Transnational Governance as a Framework for Migration Control

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It is one of the few undisputed matters in international law that there is no single international migration governance framework (Betts 2011, 2). And with little political impetus at the moment, the prospects to create a global governing regime appear bleak (Laessing and Rinke 2018). What this simplified statement misses, however, is that migration *is* governed internationally, only not through traditional international legal tools, such as treaties and conventions. Looking closer, there are plenty of formal and informal bilateral agreements governing migration, often with negative impacts on migrants (Partlow and Miroff 2018). Criticisms abound by both scholars and activists about these agreements, especially as they pertain to the human rights of migrants. What goes mostly unreviewed is the development of 'prevention' of migration movements as a policy.[1]

This development is in part due to transnational law, or transnationalism. Transnationalism was initially developed as a concept during the Cold War to describe the way the East-West divide caused states to be influenced by the domestic developments and presumed interests of other states. Once the Cold War was over, the theory was developed further, predicting that the rise of the 'regulatory state' along with its disaggregation into its individual components – executive, legislative, and judiciary – would allow for greater collaboration between different states.

The original view was that this type of cooperation would lead to a more 'just' world order (Slaughter 2005, 6–7); however, while these networks have become entrenched enough to create a system of governance, it is not as benevolent as initially envisaged. The current system allows immigrant receiving countries (core countries) to exert influence over changes to internal laws and policies of their neighboring, transit, and immigrant-sending countries (periphery countries).In doing so, core countries prevent not only immigration into their own territories, but the entirety of the migration movement. In a sense, they coopt the interests and policies of periphery countries, making them part of the core's regulatory system and converting them into a semi-periphery.

There is no international normative framework of irregular migration governance in the traditional sense of treaties and formal global covenants, but this chapter argues that transnationalism shows that a framework does exist, informal as it may be, and it is used to control migratory patterns. The structure of this chapter is as follows. The next section will briefly define the main premises of transnationalism and its relation to governance, along with their application to irregular migration. Then, it turns to the case study of the United States (US) and Mexico, which provides an example of how this framework actually works and the changes it has produced in migration governance and migratory patterns. Finally, the conclusion briefly summarizes the main points of the arguments made.

Transnational Migration Governance

Transnationalism is not a new concept. The most prominent advocate for it was Jessup (1956, 52–53), who saw that international norms were bleeding into the traditional *domain reservé* of states having absolute control over the laws created within their sovereign borders. Scholars of international law after the Cold War asserted that law itself would

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become *transnational*, meaning that states would start to harmonize their internal laws as they became more aware of how their own laws may effect cross-boundary interactions. This change would materialize thanks to the development of the regulatory state, where the power to shape internal laws is disaggregated and where policymakers in the executive are as inclined to share notes among their counterparts in other countries as to listen to the other branches of government (Slaughter 2005, 3–6).

A subsection of international relations (IR) scholars and policymakers came to the same conclusion: traditional international regimes built on multilateral covenants and treaties were no longer the norm. They attempted not only to understand, but also create new norms and principles underpinning the more regionalized and diverse set of interstate relations in the hopes of streamlining the management of the globalized world. Thus, the concept of global governance was born (Betts 2011, 4).

In combination, these two concepts became the underpinning of the current approach to managing a variety of transnational fields. Migration, being a cross-border phenomenon by nature, falls within the scope transnational governance, with bordering countries establishing rules not just on how to treat each other's citizens' movements across the border, but also those of other nations (The Schengen Acquis 2020). Indeed, the control of entry of those falling outside the 'desired' class of immigrants, so-called irregular migrants, has become the most predominant 'worry' of policymakers in core countries. As a result, they have turned to transnational governance tools to ensure that their neighbors stop irregular migrants long before they reach their borders.

Transnational Governance Defined

The first time transnational law was used to describe cross-border matters was in 1955 by Jessup, who coined the term. Jessup's (1956, 3) main position was that the traditional dichotomy of domestic and international law cannot hold in the realities of the Cold War world. The key issue was that the distinction was not necessary, as jurisdiction in the classical Westphalian sense of territorial sovereignty was no longer exclusive under 'modern' international law, since concepts such as human rights limit the exercise of state power even internally (Jessup 1956, 36, 39–41). For Jessup (1956, 30), this was proof that domestic law had developed beyond its traditional role, having 'taken account of the new social consciousness'.

