are people of working age.

However, there are differences in gender and age accounted for by the census conducted by the Colombian government and are now registered in the Administrative Record for Venezuelan Migrants (RAMV by its acronym in Spanish for *Registro Administrativo de Migrantes Venezolanos*).

According to this record, there is practically parity in the gender of the Venezuelan population arrived in the country: 50.24% men, 49.67% women, plus a 0.1% transgender people (*Migración Colombia,* 2018b). Likewise, there is a higher percentage of minors, 26.83% versus 10% in previous surveys, indicating an increase in family migration.

Immigration policy and legal framework for refugees and migrants

The Colombian State has been very conservative in its migratory policies. In fact, there are institutional gaps in the design and implementation of these policies. The fact that the National Unit for Disaster Risks Management (UNGRD, as its acronym in Spanish for *Unidad Nacional para la Gestión del Riesgo y Desastres*) was the designated department responsible for assisting Venezuelan migrants is proof of that. Only when the humanitarian crisis reached one million migrants, and the consequences on the border territory and the rest of the country were evident, the government started to design and implement a more specific migratory policy that has increased attention to migrants, but it is still insufficient.

The different regulatory mechanisms created by the Colombian State are configuring the migratory dynamics in the border territories. On the one hand, people with valid passports may acquire an Entry and Permanence Permit (*Permiso de Ingreso y Permanencia,* PIP in Spanish), as well as a Temporary Permanence Permit (*Permiso Temporal de Permanencia*, PTP in Spanish) and a Visa. Additionally, because of the Venezuelan crisis and the increasing migrant flow, it is possible to apply for asylum. On the other hand, extraordinary measures are being taken in order to regularize migrants who do not have a valid passport with the issuance of the Border Migratory Card (TMF) and the Special Permanence Permit (PEP) linked to the *Administrative Record for Venezuelan Migrants* (RAMV) developed in 2018.

ENTRY AND PERMANENCE PERMIT (PIP)

The PIP is the authorization granted by *Migración Colombia* to the foreigner who does not need a visa according to the 1067/15 Executive Order. The PIP is granted to foreigners who do not need a Visa for 90 days. Ninety per cent of people who enter the country with their passport claim "tourism" as the reason. There are exceptional cases for the issuance of the PIP for shorter periods (30 days, 72 hours, 12 hours).

TEMPORARY PERMANENCE PERMIT (PTP)

The PTP is an extension of the PIP or, in other words, an extension of the time initially given when entering the country. The extension must be requested at least a few days before the PIP expires, and it is processed through the *Migración Colombia* website and granted just once. Foreigners entering the country as tourists and who do not need a Visa may request the permit, as well as those who need to attend to judicial or administrative affairs. In both cases, the PTP will be granted for 90 days.

People with these two permits may access basic health-care services: medical emergencies and treatment for preserving life. Newborns will have the right to a birth certificate, but will not have access to a Colombian nationality (Fundacolven, 2018). Children and teenagers have access to educational institutions and adults may access technical training through the *Servicio Nacional de Aprendizaje* (SENA)[8]. Likewise, they may legally validate their studies in Colombia according to Resolution 20797 from 2017. They are not allowed to work or use banking services.

ENTERING THE COUNTRY WITH A VISA

Venezuelan citizens may apply for any of the following visas: (1) Tourist (entering the country and staying temporarily, cannot stay permanently); (2) Migrant (entering and staying in Colombia during which the person is not yet fit for applying for a residency visa); (3) Resident (entry and staying in Colombia indefinitely).

Visas allow migrants to access social security (a maximum of 30% wage deductions) and acquire birth certificates and nationality if one parent is a Colombian national. Similarly, they can legally validate their studies, have the right to work (depending on the type of Visa), have access to banking services with foreigner ID cards (*cédula de extranjería*), have the right to study at the National Learning Service (SENA), and children and teenagers have access basic primary and secondary education.

APPLY FOR ASYLUM

According to Executive Order 1067 from 2017, Venezuelans who wish to acquire refugee status must prove one of the three established situations (Cartagena Declaration on Refugees, 1984). Even though it has signed

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8   Colombian Learning National Service.

refugee pacts, the Colombian State does not grant asylum very easily. As a matter of fact, very few applications have been approved. According to the *Cancillería*[9], from 2010 to 2017, 2,073 people applied for asylum, of which 911 were Venezuelans. However, just 57 were granted (*Consultoría para los Derechos Humanos y el desplazamiento* [CODHES] et al., 2018).

SPECIAL PERMANENCE PERMIT (PEP)

This permit lasts for 90 days and is renewable for two years without any cost to the applicant. Once the duration of the permit is over, the Venezuelan citizen must leave the country. The Colombian State has granted this permit only twice. At first instance, from 28 July to 31 October 2017 the permit was granted to benefit Venezuelans that had entered the country through an authorized border-crossing point by presenting their passport with their PTP having expired in the interim. This measure also benefited Venezuelans who claimed status as tourists upon entering Colombia and needed to stay in the country. Some 68,857 people benefited from this measure. The second period lasted from 7 February to 7 June 2018; the third from 2 August to 21 December 2018; and the fourth period from 27 December 2018, to 1 January 2019 (*Migración Colombia*, 2019a). The total people benefiting from the permit have been 551,134, of which 482,259 were in 2018.

ADMINISTRATIVE RECORD FOR VENEZUELAN MIGRANTS (RAMV)[10]

The RAMV wants to collect more information about the Venezuelan migratory flow in Colombia. This data will be used for designing an integral humanitarian assistance policy, according to Executive Order 542 from 21 March 2018. RAMV was conducted from 6 April to 8 June 2018.

People who have had their asylum application approved, PEP and RAMV-PEP may grant them access to medical-care services and social security (basic medical-care, medicine and treatment for preserving life). Likewise, depending on their income, they may be enrolled in a subsidiary protection regime or contributory system. Newborns in Colombian territory may request birth certificates and a civil registry, but they will not acquire a nationality. Additionally, people with one of these three statuses may study in SENA.

9 Translator's note: this is the name of the Ministry of Foreign Affairs in Colombia.

10 Soon to be PEP.

BORDER MIGRATORY CARD (TMF)

The TMF was created in 2017 by the Colombian government. Any Venezuelan adult, teenager, child, or resident residing in previously mentioned territories may attain the TMF through pre-registration temporarily allowing them entry and transit through the Border Territory. The TMF only allows transiting the border territory (Cúcuta), access to basic emergency services (excluding medicine and treatments in public hospitals), a birth certificate, a civil registry without the right to claim nationality, and access to the public education system for children and teenagers. Other rights are not claimable with the TMF.

The human rights situation for Venezuelan migrants

Institutional fragility, lack of effective policies, non-compliance of international treaties, and territorial violence are the factors putting Venezuelan migrants at risk. The migratory flow from Venezuela to Colombia by land implies high risks for Human Rights violations against people who cross the border through authorized check posts and especially those who cross in irregular conditions. Children, indigenous people, and other minority communities are particularly vulnerable. Since the work of JRS-COL, different international and regional Human Rights organizations have raised awareness about the Venezuelan migratory situation and its consequences on human mobility. They have appealed to the Inter-American Court of Human Rights to denounce Human Rights violations caused by the food and health crisis, which have triggered the migratory flow and the massive request for international protection.

Some gaps in protections that migrants face have already been mentioned, including the difficulty in accessing healthcare and education. This section will focus on three circumstances demonstrating that Human Rights violations against Venezuelan migrants are increasingly being committed.

ETHNIC GROUPS AND INDIGENOUS PEOPLE

Several indigenous, bi-national communities straddle the Colombian-Venezuelan border, with ancestral ties to the region. According to reports from *Defensoría del Pueblo,* these aboriginal groups (Yukpa, Wayúu, Barí, among others) have particularly suffered food insecurity as well as high mortality rates of disease and malnutrition in children under the age of five. CODHES et al. (2018) denounced the situation of the Yukpa people who

have had to migrate to Cúcuta from Serranía del Perijá. These are a semi-nomadic people who have lived between Colombia and Venezuela for years. Being that they are a bi-national people mostly settled in Venezuelan territory, they have been affected by the social, political, and economic crises in the country. These crises have forced them to migrate to Colombia, seeking to satisfy their basic needs. They have endured poor health conditions, insecurity, and abandonment (no drinkable water, or decent housing or medical-care attention and living in the streets). They have been victims of landmines, illegal armed groups, hostilities; their leaders have been murdered, suffered from degrading treatment from institutions in both nations.

Consequently, their cultural transmission and their organizational and communitarian practices are being affected as well. There is a rising number of children with respiratory and diarrheic diseases. Some international humanitarian organizations have requested interim measures from the Inter-American Commission on Human Rights (CODHES et al., 2018).

GENDER PERSPECTIVE. RISK SITUATIONS FOR WOMEN

Venezuelan women are experiencing higher risks every day. State protection measures are not enough. Forty-nine per cent of migrants are women of whom a majority are heads of households travelling with children and teenagers. They often endure difficulties to get resources and satisfy their basic needs. In the border territory, these women are vulnerable to prostitution and human trafficking networks and other illegal groups, and though there are no official figures, many of them are minors. In addition, Venezuelan women are increasingly being sexualized all over Colombia. Some of these women are now webcam models.

Additionally, The presence of pregnant Venezuelan women in Colombia is rising due to the lack of pre-natal controls in Venezuela. It is estimated that there are more than 8,200 Venezuelan pregnant women in Colombia who have entered the country irregularly (*Migración Colombia*, 2018b). Of these 8,200, more than 6,300 have not had any medical appointments (CODHES et al., 2018).

RISKS OF XENOPHOBIA OUTBURSTS

In Colombia, xenophobia is present in various social, political, and economic sectors, encouraging hate, segregation, and expulsion speech, which places the migrant populations at risk, who not only have to suffer the challenges of migration itself but also the rejection of many sectors of the host

community. Hate language is being used to reference migrants, portraying them as "the enemy." In Colombia, expressions like "*Veneco*,[11]" "Thiefs," "Illegals," "Socialists,[12]" "Invaders," "*Hambrientos*[13]" are becoming commonplace. These expressions are used as a way to reject migrant population activities and how they generate an income for necessities. Those activities occasionally compete with Colombians who are also in vulnerable situations. Media has echoed this characterization of Venezuelan migrants increasing levels of rejection that in some situations, may result in violence.

Conclusions: challenges and humanitarian and policy propositions

From a Human Rights defence perspective, some recommendations must be made. Likewise, suggestions regarding the legal and political frameworks on dealing with the migratory flow situation should be considered as well. Finally, specific guidelines on humanitarian assistance and other measures for migrants will be mentioned.

Colombia is a country of migrants. The internal armed conflict triggered the migration of millions of Colombians inside and outside its borders. Colombia has also been a transit and a destination country for migrants of many nationalities and nowadays, for Venezuelans migrants. This is a reality that needs to be accepted with humanity and political, social, and economic responsibility. Above all, Colombia must act as a State with the Rule of Law, a guarantor and protector of human rights, willing to receive and integrate migrants.

A. The Colombia State must take measures to expedite procedures for the regularization of applications, specifically asylum applications. People who need international protection, their applications are often and systematically denied after waiting two years; and once the application is denied, they are compelled to abandon the country. Thus, a reform to Executive Order 1067/15 that allows the PNIP to work is necessary to be

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11 Translator's note: this a Colombian insulting word for "Venezuelan."

12 Translator's note: Given the guerrilla war history in Colombia, "Socialist" or "Communist" are words often used as insults.

13 Translator's note: there is no appropriate word in English for this. *Hambriento* literally means "starving" or "hungry", but in Colombia, this word has an insulting nuance. It is used to refer, more or less, to someone that will take all the food for him or herself regardless other's people needs or rights.

able to move within the national territory. It needs to increase access to rights, reduce procedural times, and at the same time, incorporate clear and precise guidelines of protection under International Humanitarian Law and Human Rights. Of course, from a differential approach, this would serve all people and not just those from Venezuela.

B. We suggest the creation of mechanisms to grant entry to the country through means of transit permits and humanitarian visas and not solely through passports. This would guarantee safer and more organized border-crossing points that would reduce entrance into the country through irregular cross-points that put lives at risk, especially the lives of children and women.

C. We recommend to reform laws and migratory and return policies so internal conflict victims who wish to return to Colombia may receive proper care as well as humanitarian assistance and integration programs with a differential approach.

D. It would be convenient to train officers from different public and private institutions (financial, health, education, and media sectors) to ensure the protection of fundamental rights and to promote the integration of immigrants.

E. It is essential to implement efficient processes of labour inspection so employers who may be abusing migrants and violating their right to decent work can be sanctioned. Likewise, it would be convenient to implement employment programs as well as financing productive projects or training programs so migrants may be employed in Colombia.

F. It is recommended to give Colombian nationality to every child born in Colombia regardless of the migratory status of their parents to reduce the risk of statelessness.

G. It is suggested that programs for humanitarian assistance be created, specifically for women, children, sick people, or those who may be at risk in the border territory. In the same way, it is crucial to establish sanctuaries for migrants so that programs may be developed to prevent violence, human trafficking, forced recruitment, sexual exploitation, and other risks.

H. Regarding indigenous peoples, like the Yukpa, the Colombian State must recognize the international instruments ratified by Colombia. These communities require special attention and need to be protected as they are bi-national and cross-border groups while respecting their practices and cultural beliefs and the need for a territory where their rights may be restored.

I. It is recommended to implement multi-sectoral committees in government (national and local) and civil society organizations with the international observation that will enhance concrete policies to protect fundamental rights at the border.

J. It would be convenient to promote, with regional countries, the ratification of international conventions, especially the Declaration of Cartagena. It is important to take diplomatic and political cooperative action to protect the communities in the border territories.

These actions, propositions, and recommendations have been collected from the voices of multiple civil society organizations who are aware of the humanitarian crisis in both countries, especially in Venezuela where the political, social, and economic situations have transformed the migratory flows in the entire region. The efforts of Colombia to adjust its migratory policies are still not enough given the magnitude of the crisis. It is fundamental that the States of the region not only recognize the severity of the migratory crisis they are facing but also that they must take measures to protect migrants and ensure their well-being.

Clearly, the region faces pressing challenges. The borders cannot continue to be factors of separation and disunion that sometimes divide communities. Borders can be bridges to unite different worlds for the development of "cross-border subjects" open to interculturality and agents of change in their territories committed to a more just, inclusive, and fraternal society. Therefore, the Jesuit Refugee Service (JRS) works integrally in assisting migrants, the displaced, and refugees not only to respond to the current humanitarian crisis given the growing migratory flow but also to offer long-term solutions that empower migrants when facing these challenges. Consequently, it is fundamental to reduce and prevent xenophobia by intervening carefully and strategically; such strategies include a Do No Harm approach, linking human rapports, values, cooperative behaviours,

solidarity, and co-responsibility among institutions in the educational and other sectors. It is necessary to promote and to shape citizens who are aware, who are solidary, and who will work for human dignity. It is necessary, as Pope Francis (2017) tells us, to educate citizens that can receive, protect, promote, and integrate migrants from wherever they may come.

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Introduction

A naïve mother with a child is dispossessed of her home and ferried away; a man is disowned by his government after toiling in his country for four generations because of his ethnicity; a little girl can no longer pursue her education because her school was bombed; and a young boy behind fences might never see his friends again because he is unsure if they survived the war. These are the 'population of concern': refugees and stateless people demanding the immediate attention of international communities and hoping for swift action towards reconciliation. "Refugees in South Asia: Issues and Concerns," presents the history, origin, and plight of the refugees and stateless people in South Asia, living in camps or dispersed throughout host countries and in their own countries, living in gripping fear and disillusionment. The focus population of concern in this journal include Afghans, Sri Lankan Tamils, Rohingyas, Chin, Hajong, Chakma, Tibetans, and counting. The interventions made by Governments through their policies, UN agencies, international NGOs (INGOs) and other civil society organizations presented in this journal offer affirmative propositions for those who wish to collaborate. Furthermore, suggestions on a positive course of action towards the rehabilitation of refugees and stateless people and proactive participation from host countries are integrated with the best of intentions.

South Asia has all four categories of populations of concern (i.e., Refugees, Stateless Individuals, Internally Displaced Persons (IDPs), and Mixed Migrants) for international humanitarian agencies and many countries worldwide. Countries in the region both receive and produce refugees (India, Bangladesh, Pakistan, and Nepal). Some refugees have lived from more than six to three decades in host countries such as Tibetans (in

India and Nepal), Sri Lankan Tamils (in India), Afghans (in India, Iran and Pakistan), Biharis (in Bangladesh), Rohingyas (Bangladesh and India), and Chin (India and Malaysia). Statelessness is another reality of South Asia. Additionally, the number of IDPs is swelling as the conflicts in South Asia are proliferating. In these situations, people are forced to live like refugees within their own countries because they cannot cross a border to safety. In mixed migration situations, people leave their countries for economic reasons and settle in countries in which they seek work.

This chapter on 'Refugees in South Asia: Issues and Concerns,' is designed to present an overview of the Condition of Refugees and Stateless People in South Asia. The discussion on the different refugee groups hosted by South Asian countries intricately deals with the presence of refugees in India from other countries. In addition, it deals with the condition of Stateless people in Asia by highlighting two countries (Bangladesh and Sri Lanka) that systematically worked to reduce statelessness. Apart from the statistics, this presentation will discuss refugee history and the problems they face in their host countries. Their challenges are also listed in the presentation.

