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Project Directed by
Stephanie Leutert

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Table of Contents

List of Acronyms.....	vii
Foreword	ix
Executive Summary.....	xi
Part 1. Background on Migration Through Mexico	1
Trends in Transit Migration from the Northern Triangle Through Mexico.....	1
Causes of Migration from the Northern Triangle of Central America	2
Migrants at High Risk.....	5
Part 2. Federal Legal Framework for Migration in Mexico	7
Mexican Federal Constitution and International Obligations	7
The Migratory Law of 2011.....	7
Federal Agencies Concerned with Migration	8
Part 3. Organized Crime and Migrants.....	11
The Criminal Actors	11
Interactions Between Migrants and Organized Crime.....	12
Economic Benefits for Criminal Groups Committing Crimes Against Migrants	14
Risk Factors that Increase Organized Crime’s Activities Against Migrants	15
Federal Policies and Programs on Combatting Crimes Against Migrants.....	20
Part 4. Police Forces and Central American Migrants	27
Laws and Policies Regulating the Relationship Between the Federal Police and Migrants.....	27
International Best Practices for Police Treatment of Migrants	31
Endnotes.....	35

List of Acronyms

A4P	Alliance for Prosperity
ASEAN	Association of Southeast Asian Nations
BORSTAR	United States is the Border Patrol Search, Trauma, and Rescue
CAMRD	Central American Migrant Risk Database
CARSI	Central American Regional Security Initiative
CISEN	National Security and Intelligence Center (<i>Centro de Investigación y Seguridad Nacional</i>)
CNDH	National Human Rights Commission (<i>Comisión Nacional de Derechos Humanos</i>)
COMAR	Mexican Commission for Refugee Assistance (<i>Comisión Mexicana de Ayuda a Refugiados</i>)
DHS	U.S. Department of Homeland Security
DIF	National System for Integral Family Development (<i>Sistema Nacional para el Desarrollo Integral de la Familia</i>)
EMAST	Mobile Analysis Support Teams
EMSC	European Migrant Smuggling Centre
EU	European Union
FRA	European Union Agency for Fundamental Rights
GOTTPA	Interinstitutional Trafficking and Gang Operations Group (<i>Grupo Interinstitucional de Operaciones contra la Trata, Tráfico, y Pandillas</i>)
HBA	Human Rights-Based Approach
INM	National Migration Institute (<i>Instituto Nacional de Migración</i>)
INSYDE	Institute for Security and Democracy (<i>Instituto para la Seguridad y la Democracia</i>)
INTERPOL	International Criminal Police Organization
IOM	International Organization of Migration
MTM	Dialogue on Mediterranean Transit Migration
NTCA	Northern Triangle of Central America (Honduras, El Salvador, and Guatemala)

ONC	National Citizen Observatory (<i>Observatorio Nacional Ciudadano</i>)
PEM	Special Program for Migration (<i>Programa Especial de Migración</i>)
PF	Federal Police (<i>Policia Federal</i>)
PGR	Federal Attorney General (<i>Procuraduria General de la Republica</i>)
PND	National Development Plan (<i>Plan Nacional de Desarrollo</i>)
REDODEM	Documentation Network of Migrant Defender Organizations (<i>Red de Documentación de las Organizaciones Defensoras de Migrantes</i>)
SEGOB	Ministry of the Interior (<i>Secretaria de Gobernación</i>)
SGBV	Sexual and Gender-Based Violence
SIENA	Secure Information Exchange Network Application
TCO	Transnational criminal organization
UIDPM	Investigation Unit for Crimes Against Migrants (<i>Unidad de Investigación de Delitos para Personas Migrantes</i>)
UNHCR	United Nations High Commissioner for Refugees (UN Refugee Agency)
UNODC	United Nations Office on Drugs and Crime
UPM	Migratory Policy Unit (<i>Unidad de Política Migratoria</i>)
WOLA	Washington Office on Latin America

Foreword

The Lyndon B. Johnson School of Public Affairs has established interdisciplinary research on policy problems as the core of its educational program. A major element of this program is the nine-month policy research project, in the course of which one or more faculty members direct the research of ten to twenty graduate students of diverse disciplines and academic backgrounds on a policy issue of concern to a government or nonprofit agency. This “client orientation” brings the students face to face with administrators, legislators, and other officials active in the policy process and demonstrates that research in a policy environment demands special knowledge and skill sets. It exposes students to challenges they will face in relating academic research, and complex data, to those responsible for the development and implementation of policy and how to overcome those challenges.

The “Beyond the Border: Policy Responses for Central American Migration” policy research project addresses the questions that Mexico faces as a migration country of origin, transit corridor, and destination for Central American migrants. This project was sponsored by the Robert Strauss Center for International Security and Law in partnership with Mexico’s Federal Police, and led by Mexico Security Initiative Director Stephanie Leutert.

Throughout the 2017-2018 academic year, the students interviewed over one hundred migration and security experts in the United States and Mexico, made transparency requests to each Mexican state on migration and public security related topics, and created an original Central American Migrant Risk Database based off open-source media reports to document crimes committed against migrants and their geographic trends. The students’ research and analysis were also informed by their winter break work in the FM4 migrant shelter in Guadalajara, Mexico, a research trip to El Paso/Ciudad Juárez, and volunteer legal work in the family detention center for asylum seekers in Dilley, Texas. The final report, presented in Mexico City to the Federal Police Commissioner and his team on April 27, 2018, analyzes the risks that migrants face during their journey through Mexico from organized criminal groups. The research contained in this report aims to assist Mexican authorities in better fulfilling their legal mandates and to design more effective strategies for protecting Central American migrants as they transit through Mexico.

The curriculum of the LBJ School is intended not only to develop effective public servants, but also to produce research that will enlighten and inform those already engaged in the policy process. The project that resulted in this report has helped to accomplish the first task; it is our hope that the report itself will contribute to the second.

Finally, it should be noted that neither the LBJ School nor The University of Texas at Austin necessarily endorses the views or findings of this report.

Angela Evans
Dean

Executive Summary

Mexico's geographic location makes it a primary destination and key transit country for Central American migrants. Underdevelopment, violence, political instability, and environmental challenges have fueled Central American migratory flows through Mexico toward the United States.¹ In recent years, however, a primary cause for migration from the Northern Triangle of Central America (NTCA), made up of Guatemala, El Salvador, and Honduras, has been the expansion of violent gangs in the region.² Given the Salvadoran, Guatemalan, and Honduran governments' inability to control these gangs or provide economic opportunity to their citizens, the large numbers of NTCA migrants fleeing violence and poverty appears unlikely to slow down in the near future.³

In this current migratory context, Central American migrants are pursuing not only socioeconomic stability but also asylum, introducing complex political, legal, and administrative questions for Mexico's and the United States' governments. The scale of current NTCA migratory flows is immense. In the peak years of 2015 and 2016, Mexican authorities apprehended over 350,000 Central Americans, far surpassing the previous record-setting years of the 21st century (2005 and 2006).⁴

Migrants traveling through Mexico are frequently subjected to serious human rights violations. Organized criminal groups in Mexico regularly interact with and victimize migrants. These criminal activities are often predatory in nature and in many cases include rape, kidnapping, or murder. Despite a federal legal framework designed to protect irregular migrants in Mexico, the responsible agencies have failed to fully prevent crimes against migrants and have at times actively participated in their victimization.

The following report was researched and written in response to a request by the Mexican Federal Police for an evaluation of the interactions between organized crime and Central American migrants transiting through Mexico. Given that protecting migrants and combating organized criminal groups both fall within the Federal Police's mandate, this evaluation also outlines how protecting migrants can help deprive organized criminal groups of a lucrative funding source.

Part 1 of this report provides background information on Central American migration to and through Mexico, including current migratory trends, their causes, and high-risk groups. Part 2 examines Mexico's federal legal and institutional frameworks for addressing migration. Part 3 focuses on the interactions between organized crime and migrants and concludes with an evaluation of current crime prevention policies. Finally, the report concludes in Part 4 with the laws and policies that govern the interactions between Federal Police forces and migrants and outlines international best practices for guiding these interactions. (The final report for the Federal Police also contains recommendations and additional information, which have been removed from this public version.)

Part 1. Background on Migration Through Mexico

Trends in Transit Migration from the Northern Triangle Through Mexico

The majority of irregular migrants traveling through Mexico come from the Northern Triangle of Central America (NTCA) countries of El Salvador, Guatemala, and Honduras. (For the purposes of this report, “irregular migrants” refers to all foreigners transiting through or to Mexico without authorization from the Mexican government.) The annual numbers fluctuated between 2013 and 2017, but overall, Mexican authorities apprehended more than 600,000 NTCA migrants during this time period (see Table 1.1). In 2015 alone, Mexico’s National Migration Institute (*Instituto Nacional de Migración*, INM) apprehended approximately 178,000 Central American migrants moving through the country without authorization. As a percent of these total numbers, apprehensions of unaccompanied minors and women have increased disproportionately.⁵ From 2011 to 2016, the number of unaccompanied NTCA children who were deported from Mexico increased by 446 percent.⁶

Table 1.1
Apprehensions of NTCA Migrants in Mexico, FY2013-FY2017⁷

Country of Origin	FY2013	FY2014	FY2015	FY2016	FY2017	Total	Percent by Country
El Salvador	14,610	23,131	35,390	33,531	12,400	119,062	20%
Guatemala	31,188	47,794	83,745	62,278	36,707	261,712	43%
Honduras	34,110	47,521	58,814	54,226	32,029	226,700	37%
Total Apprehensions	79,908	118,446	177,949	150,035	81,136	607,474	-

Overall, the International Organization for Migration (IOM) estimates that between 400,000 and 500,000 irregular migrants transit through Mexico each year, with 90 percent coming from Central America.^{8,i} Given consistently high apprehension rates at the U.S.-Mexico border, it is possible to estimate that well over one million migrants may have left the NTCA for the United States since 2014. Despite a brief decline in the number of NTCA migrants detained in the United States and Mexico following U.S. President Donald Trump’s January 2017 inauguration, these numbers are once again increasing.⁹

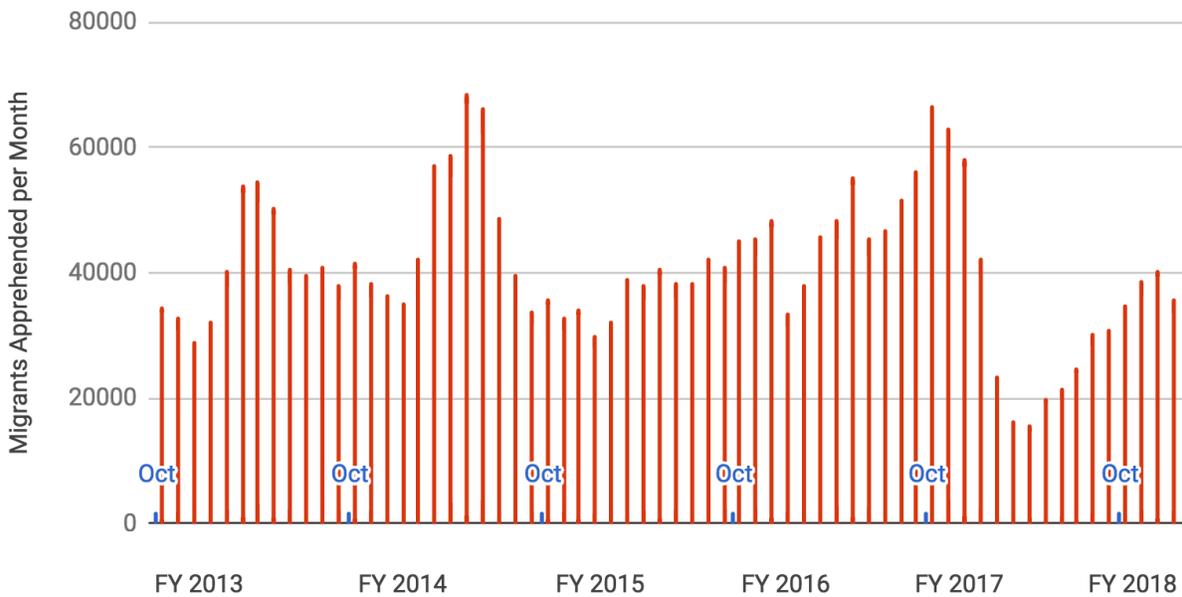
ⁱ The IOM does not specify its methodology, but looking at total apprehensions, U.S. Department of Homeland Security (DHS) apprehension success rates, and the total number of successful migrants crossing from Mexico to the United States, we calculate that the approximate number of migrants leaving the NTCA falls between 307,718 and 461,576 per year.

