

Migratory movements in Tijuana, Mexico: Tension between producing laws and protecting migrants

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ABSTRACT: *The images we see of population migrations and displacement point to growing scenarios of multiple and complex types of violence that affect people and countries. Consequently, laws are passed that protect migrants while at the same time regulations are created that punish and even criminalize them. Based on research in Tijuana, on the United States-Mexico border, this paper discusses the role of the law and security in structuring these violent scenarios. Thus, the paper hopes to question the ambiguity of the law and the discourse around security, while putting forward a scenario in which the law can coincide with a culture that favors human coexistence and social diversity.*

KEYWORDS: *Tijuana, violence, migration, fetishism, law.*

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I. INTRODUCTION

Currently, human displacement throughout the world has generated ideal scenarios in which to study the forms and meanings of neoliberal economic policy. By studying migration, we can substantiate that throughout the world complexity coexists with brutality and methods of securitization proliferate, which some authors see as part of the global war on terror .

From studying and reflecting on human mobility, we can learn important lessons regarding the plethora of economic and political arrangements that characterize what Paolo Virno defined as late capitalism.

For Saskia Sassen, one of the pathologies of contemporary global capitalism is precisely the emergence of a new systemic logic of expulsions. The movement from Keynesianism to the global era of privatization, explains Sassen, has involved a shift from a dynamic that integrates individuals to one that excludes them.

Other authors such as Thomas Nail agree that expulsions are one of the features that characterize the 21st century, which he calls the “century of migrants.” In that context, he tells us that “...what all migrants on this spectrum share, at some point, is the experience that their movement results in a certain degree of expulsion from their territorial, political, juridical, or economic status”.

Viewing these phenomena from a different angle, the Comaroffs have emphasized that there is often a fetishistic nature to the law. To explain their perspective, they look at the proliferation of laws in the Third World and the rise in discourses centered on security. From the Comaroffs’ viewpoint, we are witnessing a change of epoch in the law that is part of the new geography of global inequality. Thus, the legal and the illegal complement each other in scenarios where chaos coexists with the fetishism of the law. As illegality escalates, the Comaroffs posit, there is increased devotion to the law. In the end, the law is fetishized as a powerful resource against disorder.

I am interested in organizing this article around this idea proposed by the Comaroffs.

II. DISCUSSION

Along the same lines, in April 2018, given President Donald Trump’s threat to send National Guard troops to the Mexican border, the Mexican government decided to militarize its southern border in order to, according to authorities, lend security and protection to migrants.

At the time, the Mexican government received a barrage of criticism for its exclusively military and police focus on the subject of migrants. Further, it was criticized for not pushing back on the U.S. government’s xenophobic discourse. Responding to the criticism, Mexico’s Foreign Relations Secretary, Luis Videgaray, tweeted on April 1, 2018: “Mexico and the United States are working together on regional migratory issues, as figures show. This cooperation should not be put into question due to imprecise reports and news. The defence of dignity and human rights does not run counter to the rule of law. Happy Easter”.

At this point one could reasonably ask if the two issues of providing security at the border and protecting migrants’ human rights are compatible. Is it possible to combine a policy that protects the rights of

displaced people and people in transit with a policy to protect national borders? Might not that security policy tend to skew the law and criminalize migrants, thus increasing their vulnerability?

These questions take on increased relevance when we see that new laws and regulations involving migrants and people on the move are being created throughout the world. A global and local order is emerging in which the production of laws is proliferating while discourses are multiplying regarding security and the protection of migrants' human rights.

Michel Agier studied the refugee camps in Africa for seven years and then wrote a book that asks how we should interpret the problem of a hand that caresses and another hand that hammers? On the one hand, we have a humanitarian environment that aids and assists, called "humanitarian governance," and, on the other, a police and military order. The tension arises, Agier says, between the army and police forces that always act under a paradigm of exception, and humanitarian activities that contribute to depoliticizing problems and their consequences.

An obvious result of all this is that we have more laws but, at the same time, migrants' lives are becoming increasingly precarious. I believe that the basic contradictions in the migratory phenomenon can help explain the contemporary world.

Other authors have taken advantage of these perspectives to propose a reading of current problems, highlighting the social-contract crisis and the problems associated with citizenship. For example, Aviva Chomsky has studied the production of migrant illegality and suggests that the criminalization of the movement or the presence of perceived foreigners should be denaturalized. "Illegality is the other side of inequality ... it is a discrimination based on the human invention of citizenship, creating an unequal world of privileges and marginalization".

In this regard, I am interested in highlighting that, currently, migrants and displaced persons constitute what Sousa Santos calls a subclass of the excluded, who are typically produced by this economic system. Thus, migrants are a good example of a paradigmatic, historical crisis, which he defines as de-modernization or counter-modernization.

