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## The Politics of Temporary Protection Schemes: The Role of Mexico's TVRH in Reproducing Precarity among Central American Migrant

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# The Politics of Temporary Protection Schemes: The Role of Mexico's TVRH in Reproducing Precarity among Central American Migrants

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## Abstract

Using Mexico's Tarjeta de Visitante por Razones Humanitarias (TVRH) as a primary case study, this article examines how states can use temporary protection schemes as border security measures while claiming to provide protection. Although the TVRH offers a legal pathway and status to move within Mexico, it equally restricts certain rights due to its temporary nature. It becomes a form of differential inclusion by which the state has the right to be able to "exclude and define the limits" of a particular population but also claim inclusion on humanitarian grounds. Despite the claim of protecting migrants, the application of this regular status can essentially become a form of interdiction, which sustains the political framing of migration as ultimately a "threat" that needs to be governed. On the ground, migrants with these temporary regular statuses occupy a liminal space and live a precarious existence similar to those migrants who do not possess a legal status at all. This power imbalance exists more often as states prefer to grant a temporary immigration status, which ensures less responsibility and support that accompanies more rights and protections. Based on policy analysis and field work, the article will examine the TVRH, the processes for obtaining this legal status, and the consequences for irregular migrants.

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**Resumen**

Usando de la Tarjeta de Visitante por Razones Humanitarias (TVRH) de México, como un estudio de caso principal, este artículo examina cómo los estados pueden utilizar esquemas de protección temporal como medidas de seguridad mientras afirman brindar protección. Y aunque la TVRH ofrece una vía legal y estatus para moverse dentro de México, esto igualmente restringe ciertos derechos debido a su carácter temporal. De esta forma se convierte en una forma de inclusión diferencial mediante la cual el Estado tiene derecho a poder "excluir y definir los límites" de una población en particular, aunque también tenga la opción de reclamar inclusión por motivos humanitarios. A pesar de la pretensión de proteger a los migrantes, la aplicación de este estatus regular puede esencialmente convertirse en una forma de interdicción, que sostiene el encuadre político de la migración como una "amenaza" que, en última instancia, necesita ser controlada. Sobre el terreno, los migrantes con este regular estatus temporal pueden ocupar un espacio liminal y vivir una existencia precaria similar a los migrantes que no poseen ningún estatus legal. Este desequilibrio de poder existe con mayor frecuencia, ya que los estados prefieren otorgar un estatus migratorio temporal, lo que garantiza menos responsabilidad y compromiso con los derechos que acompañan la debida protección. Basado en la política, el análisis y el trabajo de campo, el artículo examina el TVRH, los procesos para la obtención de este estatus legal y las consecuencias para los migrantes irregulares.

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**Keywords**

Mexico, Central America, temporary protection, precarity, migrants

**Palabras clave**

México, Centroamérica, protección temporal, precariedad, migrantes

**Introduction**

Central American migrants from Guatemala, El Salvador, and Honduras have been increasingly fleeing their countries of origin in record numbers. The socio-political situation, which includes gang violence, political corruption, incessant poverty, and gender-based violence, combined with kidnappings and extortion, has been described as an "invisible refugee crisis" (Lakhani, 2016) when compared to other regions of the world. These conditions have forced displacement and migration to the north, whether it be to the United States (US) or Mexico. As this migration continued, however, and since the implementation of the Programa Frontera Sur (PFS, Southern Border Plan) in 2014, there was an increase in the number of humanitarian statuses issued by the Mexican government. The Tarjeta Visitante por Razones Humanitarias (TVRH) or the "visitor status for humanitarian reasons" is a regular status that may be obtained by a migrant who suffers or witnesses a crime while on Mexican territory. This article concentrates on

the effects of the PFS and its connection to the TVRH, up to and including 2016. Its aim is to tell the story of migration enforcement with the Peña Nieto administration to highlight how the TVRH became more used/solicited by migrants as a result of the implementation of the PFS, which (1) saw an increase in crimes being perpetrated by security forces against migrants transiting through Mexico, and (2) was a direct consequence of the “crisis” of unaccompanied minors during the Obama administration in the US. The year 2016 presents a fitting end point as this is when immigration policy in the US began to take a much more restrictive turn with the incoming Trump administration, which would also have policy implications for Mexico.

Accordingly, this article takes as its starting point the examination of this TVRH status to explore the relationship between regular statuses and precarious migrants. Using policy analysis and fieldwork research, I argue that while the government claims that this status protects migrants by offering a type of regular status, its impacts on the ground create a power imbalance where the nation-state is able to not only govern an “undesirable” (Khosravi, 2011) and “disposable” (Wright, 2006) population, but also not necessarily provide any meaningful relief for this population due to its temporary nature. This is despite the fact that the perpetrators of the crimes committed against migrants include the Mexican security forces who, in principle, are responsible for upholding national laws. Furthermore, while the nation-state may have more control over migrants’ mobility by keeping registration data on them; for instance, migrants, in contrast, occupy a liminal and insecure space and live in everyday precarity. This research involves an analysis of the TVRH by examining not only the formal processes and requirements requested by the state for migrants seeking this legal status, but also how these processes may hinder the everyday life of migrants and intensify their vulnerability.