Keohane and Nye (1974, 40–41) developed this idea further and posited that transnational interactions have become increasingly significant and as a result sensitize nations to each other. Specifically, as the world was becoming more interconnected, governments would have to start designing policies and rules that are sensitive to those of other states, since any attempts to regulate, encourage, or disrupt the private cross-border interactions within one nation's borders would have an impact on the citizenry of another state (Keohane and Nye 1974, 41–42). In their view, these sensibilities encourage more transgovernmental interaction among the bureaucracies of the respective states, causing potential for greater convergence between their laws and policies (Keohane and Nye 1974, 42).

This idea of harmonization was taken further after the end of the Cold War. Slaughter (2005, 10–11) argued in her seminal work, *A New World Order*, that states were no longer unitary actors who control the international sphere; rather, it is a web of formal and informal transnational networks of individual 'components' of a state that now determines interactions between states (Slaughter 2005, 10–11). For Slaughter, this was a positive development for two reasons. For one, it solves the legitimacy problems that would occur under a world government (Slaughter 2005, 7). The other benefit is that these networks would foster problem-solving through three main functions: (1) creating convergences by facilitating a 'regulatory exportation' of best practices and norms from one country to another (information networks), (2) improving compliance with international norms through information sharing and capacity building (enforcement networks), and (3) increasing international cooperation by transferring regulatory rules from the domestic to the international sphere (harmonization networks) (Slaughter 2005, 19–20, 23–24). This harmonization would foster cooperation on a global level, replacing traditional multilateral international laws.

Around this same time, IR theorists also sought to understand how the international order was changing, naming their studies global governance. The term eschews a fixed definition, with various scholars having similar yet differing views on what it actually means (Betts 2011, 3–4; Rosenau 1995, 14; Weiss 2009). Looking at their commonalities,

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one can understand global governance as the sum of all supra-national regulation, cooperation, and organization of the normally present 'anarchy' in the international sphere, these actions being pursued and achieved by a variety of actors forming and instituting rules, norms, and policies that govern behavior. In essence, governance is the result of the lack of an overarching world government structure and is nevertheless a means to achieve cooperation on matters that a single state cannot manage on its own due to territorial limitations.

The key concept for both governance and transnationalism is the drive towards multilateral cooperation in the international sphere (Rosenau 1995, 13). Governance theories argue that, to ensure effective governance, transnational networks should be used to influence the results of global policies.[2] This idea is synonymous with the horizontal networks of transnationalism, where networks transport best-practices and enforcement of agreed-upon rules and laws across borders, which can assist in creating coherent systems of governance for cross-border concerns. Hence, transnational governance then can be defined as the summation of the two concepts. It is the conglomeration of regulations and cooperation across national borders (the governance component) through horizontal networks, whose aim is to harmonize practices and laws to achieve a particular result (the transnational component).

Transnational Governance of Irregular Migration Reviewed

Human history has been marked by migration. However, the desire to systematically control migration, especially 'irregular migration', is relatively recent (Triandafyllidou 2016, 33). But who is an irregular migrant? There is no officially accepted definition of that term. Moreover, the definition has become muddled due to a variety of misuses. To really understand irregular migration, one must understand how it is formed. According to Crépeau (2013, 2; 2018), irregular migration results from a combination of three factors: (1) the unrecognized labor needs in destination countries, where there is an incentive to 'profit from [the irregular migrants'] vulnerability… [with] little political appetite to repress this, since this could cost jobs and taxes in low profit-margin sectors'; (2) the emigration needs in home countries, such as high unemployment rates or remittance dependence; and (3) the lack of legal avenues for migrants to enter destination countries.