Refugees in South Asia

South Asia is comprised of eight countries according to the SAARC (South Asian Association for Regional Cooperation). Previously there were seven countries (India, Pakistan, Bangladesh, Nepal, Bhutan, Maldives and Sri Lanka) when SAARC was founded in 1985. However, Afghanistan was not a founding member then, of SAARC, but joined later in 2007. The experience of South Asian countries is one of hosting substantial refugee populations. India hosted close to 5 million in 1971 when refugees were pouring into India during the Bangladesh liberation war. Pakistan hosted closer to 5 million refugees when Russia invaded Afghanistan in 1979. Nepal has hosted Bhutanese refugees and Tibetans. South Asia (SA) was a sub-continent that produced and received refugees. The refugee population in SA originated mostly from the South Asian region, besides the small number of refugees coming from African and Middle Eastern countries. Except for Afghanistan, none of the countries were signatories of the 1951 Geneva Convention or the 1967 Protocol. Unfortunately, SAARC has never addressed the refugee problem in any of its meetings.

PAKISTAN

Pakistan has been hosting the world's largest refugee population, especially Afghans, since the invasion of Afghanistan by the Soviet Union in 1979. Strangely enough, unlike Afghanistan, Pakistan is not a signatory to either the refugee convention or protocol. Nevertheless, they serve as host to one of the world's largest refugee populations (in the early 1980s soon after Soviet invasion of Afghanistan), among whom Afghans comprise the majority; however, many have managed to be repatriated through UNHCR initiatives. A large number of remaining Afghans continue to live in tents or temporary shelters in shantytowns, while some have integrated into the host country and are well suited. In fact, the repatriation process of Afghans returning to their country from Pakistan has been one of the largest in the world. In March 2002, the UNHCR mobilized around 4.1 million registered Afghans from Pakistan, which indirectly implies that there are a large number of unregistered Afghan refugees living in the country. According to the UNHCR (cited in Kheshgi, 2018), there are 0.4 million Afghans still living without legal documents. The northwestern Khyber Pakhtunkhwa province of Pakistan is where Afghan refugees are concentrated. To avoid the plight of 'statelessness', the Pakistan government has issued Afghan Citizen Cards to around 0.9 million Afghans. In addition to refugees from other countries, Pakistan has many IDPs since it is prone to war and natural disasters.

NEPAL

A country located amidst Tibet, Bhutan, and India, hosts Tibetans, Burmese, and Bhutanese refugees. Only in recent years have the Bhutanese began to move to third-country settlements in the US, Australia, Canada, Denmark, Netherlands, New Zealand, Norway, and the United Kingdom. Furthermore, there are two groups of Tibetan Refugees in Nepal: a) Refugees who sought shelter before 1989 and b) Refugees who came after 1989. In the first case, Nepal officially denied letting refugees stay in the country hence, leaving Tibetans in Nepal without official recognition as refugees. However, Nepal permitted Tibetan refugees who arrived after 1989 to go through its territory to migrate to India. The UNHCR, through an informal agreement, facilitated hassle-free migration to India.

By the end of 2010, the Government of Nepal supported the UNHCR's proposal towards the consolidation of refugee camps. In collaboration with

the government, the UN Country Team, Non-Governmental Organisations (NGO), and other stakeholders implemented the Community Based Development Programme (CBDP), an inter-agency strategy to rehabilitate refugees.

BANGLADESH

From its inception as a country, Bangladesh has hosted the 'Urdu Speaking Biharis' as refugees. There are around 250,000 Biharis in Bangladesh living as urban refugees in camps. Although their origin is from the Indian State of Bihar, a part of the population opted to stay in Pakistan in 1947, which later became part of Bangladesh. Thus, the 'Urdu Speaking Biharis' have been living in Bangladesh as 'stateless persons' since the country's independence.

Besides, a little over 671,000 Rohingya refugees have arrived in Bangladesh since August 2017 and continue to arrive. Though the Bangladesh government has denied them the right to be registered as refugees, many continue to live near Cox's Bazaar, near the southern coast of Bangladesh. In fact, the Kutupalong-Balukhali in Ukhia is identified as a mega camp for refugees, making it the largest and most populated refugee settlement camp in the world. The other locality is Nayapara in Teknaf, located close to the Dhumdhumia village, which is also in Cox's Bazaar. Refugees International says that approximately 29,000 Rohingya live in official camps, while another 200,000 are in unofficial camps (Ganguly & Miliate, 2015). Around 80,000 more Rohingyas are expected to arrive in the latter part of 2018.

Pakistan, Nepal, and Bangladesh are not signatories to the 1951 Refugee Convention (Geneva Convention) or the 1967 Protocol. There is no regional mechanism at the South Asian Association for Regional Cooperation (SAARC) level to protect refugees, so the refugees are left with the archaic colonial laws such as the 'Foreigners Act'. As none of the countries are signatories of the Refugee Convention (1951) and to the Protocol (1967), each country in the region handles refugees according to whatever suits them best. In the absence of a refugee policy at the national level, (that has protection as its core), it would be desirable to have one at the regional level.

Reduction of statelessness in South Asia

The problem of statelessness exists in South Asia with the following groups: the Rohingyas in Myanmar, Bangladesh, and India; the Tamils in Sri Lanka

and South India; and the Urdu Speaking Biharis in Bangladesh. None of the South Asian countries is a signatory of the 1954 Convention relating to the Status of Stateless Persons, which is designed to ensure that stateless people enjoy certain fundamental human rights. It establishes the legal definition of a stateless person as someone "not recognized as a national by any state under the operation of its law" (UNHCR, n.d.). In other words, a stateless person is someone who does not have a nationality. The 1961 Convention on the Reduction of Statelessness aims to prevent statelessness and thereby reduce it over time. It establishes an international framework to ensure the right of every person to a nationality. It requires that States establish safeguards in their nationality laws to prevent statelessness at birth and later in life. There were 83 States party to the 1954 Convention in November 2014, and there were 61 States party to the 1961 Convention. Bangladesh and Sri Lanka, have successfully addressed the issue of statelessness and have reduced statelessness to nil.

Refugees in India since independence: A historical perspective

India is a refugee receiving country. It has welcomed the Tibetans, Sri Lankan Tamils, Afghan Sikhs, Pakistan Hindus and Christians, and Chakmas from Bangladesh as refugees; it has also hosted other refugees from Afghanistan, Myanmar, and from African and Middle Eastern countries. The story of refugees in independent India begins with the partition of the country in 1947, which resulted in the displacement of millions of people on both sides of the newly delineated border. The partition-related massacres and migrations represent an unfolding human tragedy of enormous proportions. India's democratic polity, large size, secularism, federal constitutional structure, porous borders, and better economic opportunities account for the flow of refugees into India. There are approximately 209,234 refugees in India as per 2016 UNHCR figures. They include 44,000 from Myanmar (Chin and Rohingya); 13,381 from Afghanistan; 672 from Somalia; 1,483 from Syria, Iraq, and Sudan; 1,10,095 from Tibet; and 64,689 from Sri Lanka (as of 31 May 2015) approximately (UNHCR, 2016).

India has always been a host to refugees coming from many countries. It has taken centre-stage of South Asian refugee management. In fact, academic circles often raise the question as to why India does not generate refugees itself. This question assumes more significance, particularly

because India has been one of the States most prone to violence in South Asia. India continues to suffer from a variety of violent movements like the Naxalite movement (throughout the Red Corridor of Bihar, Jharkhand, Chhattisgarh, West Bengal, Andhra Pradesh, and Karnataka); communal caste clashes; and separatist movements in Punjab, Kashmir, Assam and several other parts of the country.

One of the possible reasons could be the large size of the country with an accommodative federal structure in which the constituent States have more independence and political space. Aside from this, each State has a pluralistic ethnic and communal composition, thereby insulating them from the violence that occurs in the places of origin of the displaced/fleeing person. This enables them not only to accommodate those fleeing but also to remain unaffected by the violence.

REFUGEES OF PARTITION: INDIA AND PAKISTAN

Though those who crossed over the newly formed boundaries (by choice or forcibly) between India and Pakistan did not lose their nationalities, they were still forced to live the lives of refugees. Refugee camps across north India served as homes for those who had withstood the worst of the Partition. Since these refugees were automatically the citizens of a newly independent India, the matter of them being a threat to national security due to their presence was discarded. Later, however, when the fledgeling state was trying to stand on its own two feet and struggling to provide these refugees with basic amenities (e.g., food, clothing, and shelter) the 1948 war with Pakistan broke out. The national capital of Delhi, in particular, saw a massive influx of refugees. The numbers were such that an entire city, Faridabad, had to be built to rehabilitate refugees who were living in appalling conditions in various camps.

TIBETAN REFUGEES

The next major movement of refugee to India occurred almost a decade after Partition in 1959 when the Dalai Lama, along with more than 100,000 followers, fled Tibet and arrived in India seeking political asylum. The granting of asylum to Tibetans on humanitarian grounds proved challenging to India earning the ire of the Chinese government. As a result, Sino-Indian relations took a significant blow. Border issues between the two countries and Chinese encroachment on Indian Territory began to arise with higher frequency in the wake of New Delhi's decision to provide a haven to these fleeing Tibetans.

The granting of political asylum to Tibetans was certainly one of the triggers of the 1962 war with China. The Tibetan refugees settled across northern and northeastern Indian States and the seat of the Dalai Lama, the spiritual and the political leader of the Tibetan community, was established in Dharamshala, Himachal Pradesh. The exiled Tibetan government operates from Dharamshala to this day. In places allotted as settlements, the Tibetan refugees relied on both agriculture and industrial activities, which eventually failed due to lack of technical skills, poor management, and insufficient funds. Fortunately, many Tibetans were familiar with traditional Tibetan handicrafts such as weaving carpet, apron making, and incense work, so settlements in northern India were created focusing on said skills.

One of the challenges faced by the Tibetans is the lack of valid travel documents when travelling to India through Nepal, which makes it difficult for them to find a legal residence in India. According to the United States Bureau of Citizenship and Immigration Services (2003), at the onset of arrival, the Tibetans were granted residence permits. However, newcomers endured a 'time consuming and arduous' (United States Bureau of Citizenship and Immigration Services, 2003) process to obtain residence permits legally. Due to the complications of obtaining a legal permit, most resort to illegal means through either bribery or providing false details to facilitate the process.

In South Asia alone, there are fifty-two settlements of which thirty-five are in India. Approximately 122,078 Tibetans are living around the world, and 85,000 live in India. However, in the 1990s, many started to migrate, especially to the United States, which resulted in having to support families living in the country of origin financially. On a positive note, the Tibetan refugees living in exile rank as one of the most successful refugee communities in the world, with the aid of the Dalai Lama and the Tibetan Government in exile. In addition, the UNHCR and the Government of India have acknowledged Tibetans in exile as refugees and have facilitated resettling them away from their homeland. The Tibetan refugees continue to live harmoniously, largely with other local Indian groups and are perceived as a 'peaceful' community.

BANGLADESHI REFUGEES

The next major refugee crisis happened during Bangladesh's war of independence in 1971, when millions of refugees migrated from their country

to India, fleeing the conflict between the Pakistani army and Bangladeshi forces. This led to a sudden spike in population in States bordering Bangladesh, and it became increasingly difficult for the government of India to ensure food security. In 1971, more than 10 million refugees escaped from Bangladesh and took shelter in India.

Today, the constant struggle between the local communities and Bangladeshi refugees often sparks violence, resulting all too often in death. The conflict is fiercest in several northeastern states such as Assam, Tripura, and Manipur. The local communities and tribal groups have alleged that refugees from Bangladesh and the continuous flow of illegal immigrants have changed the social demography of that area, thereby making the locals a minority in their own homeland. This was one of the primary reasons behind the Kokrajhar riots in Assam in 2012, which saw the deaths of more than 80 people.

SRI LANKAN TAMIL REFUGEES

Another sizeable group of refugees in India are the Sri Lankan Tamils who abandoned their island nation in the wake of active discriminatory activities and policies by successive Sri Lankan governments, such as the Black July Riots of 1983 and the bloody Sri Lankan civil war. Most of these refugees, more than a million, settled in the state of Tamil Nadu, South India, as it was nearest to Sri Lanka and easier for the Tamils to adjust to life there. More than 134,000 Sri Lankan Tamils crossed the Palk Strait to India between 1983 and 1987 during the first inflow. More refugees entered India in three more phases. A large number of Sri Lankan Tamils still live in what began as makeshift refugee camps decades earlier despite the end of the civil war nearly nine years ago. India's involvement in the Sri Lankan conflict led to the assassination of former Prime Minister of India, Rajiv Gandhi.

When the civil war in Sri Lanka ended in 2009, a majority of refugees were expected to repatriate to Sri Lanka. However, the political instability in Sri Lanka made it highly improbable and dangerous for Sri Lankan Tamils to return to their country. Today, most of the refugees live in state-run camps, and those suspected of LTTE affiliation are detained in 'special camps,' while some live outside the camps. People who live inside the camps receive government aid and a ration of basic supplies and services such as free education, healthcare, electricity, shelter, and sanitation facilities. Those living outside the camps do not receive such subsidies and are often of the middle or upper-middle class. Refugees living inside the camps are

monitored constantly, and their movement is restricted. Due to the curfew imposed on them, job opportunities or chances to integrate with the local community are difficult. Hence, the jobs they find are usually minor and often being paid less in comparison to the local employees.

According to the UNHCR (2019), as of 1 January 2018, the total Sri Lankan refugee 'population of concern' was 61,812. The problems faced by the refugees are similar to those in other refugee camps: basic housing, sanitation, and water facilities are scarce. Many camps do not have emergency medical services resulting in tragic deaths in the camps. Education facilities are poor; and while the government makes efforts to improve the situation, the support is insufficient.

Nevertheless, the support extended by several NGOs has empowered Sri Lankan refugees with access to higher education and vocational skills. The Government of India has also reserved seats for refugees in Colleges, although there is no waiver of tuition fees. Currently, the plight of the Sri Lankan Tamil refugees continues to be insecure and unstable, which repeatedly strains the relationship between India and Sri Lanka. Only a marginal percentage of Sri Lankan refugees opt to be repatriated to their homeland while the majority prefer local assimilation or resettlement in a third country.

The prolonged confinement in the camps as well, as the inability to return to their homeland because of the lack of a favourable atmosphere, has left the Sri Lankan Tamil refugees with a feeling of deep frustration. This has resulted in the growing demands among them for a durable solution. In January 2018, a two-member team from India's Home Ministry visited the 107 camps of Tamil Nadu. During the visit, a specific section of Tamil refugees demanded Indian citizenship (Ramakrishnan, 2018; "Two-member central team visits refugee camp in Mandapam", 2018).

AFGHAN REFUGEES

While not one of the larger refugee groups in the country, some Afghans also took shelter in India after the Soviet invasion of Afghanistan in 1979. Small groups of Afghan refugees were continually arriving in India in the subsequent years following the Mujahideen civil war and the rise of the Taliban in 1994. Now, more than 60,000 Afghan refugees have largely established spaces for themselves, whose population is concentrated close to Delhi. However, since 1999 the Indian Government's Foreigners Regional Registration Office (FRRO) has refused to renew their residence visas.

This non-renewal policy by the Indian Government has instilled new fear in the Afghan refugees where their permits are no longer valid, marking them as illegal residents in India. The Afghan refugees are scared to travel fearing extortion or deportation by the Indian police. Unfortunately, the media has also contributed to stereotyping Afghans as terrorists in an attempt to 'Talibanise' South Asia, often blaming street crimes on them. India has not acknowledged Afghans as refugees, which means finding jobs or owning property is not possible. However, India has permitted the unhcr to conduct programmes and offer services such as providing emergency aid, vocational training, legal advice, resettlement assistance, job placement, and other basic amenities.

Nevertheless, according to (Bose, 2005), many of the Hindu and Sikh Afghans who came to India after fleeing the violence in their home country in the early 1990s have been granted citizenship over the past decade. The unhcr report (2019) suggest that currently, India has more than 200,000 Afghan refugees living in its territory.

rohingya refugees (in bangladesh and india)

The Rohingya refugees are a stateless Muslim minority who are subjected to exclusion, persecution, torture, and violence in Myanmar. The Rohingyas belong to the Sunni Muslim group, and they make up one-third of the Rakhine state's population in Myanmar.

They are deprived of their fundamental rights, and there is no freedom of movement. Basic health care, sanitation, and education are inaccessible. The Myanmar government does not recognise them as citizens. Violence between the community and Myanmar's military has forced nearly 700,000 people to flee to Bangladesh. After the recent military attack on Rohingyas in 2017, the un's top human rights official blamed Myanmar of carrying out "a textbook example of ethnic cleansing" ("Myanmar Rohingya: What you need to know about the crisis", 2020, para. 2) against the Rohingyas.

The Burmese Rohingya Organisation uk (2014) classified citizens by different categories: citizens, associate citizens, and naturalised citizens. In its census, Myanmar excluded Rohingyas from the list of the country's 135 official ethnic groups. The argument in favour of exclusion of citizenship states that those who can provide evidence that they or their parents entered and resided in Burma before independence in 1948 were eligible for citizenship (Rohingya Briefing Report, 2015).

Furthermore, under military rule, different laws were enacted aimed at excluding Rohingyas from citizenship rights. Two major laws were enacted which took away the constitutional rights of the Rohingya people: the 1974 Emergency Immigration Act and the 1982 Burmese Citizenship Law. The 1974 Emergency Immigration Act required every citizen to carry an identity card, called the National Registration Certificate, which the Rohingyas were ineligible to receive. They were treated under the Foreigners Act that provided limited rights and restricted opportunities (Warzone Initiatives, 2015). In 2014, the government conducted a census for the first time in 30 years. In the census, there was no provision for Rohingyas, and instead, they were labelled as 'Bengali,' thus granting the government authorisation to treat them as immigrants from another country. However, under international pressure, the government issued a white card, which permitted them to access some provisions, but the government has stripped them of their voting rights.