Table 1.2
Apprehensions at the U.S.-Mexico Border, FY2013-FY2016¹⁰

Country of Origin	FY2013	FY2014	FY2015	FY2016	Total	Percent by Country
El Salvador	36,957	66,419	43,392	71,848	218,616	28%
Guatemala	54,143	80,473	56,691	74,601	265,908	35%
Honduras	46,448	90,968	58,814	90,968	287,198	37%
Total Apprehensions	137,548	237,860	133,528	237,417	771,722	-

Figure 1.1
U.S. Customs and Border Patrol Apprehensions, FY2013-FY2018

Source: CBP



Causes of Migration from the Northern Triangle of Central America

The causes of NTCA migration to and through Mexico are complex and deeply interrelated. Broadly speaking, the main factors influencing decisions to migrate are high levels of gang and domestic violence, poverty and underdevelopment, and family reunification. These factors are neither exhaustive nor mutually exclusive, as migrants may leave the NTCA for a combination of these factors or for other reasons.

Gang Violence

Over the past two decades, Central America's street gangs—most notably MS-13 (*Mara Salvatrucha*) and the 18th Street gang (*Barrio 18*)—have contributed to the NTCA's high levels of social instability and violence. (Although these groups may be referred to by many names including street gangs, *maras*, or *pandillas*, we use the term “gangs” for the duration of this report.) Ironically, these groups themselves were borne out of violence-driven migration from the NTCA. During El Salvador's civil war from 1980 to 1992, many Salvadorans sought refuge and opportunity in the United States, particularly in Southern California.¹¹ Under the Ronald Reagan administration, Central Americans fleeing their civil war were classified as “economic migrants” and not considered to be refugees. Due to this distinction, less than 3 percent of their asylum cases were approved in the early 1980s.¹²

Mired in the 1980s and early 1990s U.S. gang culture and urban violence, many young Central American immigrants formed street gangs to protect themselves.¹³ In the 1990s, following a shift in U.S. immigration policy, the U.S. government deported tens of thousands of these immigrants back to Central America—particularly El Salvador—either due to criminal convictions or because they did not have legal immigration status in the United States.¹⁴ After returning to Central America, these gang members continued their criminal activities, taking advantage of weak law enforcement and large numbers of disaffected youth, which they recruited, either voluntarily or by force, into the gangs.

Over the past two decades, these street gangs have spread to all three NTCA countries and have established a strong presence in many neighborhoods and municipalities. Their often block-by-block territorial control affects the local populations, including through the extortion of families and businesses, forced recruitment of young men into the gangs, and the coercion of girls to become members' “girlfriends.” In fact, these groups' authority often supersedes the government's presence and protections.¹⁵ Through their rivalry and turf wars, MS-13 and the 18th Street gang have been linked to the deaths of thousands of gang members and civilians.¹⁶

Exact casualties can be difficult to calculate, but in 2015, following the collapse of a two-year truce between MS-13 and the 18th Street gang in El Salvador, the country's murder rate surged to be one of the world's highest, at 103 homicides per 100,000 people.¹⁷ Similarly, in 2015 Honduras's homicide rate was 57 murders per 100,000, while in Guatemala it was 29.5 per 100,000.¹⁸ In comparison, according to the World Bank, Mexico and the United States had 2005 homicide rates of 16.3 and 4.9 per 100,000 people, respectively.¹⁹ Although Honduras and Guatemala have lower homicide statistics than El Salvador, they also face similar challenges of gang and social violence exacerbated by widespread corruption and impunity.²⁰

The NTCA governments have attempted to control the violence in their respective territories with limited success. The so-called Iron Fist (*Mano Dura*) in El Salvador, the Sweep Up Plan (*Plan Escoba*) in Guatemala, and the Zero Tolerance Plan (*Cero Tolerancia*) in Honduras all included more militarized policing and higher incarceration rates for gang members, but failed to produce significant reductions in violence levels.²¹ Behind the lack of success are the

countries' weak and underfunded security forces, endemic corruption, political unrest, and persistent lack of economic development. U.S.-led efforts such as the Central American Regional Security Initiative (CARSI) and the Alliance for Prosperity (A4P) have aimed to address these challenges through aid programs and initiatives that are designed to boost economic growth, promote job creation and training, improve public safety, and strengthen institutions.²² However, without improvements in these areas, it is unlikely that the NTCA governments will be able to control gang violence in their territories in the near future.

Widespread Poverty and Underdevelopment

Extreme poverty and a lack of educational and professional opportunities also drive migration from the NTCA through Mexico to the United States. El Salvador, Guatemala, and Honduras are three of the poorest countries in Latin America.²³ According to The Borgen Project, about 35 percent of Salvadorans, 59 percent of Guatemalans, and 66 percent of Hondurans are living in poverty.^{24,ii} Approximately 60 percent of the Northern Triangle's rural population continues to live below their countries' poverty lines.²⁵ Compared with other Latin American countries, investment levels and economic development, especially in Guatemala, have also lagged. On average, foreign direct investment into Latin American countries equaled 0.6 percent of their GDP in 2016. By contrast, foreign direct investment made up only 0.2 percent of GDP in Guatemala and 0.4 percent in El Salvador. Honduras was the only NTCA country to exceed the Latin American average, with a foreign direct investment rate of 1.5 percent of its GDP.²⁶

A lack of investment in human capital, limited access to secondary education, and high levels of youth unemployment have all compounded existing hardships.²⁷ According to the U.S. Congressional Research Service, an estimated 25 percent of 15- to 24-year-olds in El Salvador and Honduras do not work or study, and Guatemala has the lowest rate of graduation from high school (less than 45 percent). NTCA youth are therefore left with little opportunity for social advancement or prosperity.²⁸ Combined with high poverty rates, many Central American adults and children seek better economic and educational prospects in the United States, where even informal, unauthorized work pays higher wages.²⁹ For example, the United States' minimum wages ranges from \$5.15 an hour in Georgia and Wyoming to \$12.50 an hour in Washington, D.C.³⁰ This means that a worker could earn \$41.20 to \$100 per day. By comparison, a coffee worker in El Salvador could expect to earn approximately US\$7.44 per day, with only slightly higher rates in Honduras and Guatemala.³¹ The opportunity to earn significantly higher wages in the United States combined with the lack of economic opportunities in the NTCA is another factor driving migration through Mexico.

Family Reunification

Migrants from the Northern Triangle may also decide to travel to the United States or Mexico due to preexisting networks and kinship ties. Decades of legal and irregular migration from the NTCA to the United States have separated families, with little hope for reunification. Irregular

ⁱⁱ Poverty is defined as the population living under US\$5.50/ day. These figures represent the wages in 2015, with the exception of Guatemala, where the most recent data was from 2014.

immigrants are unable to bring children or relatives to join them in the United States through legal channels, while legal permanent residents struggle with the lengthy paperwork, opaque bureaucracy, and hefty fees involved in the formal U.S. immigration system. In response to these legal barriers, tens of thousands of unaccompanied minors have traveled through Mexico to join their family members who previously migrated in the United States.³² As discussed above, adult migrants often leave the NTCA to escape violence or seek better economic opportunities, leaving their children with grandparents or other family members. In recent years, many of these parents have sent for their children in order to reunify their families and protect them from the NTCA's high levels of violence.³³

Migrants at High Risk

The large numbers of irregular migrants who cross through Mexico each year are made up of various subgroups. These subgroups may face higher risks during their journeys due to their age, gender, or sexual orientation.

Unaccompanied Minors

Unaccompanied children and adolescents are one of the most high-risk migrant groups. From October 2011 to October 2014, the number of unaccompanied minors crossing into Mexico and the United States rose continually, peaking in the summer of 2014 during a period known as "the surge."³⁴ From 2011 to 2016, there was a 272 percent increase in unaccompanied minors apprehended at the U.S.-Mexico border. During the same time period, there was a 446 percent increase in the number of unaccompanied minors deported by Mexican officials.³⁵

The United Nations High Commissioner for Refugees (UNHCR) conducted a series of interviews with more than 400 unaccompanied minors who had arrived in the United States after October 2011. According to their interviews, 66 percent of Salvadoran children, 20 percent of Guatemalan children, and 44 percent of Honduran children cited violence as a reason for why they left their countries of origin. This included violence by drug cartels and gangs as well as violence within the home.³⁶ According to a 2017 analysis conducted by the Center for Global Development, from 2011 through 2016 each additional homicide in the Northern Triangle resulted in roughly four additional apprehensions of an unaccompanied minor at the U.S.-Mexico border.³⁷ These statistics indicate that increased migration of unaccompanied minors is directly tied to increases in violence in the Northern Triangle.

During their journeys through Mexico, children and adolescents are particularly vulnerable to exploitation and victimization. Girls made up 39 percent of unaccompanied minors who were deported from 2011 to 2016, and are at a higher risk of sexual violence and trafficking during their transit.³⁸ Children may also be more vulnerable due to their lack of resources or inability to defend themselves against perpetrators.