This disconnect between the different economic needs of sending and receiving countries and restrictive immigration laws is crucial in creating the phenomenon of irregular migration. Most immigration laws and policies are designed with the alleged economic benefit an immigrant brings, with preference given to 'highly skilled' immigrants. However, the unacknowledged need for cheap, unskilled labor means there is an economic benefit of those immigrants as well. Moreover, the economic benefit to sending countries of unburdening themselves of a large un- or underemployed workforce is significant, but is rarely considered in the creation of immigration rules by the destination country. Essentially, without the means to enter legally, those who fill these economic needs are labeled irregular migrants.

Applying the transnational governance definition to irregular migration, such governance is the formal and informal collaborations and cooperation among core countries and their neighboring periphery countries with the goal of containing, diverting, or preventing migration movements to ensure that the above noted economic needs are still met. To do so, core countries have developed a variety of tools and methods, especially as regards the externalization of migration control. The European Union (EU) is one of the most prominent examples of such externalization. From the European Neighborhood Policy to readmission agreements, the EU actively seeks to control immigration into its territory by negotiating rules on what its neighboring countries do with migrants who transverse *their* countries (Triandafyllidou and Dimitriadi 2014, 11). But more informal collaborations exist as well. For example, the EU Border and Coastal Guard Agency has cooperated with Moroccan authorities regularly on border surveillance and policing, which allows Morocco to stop certain migrants in transit, preventing their reaching the EU (Carrera 2016, 7–10; den Hertog 2017, 3–4, 9–10).

The key tools to effect these policies are deterrence and regionalization. Deterrence takes many forms, from making immigration and other domestic laws more restrictive and transgressions thereof punitive to increasing military/police presence on borders. Regionalization seems more benign in comparison, with development aid and repatriation assistance often used as tools to ensure such returns. Yet, there is also a darker side of regionalization, namely the argument that its true goal is not assistance, but containment (Crépeau 2018). Both of these tools contribute to the

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denial of human rights, which is why a significant amount of current literature reviewing irregular migration governance focuses on that issue (e.g., Gammeltoft-Hansen 2011; Mann 2016; Hesch 2018). Some, like Mann (2013, 316), argue directly that the existence of the transnational migration governance networks undermines the multilateral human rights regime. Nevertheless, in many cases, the boundaries of irregular migrants and refugees are blurred, and the academic focus tends to center on the latter and their situations in periphery countries (Gammeltoft-Hansen 2011).

Given its well-established externalization policies, the EU has been one of the most studied examples. Australia's harsh rules on dealing with asylum seekers by placing them in detention on an island outside its borders is another prominent example (e.g., Nethery, Rafferty-Brown, and Taylor 2013) Also, the US's detention of migrants and refugees has a long history of academic review from various perspectives (e.g., Motomura 1999). Though more recent projects have been developed that attempt to collect and study data on the impact of immigration regulations on migration movements in their entirety, few authors consider the effect on the movement as a whole or the changes within the periphery countries.[3] This is not a coincidence. Given the high level of informal collaborations, it is neither easy to collect the necessary data nor is it easy to make the connections.

The United States-Mexico Case Study

The US-Mexico migration patterns have traditionally moved from south to north, from Mexico to the US. Therefore, migration control, as well as scholarly and policy concern, has traditionally been an issue of US *immigration* control. Mexico, in contrast, had no formulated migration policy for most of the 20th century. Its main focus was on the emigration of its own citizens, which since World War II benefitted the country twofold: one, it relieved the economic pressure of having a large un- or underemployed workforce, and two, the remittances sent home allowed the Mexican economy to maintain some stability. (Zong and Batalova 2018; Gillespie 2018)

Thanks in part to the 2008 financial crisis, this south-to-north emigration trend has slowed, (Zong and Batalova 2018); in the years immediately after the crisis, there was a net deficit of Mexicans arriving in the US (Gonzalez-Barrera, 2015). Nevertheless, the overall immigration rate into the US has continued rising in large part due to an increase of migrants of other nationalities (Passel and D'vera 2015). Hondurans, Salvadorans, and Guatemalans fleeing violence and poverty have entered and traversed Mexico since the 1960s and 1970s, but they started to do so in even greater numbers in the 1990s and 2000s. As the US increased its entry restriction, Mexico became more of an immigrant receiving country. Consequently, it started to develop its own migration policies and laws. Some of these changes had a positive effect, such as the decriminalization of irregular migrants and the adoption of a wide-reaching refugee definition. Others were much more concerned with allowing for greater migration control.