The government has sown the seeds of hatred in the hearts of Burmese citizens towards Rohingya Muslims. Frequent ethnic conflict and widespread attacks on Rohingyas have occurred and have been successful due to the cooperation of the locals. Making things worse, the government has ingrained disdain in its people towards Muslims. Since the violence in 2012, nearly 87,000 Rohingya have fled to different countries in unsafe and overcrowded boats, falling prey to human traffickers. Over 800,000 remain in the horrible and dangerous situation in Myanmar, while over 300,000 have fled to neighbouring Bangladesh (Warzone Initiatives, 2015). Nearly 40,000 Rohingya Muslims and a small group of Christians are in India. Currently, India considers them illegal settlers and not refugees. In the absence of a legal framework for dealing with refugees, India planned to deport them to Myanmar, but because of Supreme Court intervention, after two Rohingya refugees, Mohammad Salimullah and Mohammad Shaqir, petitioned the apex court in 2017, the Indian government was temporarily obliged to keep them. However, on the insistence of the Central Government of India, citing that the Rohingyas in India pose a 'threat' to national security, the Supreme Court rejected the petitions, forcing seven Rohingyas to return to Myanmar in 2018. The refugees reside in different parts of the country without valid documents making them more vulnerable to potential threats, violence, and poor living conditions. Systematically, the Myanmar government continues to take away civil and political rights.

The office of the UNHCR has issued identity cards to about 16,500 Rohingya in India, which says helps "prevent harassment, arbitrary arrests, detention, and deportation" of refugees (Das & Miglani, 2017, para. 2). However, India has categorised the Rohingya as illegal immigrants and a security threat siding with the Burmese government. The Indian government has stated that the principle of non-refoulement, or of not forcing refugees to return to their country of origin, does not apply to India principally as it is not a signatory of the 1951 Refugees Convention. The Indian government, in fact, has appealed to Myanmar to take back the Rohingya refugees. However, a report published on 24 September 2017, in *The Indian Express* notes the following:

> India's claim to send the Rohingyas back to Myanmar rests on the notion that the refugees are of Burmese stock. However, the issue at hand is that the Burmese do not consider the Rohingyas as their citizens and consider them instead as immigrants who were brought from Bangladesh during the British colonial rule. Further, Bangladesh, which remains the favourite destination for the Rohingyas facing atrocities in Myanmar, is of the opinion that they are natives of the Burmese state and should be protected there. (Roychowdhury, 2017, para. 2)

CHAKMA AND HAJONG REFUGEES

Despite their desire to be part of India, which was evident when the Indian flag was hoisted on 15 August 1947 in Rangamati, the Hill Tracts of Chittagong, the land was instead granted to East Pakistan. Three days later, the Pakistan army marched into the territory replacing the Indian flag with the Pakistani flag. Since that fateful day, the Chakma, a minority community, has suffered. Bengali settlers from the highly populated Bangladeshi mainland eventually began occupying their land, and the community spread out among Tripura, Mizoram, and Arunachal Pradesh. The Chakma, also known as Changma, form part of the Tibeto-Burman language family. A population of 300,000 Chakma live in the Rangamati and Khagracchari districts of Chittagong Division in Myanmar.

The word 'Hajong' is speculated to mean, 'people of the high hills'. In a news article titled, *Chakma and Hajong Refugees – India's New Citizens* published on 18 September 2017, in the *Times of India,* explained that the Hajongs, like the Chakmas, were residents of Chittagong Hill Tracts.

However, when the Kaptai dam project flooded their land in the 1960s, a religious persecution ensued forcing them to flee. The Chakmas adhere to Buddhism and the Hajongs to Hinduism. In addition, the Chakmas speak Bengali-Assamese, and the Hajongs speak Tibeto-Burman scripted in Assamese. When the Chakma and Hajong entered India in 1964, there were only 15,000 Chakma and around 2,000 Hajongs, but the population has increased over the years ("Chakma and Hajong refugees - India's new citizens", 2017).

Many from the Chakma and Hajong communities who once lived in the Chittagong Hill Tracts (CHT), most of which are located in Bangladesh, have been living as refugees in India for more than five decades, mostly in Northeast, and West Bengal. According to the 2011 census (cited in The Hindu Net Desk, 2017) 47,471 Chakmas live in Arunachal Pradesh alone. In 2015, the Supreme Court of India directed the central government to confer citizenship on both Chakma and Hajong refugees. In September 2017, the Home Ministry of India announced citizenship for these groups despite opposition from many groups in Arunachal Pradesh, where these refugees are concentrated.

CHIN REFUGEES

Increasing militarisation and Burmanisation after the 1988 declaration of martial law has led to decades of arbitrary arrests and repression throughout Myanmar. The Chin consider their religion and ethnicity to be inextricable, and Christianity permeates every facet of Chin life, including their political beliefs. It is both their ethnicity and religion that has resulted in severe persecution from the military-ruled government in Myanmar (CHRO, 2012).

According to the Physicians for Human Rights (2011), around 91% of the surveyed Chin performed forced labour. Burmese government soldiers accounted for all rape cases—one out of seven surveyed households reported torture and inhumane treatment by government soldiers. Another crime against ethnic Chin Christians is that over one-third of forcible conscriptions are children under 15. The spread of famine in their homeland forced the Chin community into exile. Some fled to Malaysia; however, over 100,000 reportedly crossed into the neighbouring north-eastern Indian State of Mizoram, where they suffered discrimination, detentions, and massive deportations.

The military junta controlled Burma until 2012 when a semi-civilian government was elected to power and a ceasefire was declared in

some ethnic areas, including the Chin State. However, the influence and power of the military are still felt in Burmese politics, and the militarisation of the Chin State continues today. Many Chin continue to distrust the government and this, along with on-going trauma and fear, keeps them in India. The figures on the current number of Chin refugees in India are questionable. According to the UNHCR office in New Delhi (as cited in Martinez Cantera, 2017):

> There are 21,000 registered refugees and asylum seekers from Myanmar, but only about 3,300 of them belong to the Chin community. However, the Delhi-based Chin Human Rights Organisation (CHRO) counts 20,000 Chin living in Indian soil, of which 4,500 are settled in the capital. (paras. 13-14)

The majority of Chins reside in West Delhi in the urban colonies of Vikaspuri and Janakpuri. They live in crowded, unhygienic accommodations comprised one-room apartments shared among an average of four people (The Other Media, 2010). "The Chin in Delhi face insecurity due to their refugee status, diminished opportunities for third-country resettlement, lack of sustainable livelihoods, deplorable living conditions, discrimination, and chronic poverty" (Bartolomei, 2015; Jops, 2017; Xavier & Moraes, 2013). Sexual and Gender-based Violence (SGBV) against Chin refugee women has been reported continuously over the past ten years. The situation, however, shows little sign of abating and SGBV remains a real threat for many Chin women residing in Delhi (Jops, Lenette, & Breckenridge, 2019).

Condition of refugees in India

Since its independence, India has protected and assisted millions of refugees. India has been an important source of refugees and asylum seekers for over several years. During the partition in 1947, 14 million persons were displaced, and there remains a group of refugees known as 'partition refugees.' In 1959, the Tibetans began arriving in India, resulting in the Indo-Chinese War. India, as an independent country, started its journey with the partition refugees. Its greatest challenge was when Bangladesh (East Pakistan) refugees poured into India in 1971. However, this was a temporary phenomenon as they returned when the new country Bangladesh was born.

India also received refugees due to the Soviet Invasion of Afghanistan (1979). Apart from those, two of the largest refugee groups currently in India are the Sri Lankan Tamils and the Tibetans. The Sri Lankan Tamils had sought asylum since 1983 when the first ethnic conflict broke out in Sri Lanka between them and the Sinhala.

The other refugee groups include Myanmarese, Palestinians, Bhutanese, and Afghans. The previously mentioned groups are treated as 'foreigners temporarily residing in India' and as such, they are not eligible for any assistance and protection. The differential treatment raises the question of how India views refugees and their protection. India's refugee policy is also discriminatory as Tibetans are provided with a full rehabilitation package; the Sri Lankan Tamils are given asylum and some permission to stay outside the camp. The rations (camp allowance and provisions) that are given to Sri Lankan refugees and Chakmas differ significantly.

Sri Lankan Tamil refugees have been in Tamil Nadu since 1984 when there were over 73, 572 refugees in 115 camps; apart from close to 30,000 refugees living on their own. The government of Tamil Nadu unveiled a package of Rs.1 billion in November 2009 to ameliorate the situation of Sri Lankan Tamil refugees in Tamil Nadu. Rs. 546 million was to be utilised to construct new houses for Sri Lankan Tamil refugees and Rs. 454 million to be spent in the first phase to create additional facilities in the camps. It included a free colour TV and other welfare measures like the Chief Minister's insurance scheme and marriage assistance. The details of the package were based on an article about refugee camp conditions in Tamil Nadu in the *India Today* magazine. The government has also lifted the ban on the movement of refugees and asked the Union government to consider the Sri Lankan Tamils as permanent residents. The camps in Tamil Nadu are under the jurisdiction of the Department of Rehabilitation, which denies the entry of any non-governmental organisation or civil society groups to work in the camps. Exceptions are the Jesuit Refugee Service (JRS), which provides education in all the camps to the children and The Organisation for Eelam Refugees Rehabilitation (OfERR). OfERR was founded in 1984 by refugees fleeing the Sri Lankan civil war, with the intent of empowering refugees who hoped to rebuild their home country upon return. They work in the camps catering to the social, economic, mental health, educational, and infrastructural needs of the refugees.

The International Convention of Refugees and refugee policy

India is a signatory neither of the 1951 Geneva Convention (Refugee Convention) nor to the 1967 Protocol (it made the Convention Universal by abolishing the dateline). The UNHCR determines the status of individual asylum seekers and exercises its mandate over 12,746 refugees who are currently under its protection. As there is no national refugee law, current legislation applicable to foreigners is also applicable to asylum seekers and refugees.

One of the reasons India cited for not signing the 1951 Refugee Convention was the Euro-centric definition of the term 'refugee' arguing that the Convention only addressed cold-war refugees fleeing from communist countries to western democratic countries. The 1951 Convention focused on the political and civil rights, not on economic, social, and cultural rights of the refugees. Today, the countries that signed the 1951 Convention are now adopting strict immigration policies that virtually send asylum seekers to detention centres. The best way to protect refugees is to adopt national refugee legislation. Such legislation could be devised to address India's security and other social concerns. The official justification given by India for not signing the 1951 Refugee convention or 1967 Protocol is that the Convention defines refugees on an individual level, while India prefers to deal with them as a group. Over the years, regional politics and international relations have come to shape India's ad hoc refugee policy more than anything else. Hence, Sri Lankan Tamils and Tibetans are recognised and supported as refugees by the Indian government, while other groups like the Afghans and the Myanmarese are not.

The UNHCR itself was re-established in Delhi in 1981 with a limited mandate: to deal with the influx of Afghan refugees following the Soviet invasion since India did not wish to upset the Soviet Union by dealing with the refugees directly. Considering the sensitivities of national and regional politics in the sub-continent, the problem of refugees' crossing over to India cannot be totally disassociated from the overall security issues relevant locally. In order to end the discrimination and establish a refugee regime within India and the South-Asian region, the signing of the Refugee Convention of 1951 and the ratification of the 1967 Protocol is necessary. The signing will also give refugees in India (those recognised by the government as well as those groups that are not) protection. The signing will also end the discriminatory policy of the government towards various groups and bring them all under a one-refugee regime.

What India needs is a refugee policy at the national level. Asylum seekers and refugees should not be turned away. A national refugee determination system and government recognised refugee status must be granted; government-issued travel and identity documents, as well as greater freedom of movement within and outside India, are basic rights that a State should ensure refugees. As no country in the South Asian region is a signatory of the International Convention on Refugees, India by signing will set an example of suitable protection for refugees for other countries in the region.

The Citizenship (Amendment) Bill, 2016, introduced in Parliament on 19 July 2016, and awaiting passage, states that asylum/refuge-seeking Hindus, Sikhs, Buddhists, Jains, Parsis and Christians (the alleged persecuted religious minorities) from Pakistan, Afghanistan and Bangladesh would no longer be considered *illegal migrants* and proposes to ease the process of naturalisation (Das, 2019). The same Bill conveniently excludes from its purview refuge-seeking Muslims from Pakistan, Afghanistan, Bangladesh; and the refuge-seeking Hindus, Muslims, and Christians (the persecuted religious minorities) from such neighbouring countries as Sri Lanka and Myanmar.

Refugees in the context of conflict and terrorism

Some refugees in India are treated under the category 'illegal entrants,' and many are imprisoned until their official status is determined. In the absence of regular procedure, there is often a long delay before such entrants can be officially declared 'refugees' after which they may be offered shelter, food, and protection by the Indian government or by the UNHCR office in New Delhi. Refugee protection has become difficult in the context of terrorism and conflict. The ones who wish to leave are forced to live in the same country as IDPs (Internally Displaced Persons), and if they leave, the receiving country treats them as potential terrorists, where many are detained and sent to detention centres. Asylum seekers are to be respected and are not to be considered as terrorists. Within South Asia, the borders have been tightened so much that no national due to 'well-founded fear of persecution' would be in a position to cross the international border to seek asylum in a neighbouring country. The reason is that they are defined as terrorists or from terrorist-producing or harbouring countries. Some of them are treated as a security risk by the receiving countries and are either deported or sent to the detention centres.

Statelessness

A stateless person is one who does not have an identity, a nationality, or whose existence is not acknowledged by the government. The implications of 'state-lessness' include exclusion from access to basic amenities, such as lodging, which requires proof of existence, right to education which entails parents' identity, lack of job opportunities owing to parameters that only education can meet. According to the Brown (2016), the plight is described as,

> often they are excluded from cradle to grave—being denied a legal identity when they are born, access to education, health care, marriage, and job opportunities during their lifetime and even the dignity of an official burial and a death certificate. (p. 61)

STATELESS SRI LANKA TAMILS IN THE CAMPS

It was also found that there are about 25,000 to 30,000 Sri Lankan Tamil refugees who are stateless. The reason they were rendered stateless (Hill Tamils) in Sri Lanka was due to the pacts signed by the governments of Sri Lanka and India. However, before they could be repatriated from Sri Lanka to India, the civil war started in 1983. Some of the hill people who became stateless joined the Tamils of northern and eastern provinces in Sri Lanka, some reaching India as refugees. Consequently, the Sri Lankan Tamil refugee camps contain people who are stateless and cannot return to Sri Lanka.

NATIONAL REGISTER OF CITIZENS (NRC)

30 July 2018 was a nightmare for millions of Bengali-speaking Muslim immigrants. The names of 4,007,707 individuals in the State of Assam, with a population of 33 million, were left out in the second and complete draft of the National Register of Citizens (NRC) (PTI, 2018). People went to different districts, towns, and villages attempting to trace their ancestry that would suffice for the NRC's application. While the All Assam Students' Union (AASU) was in jubilation and celebration over the NRC report, many minorities belonging to Muslims and Hindus were worried about the immediate consequences. Individuals who could not prove that

they or their ancestors entered the country before midnight of 24 March 1971—decided as per the Assam Accord of 1985—were deemed as illegal immigrants (PTI, 2018).

Protection of the State, sovereignty, and providing security to its citizens are the paramount duties of government. There is no doubt about that. However, rendering hundreds of people stateless overnight and making them feel like illegal intruders is untenable and inappropriate. Papers and documents justified the identity and citizenship of persons rather than their language, cultural roots, ethnicity, land, property, and economic contribution to national growth over the years. For cultural, social, and historical reasons, people had crossed borders when the concept of the nation-state was absent, and the sense of border was fluid and porous. Partition and the Bangladesh war contributed to a mass displacement of people from across the border. People had to flee in different directions for no fault of their own, and the huge displacement led to the human malaise. However, corrective measures could have been adopted to patrol border areas with a sophisticated surveillance system to avoid intruders. Illegal entries could have been contained instead of tormenting and torturing the settlers who have considered themselves at home for decades.

DANGEROUS AND DIVISIVE EXERCISE

Some fair-minded critics reviewed the NRC and accused it of taking a Muslim-Hindu colour, an idea being proven by the provocative statement made by BJP leaders. Kailash Vijayvargiya -The General Secretary of the BJP in West Bengal said that the NRC would be undertaken in West Bengal and all metro cities in the country if the BJP comes to power (Staff Reporter, 2018). One of the right-wing groups in India, the Vishwa Hindu Parishad (VHP), also expressed similar views. The organisation spells out clearly and categorically that similar NRC exercises will be adopted in West Bengal and other States in India (Staff Reporter, 2018). The Assam model of ascertaining, demanding, and establishing citizenship creates an atmosphere of fear, apprehension, and division between Bengal and Assam. Such dangerous exercises facilitate parochialism and a ghetto mentality. Amit Shah, the President of the ruling political party BJP, determinedly and firmly said that its party is committed to expelling illegal immigrants from India.

Conclusions

We have provided an overview of the different refugees found in South Asia, along with analyses on how and why some people become refugees comparing the triggering factors that lead to exclusion and the 'conditional' acceptance by the host countries. Moreover, it has provided evidence for proactive measures to be taken by various organisations to reduce violence and curb the distress of the vulnerable. After this careful analysis, one must admit that some disturbing facts begin to surface. Firstly, at any point, any community can be pushed to becoming refugees and often for reasons beyond their control (i.e., ethnicity, language, ancestral holdings, tradition, sex, custom, or religion by birth). Secondly, the extent to which one group of people can inflict pain on another and even worse, when the institutions that should protect people turn out to be the aggressors, is chilling. While social scientists trace the preceding phenomenon that gradually produces hate and infuses prejudice before violence against a 'target' community breaks, it is always the defenceless that become vulnerable targets. However, this study also provides evidence of international communities stepping forward to stand by those in need. In addition to the on-going efforts, the lives of these refugees would be less challenging if organisations such as saarc assumed greater responsibility in working towards peace, security, and stability, especially when the consequences are regional.