We can see these characteristics in a place such as Tijuana, the westernmost corner of Latin America, where the Latin American continent borders the United States. Tijuana functions as a plaque tournante, a major hub, used by thousands of people every day, coming and going, in the unequal geometry of a border that separates two different worlds: Mexico and the United States. During recent years, several influxes of people stand out due to the effects they had on local society: the arrival of 30,000 Haitians in 2016, followed by the arrival of Central Americans in the so-called "humanitarian migrant caravan" in 2018 and 2019, as well as the arrival in 2018 of Africans from English-speaking countries (Ghana and Kenya).

During a quick tour of Tijuana, we found an enormous variety of organizations working with all manner of displaced people, from migrants who someday hope to cross the border, asylum seekers, deported people without a clear destination, women fleeing with their children from conflictive areas dominated by organized crime in Mexico, homeless people living on the streets, and drug addicts. This gamut of human groups makes it difficult to define accurately who a migrant is, leading us to conclude that the concept of migration is insufficient to explain the presence of these many subgroups.

In this sense, Sandro Mezzadra suggests questioning migration categories and taxonomies. For example, the distinction between forced and voluntary migration, or between economic migrant, asylum seeker, and illegal migrant. From this author's perspective, we should adopt a new discourse and a new notion of citizenship. Thomas Nail agrees when he suggests that migration is never entirely free or entirely forced. He recommends understanding society as a trellis of movements, circulations, and displacements. He challenges the fact that all theories have emphasized the state as a key actor for migrants, and all analyses about migration are linked to the state. His counterproposal posits that the migrant is a fluctuating type of identity, i.e., a mobile social position, even a spectrum of identities.

There is a long list of contemporary authors who back this critique of the classic definitions of migration and migrants. This conceptual concern shared by several authors is also a reflection of the enormous ongoing transformations that occur within human mobility, which lead to analysts' perplexity and uncertainty.

Observing these problems in Tijuana

I became aware of these situations in my last fieldwork in Tijuana during the summer of 2018. During a visit to the migrant shelters, I spoke with Chema, the indefatigable director of "Juventud [Youth] 2000." This shelter, founded 25 years ago, is located in the infamous "northern neighbourhood" of Tijuana, a red-light district of the city where numerous underground economies coexist, such as prostitution, drugs, extortion of passers-by, police shakedowns, etc. Given these surroundings, the 100 tents set aside in a patio at Juventud 2000 for families who have found refuge there lend a rather heart-breaking impression.

If we observe the migrants who remain in Mexico's northern border cities, we find reasons to agree with Chomsky's definition of them as true refugees from border wars.

In Chema's words, "the amount of women who are now fleeing violence in the southern states of Mexico is extraordinary. Their hope is to obtain a humanitarian visa. It is very unusual for one of them not to have had anything happen to her during the journey. Most face extortion, or are raped or robbed before arriving here."

Here we are forced to ponder the very difficult territoriality these women must traverse fleeing from a real war being waged in southern Mexico and who, after arriving in Tijuana, need to continue exercising caution given the dangers they face in the city, such as harassment from police or the mafias. Tijuana residents, an activist in the city told us, fluctuate between showing solidarity or hostility to the migrants.

This gives rise of a kind of animal territoriality, such that migrants' relationships with space must be understood in a very specific way. Migrants try to hide or camouflage themselves among pedestrians, moving about with others in a group, dressing up as best they can in order to avoid drawing the attention of those who would take advantage of their precarious condition.

This critical situation can be clearly observed if we focus on migrants' humanitarian caravans. Some of these caravans depart from San Pedro Sula in Honduras with the intention of reaching the United States, but end up detained in the city of Tijuana, as their members endeavor to obtain U.S. humanitarian visas. The legal and political paradoxes that I have discussed regarding contemporary migrations exist within these caravans.

For example, in light of the caravan that departed October 2018 from Honduras, Donald Trump exhorted in a tweet "Please go back"... "They will not be allowed to enter the United States unless they go through the legal process. It is an invasion of our country and our army awaits them!"

Simultaneously, Trump ordered that some 5,000 military personnel protect the border with Mexico, stating that very dangerous people, people from the Middle East, all of them financed by the Democrats, were among the migrants.

Countering these comments, Craig Fugate, a former director of the U.S. Federal Emergency Management Agency during the Obama administration, argued that "the flow of refugees seeking asylum on the border with Mexico is not an emergency," adding that "There are more terrorists entering the United States through the northern border than the southern one".