Female Migrants

Abuse and discrimination based on gender are also common during female migrants' journeys through Mexico. Accurate statistics on sexual violence against female migrants and refugees from the NTCA are not available due to vast underreporting. Representatives of NGOs that serve migrants estimate that a high percentage of girls and women experience sexual and gender-based violence (SGBV) during their journeys. SGBV is often anticipated, with Central American women at times viewing it as just another inescapable "tax" on an already costly journey.³⁹ Some Central American women have reported injecting themselves with contraceptives prior to embarking north in order to avoid the burden of an unwanted pregnancy.⁴⁰ Women and girls may also become victims of "coerced survival sex," in which they are forced by a smuggler, police officer, migration official, or another migrant to exchange sex for shelter, protection, food, or the ability to proceed.⁴¹ Organizations that assist migrants in Mexico have also documented cases of smugglers pressuring women and girls into sex as payment and threatening to abandon them if they say no.⁴²

LGBTQI Migrants

Migrants within the LGBTQI community are particularly susceptible to both sexual and physical violence at home and in transit. Each NTCA country has high rates of violence against LGBTQI people.⁴³ According to the Honduran rights group Catrachas, at least 264 LGBTQI people have been killed in Honduras since 2009, the majority of them gay men.⁴⁴ In Guatemala, conservatism and violence contribute to lesbians being subject to rape as "punishment" for their orientation.⁴⁵ LGBTQI Salvadorans suffer from systemic discrimination and violence from law enforcement at home, the majority of cases resulting in impunity.⁴⁶ They face similar challenges in Mexico while seeking asylum.

It is difficult to obtain representative figures for sexual violence against LGBTQI migrants in transit given the fear, guilt, and shame associated with sexual assault. Yet in 2016 and 2017 the UNHCR reported that two-thirds of the LGBTQI refugees they spoke with had suffered sexual and gender-based violence in Mexico.⁴⁷

Part 2. Federal Legal Framework for Migration in Mexico

Mexico has an extensive legal framework concerning irregular migration, treatment of migrants, and their regularization. Though not fully realized in practice, this legal framework provides migrants with the right to access justice, protection, social benefits, and asylum in Mexico. This section reviews the legal framework created by the Mexican Constitution and Migratory Law of 2011 (*Ley de Migración*) before discussing the relevant federal agencies that implement migratory policy.

Mexican Federal Constitution and International Obligations

Mexico's 1917 Constitution delineates the federal government's powers to regulate migration and creates the foundation for federal and state-level migratory legislation. The Constitution allows free movement through Mexico and gives the federal government the power to regulate entry into the country and also to detain and expel individuals.⁴⁸ These powers were specifically delineated in the General Law of Population of 1974 (*Ley General de Población*) and later in the Migratory Law of 2011. The Constitution also grants all foreigners in Mexico the same protections as Mexican citizens, including the ability to access the justice system and report crimes.⁴⁹ As for those seeking international protection, the Constitution grants all foreigners the right to seek asylum in Mexico, a right that is largely informed by international refugee law.⁵⁰

Mexico follows several international treaties that provide the guidelines for recognizing refugee status. Individuals without legal status in Mexico may seek asylum under Article 37 of the 2011 Migratory Law.⁵¹ Under the guidance of the 1951 Refugee Convention, individuals in Mexico are eligible for refugee status if they can prove persecution, or fear of future persecution, due to their race, political opinion, gender/sexual orientation, religion, or membership in a particular social group. Mexico also adheres to the 1984 Cartagena Declaration on Refugees, which promises refugee protection to those who have fled generalized violence, instability, and human rights violations. Given this broad definition of refugee status, many migrants fleeing instability and violence in the NTCA may be eligible for international protection under Mexican law.

The Migratory Law of 2011

In 2011, Mexico's Congress passed the Migratory Law (*Ley de Migración*) and redefined the country's migratory policies and bureaucratic framework. (See Part 4, Section 1, of this report for the specific portions of the Migration Law that apply to the Federal Police's work.) The law outlines the Mexican government agencies' roles for enforcing migratory regulations and confirms the 2008 changes to the General Population Law (*Ley General de Población*)—which the 2011 Migratory Law superseded—by classifying irregular migration as an administrative infraction rather than as a criminal act. The 2011 Migratory Law also named the INM, a decentralized administrative agency under the Interior Ministry's (*Secretaría de Gobernación, SEGOB*) Undersecretary of Population, Migration, and Religious Issues (*Subsecretaría de Población, Migración y Asuntos Religiosos*) as the responsible body for enforcing Mexico's

migratory policy.⁵² The Migratory Law also limits the Mexican state's ability to detain migrants indefinitely, provides protections against arbitrary detention, and guarantees migrants' access to Mexico's legal system.⁵³

Federal Agencies Concerned with Migration

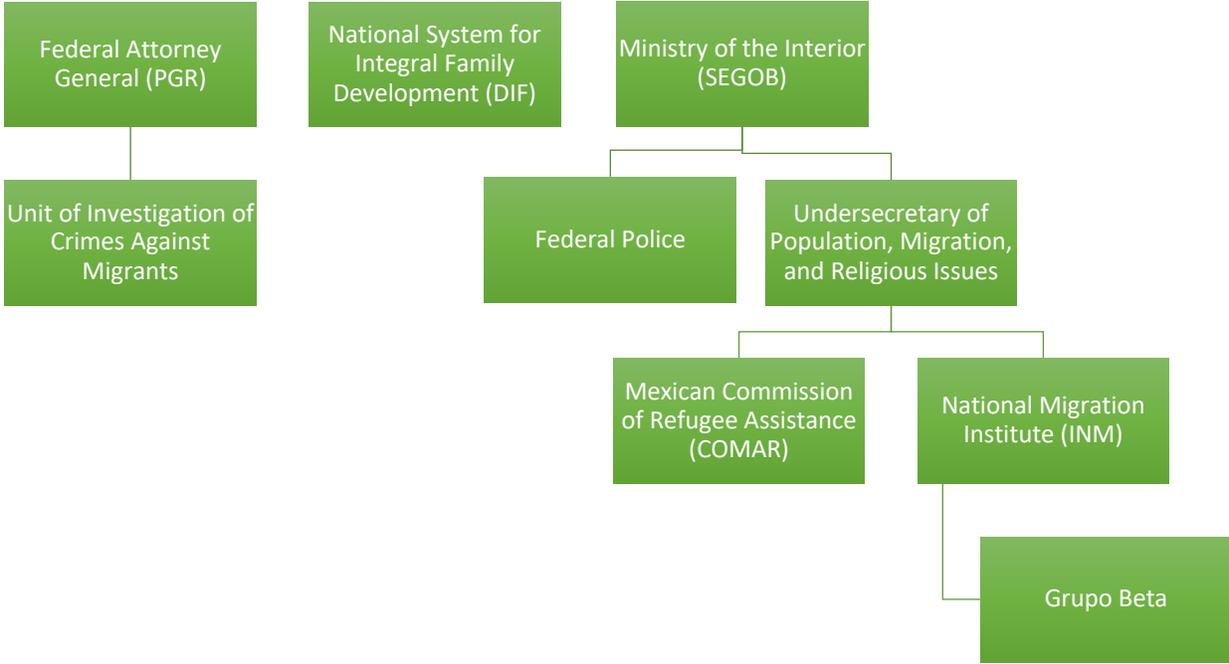
The INM manages migration to and through Mexico in collaboration with other agencies such as the Mexican Commission for Refugee Assistance (*Comisión Mexicana de Ayuda a Refugiados*, COMAR), the Federal Police (*Policía Federal*), and the National System for Comprehensive Family Development (*Sistema Nacional para el Desarrollo Integral de la Familia*, DIF). (See Figure 2.1 for a chart listing the agencies involved with migrant policy implementation.) INM agents check migration status, manage migrant detention centers, oversee the removal of irregular migrants, and supervise legal migration into and out of Mexico. For unaccompanied minors in INM custody, DIF is the responsible agency for ensuring access to the appropriate social services. The INM also houses the *Grupos Betas*, which are charged with providing humanitarian assistance to irregular migrants traveling through Mexico. This assistance may take the form of providing water, food, and basic medical treatment.

The INM is not a law enforcement body, as the agency only deals with immigration infractions that are classified as administrative, not criminal, violations of Mexican law. As a result, the Federal Police are charged with providing armed security to INM agents in the course of their duties, whenever it is formally requested.⁵⁴ Similarly, the Federal Police are in charge of providing public security to Mexico's borders, federal highways, railways, and other areas where there may be large numbers of migrants. The combination of these factors leads to high levels of interaction between the Federal Police and irregular migrants.

COMAR is the responsible agency for granting refugee status to migrants who qualify for protection under Mexican law. In addition to making these decisions, COMAR may also grant applicants complementary protection, which offers an alternative legal status to migrants who are not considered refugees but whose lives are deemed to be threatened or who could be at risk of torture, ill treatment, and other forms of cruel and inhumane treatment in their countries of origin.⁵⁵

To aid migrants who are victims of crimes, the Federal Attorney General (*Procuraduría General de la República*, PGR) investigates federal crimes against migrants, most notably through the Unit of Investigation of Crimes Against Migrants (*Unidad de Investigación de Delitos para Personas Migrantes*). This unit also features an External Reporting Mechanism (*Mechanismo de Apoyo Exterior Mexicano de Búsqueda e Investigación*, MAEMBI) that takes reports of crimes filed by relatives of migrants and participates in investigations of migrants' disappearances in Mexico.⁵⁶ Migrants who were victims of crimes, are awaiting refugee status decisions, or face other difficult humanitarian circumstances may also apply for a humanitarian visa (*Visitante Por Razones Humanitarias*) through the INM, which grants them a one-year permit to remain in Mexico and move freely throughout the country.⁵⁷

Figure 2.1
Federal Agencies Involved in Migration Policy Implementation in Mexico



Part 3. Organized Crime and Migrants

In Mexico, irregular migrants and organized criminal groups generally interact in one of two ways: to facilitate migrants' journeys or to victimize them along the way.⁵⁸ Migrants may voluntarily cooperate with organized criminal groups by hiring human smugglers, paying a required tax, or working for these groups throughout their journey. Yet these same groups may also prey on migrants through robbery, extortion, kidnapping, and trafficking. The complexity of these interactions makes it complicated for law enforcement to combat organized crime and identify migrants who need protection.

The following sections pull from the Central American Migrant Risk Database (CAMRD), an original dataset collected specifically for this project. The CAMRD is composed of crimes committed against migrants that were reported in Mexican federal, state, and local newspapers. The findings are limited to what was included in the articles, however, the CAMRD data's trends were corroborated by reports from the Washington Office on Latin America (WOLA) and Red de Documentación de las Organizaciones Defensoras de Migrantes (REDODEM).

The Criminal Actors

Local actors such as bandit groups, street gangs such as MS-13, and Transnational Criminal Organizations (TCOs) such as the Gulf Cartel and the Zetas regularly interact with migrants along their journeys. As previously mentioned, these interactions are complicated and difficult to map out given their hidden and illicit nature. These criminal actors may also at times overlap or work with one another. Table 3.1 distinguishes between the three types of criminal actors that interact with migrants.

Table 3.1
Criminal Actors that Interact with Migrants

Actor	Description
Local Actors	Individuals or small groups who commit crimes of opportunity as migrants transit through Mexico. Local actors neither rely on expansive networks nor large resources and tend to operate within a limited geographical region. For example, in <i>La Arrocera</i> , a 262-kilometer route running through Chiapas, Mexico, local bandits target migrants who walk on rural paths to avoid checkpoints. ⁵⁹ These bandits generally engage in small-scale crimes such as robbery, extortion, assault, or sexual assault, although they have been accused of murder.