In order to find solutions, States must advance on effective regional cooperation. This would include addressing the root causes in the countries of origin, providing more opportunities for local integration, and the strategic use of resettlement. States must be in partnership with civil society in South Asia to achieve this. Addressing displacement is not only a humanitarian issue. Also, humanitarian aid is only a temporary remedy. Humanitarian aid must be delivered while other, more sustainable solutions are explored that allows communities to be self-reliant and promote resilience. Responses to displacement should involve not only humanitarian actors but also consider development approaches that are rights-based and that enhance equality rather than entrenching or playing into the fault lines of existing ethnic, religious, social, and gender inequalities.

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Introduction

Migration plays an integral role in Australia's national mythology, the development of its ongoing nation-building enterprise, and to a large extent the reason for its success. However, it is also the subject of a deep-seated national apprehension premised on racism and xenophobia, fear of losing identity, land, wealth, status, and a perennial sense of geographical and cultural isolation. Journalist Peter Mares calls it a

> deeply held, yet irrational anxiety that Australia is perpetually in danger of being overrun; that our sovereignty is brittle and our borders are weak. It is as though this continent were a rickety lifeboat and all the world's oppressed and poor are desperately swimming towards us, threatening to drag us under. (Mares, 2002, p. 27)

The contradictory roles in the national collective psyche emanate from Australia's settler-colonial origins. There has always been a need to reconcile the triumph of European settlement and the concurrent violent dispossession of the continent's aboriginal people; the importance of continued immigration from Britain to consolidate the settlement endeavour; and the need to ensure that future settlement did not threaten the enduring status quo of British dominance (see Cruickshank & Moreton-Robinson, 2016; Lake & Reynolds, 2008). In practice, Australian immigration policy has been premised on a culture of control from Federation onwards (Manne, 2016). Successive Australian governments have always sought to facilitate the 'right' kind of migration while simultaneously seeking to curtail the 'wrong' kind.

This chapter considers the evolution of this culture of control and highlights its key manifestations as they appear on the Australian border today. We argue that while a culture of control has existed from Federation, the focus of today's exclusionary policies towards 'boat people' emerged in the 1970s.

Leanne Weber's typology will then be utilized to characterize the functional and spatial dimensions of a border control policy that has since been obsessed with the threat of irregular migration to this country. The extraterritorialization of border control, the interdiction functions that Australia employs on the high seas, and at its airports, the punitive policies towards those already in Australia's control and care, and the creative manipulations of space, territory, and sovereignty to justify the continuation of these policies will be considered.

Finally, several important recent statements by key international human rights institutions and leaders, which denote the human rights violations inherent in some of these policies, will be highlighted. Lastly, this chapter will conclude with a broad overview of the impacts we are witnessing first hand on the ground in Australia of the Jesuit Refugee Service (JRS).

It is important to note here that there is a vast and impressive amount of literature on the Australian border and Australia's migration control policies. Our historical overview is by no means a definitive or comprehensive account, but rather a way of denoting the shifts in the nature of migration control over time, and the pivot towards stopping the boats post-1970s. Similarly, our characterization of the border today, and the human rights violations highlighted are limited to specific developments with which we have a direct or indirect connection through our work at the JRS.

A historical overview of migration control in Australia

The individuals involved and the techniques of migration control in Australia have shifted over time. Here, we focus on a major qualitative shift that separates the pre-1970s regime from the period after, noting that the specific tenor of debate and policy has always been subject to the prevailing economic circumstances, public attitudes, parliamentary dynamics, elite consensus, and global migration trends of the day.

From the 1800s until the mid-1970s, race was the primary and overt basis for excluding migrants from settling in Australia. Governments exercised their sovereign authority to exclude, largely via discursive and socio-legal mechanisms. In the early post-Gold Rush economic downturn, thousands of Chinese immigrants, until then essential for the goldfield

economy, were vociferously targeted as cultural imposters competing for local jobs. Newspapers would report the Chinese as "importing the mindset of 'slavery'; threatening the democratic 'way of life'; bearing social malaise and sexual degradation; and being vectors of disease" (Mayes & Thompson, 2017, para. 11). By the early 1880s, British colonial outposts across the Pacific Rim were developing anti-Chinese immigration laws. In 1881, the New South Wales (NSW) government passed the *Influx of Chinese Restriction Act* to prevent Chinese people from making their way into NSW from goldfields in Victoria and Queensland (Thompson, 2011). By the time of Federation in 1901, approximately 98% of people in Australia were of British Caucasian heritage, and the majority wanted to live in a country that remained true to its British customs and roots, whilst also limiting labour competition from Asia and the South Pacific (Jones, 2017). It was in this context that Australia's first passed the *Pacific Island Laborers Bill* and *Immigration Restriction Bill* in 1901 with bipartisan support (Neumann, 2015, p. 11). The Immigration Restriction Bill became the legal cornerstone of the White Australia Policy. It did not explicitly discriminate against particular races; however, it instituted an 'education test' whereby anyone unable to write a short paragraph in English or another European language could be deemed a prohibited immigrant (Neumann, 2015, p. 15).

In the first seven decades of the 20th the overwhelming majority of migrants were subject to the limitations imposed by the White Australia policy (Neumann, 2015, p. 11). Prospective refugees did not receive any concessions. For example, in 1916 when the Brisbane Hebrew Congregation enquired whether Australia would resettle Polish and Russian Jewish refugees, they were told that all Jewish immigrants would have to meet the normal criteria for non-British migrants (Neumann, 2015, p. 21). Neumann notes that in some circumstances, Australia appeared to disadvantage refugees who belonged to a national ethnic or religious group that was considered undesirable. This became clear, for example, in Australia's refusal to resettle 40,000 Anti-Bolshevik Jews from Russia and Ukraine in 1921 (Neumann, 2015, p. 22).

During and after World War II, both the Australian Labor Party (ALP) and the Liberal party (the equivalent of today's Liberal-National Coalition [LNP]) expanded and diversified Australia's immigration program with the assistance of the International Refugee Organisation (IRO). In 1950 alone, Australia resettled 70,212 displaced persons from Eastern Europe

on IRO ships (Neumann, 2015, pp. 135-136). However, these displaced persons were encouraged to migrate for economic reasons, specifically to grow Australia's population and fill labour shortages; they were welcomed as such, even though they were refugees. More importantly, the strict exclusion criteria of the White Australia policy still applied. Australia's early reluctance for a UN refugee convention appeared to stem precisely from the obligations it might entail to resettle non-White refugees. Secretary of the Department of Immigration at the time, Tasman Heyes, said:

> There are thousands of non-European refugees, and acceptance by Australia of a convention which provided that such a class of persons should not be discriminated against and should not be subject to any penalty for illegal entry, would be a direct negation of the immigration policy followed by all Australian governments since Federation. (Neumann, 2015, p. 137)

There were circumstances in the following decades in which Australian governments relented, for example, in the case of the revised mixed descent policy, which provided humanitarian visas to Ceylonese Burghers and Anglo-Burmese in the 1960s. Nonetheless, racial and ethnic factors remained the main determinants of exclusion.

In all of these contexts, Australian governments were generally able to exercise strong and effective migration control because there did not appear to be a risk that large numbers of migrants would cross the oceans and arrive at Australia's physical borders. Air and charter sea transport was too expensive for the average person, and those who travelled on ships predominantly came on steamers from Europe. Migrants sought and obtained Australian visas after which they were cleared by Australian customs officials at sea or airports. The Australian Defence Force (ADF) maintained a strong presence across the country's vast Northern coastline largely to prevent attacks by enemy ships or planes—a hangover dating back to World War Two—and illegal fishing vessels. Canberra's leaders saw little need to institute deterrence, surveillance, prevention, and return policies within the migration control architecture at the time.

Australia's migration control regime underwent a significant shift in the 1970s. The end of the White Australia policy meant that Australia's expanding migration program became, in theory, accessible to people of

all races or ethnic backgrounds.[1] As the Australian economy became more open to increasingly advanced Asian markets and their growing middle-class populations in the late 1980s, Hawke, Keating, and later Howard expanded the number of skilled visa categories and places attached to them over two decades (Neumann, 2015). Australia's migration program grew in size, complexity, and diversity, and migration, in general, became a less controversial topic in public discourse. Nonetheless, the demographic composition of the migration program was slow to change. There was strong opposition to the increasing proportion of Asians being admitted into the country throughout the 1980s (Blainey, 1984; Kelly, 2008). Public intellectuals such as Andrew Markus and Frank Bongiorno see the 1980s as the period which heralded the end of bipartisanship on race, and the birth of a conservative movement appealing to racial prejudice (Higgins, 2017, p. 176).

Race, ethnicity or religious-based exclusion in migration policy still bubbles to the surface at particular moments with lasting normative and policy consequences. In the aftermath of the Tampa crisis and lead up to the 2001 election, the then Prime Minister John Howard linked 'boat people' and Islamic terrorists in the public imaginary, taking political advantage of the heightened fears about attacks on Australian soil post 9/11.[2] The conflation of issues of terrorism and asylum was illogical, given that those fleeing the Taliban were more likely to be dissidents rather than fundamentalists (Winter, 2016). Nonetheless, Howard's discursive construction continues to play a role in public attitudes towards asylum seekers. A 2016 study on voter attitudes towards asylum seekers finds that the "single most

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1   Cracks in the policy emerged after World War II when specific cohorts of non-white immigrants began to obtain citizenship. It was the Holt government that effectively scrapped the policy in 1966, but legislative changes came under the Whitlam government in 1973.

2   The MV *Tampa* was a Norwegian freighter that rescued 433 people seeking asylum in international waters 140 kilometres off the coast of Christmas Island in August 2001. The Australian government refused the *Tampa* permission to enter Australian waters, triggering a diplomatic dispute between Norway and Australia and generating political controversy in the lead up to the 2001 federal election. In a demonstration of Australia's strong response to breaches of its territorial border, Prime Minister John Howard ordered Australian special forces to board the vessel, and a few days later passed legislation that mandated the transfer of those on board to the islands of Nauru and Manus Island. In effect, the incident helped precipitate Australia's 'Pacific Solution' to boat people, and also ushered in an era of bipartisanship in border policy. See Mares, *Borderline* for a detailed examination of this period.

important driver of negative attitudes towards asylum-seekers' is religious prejudice, sometimes expressed as concern about Islamisation in Australia" (Muller, 2016, p. 11). Fifteen years after 9/11 and the Tampa crisis, the study identifies that there remains in prevailing public attitudes a syllogistic association in which asylum-seekers are equated with Muslims, Muslims with terrorism, and therefore asylum-seekers with terrorism (Muller, 2016, p. 12). Similarly, when the Abbott government resettled 12,000 people from Syria and Iraq between 2015 and 2017 under a one-off emergency humanitarian quota, some leaders called for Christians to be privileged over Muslims (Safi, 2015). The government obliged, arguing that Christians should be prioritized given their plight (Medhora & Safi, 2015). Nevertheless, despite debates about the make-up and size of the migration program and occasional burst of race-based migration policy, the emergence of multiculturalism as a doctrine in early-1980s, shift away from migration control based on racial or ethnic identity markers.

The arrival of the first 'boat people' from Vietnam precipitated a shift in the axis of migration control from particular racial or ethnic identities towards those understood to threaten Australia's territorial sovereignty. The first boat carrying people fleeing South Vietnam at the end of the war, the *Kien Giang*, arrived at Darwin in April 1976 (Higgins, 2017, p. 20). Over the next three years, approximately 2,000 people fleeing the aftermath of the conflict arrived by boat in Australia (Phillips, & Spinks, 2013). Although Australia had signed the 1951 Refugees Convention and its 1967 Additional Protocol, the country had no overarching policy framework for responding to refugees or an in-country procedure for refugee status determination (RSD) in the mid-1970s. The Whitlam and Fraser governments had thus far responded to refugee crises on an ad hoc basis, often as one-off humanitarian gestures. For instance, Australia granted permanent visas to approximately 2,500 East Timorese who had fled the island in the lead up to Indonesia's invasion in 1975 (Higgins, 2017, p. 27). Even at this point, the possibility of hundreds if not thousands of 'boat people' arriving in Australia each year concerned politicians and the public alike (Neumann, 2015, pp. 270-275).

Government responses to boat arrivals at the time reflected tensions between fears over a loss of public confidence stemming from the perception of a loss of border control, and the need to maintain Australia's international reputation as a constructive liberal, middle power. As early as May 1975, officials from the Department of Labour and Immigration (DLI)

expressed concerns over how boat arrivals would create a precedent and incentivize others to make the trip. Concern grew as boats continued to arrive. By 1977, the Minister began to issue warnings that boat people were not guaranteed residence in Australia (Higgins, 2017, p. 33). This was, in part, prompted by a fear of public backlash about the loss of border control. Claire Higgins quotes Wayne Gibbons, Private Secretary to the Minister for Immigration saying of his government's response in 1976,

> our major fear then…was if we don't handle this well, the mood of the public will become paranoid…so we kept it as quiet as we could. As long as the public thought that these arrivals were small-scale, ventures of providence rather than organized operations, the government could continue to process and grant permanent visas to these individuals on land. (Higgins, 2017, p. 24)

Although boat turnbacks were discussed as a policy option at the time, Immigration Minister Michael Mackellar is quoted in 1978 as saying "it would take just one well-publicized sinking, and our international reputation would be mud" (Higgins, 2017, pp. 24-25). Prime Minister Malcolm Fraser saw the importance of publicizing a humane response to South Vietnamese refugees given Australia's consistently strong Anti-communist position during the Vietnam War, and his government's interest in promoting human rights abroad (Higgins, 2017, p. 33). Ultimately, Fraser and his replacement Bob Hawke presided over a regional agreement in which Australia resettled more than 100,000 Vietnamese refugees between 1979 and 1988, whilst also providing permanent visas to the overwhelming majority of refugees seeking protection in Australia (Betts, 2009; Refugee Council of Australia [RCOA], 2016).

Simultaneously, many of the foundational elements of Australia's current migration control regime came into play between the late 1970s and late 1980s. In her book *Asylum by Boat: The Making of Australia's Refugee Policy,* Claire Higgins describes concerns within government and the bureaucracy emerging in January 1979 "about big ships carrying groups whose bona fides were dubious" (Higgins, 2017, p. 116). Fraser had also created a 'Taskforce on Refugees from Indochina,' which was responsible for developing a plan for how the government would respond when confronted with the reality of a large vessel carrying irregular migrants. According to Higgins, the Taskforce took a comprehensive plan of action to the cabinet. It recommended, in order:

A firm public statement that Australia would not accept the people concerned; interception and physically turning a vessel away; holding a vessel that docks at a remote location; containing people who arrive in remote and secure localities; persuading countries of origin to accept them back; accepting people as refugees but not allowing them resettlement in Australia; and finally granting those on board resettlement in Australia. (Higgins, 2017, p. 117)

The plan alone illustrates the fact that Australian politicians and bureaucrats had been considering a much broader range of deterrence, prevention, and punishment measures to deal with irregular migration for decades. As is clear from the Taskforce's plan, these went beyond the primarily discursive and socio-legal techniques employed to demonize and exclude prospective non-European migrants before the 1970s. The Taskforce's proposed advertising, interdiction, turn back, and third-country resettlement measures have been introduced in some form since the early 1990s to curtail boat arrivals. As Neumann writes, by the end of 1977, the public response to refugees that we are now accustomed to had been fully formed (Neumann, 2015, p. 12).

This was also the period in which Australia instituted a formal separation between what we now understood as the 'offshore' and 'onshore' components of the humanitarian program. By the late 1970s, the Australian government introduced refugee and special humanitarian visa categories into the migration program. Much like had happened in response to the Vietnamese exodus, Australian government officials would now select, vet, and help settle a quota of people from warzones, camps, or urban settings each year. Numbers in the 'offshore' component have remained consistently between 11,000 and 20,000 persons per annum since 1978-1979 (Phillips, 2017). Since 1989-1990, Australian governments have been taking away a place from the 'offshore' quota for each person arriving obtaining protection 'onshore.' This deliberate linking of the onshore and offshore numbers has helped foment the fiction that those seeking protection on Australian soil are somehow jumping a global refugee queue and therefore deserve punishment. It is a narrative that has also created divisions among migrant communities, as those resettled refugees trying to sponsor family's members are forced to compete for places in the quota with those seeking protection in Australia (see Tables 1 and 2).

Table 1. Number of resettled refugees and onshore asylum applicants per annum[3]

	Humanitarian program visa grants (offshore) + (onshore–plane arrivals)	Onshore protection applications–plane arrivals	Onshore protection–boat arrivals in community	Onshore protection–boat arrivals on PNG and Nauru
2017-2018	14,825 + 1,425	27,931	17,420 (June 2018)	219 (June 2018)
2016-2017	20,257 + 1,711	18,290	22,143 (June 2017)	1,174 (June 2017)
2015-2016	15,552 + 1,732	9,554	28,163 (June 2016)	1,296 (June 2016)
2014-2015	10,981 + 2,746	8,587	28,588 (June 2015)	1,600 (June 2015)
2013-2014	10,984 + 1,547	9,646	24,500 (June 2014)	2,358 (June 2014)

Source: own work based on Australian Government, Department of Home Affairs (n.d.).