This latter development was not unaided by the US. Having a significant interest in stopping or at least containing migrants from the south, the US government has exercised a certain amount of influence over Mexico's policies. The most conspicuous type of influence has been the technical support provided by the US in terms of trainings and equipment to allow for greater cooperation on the US-Mexico border. However, financial assistance was also provided for increasing migration control on Mexico's southern border. As a result, much of Mexico's migration actions, especially those exercised on the southern border, appear to be almost identical to those the US uses on its border with Mexico, so extending the reach of the US migration control efforts.

A Brief History of Migration Control Measures by the US

For the most part, the relationship between Mexico and the US was marked by immigration control imposed by the US, and while there were certain positive (Ngai 2004, 138-139) and negative (Ngai 2004, 71-73; Koch 2006) policies throughout the 20th century, the general migratory pattern was a circular one, with mostly Mexican labor moving to the US as needed and leaving or being deported when not (Blakemore 2018). With public perception growing increasingly negative towards immigrants, the US instituted rigorous immigration controls starting in the 1980s, which had a lasting effect. In 1986, the US Congress passed the Immigration Reform and Control Act (IRCA), which imposed, *inter alia*, high requirements for future immigrants.

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These effects were entrenched in the 1990s, when Congress passed the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA). The IIRIRA was responsible for creating a more structured set of rules to increase the efficiency of border patrol efforts and immigration court proceedings. It also introduced the concept of unlawful presence and criminal penalties for it, along with an expansion of who would be deportable (Lundstrom 2013, 389, 395; Abrego, Coleman, Martínez, Menjívar, and Slack 2017, 697). Most importantly, it also provided the US government with two main methods by which persons are apprehended for deportation: 'employment raids and cooperation with local law enforcement' (Stankovic 2018). The latter practice has particularly increased since 9/11 (Juárez, Gómez-Aguiñaga, Bettez 2018, 75–77); the former took on a particularly aggressive form under the Trump administration (Mazzei 2018; Sacchetti 2018). Together with a proliferation of security measures at ports of entry and the increased militarization of the southern US border and the increased detention migrants in the US, these new rules allowed the US to better achieve its main migration control goal: deterrence (Brown 2018).

The militarization of the border has not only increased the presence of border officials but has – thanks to technological advances, internal support by the military, and external capacity building networks – increased their functional capabilities. With immigration seen a threat to national security, the power of US Customs and Border Protection (CBP) has also been extended in the legal sphere. Through such concepts as 'expedited removal', CBP agents today can turn away persons 'within 100 miles of the boundary, [with] the discretion to remove unauthorized persons from the country without any formal legal or administrative process at all, in some cases with a record of formal deportation' (Heyman and Campbell 2012, 88). The Trump administration increased the use of expedited removals and instituted harsh new rules, such as family separation and the Remain in Mexico policy, in its attempt to further stifle immigration.[4] All these developments had a domino effect, with Mexico needing to adapt new rules for its own territory as a result.

US-Mexico Migration Governance

Collaborations between the US and Mexico and their Influences on Mexican Border Control Measures

For Mexico, migration control has not traditionally been a major concern, (Alba and Castillo 2012, 3) as it saw itself primarily as an emigrant country (Fitzgerald 2009, 55–56). Emigration was a benefit, as it provided a means of lowering economic pressures by having a good portion of the workforce emigrate instead of being present in the depressed labor market (Fitzgerald 2009, 55–56; Alba 2013). In addition, remittance funds sent back home also alleviated pressures on the social system (Alba 2013; Gillespie 2018). Consequently, Mexico had little to no official migration policies in place during the early- and mid-20th century. Change came once the US started restricting its immigration policies in the 1980s and 1990s. Suddenly, Mexico did become interested in migration control – though initially mostly concerned with its citizens' free movement (Baker 2011, 8–11; O'Neil 2003). Efforts to establish some formal multilateral agreements on this issue (Schmitt 2001), however, failed to take off after the US abandoned immigration reform in the immediate aftermath of 9/11 (Waslin 2003, 2; Bueno Pedraza 2005, 600–601; Gutiérrez 2007, 71–72).