Actor	Description
Gangs	Gangs such as MS-13 or the 18th Street gang also target migrants, especially those traveling by foot or train without the help of a smuggler. Although more organized than local bandit groups, these gangs do not appear to have a strong presence outside of the Mexico-Guatemala border region due to the existence of powerful criminal organizations like the Zetas that limit their activities north of this area. ⁶⁰ These gangs include NTCA gang members, who are often migrants themselves. As NTCA migrants transit on Mexico’s train network or travel on foot, these groups ambush, rob, and sexually assault migrants. ⁶¹ These gangs appear to be growing in influence in southern Mexico, which could worsen current levels of migrant victimization in the region. ⁶²
Transnational Criminal Organizations (TCOs)	Organized criminal groups—such as the Sinaloa, Gulf, and Tijuana cartels—rose to prominence in the 1990s, evolving from smaller family-based groups to expanded, paramilitary style operations. ⁶³ These well-funded, sophisticated criminal enterprises primarily traffic narcotics to the United States, but they also engage in other criminal enterprises. To control these operations, these groups bribe or coerce Mexican officials and use violence against perceived opponents or rivals. TCOs impact migrants by charging fees for their passage, running migrant kidnapping rings, and committing violence against those traveling through Mexico.

Interactions Between Migrants and Organized Crime

As stated above, migrants can either be victims of crimes perpetrated by organized criminal groups or can consciously choose to cooperate with organized criminal groups. The interactions detailed in Tables 3.2 and 3.3 are neither mutually exclusive nor exhaustive, as migrants and organized criminal groups may have multiple simultaneous interactions or come into contact in entirely different ways.

Transactional Crimes

Migrants may consent to engage in illicit actions in order to facilitate their journeys, which this report defines as “transactional crimes.” Yet, even if these are consensual, contractual relationships, migrants do put themselves at risk of dangerous traveling conditions, abandonment, and other crimes if the original agreement with smugglers or members of organized crime is broken.

Table 3.2
Transactional Interactions with Migrant

Interaction	Interaction Description
Human Smuggling	Migrants regularly rely on human smugglers to transit through Mexico and into the United States. Although these actors are legally defined as organized criminal groups, they generally do not victimize migrants in the same ways as TCOs or local criminal groups. Instead, they form a transactional criminal relationship with migrants through which both parties violate Mexico’s migratory laws for profit and safe passage, respectively. ⁶⁴
Taxes	Human smugglers have relationships with TCOs, but generally operate independently. ⁶⁵ TCOs instead charge smugglers a fee to move migrants through their territory. ⁶⁶ They may also charge migrants directly if they are traveling without a smuggler. The consequence of not paying these fees can be dire, leading to either the death or kidnapping of the smuggler or migrants. Gangs such as MS-13 charge fees to human smugglers and individual migrants to use train routes that they control. ⁶⁷
Drug Trafficking	There are also cases of migrants agreeing to carry <i>mochilas</i> , or backpacks filled with marijuana, across the U.S. border in exchange for the right to cross. Migrants must carry the weight of the marijuana and the water they must pack out to survive the desert heat. If the migrants cannot complete the journey, they are left behind by their guide. ⁶⁸

Predatory Crimes

Predatory crimes are those in which migrants do not provide any consent and instead are victims. These crimes encompass a range of criminal activities, including extortion, robbery, and assault. Table 3.3 outlines specific predatory crimes and what these interactions look like across Mexico. All three criminal actors—local bandits, gangs, and TCOs—engage in the crimes described below. However, some actors commit specific crimes more frequently than others. For example, TCOs are the most common perpetrators in the kidnapping of migrants for ransom.

Table 3.3
Predatory Interactions with Migrants

Interaction	Interaction Description
Human Trafficking	Human trafficking involves holding migrants against their will and exploiting them for labor or sex. TCOs may force migrants to work for them in criminal activities. ⁶⁹ As mentioned previously, TCOs may use migrants to smuggle narcotics across the U.S.-Mexico border, which may be transactional if the migrant consents, or trafficking if the migrant is forced to work for the criminal group. ⁷⁰ Organized crime may also use migrants (especially women) to act as sex workers, with varying degrees of consent. ⁷¹

Interaction	Interaction Description
Kidnapping	TCOs and other organized criminal groups target migrants for kidnapping. These groups contact the kidnapped migrants' relatives in the United States or in their home countries in order to demand ransom payments. ⁷²
Extortion	Criminal actors, especially TCOs and gangs, may charge fees for passage through a certain area or on a certain mode of transportation, threatening non-compliers with violence. According to a 2017 WOLA report on migration through Mexico, another common modus operandi is criminal actors such as gang members or local bandits detaining migrants on buses, making them get off the bus, and beating them, also for the purpose of gaining payment. ⁷³
Robbery	Any criminal actor can forcefully take a migrant's property. This crime is common along migratory routes where migrants travel on foot or by train.
Assault	Any criminal actor can assault a migrant, especially if a migrant is traveling along an isolated route. Assault often happens in conjunction with other crimes such as robbery.
Sexual Assault	Sexual assault is committed by all criminal actors, generally against female migrants traveling on foot or via Mexico's train network.
Abandonment	Smugglers who have been paid to guide migrants through Mexico or across the U.S.-Mexico border may instead choose to abandon the migrants and keep the payment. This abandonment may create significant risks for the migrants. For example, smugglers have abandoned migrants in locked tractor-trailers, leaving them without food or water or in dangerously high or low temperatures.

Economic Benefits for Criminal Groups Committing Crimes Against Migrants

In addition to the physical and psychological consequences for victimized migrants, crimes such as kidnapping and extortion generate substantial revenue streams for criminal groups. Table 3.4 shows estimates of organized crime revenues generated from crimes against migrants. These crimes include coercion of migrants to pay piso taxes, armed robbery, kidnapping and subsequent ransom payments, and the theft of smuggling fees paid by migrants. Each crime type is listed with the perpetrator(s) most commonly culpable of the activity, and is also accompanied by an estimate of the mean revenue generated per migrant victimized. This quantity is then multiplied by a conservative estimate of the proportion of the 400,000 migrants who enter Mexico each year subjected to the given crime (e.g., calculating robbery revenues by multiplying US\$60 by 5% of the 400,000 migrants, or 20,000 individuals robbed).

Final calculations indicate that organized criminal groups earn over US\$134 million annually from crimes against migrants (not including smuggling fees), which suggests that Federal Police efforts to protect migrants from crime could serve as an effective means to weaken organized crime in Mexico. Revenues may be even higher, given the conservative estimates of affected migrants for each crime. By comparison, the United States allotted Mexico US\$139 million via the Merida Initiative to help fight organized crime in fiscal year 2017.⁷⁴

Table 3.4
Revenues Generated for Criminal Groups

Crime	Common Perpetrator	Revenues Generated per Migrant (US\$)ⁱⁱⁱ	Estimate of Perpetrators' Annual Revenues from Crime (US\$)^{iv}
Kidnapping	TCOs, Predatory Smugglers	5,165	20.5 million (assuming 1% kidnapped)
Robbery	Local Bandits, Maras	60	1.2 million (assuming 5% robbed)
Cuotas de Piso	TCOs	400	96 million (assuming 60% pay the tax)
Migrant Abandonment/ Smuggling Fee Theft	Predatory Smugglers	4,270	17.1 million (assuming 1% abandoned)
TOTAL			134.7 million

Risk Factors that Increase Organized Crime's Activities Against Migrants

A broad range of factors may affect organized criminal groups' illicit activities against migrants, ranging from the terrain along a particular path to the practices of a dishonest human smuggler. This complexity makes it difficult to pinpoint definitive factors that increase or decrease these interactions. However, there are several broad factors that may put migrants into greater contact with groups that wish to harm them, which include migrants' modes of transportation, regional criminal dynamics, and the security forces across Mexico.

Modes of Transportation and Transit Routes

Modes of transportation and transit routes vary significantly and depend on migrants' financial situations. Migrants with little disposable income generally utilize Mexico's train network or walk along roads and rural paths, while those with more financial resources may take buses to cross the country or hire private cars, taxis, and even planes.

Mexico's railways and highways represent the most dangerous zones for migrants, although migrants are at risk of victimization at any point in their journeys.⁷⁵ Using data from the CAMRD, Figure 3.1 outlines the locations of crimes against migrants in Mexico, with trains or train tracks being the most common crime locations. Crimes were also reported in cars, buses, highways, and the rural paths that migrants take to avoid checkpoints. This pattern is corroborated by Figure 3.2, which geo-locates crimes against migrants and compares them to Mexico's train routes.

ⁱⁱⁱ Data supporting these estimates are from the Mexico Security Initiative and Colegio de la Frontera Norte (EMIF).

^{iv} Data from UN and NGO estimates and REDODEM.