Table 2. Top three countries of origin for refugees and onshore asylum applicants in Australia

	Humanitarian program visa grants (offshore) + (onshore–plane arrivals)	Onshore protection applications–plane arrivals	Onshore protection–boat arrivals in community
2017-2018	Iraq, Syria, Myanmar	Malaysia, China, India	Iran, Afghanistan, Sri Lanka
2016-2017	Iraq, Syria, Afghanistan	Malaysia, China, India	Iran, Sri Lanka, Stateless
2015-2016	Iraq, Syria, Myanmar	Malaysia, China, Iraq	Iran, Afghanistan, Sri Lanka
2014-2015	Iraq, Syria, Myanmar	Malaysia, China, Pakistan	Iran, Afghanistan, Sri Lanka
2013-2014	Afghanistan, Iraq, Myanmar	China, India, Pakistan	Iran, Sri Lanka, Afghanistan

Source: own work based on Australian Government, Department of Home Affairs (n.d.).

3   These numbers are taken from the Department of Home Affairs (DHA) website. The numbers in the column 'Onshore protection – boat arrivals in the community' only include people on a Bridging Visa E, and not those on a Bridging Visa C, or those without any form of visa. The numbers in the column 'Onshore protection – boat arrivals on PNG and Nauru do not include people who are not in the centres, but remain trapped on the islands. As noted previously, neither Nauru nor Manus Island offer safe haven, facilities to address basic healthcare needs, or economic opportunity. After the closure of the Manus Island detention centre in November 2017, the men on the island were transferred to accommodation in the town of West Lorengau in PNG. Conditions in these facilities have been criticized by numerous independent bodies such as the UNHCR.

Mandatory, indefinite onshore detention was the first institutionalized manifestation of new forms of migration control in Australia. This policy was introduced into law by the Keating Labor government in 1992 in response to a new wave of Indochinese boat arrivals in preceding years. Under this policy, any 'unlawful non-citizens' within Australia's migration zone were now to be detained unless afforded temporary lawful status via the granting of a bridging visa whilst making arrangements to depart or applying for a substantive visa (Phillips & Spinks, 2013).

Instituting and embedding mandatory onshore detention required political bipartisanship, a range of discursive and public relations techniques, new migration control laws, and a bureaucratic apparatus to implement the regime. This policy has remained in place since 1992, and between 1989 and 2012, an average of 5,991 people have been detained on shore each year (Phillips & Spinks, 2013). While it is beyond the scope of this chapter to unpack the dynamics that underpinned the introduction and institutionalization of mandatory detention, it is important to note that the normalization of Australia's mandatory and indefinite immigration detention regime signifies something about an environment that has enabled a raft of subsequent migration control policies.

Characterizing Australia's border control regime today

As the purpose of Australian migration control has changed over the years, so has the nature of the Australian border. The archetypal Westphalian national border—the highly militarized setting punctuated by fences, walls, soldiers, guns, and increasingly automated weaponry—has reemerged as a salient physical and political phenomenon across the globe (See Jones, 2016; Jones & Ferdoush, 2018). However, this kind of border has never been symbolically or practically important in Australia. The seas to Australia's north and the country's geographical isolation from key conflict hotspots act as a natural buffer zone and a fundamental pillar of migration control. Nonetheless, Australia's obsession with absolute control generates a multilayered, bureaucratized and complex border control system.

Leanne Weber's four-pronged typology offers a useful explanatory framework for understanding this increasingly "elusive and pluralistic" edifice. Weber argues that today's borders are functionally mobile, spatially mobile, temporally mobile, and personalized (Weber, 2006). These dimensions operate together concurrently and in interlocking ways as lines of defence

against irregular migration (Weber, 2006, pp. 84-85). The *personalized border* reflects the existence of an increasingly individualized, bio-political enforcement venture. As Weber writes, not only can some individuals be physically within the country's sovereign territory and legally outside it, those who hold valid visas need not be inside the country's borders to exercise rights and responsibilities associated with the visa (Weber, 2006, pp. 24-25).

Moreover, the granting and possession of a valid visa is increasingly contingent on a whole of identity and behavioural factors such as age, employability, religious background, demonstrated adherence to 'Australian values' and criminal background. *Temporal mobility* refers to the ways authorities suspend or alter timeframes in order to enforce migration control. In particular, temporal mobility refers to the extraordinary application of migration control measures retrospectively in contravention of established rule-of-law principles. In this chapter, we will focus on the two remaining dimensions of the border in Weber's formulation, namely functional and spatial mobility.

FUNCTIONAL MOBILITY AT THE AUSTRALIAN BORDER

Functional mobility refers to increasing diversity of enforcement measures carried out pre-emptively beyond the physical border and in response to irregular migrants already within the sovereign territory (Weber & Bowling, 2004). The physical border remains intact, but is complemented by technologies and processes that employ surveillance, psychological manipulation, fear, and economic marginalisation to reinforce exclusion. The border deters, physically prevents entry, and punishes those already within territorial boundaries. The prospect of return to countries of origin also hangs over people seeking asylum, refugees, and migrants. Here we look at pre-emptive, interdictory, and response-based functions.

Pre-emptive functions

Australia operates a tiered and highly discretionary visa regime. Applicants from certain countries are required to meet much more stringent identity and financial requirements in order to obtain visas than others. For example, an Afghan national applying for a tourist visa will likely be required to provide financial statements, a letter of invitation or sponsorship, a detailed in-country itinerary, and a return ticket in order to be seriously considered even for a tourist visa. Even so, the chances of obtaining the visa upon meeting the requirements are low. McAdam writes that "it is highly unlikely that refugees will be able to get a visa of any other kind,

such as tourist or work visa…[they] will likely be screened out" (McAdam, 2013, p. 438). Although there are no stated public justifications for this tiered approach, such practices are likely aimed at preventing large numbers of visa holders from refugee-producing countries such as Afghanistan, Syria, or Myanmar from applying for protection once within Australia. The tiered visa regime is an essential screening-out tool to prevent what governments such as Australia likely see as the instrumentalization of a temporary visa to obtain permanent protection on shore.

Another form of screening-out is excluding potential refugees in transit countries from applying for Australian visas. Those who have left their countries of origin seeking protection and are in places such as Malaysia and Indonesia without access to work, basic services or possibilities for local integration, cannot apply for any form of Australian visa. They are generally ineligible for the Australian government's nascent Community Support Pilot (Refugee Council of Australia [RCOA], 2019c), and can be ineligible for resettlement even as UNHCR-recognized refugees (see Missbach, 2015). For example, in 2014, the Australian government announced that all asylum seekers arriving in Indonesia after July 1st that same year would no longer be eligible for resettlement in Australia. In justifying the move said "we're taking the sugar off the table. We're trying to stop people thinking they can go to Indonesia and wait around till they get to Australia" (Medhora, 2018, para. 3). This policy, coupled with Indonesia's refusal to grant these people any form of a long-term visa, provide them with work rights, access to basic services or financial support, has placed close to 14,000 refugees in endemic situations of limbo and poverty (Curby, 2018).

Using exclusionary or discriminatory visa policies to disincentivize forced migrants from attempting to seek protection in Australia is an increasingly important pre-emptive act of 'bordering' well beyond the realm of the physical border. The Australian government has also begun cutting the International Organization for Migration (IOM)'s funding to provide psychosocial support and financial assistance to asylum seekers in Indonesia (Harvey, 2018). This policy builds on the logic of exclusion by forcing asylum seekers who are already ineligible for resettlement into situations of destitution and homelessness, whereby they are desperate enough to consider returning to potential situations of harm.

Carrier sanctions are an additional form of pre-emptive migration control that the Australian government employs (Bloom & Risse, 2017). Carrier sanctions have existed since before Federation. Today they are

designed to root out irregular migration in the mass transport industry. All airlines and ships must check if their passengers have valid visas on the Australian government's 'Advanced Passenger Processing System,' a database that records names and visa statuses of all prospective and current non-citizens (Hirsch, 2016). Failure to detect or remove a passenger without a valid visa is now a criminal offence under the *Migration Act 1958,* and it incurs both an $18,000 fine and responsibility for the costs of removing the passenger from Australia (Hirsch, 2016). Australia's carrier sanctions regime is an effective mechanism for what Gammeltoft-Hansen, Hirsch, and others have called the "extra-territorialization of border control" (Hirsch, 2014), while also integrating or coercing corporations into the migration control regime via increasingly complex incentive structures (Bloom & Risse, 2017).

Australia has also launched successive advertisement campaigns to 'inform' would-be asylum seekers or irregular migrants of the grim realities of seeking asylum in Australia. In late 2013, soon after the then Prime Minister Kevin Rudd's declaration that all boat arrivals would be sent to Papua New Guinea for processing and resettlement, the Australian Labor Party (ALP) government commissioned an advertising campaign to reinforce Rudd's new policy in diaspora communities in Australia and within source countries (Chan, 2013). The multi-million dollar campaign aimed to dissuade people from arriving by boat to claim asylum in Australia. In February 2014, the Abbott Liberal-National Party (LNP) government produced a graphic novel for Afghan refugees depicting the physical and mental health struggles of asylum seekers sent to offshore detention centres (Laughland, 2014a). The same government produced a video featuring the commander of Operation Sovereign Borders Angus Campbell "warning all asylum seekers that [they would] not make Australia home" (Laughland, 2014b, para. 1).

Similarly, in 2013, Sri Lanka's national cricketers were recruited to warn Sri Lankan diaspora communities and citizens of the dangers of crossing the Indian Ocean by boat and the hardening of Australia's response to irregular migration (Muralitharan, 2013). This kind of signalling was designed to complement the restriction of regular visa pathways for people from refugee-producing countries. The government believed that people seeking asylum would seek irregular migration pathways if they did not have options to leave their countries safely and legally and this was the first line of defence to deter so-called 'illegal maritime arrivals.'

A second policy designed to physically prevent would-be 'boat people' from leaving their countries of origin or transit emerged in the aftermath of the Sri Lankan civil war. In 2013, opposition immigration spokesman, Scott Morrison toured Sri Lanka. During the visit, Morrison made a confident and seemingly final assessment of safety and stability in the country. Morrison's assessment correlated with the Australian government's interest in deterring Sri Lankan boat arrivals. He said,

> the overwhelming message…in terms of people coming to Australia… came down to…economy and lifestyle…the greatest threat and risk to life to Sri Lankans in Sri Lanka was if they got on a boat to Australia, not if they stayed in Sri Lanka. (Bishop, 2013, p. 68)

Although there was credible evidence from organizations such as Human Rights Watch that Sri Lankan Tamils were still at risk of harassment, imprisonment, or torture if returned, Morrison's narrative suited the Sri Lankan government who were at the time attempting to rebuild their international image (Human Rights Watch [HRW], n. d.). This coalescence of interests led to several practical cooperation measures, including the provision of two navy patrol boats, aimed at preventing departures from Eastern Sri Lanka ("Scott Morrison defends decision", 2013). In effect, Australia's bilateral relationship with Sri Lanka was strengthened by common interests in cooperation for deterrence. Australia exercises different kinds of leverage over other countries in the Asia Pacific region, including Indonesia, and Cambodia, to implement border control measures.

Interdiction functions

If pre-emptive control measures fail and migrants travel to Australia without valid visas, the Australian government intercepts, screens, and returns asylum seekers or migrants to transit or origin countries. Governments have employed two distinct forms of interdiction since 2012. First, in October 2012, the ALP government announced an 'enhanced screening process' to be predominantly applied to irregular migrants from Sri Lanka. The process involves interviews by RSD officers in international waters, within Australian maritime boundaries, or shortly after arrival on land (Australian Human Rights Commission [AHRC], 2013). Interviewers ask two questions: What are your reasons for coming to Australia? Do you have any other

reasons for coming to Australia? (Taylor, 2013) Based on information in the answers, the officer makes an initial finding of whether the interviewee's claims may engage Australia's protection obligations, which is then reviewed by a senior officer on the same day (Taylor, 2013). Interviewees are not informed of their right to seek asylum, or their right to seek legal advice and a person who is screened out is returned to their country of origin as soon as possible (AHRC, 2013).

Notwithstanding the serious procedural shortcuts employed in the process, lawyers, journalists, civil society groups, and whistleblowers have criticized successive governments for using the façade of a screening mechanism to return large numbers of people to countries of origin, particularly Sri Lanka. One whistleblower had claimed that when the process came into effect in 2012, the government had an expectation that 400 people per week would be returned straight to Colombo (Cooper, 2013).

A more extreme version of interdiction involves the interception and turn-back of boats carrying suspected irregular migrants, recognized refugees or people seeking asylum since 2013 under the Abbott LNP government's Operation Sovereign Borders (OSB) policy. A 'turn-back' is the removal of vessels from Australian waters, with passengers and crew returned to their countries of departure (Spinks, 2018). According to Spinks, the Australian government conducts operations in which passengers are transferred from one sovereign authority to another, where the Australian government ensures the safe return of the passengers and crew, or where Australian navy or customs vessels assist or escort a boat into a safe situation. Between December 2013 and March 2017, the Australian government carried out 33 of these operations involving 810 people (Spinks, 2018). Although the exact details of the operations and their impacts are unknown because the government does not publicly release them, boat interception and turn-back policies have an obvious physical preventative and demonstrative deterrence effect for potential future arrivals plus an enormous human cost. This effect that people who pay thousands of dollars to people smugglers for the boat journeys, only to be turned back, are no longer willing to take the financial risk.

Punitive functions

People seeking asylum who have successfully negotiated pre-emptive and interdictory migration control measures by arriving on Australian territory have been subject to a raft of punitive policies that continue

evolving. Arguably, these policies are designed to encourage their return to countries of origin or transit and to deter future arrivals by signalling Australia's hardline approach to irregular migration and asylum seekers arriving by boat. Punitive border functions revolve around the indefinite nature of offshore detention, the removal of support services for asylum seekers under the *Social Security Act in 1991*, and the subsequent, discretionary and often inadequate service and rights provision since then. This discretion has been instrumentalized to manufacture situations of destitution, extreme material hardship, and limbo, all of which constitute breaches of fundamental human rights. Here we will focus on understanding the logics of offshore processing and discretionary access to services for asylum seekers as they have manifested in the last five years.

In 2012, a year which saw a record number of boat arrivals, the government announced statutory and practical arrangements for people to be sent to the islands of Nauru and Manus Island (Papua New Guinea - PNG) to be detained, have their claims processed, and resettled if found to be refugees.[4] The Pacific Solution mark II, as it is sometimes known, remains in practice albeit under increasing public pressure for change. At its peak in April 2014, there were a total of 2,450 people on the islands, including 1,273 people on Manus Island and 1,177 people on Nauru, including 190 children. Since the announcement of the US resettlement deal in 2016, 493 people have been accepted for resettlement there. There are 1015 people on the islands as of February 2019, and all children have recently been evacuated off Nauru (Refugee Council of Australia [RCOA], 2019).

Australia's offshore regime has caused enormous human suffering over the years. Numerous inquiries and reports by multiple Senate Committees, the Australian Human Rights Commission (AHRC), the UNHCR, Human Rights Watch, Amnesty International, and others detail the causes of this suffering. These include the inadequacy of tent-like accommodation, the oppressive heat, and mosquito-infested environs; the shortage of bathroom and shower facilities and unhygienic conditions within them; the inadequate access to education; the lack of any meaningful activity in the detention centres; the inadequacy of diagnostic technology, prescription medication, and basic medical facilities in the centres; the systematic delays in transfers for medical reasons; the daily incidents of self-harm and attempted suicide;

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4 By way of comparison with the scale of 'irregular migration' in Europe, the largest number of people to arrive by boat in Australia was 20,587 in 2013.

the regular reports of rape, sexual violence, and child abuse at the hands of contractors and locals; and the multiple large-scale riots (See The United Nations Refugee Agency (UNHCR), 2018; Human Rights Watch (HRW), 2017; Pearson, 2018; Refugee Council of Australia (RCOA) & Amnesty International Australia (AIA), 2018). In 2017, a UNHCR report found that 88% of asylum seekers surveyed on Manus Island were found to be suffering from depressive or anxiety disorders, and/or post-traumatic stress disorder (PTSD). A smaller sample surveyed on Nauru found that 83% were found to be suffering from PTSD or depression (Sundram & Ventevogel, 2017). According to Gordon (2016), these are some of the highest recorded rates of mental illness of any surveyed population. 12 people have died in Australia's offshore detention centers as a result of violence, suicide, or inadequate medical treatment in the last five years, and hundreds more have been transferred to Australia on medical grounds after court orders (RCOA, 2019a).[5]

There are also few if any plausible resettlement options for recognized refugees on either island. Nauru is an island the size of Melbourne's international airport with a population of 10,000 people and is located in one of the most remote parts of the Pacific Ocean. It is almost entirely dependent on rents from Australia's offshore detention regime for its economic sustenance (Beldi, 2018), and it is hard to imagine how any recognized refugees would build a new life in a place with such few opportunities, and such entrenched local patronage networks. Similarly, PNG is one of the world's poorest countries; it does not have a functioning refugee resettlement program, and some of its laws—the criminalization of homosexuality, for example—would render refugees with particular kinds of claims patently unsafe.