In-depth interviews with both migrants and shelter staff provided further insight for the analysis and on-the-ground situated knowledge and experience. The field research took place in the fall of 2014 in the states of Oaxaca and Veracruz, and in Mexico City. Migrant shelters proved to be a productive site for this fieldwork research as they are important members of civil society involved with irregular migration from Central America. The first section of the article delves into the politics of temporary protection schemes and how the TVRH may be used as a technique of bordering in Mexico. The following section examines the TVRH in detail, outlining the processes and requirements for migrants seeking this status and the costs associated with obtaining it. The last section explores how this visa renders migrants precarious by placing them in positions of insecurity and instability.

## **Precarious Migrants and the State**

Alongside border control and policing (Andreas, 2009), the criminalisation of migrants (Bacon, 2008; Inda, 2011), and “off-shore processing” zones (Mountz, 2015), temporary protection mechanisms have been used in the regulation of the movement of displaced people (Huysmans and Squire, 2009). Visas may be used as a form of surveillance and policing at a distance, whereby migrants register with the state and provide various

forms of personal information and living arrangements. A temporary status, therefore, may be conceptualised as a type of bordering practice (Rumford, 2011), by which the border is no longer fixed but rather manifests itself through processes and practices that occupy internal spaces. By issuing a temporary legal status, a nation-state may enact a policy with an exclusionary logic but use a humanitarian narrative to claim that it is supporting inclusion. In legal terms, for instance, the migrant may be “authorised” to be in the country, but the governing authority, the nation-state, may hold less responsibility over these migrants. As a result, the nation-state is able to assert its capacity to govern migrants and decide on “legitimate means of movement” (Torpey, 1998), while migrants simultaneously experience both inclusion and exclusion and easily become “deportable non-citizens” (De Genova, 2013). This type of “provisional inclusion” (Thomaz, 2018), for example, may include having the right to remain in the country, but not be given the right to employment.

In other words, by granting a temporary regular status, the nation-state can produce practices of spatial differentiation (Brambilla, 2015). Migrants, in turn, experience this bordering inclusion/exclusion where the border intersects with other socio-economic inequalities (Flores, 2019). In this particular case, migrants who are able to obtain the TVRH may have a “legal” and “regular” status in Mexico, but they also experience differential inclusion where inclusion also involves various degrees of insecurity, instability, discrimination, and exploitation (De Genova et al., 2015: 79). This status, therefore, has the effect of reproducing precarity whereby the lack of stability and security intersect with the lack of access to housing and employment, for example, which then places restrictions on everyday life, placing migrants in abject and perilous conditions overall (Baban et al., 2017). Migrants are in a liminal position and forced to manage and negotiate access to various things. Furthermore, temporary “humanitarian” schemes may also reproduce vulnerability and precarity in the guise of protection by constituting the migrant as a victim rather than as an agent with rights. The official discourses surrounding forced migration, which typically focus on the exclusion of the “other,” are in tension with discourses that speak of human rights (O’Neill, 2008).

In Mexico, the government may use humanitarian grounds to grant this status and state that it seeks to “protect and safeguard” migrants; however, it is the border policies enforced by the nation-state that, in effect, render migrants insecure. Essentially, Central American migrants in Mexico began to apply for the TVRH more frequently after the summer of 2014 because it was at this time that the Peña Nieto administration implemented the PFS or the Southern Border Plan. This border enforcement policy implemented measures along the Mexico–Guatemala border and Mexico’s interior that sought to “protect and safeguard the human rights of migrants entering and transiting through Mexico and to regulate international crossings so as to increase the development and security of the region” (Presidencia de la Republica, 2014). However, to understand this policy requires that we examine the border politics behind its implementation and what occurred in the US during the same time period. Beginning in late spring 2014, an increasing number of unaccompanied minors began to arrive at the US–Mexico border. This event was covered extensively by the media and brought attention to border

security issues when it was reported that this humanitarian crisis was overwhelming officers and facilities of the US Customs and Border Protection (CBP) as well as creating public outrage in many southern states (Meyer and Boggs, 2014). As a result, in June 2014, the Obama administration applied political pressure to the Mexican government to “collaborate” and help reduce the number of irregular migrants, framing it as a “problem” of criminals luring children from Central America (Conlon, 2014).