This does not mean that no collaborations were made on migration post-9/11. One such attempt was the so-called Smart Border Agreement (Sullivan 2002). The agreement was ostensibly geared towards regulating and securing the movement of people across the US-Mexico border (Silva Quiroz 2014, 48) with a particular goal being the development of more coordinated information-sharing. But there was already an external aspect to the agreement: it called for increased cooperation in identifying persons who could pose a threat *before* they entered either territory, for the development of technological systems at ports of entry to streamline (and monitor) entries and exists, and for the coordination of efforts to prevent the human trafficking of third-country nationals (Silva Quiroz 2014, 48–49). This combined approach implied that the US and Mexico both shared the same interest in keeping others out.

On the US side, the Smart Border Agreement meant a hefty increase in funding for personnel and technology for the relevant enforcement agencies; for Mexico, the agreement's objectives were imported into its *Plan Sur* (Silva Quiroz 2014, 48-49). *Plan Sur*'s purpose was essentially to increase control of the migratory movements from the Isthmus of Tehuantepec to the southern Mexican border, specifically by focusing on increased inspections of migrants' documentation and greater inter-institutional cooperation in halting smugglers (Silva Quiroz 2014, 49; Gonzalez-

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Murphy 2013, 60). To do so, the government established two lines of checkpoints, one covering the states of Chiapas and Tabasco and one covering the states of Veracruz and Oaxaca, increasing personnel and essentially starting a militarization of Mexico's southern border similar to what had taken place in the US a decade earlier (Gonzalez-Murphy 2013, 60).

The most prominent effort, however, was the Mérida Initiative. Intended to deal with the illegal weapons and drug trade between the two countries (Ribando Seelke and Finklea 2017, 9; Olson 2017, 3–4), the US provided equipment for purchase for the Mexican police and military in the amount of almost $600 million along with technical assistance and training for Mexican forces (Evolution of Mérida 2018).[5] Under President Obama, the initiative was expanded to include other concerns, such as migration. This expansion was one of the main US efforts to contain and deter Central American migration, and also the best means to export its immigration policies to and secure the collaboration of Mexico.

One way of doing so was to emphasize the concept of security (Beer 2015; Pope 2016). While Mexico changed its laws to allow for greater collaboration at the US-Mexico border (Ribando Seelke and Finklea 2017, 19–20), the US also spent significant funds under the Mérida Initiative on Mexico's southern border. During the Obama administration, over $2.6 billion was appropriated by Congress for Mexico's southern border (Ribando Seelke and Finklea 2017, 11–12; Knippen, Boggs, and Meyer 2015, 16). The measure remains popular in Congress, which continues to appropriate funds for the program (Sieff and Sheridan 2018).

But there were also less informal means of cooperation, under which US resources were appropriated to assist migration control on the territory of its southern neighbor. One set of such cooperations came directly from the US immigration authorities as early as the 1990s. Under 'Operation Global Reach', the US appropriated over $8 million for the opening of Immigration and Naturalization (INS) offices extraterritorially in Mexico and other Central American countries (Flynn 2002, 29–30; Koslowski 2011, 69). From these offices, INS agents trained host-country agents, participated in 'special operations to test various illegal migrant deterrence methods in source and transit countries', and accompanied 'local authorities to restaurants, hotels, border crossings, checkpoints, and airports to help identify suspicious travelers' (Flynn 2002, 30).