Figure 3.1
Locations of Crimes Against Migrants, Mexico

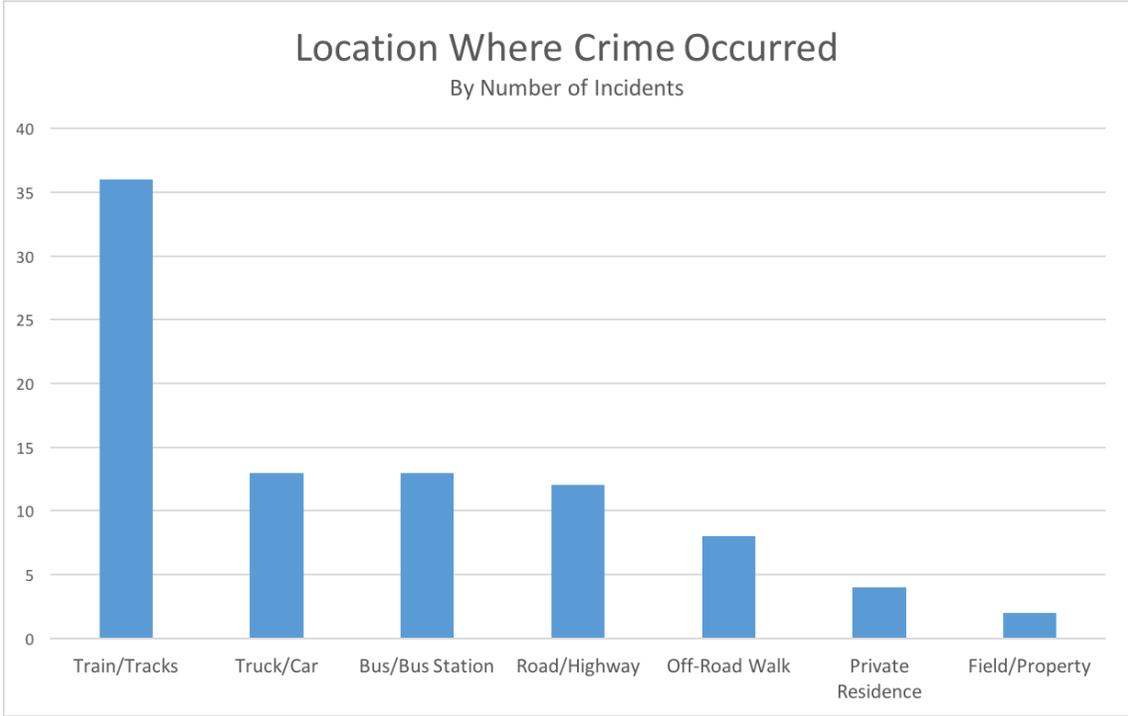


Figure 3.2
Crimes Against Migrants and Mexico's Train Routes

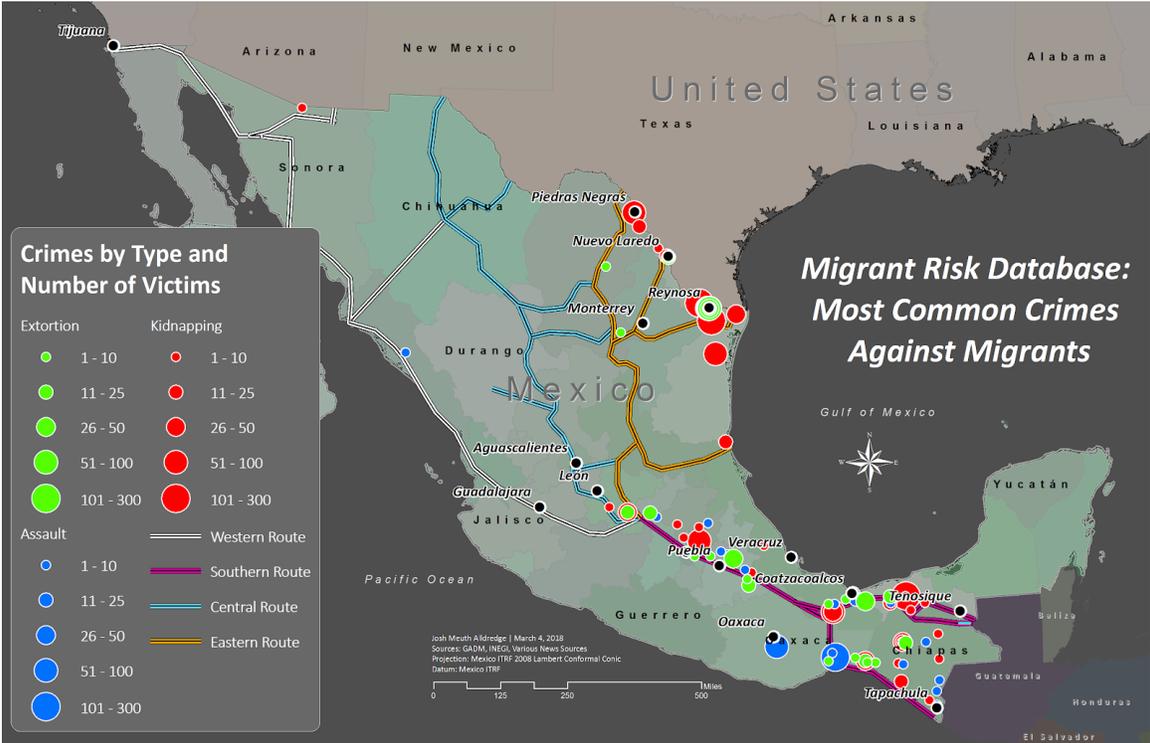
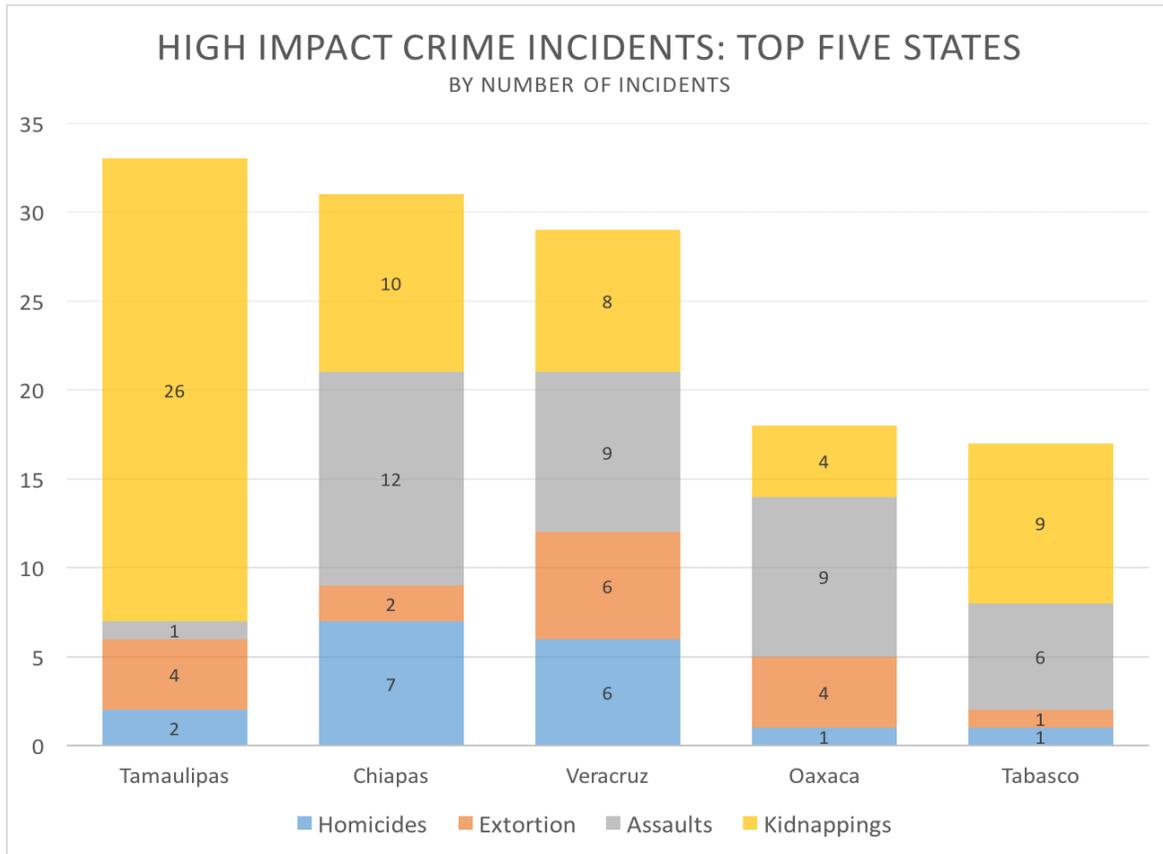


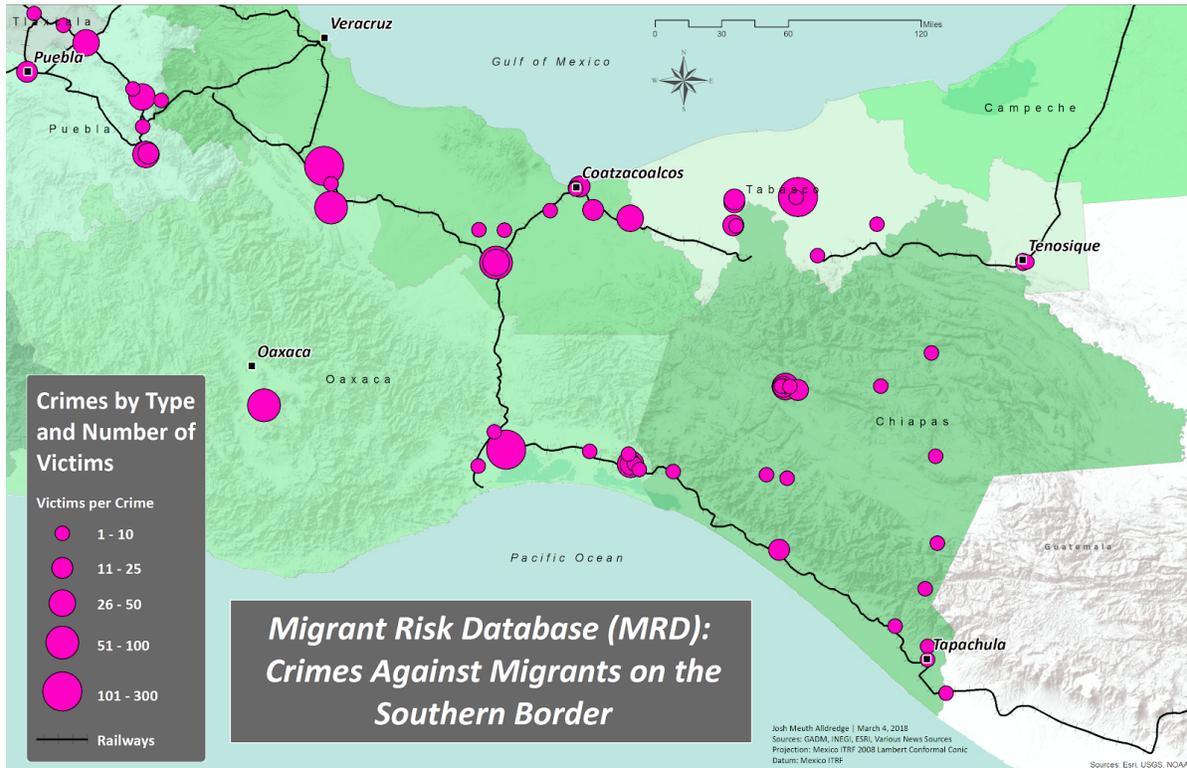
Figure 3.4
Top Five Mexican States for High Impact Crimes Against Migrants



Four out of the five Mexican states with the highest number of crimes against migrants—Chiapas, Oaxaca, Tabasco and Veracruz—are within Mexico’s southern border region (see Figure 3.5). These states present the highest risk of opportunistic crimes against migrants such as assault and extortion, as well as murder. These crimes may occur more frequently in this region since migrants are often moving by foot or train.