So, while in theory, the PFS policy was meant to promote human rights and safe migration, in practice, its implementation intensified border enforcement operations (i.e. highway and railroad checkpoints, checks at hotels) along major migrant corridors with the help of migration authorities, as well as federal, state, and municipal security forces. Indeed, the implementation of the PFS “emphasised an approach to migration from the perspective of national security and control of migration flows,” including the “further militarization of the southern border by armed forces [and] the redeployment of over 300 additional agents” (Inter-American Commission on Human Rights [IACHR], 2015: 128). This border enforcement logic, especially with the collaboration of multiple governance levels of security forces, served to further criminalise migrants by treating these operations as security processes rather than viewing migrants through a humanitarian lens (Angulo-Pasel, 2019). For example, this period saw a consistent rise in detentions and deportations without due process (Inter-American Commission on Human Rights [IACHR], 2015; WOLA, 2015), where according to the Observatorio de Legislación y Política Migratoria, (Castañeda, 2016) there were 93,613 detentions on the Southern border of Mexico between July 2014 and June 2015, compared to only 46,969 from July 2013 to June 2014, which is close to a 100 per cent increase in one year.

Additionally, as we will further examine in the following section, these enforcement operations were also responsible for an increase in violence towards migrants by security agents from various authorities (AICHR, 2015; Boggs, 2015; Meyer and Boggs, 2014). According to an investigative report by the Washington Office on Latin America (WOLA), between 2014 (the year the PFS was enforced) and 2016, there was a 575 per cent increase in the number of migrants who regularised their status because they were victims or witnesses of crimes while in Mexico (Suárez et al., 2017). As this is the main reason needed to apply for a TVRH, the violence encountered by migrants with these enforcement operations, which were executed by security forces due to the PFS policy, highlights the connection to the rise in TVRH cases and applications. Consequently, the increase in cases and applications created an administration backlog within Mexico’s migration institutions and, as a result, migrants were rendered immobile having to wait in limbo for months for cases to be processed.

Therefore, alongside detentions and deportations, it may be argued that the TVRH was also used as a security measure by the Mexican government to help “stem the flow” of migrants to the US, effectively being a form of interdiction through immobilisation. These security measures were successful in helping with the “problem” in the US as, according to the CBP, the number of total apprehensions at the Southwest border began to drop significantly starting in July 2014 (40,708), then August (31,388), and then September (25,825; Secretary Johnson, 2016). Similar to the narrative of protection and

safety for migrants found in the PFS, the TVRH could also be used by the government to claim that it was responding to a humanitarian situation by providing migrants a legal and regular pathway while in Mexico. Globally, the Mexican government is able to achieve positive and favourable optics by addressing the Central American migrant crisis and “collaborating” with the US. In reality, however, according to migrant activist, Julio Cesar Campos, there is no true support to help recipients of the TVRH because, “We call it *la visa vete* [the ‘go away’ visa], because it is clear the Mexican government doesn’t actually want to support these people” (Vonk, 2019). This double narrative was made clear by Rafael Moreno, the co-ordinator for a faith-based Jesuit network, who stated that Mexican immigration policy is similar to a “wolf in sheep’s clothing,” in that the Mexican government purports the “discourse of the sheep” by claiming it wants to protect human rights and migrants, which in turn allows it to “try and hide the very repressive [migration] policies that are happening here in Mexico” (Interview, 13 November 2014, Mexico).

### **What Is the Tarjeta De Visitante Por Razones Humanitarias (TVRH)?**

According to Article 52, section V(a) of Mexico’s Ley de Migración 2011 (Migration Law), the TVRH, or the “visitor status for humanitarian reasons,” is a temporary immigration status that an individual can obtain if he/she has experienced a grave crime while on Mexican territory or if he/she has witnessed a crime. The regularisation process, however, consists of multiple stages and two main government institutions: the Procuraduría General de la República (PGR, Public Prosecutor’s Office) and the Instituto Nacional de Migración (INM, National Migration Institute). The PGR is responsible for receiving complaints and amassing evidence for these crimes. It is only when the PGR has determined that the migrant was indeed a victim of a grave crime, however, that the migrant is then able to apply to the INM for this regular status with a copy of the formal complaint filed at the PGR. According to immigration laws in Mexico, the rationale behind this type of status is to grant the migrant a temporary stay while his/her case is being investigated.

The TVRH is a distinct status and is different from a humanitarian visa in the sense that is generally understood. Many humanitarian visas, similar to seeking asylum or refugee status or the U Visa in the US, concentrate on the human rights violations that occurred while migrants are in their country of origin. The TVRH, however, is a temporary status whose requirements are not dependent on what occurred in their country of origin or the reasons for fleeing their country (i.e. persecution, violence), but rather a status they can obtain if they have suffered, and can prove, that a crime was committed in Mexico. So, this usually occurs while on their journey to the US. Migrants would not have necessarily applied for asylum or refugee status in Mexico because, for the majority of them, their final destination was the US; they did not intend to stay in Mexico. According to the International Organization for Migration (IOM), the US continues to be the main country of destination for irregular migrants coming from Mesoamerica