Another line of informal cooperation is military-to-military assistance (Olson 2017, 20–21). Similar to how civilian law enforcement in the US provided equipment and training to their Mexican counterparts, the US Department of Defense (DOD) has provided the same services to the Mexican military, including training in the US (Olson 2017, 20–21). Officially, more than $9.8 million in assistance was given to Mexico between 2008 and 2016 (Olson 2017, 33).[6] Additional funding for DOD assistance to Mexico was funneled through the State Department's Foreign Military Financing program, where a total of $463 million was used in the same time period for similar activities (Olson 2017, 33).[7]

These more informal means are particularly valued by the relevant executive agents. From 2006 through 2012, Mexico's efforts to develop a common vision of responsibility between the two countries has resulted in more institutional and informal channels of dialogue and cooperation (Libro Blanco 2012, 5). Such dialogue and cooperation is evident in the plans and declarations made by the two countries. Between 2004 and 2012, 16 declarations were made by the governing executives of the two countries on issues of migration, mobility, and security, along with three relevant plans of actions (Libro Blanco 2012, 10–11). An additional 30 memoranda, agreements, declarations, and plans of actions were made between 2013 and 2018 (Libro Blanco 2018, 15).

Mexico's Changing Policies

The violent political upheavals of the 1960s and 1970s in Central America affected Mexico greatly (Castillo 2002, 40–41). Many refugees from the region found themselves on the Mexican side of the border because of the indiscriminate violence in their home countries (Castillo 2002, 40–41; Alba and Castillo 2012, 4–5). With the US increasingly trying to restrict entry into its own territory, Mexico suddenly found that it was no longer only an emigration country. For most of the 1980s and 1990s, however, Mexico's migration policy was rather incoherent (Castillo 2002, 42; Alba and Castillo 2012, 6). Nevertheless, there was a distinct strategy of containment and

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deportation of migrants crossing its southern border. This strategy was implemented by increasing requirements Mexico started putting on those seeking entry (Alba and Castillo 2012, 5), but it also developed because Mexico's immigration laws consisted of only the provisions in the 1974 *Ley General de Población*, which criminalized irregular immigration.[8] With the requirement that transiting passengers have an entry visa for their final destination – a requirement partially the result of US pressures (Alba and Castillo 2012, 5) – meant that virtually any migrant from Central America would be labeled a criminal.

Due to migrants increasingly entering clandestinely, Mexico's policy started taking greater shape in the 2000s. Two plans were initially developed to contain immigrant and transit migrant flows: the *Sellamiento de la Frontera Sur* program and the above-mentioned *Plan Sur* (Alvarado Fernandez 2006, 74). Both plans were seen as means to appease the US and to allow the favoring of Mexicans entering the US (Flynn 2002, 32; Galemba 2015). These plans resulted in a multitude of 'control operations and mechanisms [that] were implemented at strategic points… particularly along the highway routes migrants and their guides favor[ed]' (Castillo 2006). A complex web of immigration, law enforcement, and military officials engaged in verification and control activities at these checkpoints (Isaacson, Meyer, and Morales 2014, 27). These new developments were welcomed by the US, where it was noted that the Mexican government was *finally* doing something about the 'migrant problem' (Flynn 2002, 34).

Deportation, often euphemistically labeled repatriation, also became a more common tool. Under *Plan Sur*, Mexico deported Guatemalans back to their own country by bussing them directly to their home authorities; it also deported non-nationals to Guatemala if it determined that they entered Mexico through that country (Flynn 2002, 29). The costs for the deportations were covered in large part by the US (Flynn 2002, 29). In 2003, *Plan Sur* was superseded by the *Fortalecimiento de las Delegaciones Regionales de la Frontera Sur* program, whose aim was, *inter alia*, to increase control over migration movements and to establish repatriation agreements with Central American countries. One such agreement, akin to the EU's readmission agreements, had already been signed with Guatemala in 2002 and is renewed regularly (Alvarado Fernandez 2006, 74). Under that agreement, persons found to be in Mexico without permission would be deported to Guatemala; it was then left to Guatemala to further deport those persons who were not nationals (Castillo 2006). In 2006, a regional agreement was signed between Mexico and several of its southern neighbors with similar provisions.