The INM’s migration enforcement efforts in southern Mexico may also push migrants toward criminal actors. A 2015 WOLA report determined that an increase in border security operations and INM personnel along train tracks and roads in southern Mexico led to changes in traditional migration routes that resulted in increased numbers of crimes against migrants. As migrants were blocked from riding the trains, they began increasingly walking along the tracks or taking rural paths. As a result, local criminal bandits targeted migrants by waiting in surrounding areas where there is little law enforcement presence.⁷⁹ As mentioned previously, this pattern proves especially true for poorer migrants who travel through Mexico on foot or via the train system.⁸⁰

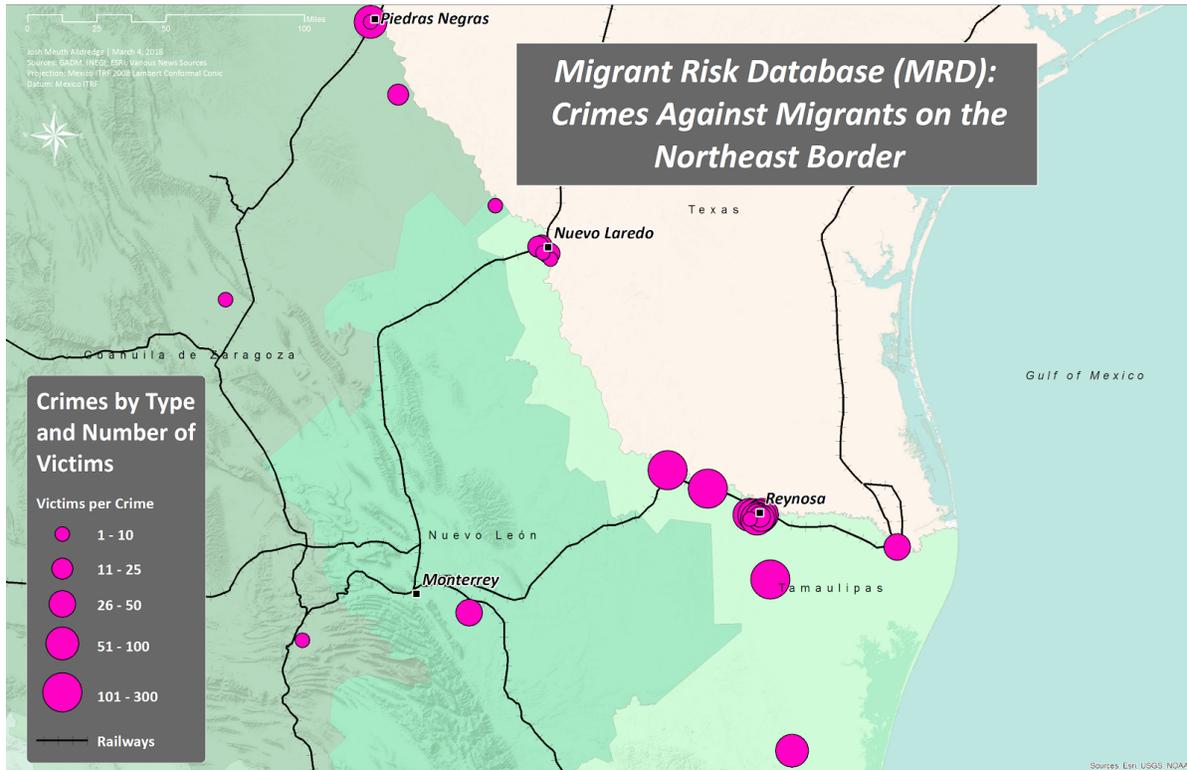
Figure 3.5
Southern Border and Securitization Factors Map



Along the U.S.-Mexico border, increased migration enforcement has created a “funnel” effect in which irregular migrants and narcotics are crossing at the same points.⁸¹ In some instances, a migrant may either be forced to engage in drug trafficking by becoming a mule or tending to marijuana and poppy fields, or may choose to carry marijuana or other drugs into the United States to earn money and passage into the country.⁸² This interconnection between migrants and TCOs puts migrants’ safety at risk in that it can encourage migrants to cross through hazardous areas of the border in violation of U.S. and Mexican law.

The Mexican state of Tamaulipas along the border with south Texas has the highest incidence of crime against migrants (see Figure 3.6). It is home to the Gulf Cartel and the remaining factions of the Zetas Cartel, who tax the illicit movement of goods across the U.S.-Mexico border and present the greatest kidnapping risk to migrants. These TCOs kidnap migrants and force their family members to pay a ransom for the individual’s release. They may kidnap migrants opportunistically or kidnap those migrants who have not paid for their passage. Indeed, the failure of a smuggler to pay the proper fee for migrants to cross a TCO’s territory may also lead to migrants being kidnapped. Although the scale—not frequency—of these kidnappings appears to have decreased, publicly known mass kidnappings are likely only a fraction of the total number.⁸³

Figure 3.6
Crimes Against Migrants Along the U.S.-Mexico Border



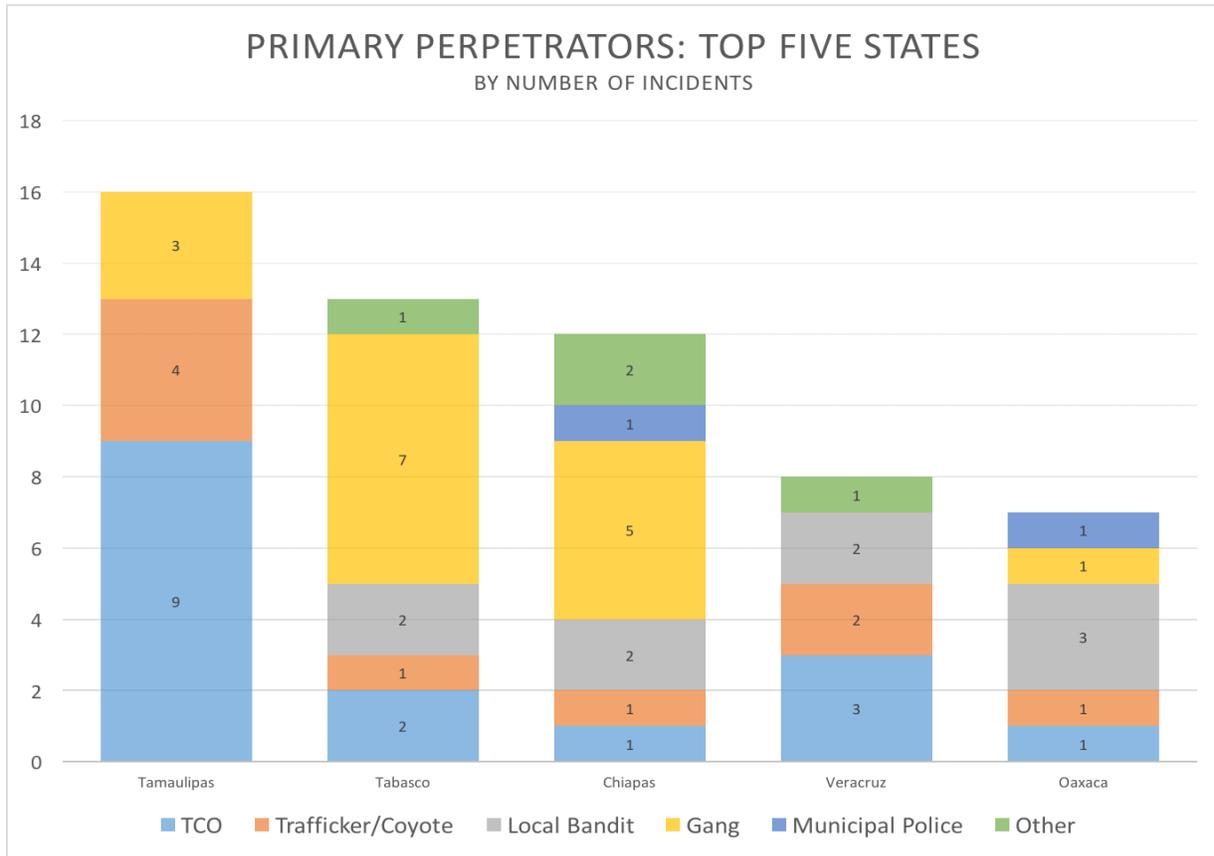
Regional Differences in Perpetrators of Crimes Against Migrants

The perpetrators of crimes against migrants also differ by geographic area. TCOs play a significant role in victimizing migrants in Tamaulipas and Veracruz, while local and Central American gangs appear to be responsible for more of the crimes committed against migrants in Chiapas and Tabasco (see Figure 3.7). Human smugglers or those pretending to be human smugglers were involved in crimes against migrants across all of Mexico, although especially along the U.S.-Mexico border.

Federal Policies and Programs on Combatting Crimes Against Migrants

Mexico’s federal government has enacted several policies and programs aimed at combating crimes against migrants. Broadly speaking, these policies allow migrants to more easily report crimes, improve responses for specific crimes that involve migrants, and attempt to reduce the number of migrants crossing Mexico without authorization. Overall, these policies’ effectiveness remains unclear. Migrants continue to be victimized throughout Mexico, but it is difficult to calculate the counterfactual of how many crimes would be committed if these policies were not in place.

Figure 3.7
Primary Perpetrators of Crimes Against Migrants in Top Five Mexican States



Policies that Help Migrants Report Crimes

Several federal programs and agencies attempt to encourage migrants to report crimes more safely and effectively. The 2011 Migratory Law provides the PGR with the mandate to investigate and prosecute crimes committed against migrants. In December 2015, the PGR created the Unit of Investigation of Crimes against Migrants and the Mechanism for Mexican Foreign Support in the Search and Investigation of Crimes against Migrants.⁸⁴ The Unit investigates federal crimes against migrants and federal crimes perpetrated by migrants on Mexican territory. The Mechanism is a tool available for victims' families to report crimes against migrants from outside the country.⁸⁵

From December 2015 through March 2017, the Mechanism received 67 cases of missing migrants, 59 of which involved victims from the Northern Triangle who disappeared in Mexico between 1999 and 2014. However, given that there are 79 cases of migrant kidnapping in this report's original dataset alone (and kidnapping by an organized criminal group is a federal crime), the Unit's 67 cases likely remain a small proportion of federal crimes actually committed against migrants.⁸⁶ This Unit has also faced low funding levels.

Mexican law also provides an incentive for migrants to report crimes while in Mexican territory. As outlined in the 2011 Migration Law, migrants who are victims of crimes are entitled to temporary regularization via a humanitarian visa. Between 2014 and 2016, there was a 575 percent increase in the number of migrants who temporarily regularized their migration status in Mexico because they reported being victims or witnesses of a crime in Mexico.⁸⁷ Yet, these numbers still reflect only a small percentage of the total number of migrants who are estimated to have suffered a violent crime during their journey. It is also unclear how many of these criminal cases were ultimately completed.

In spite of these policies, the irregular nature of most transit migration through Mexico creates a challenge for protecting migrants. Migrants are generally wary to report crimes since they may fear being detained or returned to their home countries. Similarly, the relatively high levels of collusion between some security forces and organized criminal groups in parts of Mexico means that denouncing crimes to authorities may put migrants in greater danger from organized criminal groups. This dynamic of impunity creates the context in which the victimization of migrants can thrive.

Laws and Policies to Address Specific Crimes Against Migrants

In response to criminal groups' victimization of migrants, the Mexican government has enacted several laws and programs to better address kidnapping, human trafficking, and violence against migrants.

Kidnapping

The 2010 Kidnapping Law (*Ley de Secuestro*) included the creation of specialized units to prosecute kidnappings, expanded authority for judges in kidnapping cases, and imposed harsher sentences for offenders.⁸⁸ The law also emphasized improving coordination between municipal, state, and federal governments for advancing investigations. Yet although migrants are vulnerable to kidnapping, the law does not specifically mention the kidnapping of foreigners within Mexican territory.⁸⁹

After the 2010 San Fernando Massacre—when 72 migrants were murdered in Tamaulipas—the Mexican government created the 2010 Comprehensive Strategy to Prevent and Combat the Kidnappings of Migrants in Mexico (*Estrategia Integral para la Prevención y Combate al Secuestro de Migrantes*). This anti-kidnapping strategy laid out several objectives to combat migrant kidnappings including informational campaigns to inform migrants about the risks of traveling in Mexico and their options for accessing justice; increased efforts to target and carry out investigations of kidnappers; improved coordination between federal and state agencies; a plan to dismantle large-scale kidnapping operations; and increased resources for providing services to victims.⁹⁰

According to a 2011 CNDH report on kidnapping, the Navy, the Ministry of Public Safety (*Secretaría de Seguridad Pública*), the PGR, and the INM all noted specific actions they had taken since 2009 to prevent kidnapping, support victims, and provide access to justice. These

actions included “establishing holistic, sustainable, and evaluable instruments and policies to eradicate the practice of migrant kidnapping,” training INM officials to inform migrant victims of their rights, working with the PGR to ensure kidnapping reports are investigated regardless of victims’ migratory status, and working with civil society and shelters to ensure that victims understand that their migratory status can be temporarily regularized if they report a kidnapping.⁹¹ However, as evidenced by the CAMRD, these policies appear to have failed to stop or significantly reduce kidnappings.