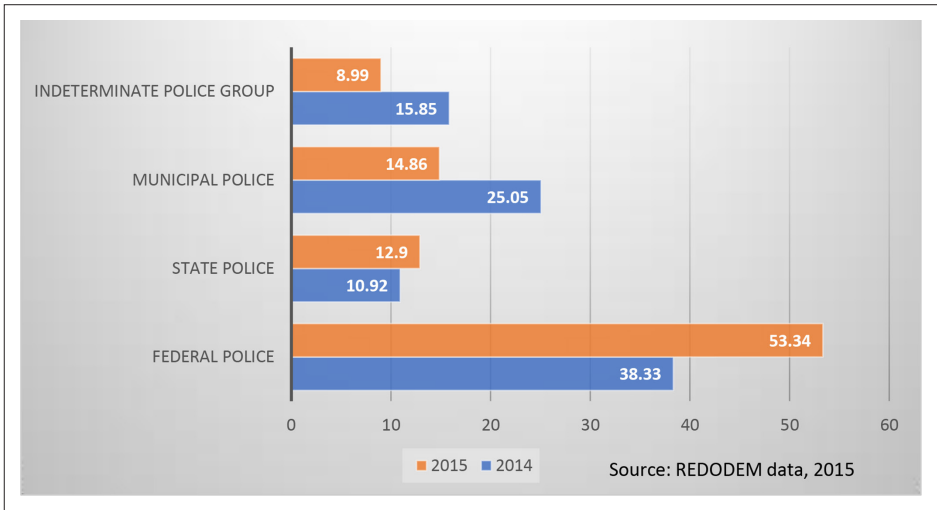
(International Organization of Migration [IOM], n.d.). It is humanitarian, however, in that it is issued on humanitarian grounds because the victims' rights have been violated and the goal is to achieve justice for those crimes. The humanitarian grounds are left to the discretion of the state of Mexico, which in this particular case, involves human rights violations as per the state's national laws.

When the PFS was implemented in the summer of 2014, the number of TVRH applications began to climb because the violence increased. When the violence increased, migrants began to apply for this status in order to achieve safe passage through Mexico to the US. Consequently, if obtained, they could use this status more like a transit visa to provide a safe pathway and avoid vulnerable situations while in Mexico. As mentioned above, the PFS increased enforcement operations throughout Mexico's interior. This resulted in migrants having to venture into more secluded areas to avoid checkpoints, walking for days or weeks in hidden areas that were targeted by criminal gangs and drug cartels (Knippen et al., 2015).

Another major outcome of the policy was the various forms of abuse and human rights violations by Mexican security forces (AICHR, 2015; Boggs, 2015). This is important for this analysis because there were migrants obtaining this status due to the crimes committed by the very state authorities who are meant to uphold laws. Thus, migrants, who are often victimised in their home countries are also re-victimised by state security forces while en route to the US, which highlights the police corruption present in Mexico. For example, reports claim that government migration enforcement operations escalated in mid 2014 where "physical and psychological aggressions occur[ed]; in addition, migrants [were] stripped of their money and belongings" (Knippen et al., 2015: 10). Furthermore, according to the Red de Documentacion de las Organizaciones Defensoras de Migrantes (REDODEM) (2015: 64), there was an increase of approximately 180 per cent of crimes committed by authorities reported by migrants from 2014 (467 crimes) to 2015 (868 crimes), and this number only takes into account those migrants who stayed in shelters and provided their testimony. This suggests that the number of crimes may be much higher.

The role of security forces is interesting to note because typically it is only the INM who has jurisdiction over migration matters in Mexico. Other security forces may assist the INM but may not carry out control and enforcement functions on their own (Knippen et al., 2015). However, once the PFS was implemented, this appeared to change. The involvement of different security forces became more frequent since mid 2014. For instance, prior to July 2014, the average number of "operations in which another authority participated alongside the INM was 125.8 per month. From July 2014 to April 2015, this number climbed to an average of 429 per month" (Knippen et al., 2015: 10). In addition, migration enforcement is further complicated by the multiple levels of security forces that "assist" in these operations. The over-securitisation of the Mexican security apparatus (Arteaga, 2017) has meant that there are several security authorities at multiple levels of governance that may take part in these operations despite jurisdiction, including the Federal Police (Policía Federal), the Army, the State Police (Policía Estatal), and the Municipal Police (Policía Municipal). According to migrant





**Figure 1.** Percentage of crimes committed by security forces: 2014, 2015.

testimonies, Red de Documentacion de las Organizaciones Defensoras de Migrantes (REDODEM) (2015) shows that the Federal Police was the main security force agency committing crimes against migrants followed by the Municipal Police, (Figure 1). The two principal crimes committed were robbery and extortion.

All of these events together culminated in many crimes that were committed against migrants; the number of migrants who were assaulted, robbed, and/or extorted surged and so did the number of cases/applications for the TVRH. As can be seen in Table 1, the number of TVRH granted has increased yearly where in 2016, the Mexican government granted 5,996 TVRHs, a number that is more than twenty times higher than the 201 TVRHs that were granted in 2013 (SEGOB-INM, 2016). Two inter-related factors are notable here. One is the increase in TVRH applications, which can reflect the increase in violence and abuse but connected to this is also the increase in applications by migrants to try and combat the abuse by having a regular status to achieve safe passage.