Statements by Australian politicians reveal the widely held view that the offshore regime and its human consequences are necessary to deter boats from arriving in Australia. As recently as 28 October 2018, after multiple polls showed that a majority of Australians wanted children evacuated from Nauru (Australian Associated Press, 2018), Home Affairs Minister Peter Dutton claimed "I want people off Manus and Nauru overnight, but

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5 The commonly known MedEvac Bill, is designed to ensure necessary medical care to people in offshore detention on Manus Island or Nauru. The Bill allows two independent Australian doctors to recommend temporary transfer to Australia if both doctors are of the medical opinion that the person requires treatment that he or she is not or cannot receive on Manus Island or Nauru. For more information, see RCOA (2019b)

I want to do it in a way that doesn't restart boats, and kids drowning again at sea" (Borys, 2019). Similarly, in 2015, when questioned by a journalist about the safety of female refugees on Nauru, Dutton acknowledged that he wanted a safe environment on the island, but reaffirmed government policy: "we're not going allow people who seek to come to Australia by boat to settle on the mainland" (Dutton, 2015, para. 6). It is this pervasive idea, linking the need for island detention centres with the efficacy of migration control, and the fact that a whole ecosystem of physical infrastructure, contractual relationships, and bureaucratic processes has been manufactured to serve it, that characterizes the punitive function at play. In this context, the means, however costly in economic, human, or moral terms, seem to justify the ends.

Academic Robert Manne and former immigration official Shaun Hanns both question this logic, arguing that 'stopping the boats' relies on the effectiveness of interdiction and turn-back policies and not on the cruelty of the offshore regime (Hanns, 2018). Had the deterrent effect of locking up innocent children, women, and men been so powerful, the boats would have stopped without the need for interception and turn-backs. Hanns posits many politicians and bureaucrats likely understand his argument but are hamstrung by the "myth […] that any kindness, any whatsoever, will restart the [people smuggling] industry" (Hanns, 2018, para 28). Manne goes further, calling out a pervasive "culture of automaticity" in which the relationship between means and intended policy ends has been forgotten or lost, and that the status quo policy continues in an all-consuming bureaucratic maze (Manne, 2018). Nonetheless, the idea remains salient in the political discourse, and the policy continues today.

The logic of demonstrative punishment for deterrence purposes is equally visible in how governments have treated 'boat people' in the Australian community.[6] From 2012 to 2014, the government imposed a 'No Advantage' policy on the approximately 31,000 people in this cohort, barring its subjects from applying for protection visas, working or studying (Murphy, 2012). In lieu of being allowed to work, the government provided welfare payments valued at 89% of the lowest welfare rate (approximately AUD 35 per day) available to Australian citizens (Rego, 2018). The payment rate was well below the nationally accepted poverty line of

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6   People seeking asylum arriving by plane with valid visas have not been subjected to the No Advantage policy.

about $60 per day and was expected to cover rent, utilities, food, and public transport costs (Rego, 2018). Prime Minister Julia Gillard summed up the policy's logic when she said we must "[…] ensure that everyone is subject to a consistent, fair, assessment process […] and that arriving by boat does not give anybody an advantage in the likelihood that they would end up settling in Australia" (Gillard, 2013, paras. 81-82). The No Advantage policy precipitated several social, psychological, and economic problems for this group of people, including widespread poverty, homelessness, and work in unscrupulous cash-in-hand arrangements (Rego, 2018). According to Procter, Kenny, Eaton and Grech (2018), this cohort experienced unusually high rates of major depressive disorders, anxiety, and PTSD associated with their circumstances.

In December 2014, the new LNP government reintroduced work rights for this cohort, but at the same time announced that they would no longer be eligible for permanent protection in Australia even as recognized refugees under the government's own RSD process. The *Maritime Powers Legislation Amendment (Resolving the Asylum Caseload) Bill 2014* introduced two forms of temporary visas—the Temporary Protection Visa (TPV) and the Safe Haven Enterprise Visa (SHEV). TPV and SHEV holders would receive three- and five-year visas respectively, after which they would have to reapply and be assessed against changing conditions in their countries of origin. Moreover, TPV holders would not have access to fundamental rights and services such as tertiary education subsidies, public housing, or disability assistance, provided to every other class of humanitarian visa holder (Rego, 2018). Most tellingly, TPV and SHEV holders would have no right of family reunion despite the obvious fact that family members of these recognized refugees were likely languishing in situations of persecution (Rego, 2018). Finally, since late 2017, the government has begun excluding asylum seeker students, those who had transferred money overseas, those deemed 'work-ready' by departmental assessment, and those on other substantive visas who had applied for protection, from eligibility for vital support services such as the 89% welfare payment, torture and trauma services, and casework (Okhovat, 2018). Okhovat also indicates that pregnant women without complications, those with undiagnosed mental illnesses, and people over the age of sixty are deemed to be work-ready by the government's criteria and have less than a month to find employment before losing access to support services. Recent research based on a survey of key NGOs working with approximately 19,200 people in this cohort found

that 69% are either unemployed or not in the labour force, and that only 20% are job-ready. This policy of "manufactured destitution" is reportedly designed to reduce support provisions to 60% of the 13,299 people on it as of February 2018 (van Kooy & Ward, 2018).

Punitive border functions target subjects of border control—overwhelmingly people seeking asylum by boat in Australia's case—who are both outside and within Australia's sovereign territorial borders. These functions incorporate a wide a range of predominantly bureaucratic (and non-reviewable) measures designed to punish those deemed to be Australia's responsibility and to deter future arrivals.

SPATIAL MOBILITY AT THE AUSTRALIAN BORDER

For the border to be functionally mobile, it requires a level of in-built flexibility in the way space and time are used, and also a level of differential applicability for individuals or groups based on government or departmental discretion. *Spatial mobility* refers to the way in which physical or sovereign space is redefined, repurposed, and manipulated in the service of migration control. Here two means by which governments have redefined the meaning of or manipulated space or territory to exclude people seeking asylum arriving by irregular means are outlined.

Excising territory from the 'migration zone'

Australia's migration zone is defined in domestic law as the area in which all non-citizens must hold valid visas in order to enter or remain (Weber, 2006, p. 27). The policy of territorial excision from the migration zone first came into the political and legal vernacular in the aftermath of the 2001 Tampa crisis (Vogl, 2015). It was part of an extensive set of reforms aimed at regaining control of borders from the "waves of boats carrying smuggled migrants and heading towards Australia's territorial waters" (pp. 122-123). The first bill to excise parts of Australian territory from the migration zone, the *Migration Amendment (Excision from Migration Zone) Act 2001 (Cth),* was passed on 26 September 2001, with bipartisan support. It established a new legal category of geography called an 'excised offshore place,' which initially applied to 4,891 islands off the coast of Australia (Vogl, 2015), and was extended to include the whole mainland via an amendment in 2013 (Phillips, 2013). The bill's passage ensured any person without a valid visa who first reached Australian territory at an 'excised offshore place'

by sea was to be classified as an 'offshore entry person' (Vogl, 2015, p. 125). They were no longer eligible to apply for protection in Australia and to access independent administrative and judicial review of migration decisions. They could also now be legally transported to third countries for processing. Moreover, the bar on making visa applications onshore for those arriving on excised territories could only be lifted at the Minister's discretion and would remain in place even if the applicant entered the migration zone legally at a later date (Vogl, 2015).

Excision has been an effective and consistent means of redefining sovereign territory in order to enable the physical and juridical exclusion of refugees, people seeking asylum, irregular migrants from Australia, and erode the right to seek asylum despite Australia's clear obligations under the Refugee Convention. A person ineligible to access the domestic legal framework, has also provided part of the basis for transferring people to offshore detention centres. In practice, Australia does not cede any practical control over its sovereign territory. Every single piece of land excised from the migration zone remains Commonwealth sovereign territory in law and practice. It is a mark of the Australian state's absolute sovereignty that it can construct and institutionalize legal fictions to define and redefine its territory for different governance purposes even when eroding its existing international obligations under international law.[7]

Effective control vs territorial sovereignty in other sovereign jurisdictions

The meaning and use of space in Australia's offshore regime also speaks to the redefinition and manipulation of space as a function of the border. Australia has instigated the establishment of the offshore detention centres on Nauru and Manus Island; has paid for their construction and funded their operations; engages the contractors who work there; is solely responsible for the placement and removal of all asylum seekers there; and is aware of all the risks and dangers posed by the arrangements and operations on both islands (Commonwealth of Australia, 2015). According to the Law Council of Australia, and the Human Rights Law Centre, such a level of involvement and decision-making power renders these asylum

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7   See Lester (2018) to understand how 'absolute sovereignty' has been justified and put into practice in the arena of Australian migration law.

seekers "effectively subject to Australia's jurisdiction and control" (p. 13). In other words, Australia arguably has 'effective control' over asylum seekers transferred to the sovereign jurisdictions of Nauru and PNG. In reality, to maintain Australia's absolute sovereignty and control.

Australian leaders and bureaucrats challenge this claim. In a 2015 senate committee hearing, Secretary of the then Department of Immigration and Border Protection (DIBP), Michael Pezzullo stated that "the Australian government does not run the Nauru Regional Processing Centre. It is managed by the government of Nauru, with support from the Australian government" (p. 43). In a subsequent hearing, he noted:

> It would require a treaty level transference of sovereignty, an abrogation on the part of the government of Nauru, and an acquisition of sovereignty on the part of the Commonwealth of Australia, for Australia to have sovereignty in relation to, for instance, the administration of criminal justice [on Nauru]. (Commonwealth of Australia, 2015, pp. 11-12)

Put differently, Australia invokes traditional Westphalian notions of territorial sovereignty to deflect responsibility for the asylum seekers on the Nauruan and PNG governments. At the same time, Australia also retains a significant degree of decision-making power, formal and informal influence of the operation of the centres and substantial economic power over these countries. The ambiguity in the question of who controls the spaces and territories has allowed Australia to defend its inaction in the face of the human suffering proliferating on the islands. Nauru has invoked its own sovereignty by, for example, barring the majority of Australian journalists from reporting on the island's detention centres, and obfuscating Australian civil society scrutiny of the regime (Karp, 2016). Similarly, after the MedEvac Bill was passed in 2019, Nauru announced that residents granted medical assessment based on videoconferencing or other forms of online assessment would no longer be permitted medical transfer off the island (Koziol, 2019).

The definition of physical space and territory in the context of offshore detention is fluid and changing. This was aptly demonstrated in late 2017 when the Supreme Court of PNG declared the Manus Island detention centre unconstitutional and ordered its closure (Fox, 2017). The decision highlighted a rare moment in which PNG exercised its sovereign

right over the centre and superseded Australian policy. The decision raised a difficult question about what would happen to the men after the closure of the centre. How would the shift in control of the centre correlate with responsibility for the men? Ultimately, neither country accepted responsibility for the men's wellbeing and future. PNG argued that they were Australia's responsibility, and Australia reaffirmed that they would not be resettled in Australia. By default, the majority of men remain in Lorengau on the island in a situation of limbo and with limited access to fundamental rights and services.

Key human rights violations in Australia's border control regime

Many aspects of Australia's border control regime breach fundamental tenets of International Refugee Law (IRL) and International Human Rights Law (IHRL). In the last five years alone, key international human rights institutions have made numerous official statements regarding these breaches. It is worth recounting some of these statements here, as they constitute strong and credible critiques of the nature and function of the Australian border today. Despite Australia's ratification of many of the treaties that underpin these breaches, these pronouncements appear to have little impact on Australia's policies or public opinion.

Pronouncements focus on breaches of crucial civil, political, social, economic and cultural rights in Australian policy. The more punitive functions of Australia's regime, including mandatory detention, boat turnbacks and the cuts to support services for people seeking asylum in the community have come under specific scrutiny. Key rights engaged include freedom from torture, inhumane and degrading treatment; the right to life, liberty, family life, private life; the right to due process, adequate housing and health, among others.

OFFSHORE PROCESSING AND BOAT-TURN BACKS

Multiple UN bodies have criticized Australia's offshore processing and detention policies. For example, UNHCR has weighed into debates about Australia's effective responsibility for the treatment of refugees and asylum seekers on Manus Island and Nauru on multiple occasions. In 2017, UNHCR's regional representative in Canberra stated that:

As a signatory to the 1951 Refugee Convention, Australia remains responsible for those who have sought its protection. This includes a duty to consider claims for international protection fairly and efficiently, and to provide refugees and asylum-seekers with a minimum standard of living which is humane and dignified. (2017, para. 6)

Similarly, in 2017, the Office of the High Commissioner for Human Rights (OHCHR) noted the unfolding humanitarian emergency precipitated by the sudden closure of the regional processing centre on Manus Island on October 2017 (Colville, 2017). As noted before, it was the PNG Supreme Court that mandated the closure of Lobrum airbase as a detention centre forcing the Australian government to confront, if only temporarily, the prospect of responding to one of the only real and definitive assertions of national sovereignty by an offshore processing partner.

The OCHCR has also drawn attention to human rights breaches within the offshore regime as a whole, stating that Australia's offshore centres "are unsustainable, inhumane and contrary to its human rights obligations" (Colville, 2017, para. 2). In September 2018, Michelle Bachelet the new UN High Commissioner for Human Rights condemned Australia's offshore detention regime as an "affront to the protection of human rights" (Doherty, 2018, para. 18). More specifically, the OHCHR has referred to lack of safety on Nauru, including by expressing its "concern(s) about the serious allegations of violence, sexual assault, degrading treatment, and self-harm contained in more than 1,000 incident reports, many of which reportedly involved children" ("Australia and Nauru must end offshore detention", 2016, para. 1). The OHCHR recommended further investigations of these allegations. Previous Human Rights Commissioner Zeid Ra'ad Al Hussein linked the perpetuation of these alleged abuses with the higher likelihood of a return to situations of harm or persecution. Al Hussein stated in his maiden speech in 2014 that:

Australia's policy of off-shore processing for asylum seekers arriving by sea, and its interception and turning back of vessels, is leading to a chain of human rights violations, including arbitrary detention and possible torture following return to home countries. (Al Hussein, 2014, para. 43)

In March 2015, the UN's Special Rapporteur Report on Torture, Juan E. Méndez established that Australia is breaching its obligations on the prohibition of torture, inhumane and degrading treatment stating that:

> Australia, by failing to provide adequate detention conditions, ending the practice of detention of children, and putting a stop to the escalating violence and tension at the Regional Processing Centre, has violated the right of the asylum seekers, including children, to be free from torture or cruel, inhuman or degrading treatment, as provided by […] the Convention against Torture (CAT). (Mendez, 2015, p. 7)

The Committee Against Torture (CAT) also expressed concerns about Australia's policy of transferring asylum seekers to regional processing centres in Nauru and PNG, noting that "the combination of these harsh conditions, the protracted periods of closed detention and the uncertainty about the future reportedly create serious physical and mental pain and suffering" (Mendez, 2015, p. 7). The Committee has also questioned the differential treatment of people seeking asylum based on their mode of arrival or carriage of identity documents. It states that Australia should "guarantee that all asylum seekers or persons in need of international protection who are under its effective control are afforded the same standards of protection against violations of the Convention (CAT) regardless of their mode and/or date of arrival" (Mendez, 2015, p. 7).

In 2017, the UN Committee on Economic, Social and Cultural Rights stated that it was

> alarmed by the punitive approach taken by Australia in recent years towards asylum seekers arriving by boat without a valid visa. It also expressed its concerns about "policy of transferring asylum seekers to the regional processing centres for the processing of their claims, despite public reports on the harsh conditions prevailing in those centres, including for children. (Committee on Economic, Social and Cultural Rights, 2017, p. 4)

In October 2017, the UN Special Rapporteur on Extrajudicial Killings, Agnes Callamard, said that Australia's regime of secretive boat-turnbacks raises serious concerns" and "may intentionally put lives at risk, given that

security officials know, but disregard, the reality that returnees may be victims of brutal crimes when returned under these circumstances" (Human Rights Law Centre [HRLC], 2017, para. 2).

IMPACTS ON CHILDREN AND FAMILIES

In October 2016, the UN's Committee on the Rights of the Child drew attention to the "cramped, humid and life-threatening conditions" that children are exposed to in regional processing centres, including reported restrictions on drinking water and the lack of available paediatricians. The Committee's report also highlighted the "inhuman and degrading treatment, including physical, psychological and sexual abuse, against asylum-seeking and refugee children living in the Regional Processing Centres" (Anderson, 2016, para. 4) and expressed concern about

> spending prolonged periods in such conditions (a)s detrimental to the mental and physical well-being of …children, (which) has led to some as young as 11 years attempting suicide and engaging in other forms of self-harm. (Anderson, 2016, para. 4)

Similarly, in Australia's combined fourth and fifth periodic reviews to CAT in 2016 and 2017, it is stated that Australia should ensure that "…children and families with children are not detained or, if at all, only as a measure of last resort, after alternatives to detention have been duly examined and exhausted" (Concluding observations on the fifth periodic report of Australia, 2017)

Moreover, in December 201,7 UNICEF Australia stated that family separation for refugees on Nauru and Manus Island remained a serious concern and reaffirmed the paramount importance of family unity. UNICEF Australia said

> […] Australia's offshore processing arrangements have fractured a number of families for over four years, and could now lead to permanent separation for children and their loved ones, who have already experienced severe grief and trauma. (2017, para. 5)

ARBITRARY DETENTION

Former Special Rapporteur on the Human Rights of Migrants, François Crepeau visited Australia in 2016. In his 2017 report, he noted that the average

period of detention in an Australian centre is 454 days (Crepeau, 2017). He also stated that prolonged and indefinite detention has a profound effect on migrants' mental well-being, citing numerous cases of self-harm, Post Traumatic Stress Disorder (PTSD), anxiety and depression, as reported in consultations to him. Crepeau noted that the collective nature of these impacts "amounted to cruel, inhuman and degrading treatment". Additionally, Crepeau said that Australia has increasingly eroded the human rights of migrants, in contravention of the country's international human rights and humanitarian obligations. He recommended that "Australia develop and implement a human rights-based approach to migration and border management, ensuring that the rights of migrants, including undocumented migrants, are always given priority" (UN General Assembly, 2017, para. 6).