These decisions and statements by the U.S. president have generated a chain reaction in the Central American countries involved in the caravan issue. For example, given Trump's threat to reduce U.S. aid to

Honduras, in October 2018 the Honduran president called the caravans "an illegal mobilization, made of lies and false promises". Coupled to these declarations, the government of Honduras has increased restrictions on leaving the country, justifying them by declaring that it is to pursue criminals and prevent them from escaping abroad.

During October 2018 and before the massive arrival of caravan migrants, the Mexican government maintained its "firm intention to take charge of the situation with full respect for the human rights of migrants from a humanitarian perspective". However, the government showed greater interest in strengthening the military and police presence on the border with Guatemala, instructing the "Instituto Nacional de Migración" (National Institute of Migration, INAMI) to coordinate the operation. Officially, it was said that it was not a question of blocking the caravans, since efforts were aimed at guaranteeing traffic safety in order to make border crossings legal and orderly.

The complexity of the procedures by which migrants decide to travel to the United States in a collective and organized manner puts into question the entire migration policy of the countries involved. The contradictions at the state level are evident. For example, analysing the behaviour of the Trump government, De Genova argues that the whole struggle of this president against Mexican and migrant illegality and his announcement of the wall are contributing to a trend to fortify the border as a spectacle of exclusion. The wall hides an obscene secret: the permanent subordinate inclusion of illegalized migration. "Once again ... the calculated hostility towards foreign migrants and refugees is not simply about their apparent exclusion, but it serves productively for the purposes of stigmatization, marginalization, employment insecurity, securitization and subordination".

One of the most pressing problems generated by this situation is the innumerable signs of hostility (racism, xenophobia, and discrimination) towards migrants that occur along migratory routes through different countries. For example, in the south of Mexico the media reported various examples of xenophobic comments regarding migrants on social networks. In several of them, Mexicans were told "Do not offer water to foreigners, or let them use your bathrooms, do not open their your doors because they invade." Adding that "There are a lot of delinquents among them. Watch out!" A recommendation was made to "Keep your doors closed. These people are dangerous".

Tijuana is perhaps where these situations become more complex. In recent months, anti-immigration movements have intensified, and Hondurans in particular are regarded by residents as the main culprits of the crisis. Ironically, the rejection of Central Americans, and mainly Hondurans, by Mexicans closely reproduces what Donald Trump and others say about Mexicans and Hispanics seeking to reach the United States. In a

January 2019 interview, a Tijuana resident told this author "... here we all receive the migrants but these people [Hondurans] do not want to work, these people all they want is to take advantage of Mexicans and our hospitality."

A certain sector of Tijuana residents does not want Central American migrants in their city. Migration is a divisive subject. Neighbours of migrant shelters allege that because of the migrants, the area has become dirty and violent, while passers-by fear assaults and harassment. An activist who supports migrants in Tijuana rejects these claims because "these shelters have always been located in historic areas of high crime... Further, we all know that here in Tijuana there are Mexicans who help and support them, while there are others who stick out a foot to make them stumble."

Yet while all groups of migrants suffer various forms of violence, in general governments and authorities seem uninterested in hearing what they have to say. Since winning the 2016 elections, Donald Trump has insisted on associating migration with crime. In an interview granted in November 2016, the then president-elect of the United States warned that there were criminals and people with criminal backgrounds among the "illegals." They might number two million, maybe three million, he said. However, according to data from the Migration Policy Institute cited by Abrego and his research team, 7% of the 11 million undocumented have criminal records, a quite modest percentage.

Given the mainstreaming of this type of discourse that insists that migrants are a threat and the situation is totally out of control, it becomes more likely that the law will be applied, together with its inherent injustices.

Several authors have insisted on the importance of this type of narrative that views the dangers and threats as ways of structuring a certain social order and control. For example, Alejandro Castillejo has studied terror as a colonization of daily life, given its uncertainty and the random way it administers death. Thus, this author tells us, the world becomes a radical alterity thanks to the use of terror as a form of governmentality. All this allows the law to be applied.

Similarly, Sabine Hess studied the Europeanization of migration policies and particularly the formation of the European border regime in south-eastern Europe, mainly in Turkey, Greece, and the Balkans in general. Thanks to her studies, we understand that the trope of "illegal migration" is one of the main narratives that has dominated the public and political debate since the 1990s, and is simultaneously one of the main arguments for the creation of the European border regime.

In this sense, I wonder what place the law holds in these complex and often violent scenarios where migrations and human displacement occur. How can we define the law with respect to security and protection of migrants' human rights (or lack thereof)? How can we reconcile the obvious tension between the violent dimensions of the law and its emancipatory and liberating abilities? What type of a world crisis are we facing?.