Nevertheless, although this status allows migrants to remain in Mexico, the process to obtain it can be quite arduous, costly, and, once obtained, is temporary in nature, only being issued for one year. Furthermore, although government authorities typically place the waiting period for obtaining a TVRH at approximately three months, the abuses that

**Table 1.** Tarjeta De Visitante Por Razones Humanitarias (TVRH) Issued by Year.

|             | 2013 | 2014 | 2015 | 2016  |
|-------------|------|------|------|-------|
| TVRH issued | 201  | 336  | 374  | 5,996 |

Source. SEGOB-INM (2014, 2015, 2016); compiled by author.

occurred with the implementation of the PFS, and the increased number of cases/applications, resulted in a system backlog where migrants could be waiting for over five months for a decision on their case file.

By analysing this migrant status and the process of regularisation, we can examine how the TVRH does not necessarily benefit already vulnerable individuals. First, there are costs associated with this regularisation process, which need to be considered. Second, not only are there costs to consider for the migrant, but also costs incurred by migrant shelters, which are key advocates in promoting migrant rights. Third, there are the challenges with respect to official documentation, access to consular services, and waiting.

### *Costs to Migrants*

The TVRH can be obtained without a fee. According to the Ley de Migration, 2011 (Migration Law), those individuals who apply for a regular status for humanitarian reasons do not pay an application fee. However, while the actual process is free of charge, there are two factors that are incredibly costly for migrants and do not factor into the analysis. First, it is important to note that migrants who are fleeing their country of origin and use cargo trains to transit through Mexico are typically poor and therefore lack adequate economic resources. Nevertheless, as mentioned above, to apply for this regular status, migrants first have to file a formal complaint at the PGR office. This process involves providing testimony for their cases, generally multiple times, before their cases are determined viable. As a result, they have to cover the transportation costs to and from these administrative offices. The offices may be close to where the migrant is staying or far away. Thus, the questions of access and mobility costs become important factors to consider and may result in restrictions for migrants.

For instance, while in a migrant shelter in Oaxaca, Alma<sup>1</sup> explained to me how obtaining this status was difficult in practice. She had already gone to the PGR office twice since she had been staying at the migrant shelter. The PGR office was in Salina Cruz, a two-hour bus ride for her and her husband. First, she had to make the trip to Salina Cruz to start the process with the appropriate paperwork, and then continue to travel there to provide her and her husband's testimony of events to determine if their case was "credible" according to officials. She claimed that it was both emotionally draining and economically stressful because they did not have the money to travel back and forth to provide their testimonies: "The testimony is done in stages and, every two weeks, we have to go to Salina Cruz. The bus costs \$150 pesos per person, so me and my husband have to come up with \$300 pesos and neither of us can work" (Interview, 24 October 2014, Mexico). Furthermore, having to re-live her experience during her journey bears an emotional cost, as she was nearly raped by a group of five men while trying to reach the migrant shelter. She told me she already had nightmares daily, but the authorities at the PGR asked her to tell her traumatic story over again, while her husband was in another room doing the same thing: "They are trying to catch us in a lie as if this horrible thing didn't happen to us and I have to re-live it every two weeks." Similar to border regimes globally, this process is also "predicated upon suspicion" where the

migrant, who has already endured trauma, is also degraded by these experiences that further stigmatise them “with allegations of undeservingness” (De Genova, 2013: 1180–1181).

Lastly, this process is also monetarily prohibitive because migrants are not able to work and thus do not necessarily have money for living expenses. To that end, there are migrants that end up living in migrant shelters for extended periods of time despite the fact that these shelters, by definition, are temporary and intended to cater to migrants while in transit. Yet, migrants have nowhere else to stay and therefore begin to live in migrant shelters on a longer-term basis. They are unable to work during this regularisation process and cannot work after receiving the regular status as it is not accompanied by a work permit. By virtue of not allowing migrants to work during or after this regularisation process, the Mexican government is ostensibly (re)producing a precarious, unstable, vulnerable, and economically insecure existence for migrants who acquire a TVRH.

### *Costs to Shelters*

Likewise, this potential change in living arrangements for migrants along with the longer-than-usual wait times for case processing has ramifications for migrant shelters that may become overcrowded and rely principally on donations to sustain their operations. There are multiple capacity issues, from the number of beds available, to food resources, food preparation, cleaning, and clothing necessities that are affected by prolonged stays. As important civil society actors with respect to migrant rights, shelters are at the frontlines of humanitarian relief by providing migrants with medical attention, food, a space to sleep, and legal knowledge. However, they operate mainly by acquiring donations, whether monetary or material (i.e. clothing, food at markets, etc.) and, therefore, do not necessarily have the resources to sustain a population for an indefinite amount of time. At times, shelters also have to provide economic assistance to migrants who require money for the transportation to and from the PGR offices. While speaking to Patricia, an administrator at a migrant shelter in Ixtepec, she expressed the economic difficulties shelters encounter when migrants are working through the TVRH process. She explained that if migrants do not have anyone from home sending them money, the shelter will offer to pay for their bus tickets to Salina Cruz: “There are people here that don’t have anyone back home. So, what do you do with these people? You have to support them economically so they can go and finish the process” (Interview, 27 October 2014, Mexico). Therefore, not only do shelters accommodate migrants in-house, but they also may need to give monetary support for transportation costs.