In its September 2018 Annual Report, the UN Working Group on Arbitrary Detention said that it was concerned by "the rising prevalence of deprivation of liberty of immigrants and asylum seekers" worldwide and "the growing use of detention in the context of migration" (Doherty, 2018, para. 2). According to Doherty, three cases of arbitrary detention in Australia were highlighted by the group, including that of a stateless man detained for nearly nine years without charge or trial. Australia did not respond to the working group's concerns and ignored recommendations to release the men and compensate them for their illegal detention.

LACK OF ADEQUATE ACCESS TO SUPPORT SERVICES IN AUSTRALIA

In late 2017, the Australian government cut support services to people who had been medically evacuated from Manus Island and Nauru. UNHCR stated it would leave refugees and asylum seekers "at serious risk of destitution […] and that any removal of such basic and fundamental support could wrongly coerce the most vulnerable to return to Papua New Guinea, Nauru, or their countries of origin" (Davidson, 2018, paras. 15-16).

In September 2018, the UN Special Rapporteur for Extreme Poverty and Human Rights, Philip Alston spoke about the cuts to basic income support, casework and torture and trauma counselling services for people seeking asylum in the Australian community. He said, "what is going to come out of this is putting people who are already living in poverty in an even worse situation than they currently are in" (Chalmers, 2018, para. 16). He added that "removing people from the payment would leave (people) at risk of hunger and homelessness" (para. 17) and that it is important "to ensure

that a minimum level of social protection is available for human decency" (para. 18). The proposed changes "seem designed…to send the message that if you are an asylum seeker in Australia, you will live in absolutely miserable conditions" (Chalmers, 2018, para. 14).

How Australia's border control regime impacts children, women, and men seeking protection

JRS Australia is a country office of the Jesuit Refugee Service, an international Catholic organization whose mission is to accompany, serve, and advocate for the rights of refugees and other forcibly displaced people. JRS works with people in urban settings, refugee camps, war zones, and detention centres.

JRS Australia works with people seeking asylum, including those transferred from Nauru and Manus, refugees on temporary protection visas, and migrants in vulnerable situations in the Australian community. JRS Australia provides emergency assistance, temporary shelter, a food bank, professional casework, community activities, employment support, school engagement, legal advice, targeted advocacy, and specialist support to women seeking asylum in order to combat the impacts of many of the policies listed above (Jesuit Refugee Service Australia [JRS Australia], n. d.). JRS Australia's frontline work with more than 3,000 people seeking asylum in 2017 has given us insights into the impacts of the punitive dimensions of Australia's border control regime on the lives of children, women, and men already in Australia.

PEOPLE TRANSFERRED FROM NAURU AND MANUS ISLAND

As of February 2019, approximately 898 people had been transferred to Australia for medical treatment or to accompany sick family members since 2013. Of this group, approximately 403 people live in community detention, 149 live on bridging visas in the Australian community, and a further 39 are in closed detention centres (RCOA, 2019a). JRS Australia has supported children, women, and men from this cohort.

People transferred for medical reasons with whom JRS works are experiencing severe forms of PTSD, depressive or anxiety disorders, or what is known as Trauma Withdrawal Syndrome (TWS). People report regular, intrusive flashbacks triggered by sights or sounds, feelings of unexplained

fear, and the inability to trust anyone, suicidal ideations and chronic pain whose causes are not clearly determined yet. Many in the group are addicted to pain medication, widely used by health providers in detention environments. Some women have also experienced pregnancy loss or stillbirth.

TWS takes months, and in some cases, years to treat successfully. School-aged children have missed out on years of education and normal social interaction, which makes attending and succeeding in school extremely difficult once evacuated.

The vast majority of people JRS Australia has worked with want to be self-sufficient and rebuild their lives. People in these circumstances want to work, want their children to go to school, and on to university. However, some critical aspects of these policies reinforce a sense of hopelessness and despair. For example, when people transferred from Nauru and Manus are given bridging visas, they are often with work rights, but without study rights. This means that to upskill or adapt for the Australian workplace is considered a breach of visa conditions. Moreover, renewals of expiring bridging visas often take weeks, during which time people in these conditions are rendered unlawful, lose their jobs, and fall into situations of poverty. Medicare cards expire on the same day as bridging visas and cannot be renewed until a new visa is granted, creating disruptions in access to the medical treatment they were originally evacuated for.

These kinds of discretionary policies, applied without pattern or principle, reinforce a sense of inexplicable cruelty experienced on the RPCs. As a result, many say they have given up hope of understanding anything that happens to them and can no longer imagine being in control of their lives. JRS Australia works with people for whom surviving day by day has become the only reality imaginable. Moreover, the fear of being returned to the offshore centres or being deported to countries of origin is real and it weighs down on families reinforcing or even worsening symptoms experienced on Manus Island or Nauru.

PEOPLE SEEKING ASYLUM IN THE AUSTRALIAN COMMUNITY AFFECTED BY CUTS TO SUPPORT SERVICES

As mentioned in Section 2, since 2017, the Australian government has been tightening access to and eligibility for financial support, torture and trauma counselling, and casework services. JRS Australia works with many people seeking asylum who are waiting for their protection claims to be adjudicated on and are already facing the impacts of these cuts. JRS Australia is also

working with people seeking asylum who arrived by plane and on other substantive visas, who are not eligible for the program or not being assessed as vulnerable enough in practice.

JRS Australia has argued that these policy changes amount to forced destitution and could force thousands into situations of hunger, and homelessness, compound trauma, lead to social isolation, family breakdown or violence, and emotional and cognitive impairments for children over the long term (Okhovat, 2018). People are likely to gravitate towards unsecured, unregulated, casual, and potentially exploitative labour in order to pay rent or put meals on the table when left without access to a safety net.

Seventy two to eighty eight percent of people in this group have thus far been found to be refugees and could become citizens in the future if permanent protection is reintroduced (Okhovat, 2018). In any case, it is likely that these individuals will remain in the Australian community for years, if not decades. Creating a social policy that pushes these individuals into homelessness and destitution is counter-productive to the well-stated social policy goals of integration and social inclusion. The continuation of such policies, aimed at a small cohort of asylum seekers arriving by boat illustrates how pervasive the logic of deterrence by punishment is.

LACK OF PERMANENT PROTECTION AND GAPS IN DUE PROCESS

JRS Australia also works with people who arrived by boat between 2012 and 2014, and who do not have access to the normal Refugee Status Determination process in Australia. They are only eligible to apply for protection under a truncated and procedurally unfair 'Fast-Track' process introduced under the aforementioned *Resolving the Asylum Legacy Caseload Bill 2014* (Andrew & Renata Kaldor Centre for International Refugee Law, 2019).

As part of the Fast-Track process, the government replaced the independent merits review mechanism with a body called the Immigration Assessment Authority (IAA) without providing, in the overwhelming majority of cases, applicants with the opportunity to respond to the officer's doubts about their claim, to provide new information relevant to their case, or appear for a second interview (McDonald & O'Sullivan, 2018).[8] The removal of these core elements of independent review runs contrary to standards of procedural fairness applied more broadly in the Australian administrative

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8   According to McDonald & O'Sullivan (2018), only 1.2% of applicants were granted an oral interview at the IAA between 1 July 2015 and 31 December 2017.

appeals system. In particular, it creates an imbalance between the principles of fairness and efficiency because of how the IAA's limited mandate is being interpreted in practice (McDonald & O'Sullivan, 2018).

Allowing applicants to present their case afresh a second time is crucial to the integrity of Refugee Status Determination. Moreover, interview environments can create significant stress and anxiety; stories are often complex, and re-traumatizing; country situations change in subtle or localized ways. It often takes more than a single interview with a DHA official for the complexities of cases to reveal themselves and informed decisions to be made.

Many people have to wait more than two years for judicial review hearings to determine whether there exists any 'legal error'. During this period, they are no longer eligible for SRSS payments and have to survive on short-term bridging visas, which are seldom recognized by employers. Destitution, homelessness, and ongoing limbo are significant challenges that affect this population.

Indefinite temporariness creates a lack of belonging, compounds past traumas, and causes new psychological ailments. This can, in turn, affect the ability to find and maintain employment, and result in a greater long-term resource burden on health and homelessness services provided by governments, charities, and communities.

Conclusions

The nature of Australia's border has been flexible across history. Its subjects and mechanisms of control have corresponded to political, social, economic, and technological realities. What is common across this history is a deep and enduring compulsion to exercise control over who comes to this country. This compulsion comes at a high moral, political, and economic cost, but appears to be fuelled both by racism and a desire to 'Other' people who come by undesirable means.

In this chapter, we have attempted to show how this obsession with border control has evolved and manifested in a range of complex spatial and functional dynamics of the border itself, made real by a raft of legal, political, and diplomatic fictions and the perceived need to exercise absolute sovereignty. In the process, Australia has demonstrated little regard for International Refugee Law and International Human Rights Law and has

progressively eroded the right to seek asylum. As the chapter shows, key international human rights institutions and leaders have laid bare the nature of these violations in numerous statements over the last five to ten years.

These statements of condemnation and their reputational consequences seem to have little effect on Australia's leaders, one of whom recently retorted that Australians "are sick of being lectured to by the United Nations" (Cox, 2015, para. 7). Australia's leaders also boast of having the best systems to manage migration in the world and seek to export this system, involving extra-territorialisation of border control and detention policies.

Through the work of JRS Australia, we have gained an understanding of the effects and the enormous cost of these punitive measures on asylum seekers, refugees, and migrants and the Australian community as a whole. Some of these dimensions are highlighted above. People seeking asylum and some refugees and migrants live in extremely vulnerable situations: in limbo, fear, hunger, destitution, and exploitation without access to due process. Nonetheless, they are incredibly resilient.

This can be via a mix of evidence-based advocacy, a people's movement that puts pressure on our decision-makers to shift policies, and a commitment to shifting hearts and minds over time.

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CONCLUSIONS AND FINAL RECOMMENDATIONS

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This section highlights the cross-sectional and comparative perspective that we carried out in our research and dissemination work and addresses the similarities and differences that emerged in each country.

Borders have become institutions created and modified by human beings to put a distance with those who are created "different" to the community itself. From this topic, historical-political "constructs" have been created, aided by lines of geographical demarcation erected from the perspective of power. However, these geographical, physical boundaries end up deeply rooted in the social and emotional imaginary of the populations that separate, as well as those that group. Thus, they end up becoming differential evidence for those who live on either side of the border.

Regarding their spatial dimension, borders have a dynamic character. In other words, there is a difference between the economic concentration levels and the construction of space on both sides of the border, which affects how people develop and integrate. With this premise in mind, the authors focused on the transit of people and the circular mobility that keeps these spaces alive.

Since the fall of the Berlin Wall in 1989, multiple barriers, high and sophisticated, began to be erected along kilometres of borders: in Africa, Asia, America and again in Europe. None of them was built to stop the advance of enemy armies or barbarian invaders, but to prevent the transit of human beings. Especially immigrants and refugees.

The barriers raised as a symbol of exclusion of "the others" in the hope of leaving their own people alone through a false image of the so-called "national order". All these are the signs of a manifest inability on the part of the States to govern the dynamics of migration triggered by globalization.

In this way, individuals are divided between those who are favoured by fate and the victims of circumstances. Mobility rates in the world are a sign that distinguishes the times currently running. For some, the globalized world means an extension of the space of their lives. However, for others, it is a drastic decrease in their range of action.

In recent years there has been an increase in the processes of control and externalization of borders by national states. The central measures of these securitization processes of the external borders are multiple and varied: the reduction or hardening of the legal channels of entry; the intensification of surveillance and security in border controls on land and sea; the outsourcing of border management; the outsourcing of border control in third countries through cooperation agreements; the criminalization of migrants and humanitarian agents acting at the border; the creation of detention centres in third countries; and return and repatriation agreements, among others.

The ultimate goals of these restrictive policies are to reduce the inflow of migrants and refugees and, less explicitly, to "protect" the labour market, the welfare system and the national culture from a substantial increase in immigration and ethnic diversity. Several authors of this book analysing different contexts and regions of the world have related the increase in border controls, with the rise in nativist discourses that see immigration as an economic and cultural threat against the nation-states. In addition to the case of refugees, the process of outsourcing the border may be related to a policy of distancing potential asylum seekers, since international law obliges them to attend them once they arrive in the territory of a signatory country of the convention.

Paradoxically, the same countries that claim and impose such border controls continue to demand and incorporate migrant workers in their economies, to the point that specific productive sectors in those countries have become structurally dependent on this cheap labour and flexible inflow. A contradiction that can be seen in developed states such as Australia, the US or the member states of the European Union, but which can also be found in developing countries such as Angola.

The negative consequences of these control and externalization processes that continue to act to this day—i.e., forced displacement, income inequalities, structural demand for immigrant labour by the developed economies—are numerous. Among the most critical are the growth of the irregular flows and entries, the increase in risks, abuses and deaths in the

processes of transit and entry and, linked to this, the creation of shadow spaces or black holes in the borders, where violence and abuse against human rights systematically occur. A fourth consequence would be the development of a migratory industry linked to these policies and, finally, the maintenance of an unequal global distribution when it comes to sharing the "burdens" of forced displacement, which continue to be disproportionately assumed by poor and developing countries. Some risks that, as has been reflected in the Australian and Mexican cases, are not neutral in terms of class, since they affect the poorest and most vulnerable countries, migrants and refugees to a greater extent.

The Australian case, analysed in detail in this book, is paradigmatic when it comes to an understanding and exemplifying of the development of this restrictive model. However, the truth is that it is a control and externalisation policy that is becoming more common in the developed states as in the European Union and the United States of America.

A paradigm of border control and externalisation that goes against transnational spaces and corridors—old and new—created by history and by international migration itself. Areas built from the circulation and transnational articulation of populations and territories that see their development and potential limited insofar as circulation and mobility are sanctioned. The Angolan case perfectly reflects this contradiction.

Our transversal vision on the dynamics of the borders is the following:

1. Migration patterns are dynamic and have diversified as far as local realities are changing and transforming migratory flows. In recent years there has been an increased in the complexity and combination of these migratory flows, configuring what can be called a mixed migratory flow, a "grey zone" between refugees and socioeconomic migrants, regular and irregular migrants. The causes of theses migratory flows are also mixed, in some cases driven by economic factors (mainly looking for labour opportunities) and family reunification. In other cases, they are driven by a deep political crisis that implies persecution, growing situations of violence and armed conflicts, and the need for international protection. One consequence of this situation in the emergence of different migrant status: regular and irregular migrants, internally displaced people, circular migration, people with need of international protection (PNIP), asylum seekers, detainees, deportees and returnees. In Latin America

and the Caribe, this is clear this mix of migratory flows both to the North (us) and to the South (Chile).

2. "The reality at the border shows that a number of the migration policies designed by the government do not work to manage migratory flows or to protect the fundamental rights of migrants" (Yaksic, 2020, p. 114). There is not only specific measures in the borders zones, but also on bordering practices, "those activities that may affect the constituting, sustaining, or modifying of borders" (Olayo, 2020, p. 55), and focus on social interaction and 'everyday' practices of control over mobility. These policies and practices configure what can be called a "vertical and elastic border", which includes not only the line that defines the political border but that extends to the whole bordering country, as the case of Mexico with the us. Restrictive migratory frameworks and rigidities that hamper regularity do nothing but translate migration in social vulnerability.

3. There are also "counter practices" that emerge in those contexts of migration-related with people's precarity, practices of solidarity and support to the forced migrants to make possible their way during the whole journey from the place of origin to the transit and destination countries. This "counter practices" have been adjusted their services to fit the changing profiles of migrants better. The assistance they provide consists of food, shelter, medical care, legal assistance, educational instruction on human rights and health—especially AIDS prevention—, and information about the risks and dangers on the route. All this help is the type of support that allows migrants to make the whole journey and cross the border. "Slowly, these humanitarian groups have gained prominence and have impacted the political landscapes as well as the bordering practices that appear all over migration routes" (Olayo, 2020, p. 76), both in Mexico and Peru/Chile.

4. Nowadays are taking place severe violations of the human rights of migrants, who migrate in situations of vulnerability. In many cases, these violations are negative consequences of control policies like the growth of the irregular flows and entries, the increase in risks, abuses and deaths in the processes of transit and entry and, linked to this, the creation of shadow spaces or black holes in the borders, where violence and abuse against human rights systematically occur. This can be seen in the increase in violence, extortion, kidnapping, mutilation, robbery, beatings, abuses from migration or police officers, physical

violence, sexual assault, labour and human trafficking, accidents, homicides, the increasing number of *feminicidios* (female killings) and the existence of smuggling networks. These abuses are partly due to an overlap between the migratory routes and the routes used by drug traffickers and criminal gangs. These severe violations of the human rights of migrants are taking place both in Mexico-US and in Peru/Chile borders.

Other several situations should be removed from the border dynamics like the "hot returns" in the Spanish case. This returns are related to the use of violence and are morally unacceptable practices that put people's lives at risk. It would therefore that they stop since they hinder the EU Community legality (Ares, Buades, de la Fuente, & Manzanedo, 2020). The protection in transit of those who have been abandoned to their fate is other situation that should be guaranteed. For example, in the middle of the Mediterranean Sea in the Spanish case, or in the desert in the Mexican case.

When it comes to asylum applications, we found that most of the borders have an agreement with the country of transit or the country of origin to proceed with an immediate return without paying attention to the different issues that have to do with the search for asylum and refugee situation. According to this issue, the search for asylum and refuge at the borders is having a solution: humanitarian aid. We must point out that humanitarian aid must be delivered. At the same time, other more sustainable solutions are explored so that communities become self-reliant and promote resilience, as noted in the Chapter about Asia.