The International Organization for Migration states that today we are experiencing very intense population movements, as strong as the human displacements that occurred in the 19th and 20th centuries (between 1815 and 1915) when 60 million Europeans emigrated to the Americas.

The IOM also maintains that a surprising facet of the current phenomenon is the increase in the number of refugees. In June 2015, António Guterres, then U.N. High Commissioner for Refugees, stated that for the first time since the Second World War the number of refugees had surpassed 50 million.

Thomas Nail defines the 21st century as one of migrants. He tells us that today we have over a billion migrants and for the next 25 years the number will continue to grow. Nail explains that "It has become more necessary for people to migrate because of environmental, economic, and political instability. Climate change, in particular, may cause international migration to double over the next forty years. The percentage of total migrants who are non-status or undocumented is increasing, which poses a serious challenge to democracy and political representation".

In contrast to the supposed opening of borders that economic globalization was to usher in, borders closings have actually increased since 2001 when the Twin Towers collapsed in New York City, inaugurating our current and nominal era of securitization.

Given this global tendency, migrants are being linked in many ways to national and international security matters. In quite a few countries, migratory laws have grown increasingly restrictive and selective. Migratory topics have become key issues in innumerable political speeches and election campaigns, to the point that they have influenced results in favour of one or another candidate.

This same situation prevails patently in Mexico and in the city of Tijuana. The IOM calculates that every year between 400,000 and 500,000 undocumented people travel through Mexico, originating mostly from Central America's Northern Triangle, i.e., Guatemala, Honduras, and El Salvador. Many of those people are deported from the United States, especially since policies revised during the Barack Obama government translated into the deportation of 2,500,000 people to their countries of origin.

One of the paradoxes of these changing policies is that in 2018, Mexico surpassed the United States in the number of deported Central Americans. According to figures from the "Instituto de Migración de Guatemala" (Migration Institute of Guatemala) and the Center for Attention to Returning Migrants of Honduras,

Mexico has become an immense wall for Central Americans. Karla Rivas, Coordinator of the Jesuit Network of Central American Migrants, declared that the entire policy of expulsions is hidden behind a “mask” of international programs to combat drugs, adding, “The plan ended up being a way to increase the control and detention of Central American migrants”.

III. CONCLUSION

In 2015, the government of Tijuana undertook a campaign whereby the judicial police, then questioned by activists and academics for its harassment and extortion of migrants, received training in the area of migrants’ rights. They participated in numerous workshops learning about human rights; results were so good that police stopped being the subject of criticism. Unfortunately, activists told us, their place is now occupied by the municipal police, who are accused by migrants of being their main source of harassment in the city.

Human rights and laws can be a discourse and even a fetish. They can also be strong tools that migrants and their allies can use to defend themselves. Often in Tijuana, the words “human rights” have stopped the hand of police who are acting inappropriately with migrants, given the repercussions law enforcement officers might face.

For these reasons, the law can be understood as being ambiguous in its manifestations. In and of itself, it is neither bad nor good. Unfortunately, when we study migrations, we see the law being used mainly to punish people on the move. For the law to become a tool for counteracting abuse, a vibrant civil society is needed. The same is true of security. In itself, it is not negative. Human beings need security. Yet, the migratory situation demonstrates that security is important but so is defining what we mean by it.

Viewing this scenario from a historical perspective, we face a world where it is urgent to rethink the relationship between human migratory movements and the mechanisms that govern them. Perhaps this should start by questioning the border regime and its current characteristics. The border regime is defined as a series of places or locations of tension, struggle, meeting, and negotiation where migrants do their thing, as do governments. Academics can play a role by contributing to understanding and improvement of the current situation.

From a different perspective, what we also see arising from migrations and human displacement is precisely the questioning of one of the pillars of Western legal history and the basis of the social contract, i.e., the concept of citizenship. Until now, Bhabha reminds us, citizenship reflected the idea that belonging to a nation was the first and most important sense of belonging. Class, race, and gender, Bhabha continues, are secondary “belongings” that are less relevant than the first. The challenge posed by migrations is imagining and creating options outside the national or nationalist frame of reference.

Marx spoke of fetishism to explain the way things or products acquire value independently of the labor applied in the production of those items. The law acquires, through a fetishist process, a value and a power independent of its creation as a work of human beings. And as in all human creations, it can and must be corrected.

Today security and the law contradict human rights policies. If, as Sousa Santos (1998) thought, we are faced with the need to encourage a progressive and emancipatory practice and understanding of human rights, the current migratory situation underscores how urgently it must be implemented.

We are called to reflect on and advocate for a security policy that includes a culture of feelings and promotes social conviviality and coexistence. People in movement and migrants are a constant reminder that a radical change in societal perspectives regarding migration and security needs to be encouraged.

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