### *Official Documentation*

Another requirement from the Mexican government that may prevent access to acquiring a TVRH for migrants is a “legible copy of a passport or a document of identification” (Cámara de Diputados del H. Congreso de la Unión, 2011). Nonetheless, the violence perpetrated against irregular migrants from Central America may leave those who

survive attacks, kidnappings, and robberies without any personal belongings, including forms of identification (AICHR, 2015; Human Rights Watch, 2016). Whether it is due to a robbery and/or attack along the migrant corridor or the lack of money to acquire official documentation, migrants have difficulty producing official documentation to prove their identities (Bohmer and Shuman, 2007). During my visit, I met Sonia at a migrant shelter. She was woman from Honduras who had experienced this form of violence. Originally, she was travelling with her male cousin as he had previously accomplished the journey to the US successfully. During the first leg of her journey, she and her cousin were walking through deeply wooded areas in Southern Mexico. They were approached by a Municipal Police car that apprehended them and took them further out of site. The police officers then preceded to take them out of the vehicle and ask for all of their belongings. They robbed them and then let them go. She no longer had any mode of communication as they took her cell phone and did not have her ID, since they also took her wallet.

In these common situations, acquiring this regular status becomes much more cumbersome for the applicant because he/she no longer has the required documentation to proceed. Under normal circumstances, an individual would try to obtain a new form of identification through the consulate of their respective country. Nevertheless, for irregular migrants in Mexico, consular support can be quite arbitrary and also depends on how far the consulate is from citizens who require assistance. According to a WOLA report (Suárez et al., 2017: 18), consular aid can depend on which Central American country the migrant is from (i.e. some country consulates personnel are more apt to provide support for crime victims than others), and/or whether there is a consulate available (i.e. Sonora does not have Central American consulates). These situations may further delay the process, while migrants are forced to wait in uncertainty.

### *Waiting*

On the ground, the results of the system backlog were evident. During the fall of 2014, when the implementation of PFS measures were most prevalent, the migrant shelter in Ixtepec where I conducted field research only received a handful of new migrants during my visit. The train, which passes behind the migrant shelter, did not have any migrants riding it. During this time in late 2014, shelters, “which once received approximately one thousand migrants per month, now [saw] no more than an average of 100 migrants per week” (Knippen et al., 2015). Furthermore, approximately 80 per cent of the migrants staying at this shelter were in the process of waiting for a TVRH, and many had been waiting there for over three months. The lack of migrants atop the cargo trains was a principal outcome of the security crackdown witnessed with PFS. In particular, security officials set up raids, roadblocks, and checkpoints along both train routes and major highways. This event pushed migrants into further secluded areas that placed them at higher risk of human rights violations, and away from the network of migrant shelters, which are purposely established along these train routes.

During a visit to the library of the shelter, a room where migrants passed the time by reading books or checking social media, I had a conversation with Jorge. A migrant from

Honduras, Jorge explained that he left his country because, since the coup d'état in 2009,<sup>2</sup> the violence and poverty had been worsening: "Since the '*golpe de estado*' [military coup ousting President Zelaya], the price for a basic basket of food has gone up so much. There are also more gangs that have taken over many areas" (Interview, 24 October 2014, Mexico). He was growing impatient, however, because he had already been waiting for the TVRH for five months. Periods of immobility while waiting enhance moments of desperation among migrants (Brigden and Mainwaring, 2016). It is difficult for migrants because they live with the uncertainty of waiting. Jorge, like others among him, was worried that after investing all of this time growing restless at this migrant shelter, he may not even be granted a TVRH.

This uncertainty is accompanied by desperation due to protracted displacement, which can cause increased mental stress as migrants become more resigned (Auyero, 2012; Brun, 2015). Patricia, the migrant shelter administrator, noted that they see this desperation mount as time passes and sometimes it leads to migrants abandoning the process altogether. She explained:

there are people here that get tired, abandon the whole [TVRH] process and leave. Others don't even file a claim because they say they don't plan on staying and don't want to waste their time. But I feel like with migration, people get desperate being here waiting for three or more months. (Interview, 27 October 2014, Mexico).

Indeed, long delays combined with distrust of authority and/or fear of rejection may all play a role in discouraging migrants from applying for a regular status (Basok and Rojas Wiesner, 2018). In the similar context of asylum, for example, a Latin American Working Group (LAWG) report highlights comparable findings where shelter staff share that [government] migration processes seem to "*apostarle al desgaste*," in other words "bet that people will get tired and give up" (Burgi-Palomino and Buckhout, 2017), which takes up less of the government's time. The process is even more physically and emotionally exhausting if migrants do not have a place to live.