Human Trafficking

The Mexican government has also enacted policies to combat human trafficking. In 2012, Mexico implemented the General Law to Prevent, Punish, and Eradicate Crimes of Human Trafficking (*Ley General para Prevenir, Sancionar y Erradicar los Delitos en Materia de Trata de Personas y Para la Protección y Asistencia a las Víctimas de estos Delitos*), which provided clearer guidelines on federal, state, and municipal authorities’ prosecutorial powers for human trafficking cases. Additionally, the law created a national commission, the Mexican Intersecretarial Commission against Human Trafficking (*La Comisión Intersecretarial para Prevenir, Sancionar y Erradicar los Delitos en Materia de Trata de Personas y para la Protección y Asistencia a las Víctimas de estos Delitos*), with the power to develop policy initiatives and training programs related to combating human trafficking.⁹² The commission is comprised of representatives from various agencies, including the INM, the Ministry of Foreign Relations, and the PGR. The INM is tasked with providing services to foreigners who are victims of human trafficking, while the Ministry of Foreign Relations is responsible for creating programs to protect and assist victims and coordinate with consular offices outside of Mexico.⁹³

GOTTPA

In 2014, the federal government began the Interinstitutional Trafficking and Gang Operations Group (*Grupo Interinstitucional de Operaciones contra la Trata, Tráfico, y Pandillas*, GOTTPA)^v in Tapachula, Chiapas, to investigate and prevent crimes against migrants along the southern border. GOTTPA is a Federal Police-led group, with additional representatives from the INM and the Chiapas state special prosecutor’s office. Its aim is to connect migrant crime reporting to a police response and ultimately the prosecution of perpetrators.⁹⁴ The U.S. Federal Bureau of Investigation and the U.S. Department of Homeland Security both trained GOTTPA’s members, provided forensics equipment and training, and helped provide guidelines for the use of a national organized crime database.⁹⁵

While GOTTPA appears to be a promising initiative, the group’s current status is unclear. A 2015 annual report of the Mexican Intersecretarial Commission against Human Trafficking (*La Comisión Intersecretarial para Prevenir, Sancionar y Erradicar los Delitos en Materia de Trata de Personas y para la Protección y Asistencia a las Víctimas de estos Delitos*) mentions GOTTPA in passing, but does not list any additional information regarding the group’s activities, goals, or achievements.⁹⁶ Another 2015 report on the Special Migration Program only states that GOTTPA has detained 33 trafficking suspects and rescued 50 migrants.⁹⁷ Searches on the

^v This group appears under several versions of the same name.

Federal Police, SEGOB, and INM websites yielded no results regarding that group, and internet searches do not yield results after 2015 (any news after that was generally repeated local news reports of the previously mentioned rescues of migrants and investigations of crimes against migrants).

State-Level Policies and Programs on Combatting Crimes against Migrants

Eighteen states in Mexico have passed their own migration legislation. These laws contain various protections for migrants and outline states' responsibilities to protect all individuals inside their territory—including their citizens and migrants—from crimes such as robbery, extortion, and assault. Since 2008, Chiapas, Oaxaca, Veracruz, Coahuila, Tabasco, Campeche, and Quintana Roo have also created specialized prosecutor offices to investigate crimes against migrants. Aside from the special prosecutor's office in Coahuila, the other offices are all located in the southern part of Mexico, where many Northern Triangle migrants enter the country.⁹⁸

In the Oaxaca office, where there is detailed data, only 96 of the 383 complaints received over four years resulted in a preliminary investigation. Of these 96 cases, only four ultimately resulted in a sentencing.⁹⁹ Overall, these specialized prosecutorial offices' efforts continue to be hindered by migrants' reluctance to report crimes, general institutional weakness, powerful criminal groups, and a lack of resources and personnel.

Policies and Programs to Enforce Immigration Law

The Mexican government has also attempted to reduce the numbers of irregular migrants transiting through the country. These programs generally include a stated objective of aiming to protect migrants, yet as described in previous sections, these enforcement efforts have at times only worsened conditions for high-risk migrant groups. Over the past two decades, the Mexican government has introduced and implemented three major initiatives to secure the country's southern border region.

In 1998, the Mexican government launched Operation Sealing the Border (*Operación Sellamiento*), which primarily aimed to reduce the flow of drugs through southern Mexico.¹⁰⁰ The program involved approximately 22,000 Federal Police officers, members of the Mexican army, and PGR officials.¹⁰¹ Three years later, in 2001, the Mexican government enacted the Southern Plan (*Plan Sur*), a coordinated policy between the Ministry of the Interior (*Secretaría de Gobernación, SEGOB*), the Ministry of Foreign Relations (*Secretaría de Relaciones Exteriores, SRE*), the PGR, the Center of Investigation and National Security (*Centro de Investigación y Seguridad Nacional, CISEN*), the state governments of Chiapas, Tabasco, Yucatán, Veracruz, and Oaxaca, and their municipal governments.¹⁰² The Southern Plan's goal was to increase the number of border checkpoints and crack down on irregular migration throughout the region.¹⁰³ In response, smuggling routes became more clandestine, as migrants tried to avoid apprehension.¹⁰⁴

In July 2014, President Enrique Peña Nieto announced the creation of the Southern Border Plan (*Programa Frontera Sur*). The program was enacted, at least in part, due to high numbers of unaccompanied Central American children transiting through Mexico to seek asylum in the United States at that time (though the migration of unaccompanied Central American children to the U.S. predates the summer of 2014).¹⁰⁵ The program's stated goals were to "protect and safeguard the human rights of migrants who enter and pass through Mexico, as well as establish order at international crossings to boost development and security in the region."¹⁰⁶

In practice, the Southern Border Plan centered around increasing immigration enforcement in southern Mexico. The federal government constructed new migration checkpoints, blocked migrants' access to the country's train network, and deployed more INM agents and Federal Police officers to the region.¹⁰⁷ Although these officials were intended to regulate transit migration, they only pushed Central American migrants to circumvent checkpoints often through more dangerous routes.¹⁰⁸ In fact, as described in previous sections, these securitized approaches toward migration have likely only exacerbated the interactions between organized crime and migrants.

Part 4. Police Forces and Central American Migrants

Laws and Policies Regulating the Relationship Between the Federal Police and Migrants

Several laws and policy frameworks regulate the relationship between the Federal Police and migrants. Broadly speaking, these laws obligate the Federal Police to respect migrants' human rights and protect them as if they were Mexican citizens. The Federal Police are also forbidden from taking proactive steps to verify or detain migrants, and may only participate in such operations with a formal request from the INM. The specific laws and policies that regulate this relationship are presented in Table 4.1.

Table 4.1
Laws and Policies that define the Federal Police's Migratory Mandates

Name of Law or Policy	Year Passed	Relevant Articles/ Sections	Text (if in quotations) or Summary	Analysis for the Federal Police
Mexican Constitution ¹⁰⁹	1917	Article 11	"The exercise of [migration regulation] will be under the faculties of the judicial authority, in the cases of criminal or civil responsibility, and in those of the administrative authority, that touch the limitations that are imposed by laws about emigration, immigration, and the general health of the Republic, or about pernicious foreign residents in the country."	The Mexican government has the ability to legislate whether migratory violations are criminal or administrative offenses. As dictated by the current federal migration framework, however, violations of migratory regulations should be treated as administrative infractions and handled by administrative authorities, not law enforcement.
		Article 33	All foreigners "shall be entitled to the human rights and guarantees conferred by this Constitution."	All migrants in Mexico are entitled to the same rights as Mexican citizens. The Federal Police must provide the same protection to migrants as to Mexican citizens.
Law of the Federal Police ¹¹⁰	2009	Article 2	The Federal Police are responsible for "protecting life and rights of persons in Mexico, preserving public order, and preventing crimes."	The Federal Police are obligated to protect migrants' lives and rights.
		Article 8	The Federal Police will provide security to border areas and migration checkpoints. The Federal Police will also act "in auxiliary and coordination with migratory authorities" as outlined in migratory laws.	The Federal Police may support migratory authorities, but this interaction must be governed by the 2011 Migration Law and agreements between the INM and Federal Police.

Name of Law or Policy	Year Passed	Relevant Articles/ Sections	Text (if in quotations) or Summary	Analysis for the Federal Police
			The Federal Police may assist the INM in verifying the legal status of those in Mexico and will provide security to the INM.	The Federal Police have limited authority to verify the migratory status of foreigners in Mexico, and can only do so with the coordination and cooperation of INM. The Federal Police may not enforce migratory laws independently of the INM.
			The Federal Police must provide protection from further victimization and access to medical treatment for victims of crimes.	Migrants who are victims of crimes are entitled to medical services and protection while reporting and cooperating in the investigations of crimes
Migratory Law of 2011 ¹¹¹	2011	Article 2	"In no event is irregular migratory status on its own considered the perpetration of a crime, nor will it be considered the perpetration of illicit acts by the migrant as the result of his or her not being documented."	Irregular migration should never be considered a crime, rather an administrative offense.
		Article 11	"In any event, independent of migratory status, migrants have the right to the administration of justice, at all times respecting the right to due process, as well as to lodge complaints in matters of human rights, in accordance with the Constitution and other applicable laws."	Migrants are entitled to the same legal protections as Mexican citizens. The Federal Police are entitled to protect and serve migrants in the same manner as they would Mexican citizens.
		Article 52	Victims of a crime are able to apply for a humanitarian visa during the course of the investigation and/or prosecution of the crime they were a victim of.	Migrants who have been victims of crimes can temporarily regularize their migration status in Mexico by obtaining a humanitarian visa.
		Article 68	"Migrants with irregular migratory status may only be detained by the Institute in the events provided for in this Law. This must be recorded and may not exceed a 36-hour period counted as of the time in which they are detained."	Only the INM may detain irregular migrants, not the Federal Police.