The borders cannot continue to be factors that confront communities with each other. Borders should be bridges to unite different worlds, for the development of "cross-border subjects" open to interculturality, agents of change in their territories, committed with a more just, inclusive and fraternal society as already written in the case of the Colombo-Venezuelan border.

Challenges: political and humanitarian proposals

AT THE LOCAL LEVEL

- As Pope Francis invited the Christian community and everyone, we must learn to welcome, protect, promote and integrate the migrants into the communities. As Kofi Annan (2015) said, "the

migrants are fleeing poverty, war or oppression or are searching for a better life in a new land" (n. p.).

- Local communities, religious institutions and NGOs are called to provide essentials such as food, clothing, lifesaving medicines, and hygiene kits. They may also provide support with legal and psychological counselling; protect children and women from violence and abuse. Finally, an essential part of this call is to promote a sense of acceptance; establish interaction with the local communities; and help migrants and their families integrate themselves into local communities while acknowledging the differences that exist in the languages, cultures, and habits.
- People at all levels can create awareness, educate others and strengthen collaboration and people's participation using existing social integration mechanisms and cultures.
- Social media must be used to unite people rather than dividing them based on differences.

AT THE NATIONAL LEVELS

- The politicians and governments must acknowledge that migrants are not there to 'steal their jobs' but rather contribute to the economy of the country.
- National governments must encourage NGOs and social scientists to study the phenomenon and make laws, policies and schemes based on scientific evidence that help migrants to integrate themselves into the local communities.
- Create mechanisms for cultural exchange among people such as food festivals, cultural programs such as dance, music, theatre, etc.
- Provide legal and psychological support and help migrants to access the facilities that are available only for the locals.

AT INTERNATIONAL LEVELS

- The Global Compact for Safe, Orderly and Regular Migration, expected to be the first inter-governmentally negotiated agreement, prepared under the auspices of the United Nations in December 2018 in Morocco, is an outstanding attempt. It is hoped that this will cover all significant dimensions of international migration holistically and comprehensively. This is a very positive indication.
- Build stronger alliances and networks among nations and states.

- Monitor and ensure that the national governments and state actors do not violate the various UN declarations, where they are signatories, such as the declaration on human rights and the declaration on the rights of indigenous people.

At the borders, people should experience standardized entry procedures that are the same at any border, with clearly understandable ways to apply for international protection, or the ability to inform the authorities why they have otherwise arrived. The procedures must change so that families are more easily reunited with each other. People must be offered decent and standard reception conditions that meet their basic needs, be informed about what asylum and immigration procedures they will experience, and how they can get legal and social help to navigate those procedures and exercise their rights.

Detention should only be used as a truly last resort and only after alternative measures are exhausted. Asylum seekers should not be detained, and neither should migrant children and their families. The Regulation must be radically reformed so that people's preferences and protection needs are considered first. There must be a better way for the States to share responsibility for offering protection to people. Despite all of the difficulties, indignities, and abuses that asylum seekers, migrants, and refugees experience at the borders, what is remarkable is that people still come. Many would still do so even if they were hypothetically given a second chance to decide.

Recommendations and Proposals

There is an international challenge to regulate migration and borders while respecting people's rights and, above all, a bet on mobility as a source of development and opportunities for both origin and reception migrants at host countries.

Migratory movements have a strong human dimension, in which the person has to be the main focus when considering regulation and borders. It is also important to take into account the sovereignty of states and the framework of human rights. No state nor international organization can address migration on its own because of the inherently transnational nature of the phenomenon. It requires a whole-of-society approach, with international, regional and bilateral cooperation and dialogue.

Finally, let us recall the basis of international human rights law and the defence of the principles of non-regression and non-discrimination. In this sense, some of the most vulnerable groups deserve special attention: migrant women, unaccompanied and separated children, LGBT groups and indigenous communities, among others.

Once the results of this study are presented and the conclusions reached, governments, institutional agencies, as well as for the private sector and civil society need to take these recommendations and proposals to improve the management of their borders. The proposal structure is as follows: short-term, medium-term, and long-term.

SHORT-TERM PROPOSALS

Humanitarian aid and emergency resources

Country organizations must offer humanitarian and emergency resources to those countries and areas with conflicts, natural disasters and a high concentration of migrants, refugees, and displaced people. Also, establish coordinated international efforts on missing migrants. Humanitarian aid must always be carried out within the framework of respect for human rights and open to transition towards lasting solutions.

Summary returns and deportations

Throughout each of the chapters, a common fact was detected among the borders analysed, the use of violence to repel people from even approaching the border. This practice and summary returns are also morally unacceptable practices that put people's lives at risk. Countries and organizations must prevent deportations of migrants to countries where people's fundamental rights are not respected. The principle of non-refoulement (i.e., the right not to be returned to a country in which person's life or integrity is at risk) does not admit exceptions.

Protection in transit and legal paths

Each state must guarantee the fundamental rights of people in transit and, where appropriate, the availability and flexibility of pathways for regular migration. Confinement as a result of health emergencies presents us with the harsh reality of people who migrate and live undocumented in an irregular administrative situation. This situation generates a lack of defence and violation of rights.

Uphold the right to asylum

The states must guarantee the right to asylum or other forms of international relief, including the right to due process. People in need of international protection cannot be rejected at the border; forced migrants are generally in need of international protection. The right to asylum shall be guaranteed with due respect for the rules of the Geneva Convention of 28 July 1951 and the Protocol of 31 January 1967 relating to the status of refugees.

MEDIUM-TERM PROPOSALS

Strengthen the response to the smuggling of migrants

An overwhelming and clear response against human trafficking networks is necessary. Intensify joint efforts to prevent and counter-smuggling of migrants by strengthening capacities and international cooperation to prevent, investigate, prosecute and penalize the smuggling of migrants in order to end the impunity of smuggling networks. In particular, the profiles, the vulnerability condition, and the economic and industrial sectors to which these people come as victims must be taken into account. In addition to the risk factors identified globally that refer to individual issues—age or gender—, there are other collective issues—belonging to a vulnerable, marginalized social group, coming from broken families or without supportive social networks, or having suffered assumptions of previous violence—especially in which a cause-effect relationship would operate, make certain people more likely to become victims of trafficking.

Regularization policies

The global health emergency has highlighted the enormous contribution that undocumented migrants make worldwide, especially in the areas of health, agriculture, small businesses and large areas, and especially in the care of the elderly, children and youth. This situation of confinement has also brought to light the great vulnerability of rights that these situations cause in people, given the loss of employment and social protection. For these reasons, it is necessary to promote a sensible regularization policy that helps the integration and the safeguarding of human rights as well as the construction of a 'social fabric'.

Information at all stages of migration

States and organization must disseminate accurate information at the strategic points of the migratory routes so migrants know their rights in transit and the offices or places they could go in case of need or support. Also, strengthen efforts to provide, make available and disseminate accurate, timely, accessible and transparent information on migration-related aspects for and between States, communities and migrants at all stages of migration.

Protection of life at the border in a comprehensive and coordinated manner

States must manage borders in an integrated and coordinated manner. It is crucial to defend and support initiatives aimed at establishing mechanisms that ensure the protection of human lives and effective protection mechanisms at borders, especially for refugees and vulnerable migrants. The risk of violence due to the different armed groups present at the borders is another protection challenge.

Immigration detention and alternatives

States must ensure that any detention in the context of international migration follows due process. It must be non-arbitrary, based on law, necessity, and proportionality. Individual assessments must be carried out by authorized officials and be done in the shortest possible time, irrespective of whether detention occurs at the moment of entry, in transit or proceedings of return, and regardless of the type of place where the detention occurs. We further commit to prioritize non-custodial alternatives to detention that are in line with international law, and to take a human rights-based approach to any detention of migrants, using detention as a measure of last resort only.

LONG-TERM PROPOSALS

Observatories for human rights

States need to promote the placement of international observers of human rights at the borders. The States should recognize them and be given freedom of movement to be able to elaborate independent reports to ensure the defence of the rights of refugees and migrants at the borders.

Cooperation and readmission agreements

States need to cooperate in enabling safe and dignified return and readmission, as well as sustainable reintegration. It is crucial to ensure that migrants are duly received and readmitted, in full respect for the human right to return to one's own country and the obligation of States to readmit their own nationals. States should promote economic empowerment, inclusion and social cohesion, in order to ensure that reintegration of migrants upon return to their countries of origin is sustainable.

International cooperation to minimize the causes of migration

Origin countries need to minimize the structural factors that compel people to leave the country. The vast majority of people who migrate do so because of conflict, war, hunger or difficulties in safeguarding their fundamental human rights. It is necessary to reinforce policies of cooperation and solidarity with the countries in greatest difficulty. This will help to ensure that millions of people not to be forced to leave their lands, in many cases living authentic personal and family dramas.

Integration and social cohesion as a key figure

States must reinforce integration and social coexistence in our plural and multicultural societies. Clear education and social empowerment programmes are needed to promote this integration process. Hospitality and integration are key elements to ensure that our diverse societies build a future and an inclusive citizenship. We believe that providing access to basic services for migrants and refugees is a good investment in the future of our societies and our world.

Migration as an opportunity

States must raise awareness to enlighten citizens about the reality of migration. Migration is a multidimensional reality of significant relevance for the sustainable development of countries of origin, transit and destination. Migration is an opportunity for societies to grow and be enriched not only from an economic and scientific point of view but also in the social and cultural fields and the world of values. There are increasing opportunities to promote the involvement of migrant and refugee diasporas in the development of their home countries.

Xenophobia, falsehoods and populist trends

Societies must eradicate all forms of discrimination and promote an evidence-based public discourse to shape perceptions of migration. Migrants and refugees are often the focus of prejudice. Regrettably, some populist political parties instrumentalize migration for their own interests, distorting data. We are called upon to fight against falsehoods and populist trends. It is in this sense that the myths are perceived by the host society, and are invariably part of the reality of the country. The fight against hoaxes and false news about migrants and refugees that spread, in most cases, is based on ethnic prejudice and can lead societies in the wrong path. We propose a vision of the migrant and the refugee closer to reality, which also illustrates the escalating scope of an erroneous diffusion of part of society.

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Regional Director of the Jesuit Refugee Service (JRS) South Asia, based in Delhi. In South Asia, JRS serves in India, Afghanistan, and Bangladesh. He has served as JRS Country Director, Afghanistan, since 2006, and has done his doctoral studies at National Institute of Virology, Pune.

José Ignacio García, S. J.

Licentiate in Economics & Business Administration (1992). Licentiate in Philosophy (1996). Licentiate in Theology (1998). Lecturer of Agricultural Economics and Ethics at INEA-College of Agriculture (University of Valladolid, Spain) (1998-2008). From 2008 to 2017, Director of the Jesuit European Social Centre (JESC) in Brussels. JESC is a centre for social analysis run by the Jesuits and focused on European social policies and institutional development. During these years was a regular contributor of Europ Infos (www.europe-infos.eu), the newsletter of the Bishops representation in Brussels. Founder and editor of Ecojesuit (www.ecojesuit.com), devoted to environmental issues, ethics and spirituality. Since 2017 he is de Director of the Jesuit Refugee Service Europe (JRS). JRS is active in 19 countries in Europe, serving refugees and asylum seekers.

Mauricio García Durán, S. J.

Mauricio García-Durán is a Jesuit priest. He holds a Bachelor's Degree in Political Sciences and Theology, a Master's Degree in Philosophy and a PhD in Peace Studies (University of Bradford, UK). He has spent the last 28 years researching peace processes and social mobilization for peace in Colombia, participating in some of the peace initiatives in the country. In addition, he has worked on programs with displaced population for CINEP and the Jesuit Refugee Service. Currently, he is JRS' country director in Colombia and was JRS' regional director in Latin America between 2016-2019. He also coordinated the Jesuit Network for Migrants in Latin America and the Caribe

between 2015 and 2018. He has published seven books and 70 articles and chapters regarding these topics. Some of his publications are *Peace movement in Colombia, 1978-2003*, *Interaction between conflict transformation and human rights in the face of ongoing armed conflict in Colombia, La movilidad humana en América Latina y el Caribe vista a la luz de los flujos migratorios más críticos, Entrañas de misericordia: El Papa Francisco ante los migrantes, desplazados y refugiados* y *Magnitud de la crisis social y humanitaria entre los emigrantes venezolanos.*

Carolina Gottardo

Migrant lawyer and economist specialising on human rights issues for more than 20 years in different regions, including Asia Pacific, Europe and Latin America. She specialises on gender, asylum and migration. Carolina is the Director of The Jesuit Refugee Service (JRS) in Australia. Previously, she was the CEO of a migrant women's rights organisation in the UK. Carolina's expertise is in policy and advocacy and has worked with the British Institute of Human Rights, Refugee Council of Australia and Womankind Worldwide amongst others. She has also worked with the Constitutional Court in her native country, Colombia. Carolina has served on boards in London, Bangkok, Brussels and Sydney. She is currently the co-chair of the End Child Detention Coalition Australia and the chair of the women, gender and diversity group and focal point on the Global Compact for Migration (GCM) at the Asia Pacific Refugee Rights Network. Carolina has ample experience of advocacy with the UN system. She is a member of the UN Women's Global Expert Working Group to address the human rights of women in the GCM. She is also a member of the Women in Migration Network and the board for both the International Detention Coalition and the Global Coalition for Migration. Carolina has a Master's Degree in Development Management at the London School of Economics (LSE).

Juan Iglesias Martínez

PhD in Sociology. Juan has worked at the Comillas Pontifical University since 1999 and is a lecturer at the University Institute of Studies on Migration. He holds a PhD in Sociology from the Complutense University of

Madrid. His postgraduate training includes International Economy and Development studies and International Migration studies. He has been a visiting lecturer at the Latin American Centre, at St. Antony's College of the University of Oxford and the School of Social Work of Boston College. He is currently participating in the Latin American Migration Project (LAMP) conducted by Princeton University.

Xavier Jeyaraj, S. J.

He is a scholar on extractivism, mining and its impact on indigenous people and the environment. He is also a trained social worker, a lawyer and a human rights activist. Early in his career, he taught Sociology at St. Xavier College, Kolkata, India. He then founded the Social Action Centre called 'Udayani Social Action Forum' in 1998 which he developed and led until 2007, working with the most deprived santal tribals and *dalits* in the slums and villages around Kolkata. He also served as the Secretary for Social apostolate in South Asia for five years; as Assistant Secretary of Social Justice & Ecology in Rome for 3 years and developed and initiated the MSW course in St. Xavier's University, Kolkata before taking over as the Secretary for Social Justice & Ecology for the Society of Jesus in Rome (2017), where he leads and coordinates social apostolate for the entire Society of Jesus.

Cristina Manzanedo

Migration Officer, Entreculturas, Spain. She serves as Advisor for International Migrations in Entreculturas, Jesuit NGO of humanitarian aid and development. In the Latin American region, Entreculturas works on migrations in partnership with the Jesuit Network with Migrants (RJM), the Jesuit Refugee Service (JRS) and Fe y Alegría. In Spain, Entreculturas advocates for hospitality and better migration and asylum policies as a complementary strategy to the projects abroad. Until 2016, she led for eight years the Detention Centers program (CIE) of Pueblos Unidos, a member of the Jesuit Service with Migrants Network Spain (SJM) and served as the advocacy officer of SJM. Before 2010, she worked for the IberoAmerican Organization for Education, Science and Culture (OEI). She holds a Master's Degree in Law and International Relations from New York University.

Alejandro Olayo-Méndez, S. J.

Assistant Professor at the Boston College School of Social Work. He developed his expertise in migration, refugees, and humanitarian work by analyzing the interactions between migrants and humanitarian aid organizations along migration routes in Mexico and the ways these interactions shape the migratory processes in the region. He is particularly interested in the intersection of humanitarian aid and migration, as well as questions regarding human rights, inequality, transit migration, meso-level structures, and the so-called "Migration Industry." Dr. Olayo-Méndez holds a DPhil in International development and an MSc in Migration Studies both from the University of Oxford, a Master of Social Work from Loyola University Chicago and a Master of Divinity (Theology) from Boston College. He has collaborated with Jesuit Refugee Service by conducting interviews with internally displaced people (IDP) in Colombia and Tamil Nadu, India. Also, he has done clinical work with immigrant and refugee communities in Chicago, IL, and Spokane, WA. He is currently preparing a project to research the effects of 'Migrant Protection Protocols (MPP)' on Mexican communities, humanitarian interventions, and the lived experiences of asylum seekers at the Mexico-US Border. Apart from being a researcher, Alejandro is a Jesuit Catholic Priest from the West Coast Province in the U.S.

Nishadh Rego

Policy and Advocacy Coordinator at the Jesuit Refugee Service (JRS) Australia and is responsible for developing and implementing JRS Australia's advocacy strategy; leading its strategic lobbying and community organising initiatives, and contributing to policy development/analysis on issues affecting people seeking asylum at a national level. Nishadh has published articles on Australia's asylum policies and politics in the MENA region. Nishadh holds a Master's Degree in International Relations (Dean's Honours List) from the University of Melbourne and a Bachelor's degree in Economics/Arts (Honours) from the Australian National University (ANU).

Miguel Yaksic

Miguel Yaksic grew up in Santiago de Chile. He studied a Bachelor's degree in Philosophy (Alberto Hurtado University, Santiago), in Theology

(Catholic University of Chile) and a Master's Degree in Social Ethics (Boston College, US). He was executive director of the Jesuit Migrants Service in Chile and has worked as a consultant and researcher on migration policies in Chile and Latin America. He currently teaches a course on Migration and Human Rights at the Government School of the Catholic University in Santiago and works at the Chilean Transparency Council.