## **How Does the TVRH Reproduce Precarious Migrants and Structural Vulnerability?**

One of the principal reasons the TVRH (re)produces precarity among migrants is due to its temporary legal status as the Mexican government only issues the TVRH for a year. While it is true that migrants can choose to extend it, the process is troublesome. For example, in Oaxaca, migrants must return to the PGR office in charge of their case to "obtain proof that the investigation of their case is still open" (Suárez et al., 2017: 17). This undertaking again presents an access problem for migrants who are no longer near the locations where they originally filed the complaint and can result in the status expiring. Thus, this limited and temporary status (re)produces the precarity experienced by migrants due to the lack of stability and security in their everyday lives. Precarious instability suggests that migrants have to negotiate access to social rights like

employment and/or adequate housing (Baban et al., 2017). As Menjívar (2006: 1001) explains, laws create this uncertain status (not being fully documented or undocumented) and legal ambiguity, which “highlights the central role the state still plays in shaping and regulating immigrants’ lives.” Connected to this temporary status is the inability to work as this is a visa “without authorisation to realise remunerated activities” (Cámara de Diputados del H. Congreso de la Unión, 2011). Consequently, for any migrant without a permanent status, there is always that perpetual possibility of removal where migrants live in a constant state of “deportability” (De Genova, 2002) and vulnerability, while nation-states have the opportunity to surveil and control. Hence, the impact of the TVRH appears to be immobilising migrants for a period of time without necessarily providing significant support, and then having them leave the country with or without achieving justice for their human rights cases. This becomes more troubling when we recall the purpose of the TVRH and the reasons this status is granted. The TVRH is a result of migrants being victims of a crime while in Mexico, and the perpetrators of these crimes include Mexico’s multiple security forces, who in principle are supposed to uphold national human rights laws. Yet, despite migrants being victims of these crimes by state and non-state actors alike, the Mexican government provides insufficient relief to these populations. Overall, this legal immigration status creates an excluded population, vulnerability, and precariousness, which affect migrants’ overall security.

The inability to work is perhaps the TVRH’s most severe consequence of this legal status because it is directly associated to precarious employment and other insecure living conditions. Being excluded from the Mexican labour market creates everyday vulnerability for migrants who are forced into the informal labour market. Not only are they economically insecure, but they also continue to occupy a liminal space despite having a formal legal immigration status. Migrants are legal in one sense, but illegal in another, so they straggle this liminal space (Menjívar, 2006). In fact, with respect to economic insecurity, it is as if migrants do not have a legal status at all since, they are essentially in the same position within the labour market (without work authorisation) as they were prior to obtaining a TVRH. Similar to “undocumented” migrants, they have to work without a permit. It is these types of temporary legal statuses that underscore differential inclusion by continuing to marginalise and exploit certain groups of migrants while claiming to provide rights, such as the right to be legally in the country. The majority of migrants who obtain a TVRH still have to work in “grey areas of the economy,” mostly in agriculture (i.e. cutting sugar cane) or, in the case of women, domestic or service work. Likewise, since they are not supposed to work, employers can easily take advantage of them.

The main risks associated with being forced to work in an informal labour market due to the inability to obtain a work permit centre on access to sustainable living wages and labour and/or human rights. Although migrants with a TVRH can legally stay in Mexico for one year, they must also make a living to survive. After 2014, the average minimum wage in Mexico was \$65.53 peso (MXN) per day, which was equivalent to approximately US\$5.05 (USD) (Mauer, 2014). Even if migrants could obtain this wage, it would make survival difficult. However, employers who hire migrants without work permits

– which in this case, would be the case for those migrants who have the TVRH and those who do not – typically pay lower wages. Furthermore, as noted by a UNWomen report, migrants without a legal status may not have labour contracts, may work longer hours than was verbally agreed to, and may not be paid for these extra hours, or not be paid at all (Hennebry et al., 2016). Norma, a migrant shelter administrator, further explains this precarious situation: “Within informality [informal work] the abuses are always the same, they [migrants] tell us ‘they promised to pay me 1000 pesos and it turns out that at the end of the week, they gave me 600 pesos, and when I go to claim it, they tell me that I don’t have papers’” (Interview, 20 November 2014, Mexico). The point is that both migrants with a TVRH and those without a “legal status” are generally treated similarly because both groups lack a work permit and can thus be exploited.