Name of Law or Policy	Year Passed	Relevant Articles/ Sections	Text (if in quotations) or Summary	Analysis for the Federal Police
		Article 81	Migratory control actions include review of the documentation of individuals who attempt to enter into or depart from Mexico, as well as inspection of the means of transportation used for such purposes. Federal police will assist and coordinate with the Institute in such actions.	The Federal Police are permitted to check the documentation of migrants and their means of transportation but only with the cooperation of the INM.
Implementing Legislation of Migration Law of 2011 (<i>Reglamento</i>) ¹¹²	2011	Article 70	"In terms of those prepared by Article 81 of the [Migration] Law, the Federal Police will only act by an expressed request from the [INM], without this implying they can independently perform of control, verification and immigration review. In these actions, the authorities shall respect the principles established in Article 22 of the Law."	The Federal Police may only participate in immigration enforcement when specifically requested by the INM. They may not independently verify an individual's migratory status.
Federal Special Migration Program ¹¹³	2017	5.1.2	"Augment training programs for federal and local police forces about the rights of migrants and defenders of human rights."	Based on the priorities laid out in the National Development Plan, the Federal Police should increase and improve their trainings related to the treatment of migrants.
		5.1.3	"Increase preventive actions and police vigilance in migratory transit zones in order to reduce criminal incidents."	The Federal Police should endeavor to increase operations in high-risk areas for migrants.
		5.2	"Provide effective information, assistance, and protection to migrants."	The Federal Police should inform migrants of their rights and provide appropriate assistance such as access to justice or medical care when requested.
		5.2.1	"Enhance collaboration with national and international human rights organizations with attention to victims and/or witnesses of crimes."	The Federal Police can and should increase their collaboration with civil society groups such as shelters that work with migrants.

Name of Law or Policy	Year Passed	Relevant Articles/ Sections	Text (if in quotations) or Summary	Analysis for the Federal Police
		5.3	“Enable mechanisms to report crimes and guarantee access to justice and reparations for damages for migrants.”	The Federal Police should present opportunities for migrants to be able to report crimes to prosecutors (<i>fiscalias</i>) and inform migrants of their right to report crimes and receive protection from the Mexican government.
		5.4.1	“Strengthen reporting on, investigation of, and sanction of public servants that commit crimes against migrants, their relatives, and defenders of human rights.”	The Federal Police should improve their own mechanisms for the reporting of corruption or officers’ abuses against migrants.
Collaboration Agreement Between INM and the Federal Police (<i>Convenio</i>) ¹¹⁴	2015	Clause I	The Federal Police will receive INM requests for support by email and will respond with the appropriate number of officers for the requested mission.	The INM must request assistance from the Federal Police in a formal manner. Given that INM agents are unarmed, the Federal Police provide security to INM operations.
		Clause 2.2.a	“The Federal Police in the course of its duties will abstain from requiring identifying documents from any person with the sole purpose of verifying migratory status when committed crimes or administrative violations except in migratory character in support of the INM.”	The Federal Police may not ask for verification of migratory status unless providing formal support for the INM. As such, the INM must empower the Federal Police to verify individuals’ migratory statuses.
		Clause 2.2.b	“In the cases in which it is performing activities to prevent crime, it will funnel without delay foreigners to the INM that it presumes may have irregular migratory status to protect and save life and integrity.”	The Federal Police may refer suspected irregular migrants to the INM. Again, the Federal Police may not verify their migratory status but rather send the migrants to the INM for their status to be verified.
		Clause 2.2.c	When investigating crimes in which foreigners are affected or involved, the foreigners should be referred to the public ministry so that their migratory status can be verified by the INM.	The Federal Police must refer foreigners to the INM in order to verify their migratory status even when those individuals are involved in a crime.

Name of Law or Policy	Year Passed	Relevant Articles/ Sections	Text (if in quotations) or Summary	Analysis for the Federal Police
		Clause 2.2.d	“When the Federal Police participates in auxiliary work, civil or emergency protection before harm and disaster caused by natural or human origin that results in affecting or putting in risk foreigners with the presumption of an irregular migratory situation, they will be rescued by the Federal Police [...] and funneled without delay to the closest INM migratory station while respecting their human rights.”	If acting in exceptional circumstances such as a natural disaster, the Federal Police should transfer any suspected irregular migrants they encounter to an INM station while respecting their human rights.
		Clause 3	“The INM will be responsible for the transport of the migrants and participating migratory officials that schedule. The Federal Police will realize the custody tasks.”	The INM, not Federal Police, must transfer detained migrants from an operation to a migration station. The Federal Police may take responsibility for taking custody of migrants given that they are often providing security to the operation.

International Best Practices for Police Treatment of Migrants

There are a limited number of relevant international best practices for police treatment and protection of migrants that could be adopted within Mexico. The push, pull, and contextual factors that influence migration and their interactions with local authorities vary significantly from one region to another. Applying the lessons learned elsewhere could be problematic, and law enforcement and policymakers should use discretion when implementing international models. Nevertheless, investigative techniques and evaluation methods have been shown to aid law enforcement in combating trafficking and migrant smuggling networks. The following sections are informed both by law enforcement bodies with relevant expertise and the United Nations Office on Drugs and Crime (UNODC).

Investigative and Operational Practices

Interagency Coordination and Planning

Coordination among law enforcement agencies is critical to addressing police and migrant-related challenges.¹¹⁵ This cooperation can consist of informal networks or more formalized arrangements (e.g., joint task forces or the use of liaison officers), depending on the legal and jurisdictional context.

In response to the multifaceted and geographically expansive nature of migrant smuggling, Europol and the International Criminal Police Organization (INTERPOL), Association of Southeast Asian Nations (ASEAN), and several African countries have established joint operations to combat migrant smuggling and human trafficking, frequently with the support of the United Nations.^{116,117} One bilateral example is the Jakarta Centre for Law Enforcement Cooperation, an Indonesian-Australian program designed to improve regional coordination between law enforcement bodies.¹¹⁸ Mexican authorities and the Federal Police could look to these models for migrant-focused joint taskforces, and potential cooperation with law enforcement entities from the Northern Triangle.

Sharing Information

Collaborative law enforcement networks need flexible information-sharing platforms in order to function effectively. Europol established the European Migrant Smuggling Centre (EMSC) as its communications-driven response to the rise in organized crime-facilitated migrant smuggling.¹¹⁹ This regional initiative is aided by the Secure Information Exchange Network Application (SIENA), which allows law enforcement, analysts, and government officials to easily exchange strategic and operational data. In 2016, over 12,000 messages—including intelligence on 17,400 migrant smuggling suspects—were exchanged over SIENA, enabling the launch of over 2,000 investigations.¹²⁰

In addition, decentralized Mobile Analysis Support Teams (EMAST) increased organizational flexibility. These teams, primarily deployed in countries of destination and transit, provide real-time intelligence and analysis in the field. Specialists at the EMSC are trained to address both existing and emerging issues, such as migrant smuggling content in social media (“e-smuggling”) in order to impede criminal activity. Furthermore, these specialists are able to facilitate operational adaptability and effectiveness through real-time intelligence notifications, advanced forensic capabilities, and extensive financial investigations. In Mexico, the creation of a shared interagency database that allows the Federal Police to cooperate with other Mexican institutions could facilitate a swift response to a rapidly changing criminal landscape.

Gathering Intelligence

Robust intelligence-gathering methods have been invaluable for addressing crimes against migrants around the world. Project Relay—a joint operation between INTERPOL, Canada, and several South East Asian states—was successful in developing sophisticated criminal databases and in identifying migrant smuggling trends.¹²¹ This was accomplished by conducting a comprehensive needs assessment and analysis of the available intelligence, conducting targeted training courses, and ultimately deploying specialized communications equipment. The use of interactive maps and other forms of geographic information systems can also inform law enforcement activities. The i-map, developed as part of the Dialogue on Mediterranean Transit Migration (MTM), provides analysis of migration patterns and routes within the 37 MTM partner states.¹²² In Mexico, geo-located crimes and other geographic information—based off the information within a shared database—could allow the Federal Police to more successfully plan and execute operations that prevent the victimization of migrants.

Human Rights-Based Approaches

A human rights-based approach (HBA) calls for law and immigration enforcement agencies to have the protection and preservation of migrants' rights as their primary mission. In this strategic framework, law enforcement bodies place the life, liberty, and dignity of migrants ahead of immigration enforcement.

Prioritizing Migrant Rights

Police that come into contact with irregular migrants have the difficult task of balancing human rights with law enforcement concerns. International standards mandate that police engaging in anti-smuggling or trafficking operations actively prioritize migrant rights and other high-risk populations.¹²³ In one example, the European Union Agency for Fundamental Rights (FRA) published a widely used law enforcement guide that incorporates human rights into practical policing tools.¹²⁴ This publication outlined best practices in community policing, specialized trainings for police interacting with high-risk migrant populations, and crime prevention activities. In Mexico, prioritizing the migrant rights in policing could take a similar approach, requiring law enforcement agencies to incorporate migrant-focused trainings and adopt procedural protocols that emphasize the HBA concept.

Community Policing and Capacity-Building

Community policing promotes good relations between authorities and populations at risk of being profiled and discriminated against. This practice can increase trust and cooperation between police forces and irregular migrants. Of the 14 EU member states included in the FRA report, community policing initiatives were found to be present in the majority of localities.¹²⁵ In Austria, community policing is now included as part of the basic training curriculum for new officers, and high-ranking police officers engage in the "Tandem Learning" method, where they interact with migrants in a structured setting.¹²⁶ This program aims to improve intercultural understanding through the use of role-playing, case studies, and collaborative projects undertaken between officers and migrants.

Table 4.2
Human Rights-Based Approaches in Selected Countries

Country	HBA Practice
Greece	Police in Athens are trained on migration-specific gender-based violence and sexual health issues.
Bulgaria	Police integrate cultural components into their trainings, encouraging better working relationships with multi-ethnic communities and high-risk groups. Officers work with migrant-focused NGOs and the UNHCR to better recognize and assist child trafficking victims and other high-risk populations.
Finland	Law enforcement increased diversity in their recruitment process, seeking individuals with specialized language skills and cross-cultural communications experience.

Country	HBA Practice
Sweden	Gothenburg’s police force conduct information sessions for migrants on law and police work. This practice is intended to orient asylum-seekers and build trust between authorities and migrant populations.
Denmark	Police arrange classes for migrants on the basics of the Danish justice system, including information that is specific to securing residence and processing claims of asylum.

Front-line Policing

Law enforcement officers are frequently the first authority to come into contact with irregular migrants. As part of broader assistance and protection measures, first responders interacting with migrants must be prepared to quickly assess whether a migrant is at risk of death or injury. Officers in the field may be required to manage a range of crises, confronting both threats of violence and medical emergencies. In remote areas, law enforcement may be called upon to provide food, shelter, clothing, or medical supplies.¹²⁷

Specialized tactics and trainings can improve law enforcement’s ability to protect high-risk populations in distress. One such example in the United States is the Border Patrol Search, Trauma, and Rescue (BORSTAR) Unit that specializes in rescue operations involving irregular migrants. Comprised of experienced Border Patrol agents, this law enforcement body was created in response to the rising migrant death toll along the U.S.-Mexico border. BORSTAR agents receive training in tactical medical care, emergency medical practices, combat casualty care, and a variety of sophisticated search and rescue techniques.¹²⁸

As a supplement to this type of lifesaving training, the UNODC’s *Human Trafficking First Aid Kit* can serve as an informational tool for law enforcement officers interacting directly with migrants and human trafficking victims.¹²⁹ This toolkit provides internationally accepted guidance to first responders in the form of documents and training materials, recommending a standardized process for information collection and methods for victim assistance.

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