Related to the above point is the lack of access to labour rights. Mexico has detailed labour laws that migrants with the TVRH cannot access. Laws associated with minimum wage, health and safety, humane working hours, and protections against dismissal are among the basic securities in today’s workforce. But employers know that they can take advantage of migrants without work permits and exploit those rights by using the fear of reporting at any point if a migrant worker complains or demands rights. Furthermore, not only do these migrants lack access to labour rights, but they will also lack access to justice mechanisms if any rights are violated. They are unable to report crimes due to fear. In the end, without a steady, sustainable income, migrants are unable to survive and, as Vonk (2019) claims, “often settle in the poorest and most dangerous areas of town, where they are quickly singled out by gangs, cartels, and corrupt policemen. Eventually, many become fed up and set off toward the U.S. border once again.”

Moreover, while it may be argued that this precarious or insecure work is also experienced by Mexican nationals, especially in the informal sector, irregular migrants are affected by multiple intersections of marginalisation such as poverty, but also nationality and ethnicity, which leave them more vulnerable vis-à-vis their Mexican counterparts because they are more easily “othered.” First, not only can irregular migrants be terminated by their employer, but they can also be deported back to their country of origin. Additionally, patterns of xenophobia began to form in the late 1970s and early 1980s, when migrants deemed “undocumented” became associated with criminality with the General Law of the Population. This law criminalised undocumented migration, making it a felony to enter Mexico without legal documentation or to be found with an expired visa, examples of crimes that were punishable for up to ten years (Gonzalez-Murphy and Koslowski, 2011). Irregular migrants, therefore, have carried a xenophobic criminal stigma in Mexico, which sows mistrust among Mexican nationals and renders migrants more vulnerable to everyday exploitation and discrimination (Cruz Salazar, 2011). Despite the portrayal of Mexico as celebrating *mestizaje* (mixed race heritage), there is also a history of xenophobia and discrimination against indigenous people, which is only rising (International Crisis Group, 2018: 14).

Lastly, migrant women who obtain a TVRH but cannot work are specifically marginalised and experience gender-based exploitation due to their sex. For example, similar to those without a “legal status,” they may be employed as domestic care workers, may be



required to live in the home and may feel pressure to enter into sexual relationships with male employers (Hennebry et al., 2016: 55). Women may also typically work in the service sector as either bar tenders or waitstaff. However, the border zones in Chiapas are well-known areas where the lines between restaurants and/or bars and brothels become blurred. Women in these situations can experience sexual exploitation and be forced into sex work (Ruiz, 2009). This situation is also common in Mexico, Distrito Federal (Mexico City) where according to shelter administrator, Norma, women who are physically attractive may think they can make more money with their appearance, “but, she doesn’t realise when she gets exposed to some kind of trafficking ... until suddenly they are involved in it and it is too late.” Consequently, the most precarious type of informal work for women is “to be employed as a waitress because of the type of place it is, like a bar, [where] some [men] invite them to go out and, in the end, all they wanted was to be with them [sexually], and that is where the prostitution comes in” (Interview, 20 November 2014). Overall, the TVRH creates a system of structural vulnerability, which generates precarious circumstances and enables employers to erode and violate labour standards as well as human rights.

## Conclusion

In theory, temporary protection schemes that apply humanitarian grounds may appear to care for migrants. In a certain way, for instance, they protect migrants in Mexico from having to hide and conceal their presence, thus decreasing the likelihood of becoming the targets of *pandillas* (‘criminal gangs’) and/or drug trafficking criminal organisations. The staff at Las Patronas, a migrant shelter in Veracruz, noted it is not ideal like asylum, but it is “something” (Vonk, 2019). But is “better than nothing” what we should be striving for? This article has argued that in reality, the TVRH is a stopgap that lacks meaningful rights for migrants, even though they are entitled to rights under international and national conventions. The Mexican government can use the TVRH to exercise its sovereignty and decision-making power on issues of inclusion and exclusion. In reality, however, the effects of the TVRH are continued exclusion, vulnerability, and precarity. Ironically, the TVRH also underscores the lack of relief available to migrants even though they have been victims of crimes committed while in Mexico, with many of the perpetrators being the security forces who are theoretically supposed to uphold these national laws vis-à-vis human rights. Migrants are often re-victimised with these crimes, and yet there is insufficient relief that is available to them.

Meanwhile, with the TVRH, migrants are rendered precarious subjects due to their temporary legal status. They occupy a liminal space where they are somewhat included in society while at the same time excluded from claiming rights, like the right to work, the right to decent housing, the right to access justice, and the right to a sustainable livelihood. In sum, this is a power imbalance where the state determines how (and whether) these people live and under what conditions while migrants are left to live a life of instability, marginalisation, fear, anxiety, and isolation. As Galtung (1990) argues, these marginalised bodies are exploited and left so disadvantaged that they either die or are left in

a permanent state of misery. Against this backdrop, it is unsurprising that migrants consider moving on and continuing their journey to the US despite their regular immigration status.

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### Notes

1. Unless otherwise noted, all names used in this article are pseudonyms to protect the identities of those interviewed/observed.
2. The Honduran coup d'état occurred on 28 June 2009, when the Honduran army, on the orders of the Honduran Supreme Court, forcibly removed President Manuel Zelaya from the presidential palace and exiled him to Costa Rica.

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