On the legislative side, Mexico also became more active. As the US increased border controls, it created pressure on Mexican communities throughout the country. Interestingly, at least on paper, this pressure did not mean a greater restriction as it had in the US. Seeking a greater role in regional cooperation generally (Alba and Castillo 2012, 9–10), Mexico amended the *Ley General de Población* in 2008, to *decriminalize* irregular immigration into the country. Shortly thereafter, in 2011, an extensive new legal regime was adopted, dealing with refugee and subsidiary protections. In the same year, the legislature also passed a sweeping new immigration law, the *Ley de Migración*.

Several aspects of the immigration law seem to give migrants broad rights. For example, Article 7 notes that all persons have the freedom to transit Mexico without having to prove their nationality or migration status, save when requested by competent authorities as permitted by the law specifically. It is also especially insightful that the law makes provisions regarding transit migrants in minute detail. Some of these are quite revolutionary when compared to the laws in the US: in Mexico, transit migrants presented to the immigration authorities have a right to legal assistance and must be informed of the possibility to regularize their entry into Mexico.

Within the law, however, there are also provisions that create tension with this apparent human rights approach. Under Articles 66 through 68, the Mexican state reserves the right to detain and deport irregular migrants and to notify their own countries of their presence in Mexico to safeguard its own sovereignty. This tension is also evident in the practical application of the law. Critics were worried from the outset that in the heightened security atmosphere at the time, retraining the staff implementing the law could prove challenging. (Alba and Castillo 2012, 17–18). Also, the process has been burdened due to the overlapping deployment of different agencies together with the *Instituto Nacional de Migración* (INM) to enforce the law (Isaacson, Meyer, and Morales 2014, 10–11). Moreover, it has also been marred through corruption and criminality concerns (Isaacson, Meyer, and Morales 2014, 17; Knippen, Boggs, and Meyer 2015, 22; Nolen 2016).

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Most importantly, the execution of the law was still influenced by US-desired policies. When an unprecedented number of unaccompanied minors made their way through Mexico and across the northern border in 2013 and 2014, Mexico, at the urging of the Obama administration, increased the presence of border control forces, checkpoints, and detentions along Mexico's border with Guatemala and Belize (Ribando Seelke and Finklea 2017, 21; Castillo 2016, 2). Part of the *Programa Frontera Sur*, these stronger controls were installed at 12 points of entry into the country and along three corridors stretching across 100 miles of Mexico's southern border, and more boots on the ground were put in place by including INM officials, making checks alongside federal and local police (Mexico Enforcement Efforts 2016, 1). This maneuver allowed the government to create over 100 mobile checkpoints (Mexico Enforcement Efforts 2016, 1). Little surprise that these increased control measures resulted in far higher numbers of apprehensions, detentions, and deportations, mirroring US policies (Castillo 2016, 3-4; Mexico Enforcement Efforts 2016, 1; Arriola Vega 2017, 16–17; Holman 2017).

These efforts could not have been done without US assistance. The details of US aid do not tend to be divulged too publicly (Matalon 2016; Olson 2017, 6–7; Arriola Vega 2017, 13). What *is* known is that the US appropriated $100 million for border security equipment and training alone (Ribando Seelke and Finklea 2017, 15). In addition, in 2015 the US invested $75 million 'to help Mexico develop an automated, interagency biometrics system to help agencies collect, store, and share information on criminals and migrants', and an additional $75 million was appropriated in 2016 'to improve secure communication capabilities among Mexican agencies working in eight southern states' (Ribando Seelke and Finklea 2017, 15). Even more crucially, the US has actively assisted Mexico in strengthening its documentation checks, allegedly sending its own officers to the southern border to help their Mexican colleagues in identifying migrants who had been previously deported (Matalon 2016). This assistance seems unsurprising given that some US officials at the time considered the Mexico-Guatemala border 'our southern border' (Miller 2014, 200).[9]

Far from being appalled at the Trump administration's treatment of immigrants in the US – and the anti-Mexican rhetoric tied to those policies – the Mexican government under the López Obrador administration has continued its collaboration with the US. Whether it was Mexico's agreement to the US's Remain in Mexico policy on its northern border or the deployment of the National Guard to stifle migration flows on both borders, the López Obrador administration seems to continue to apply strategies according to US pressures (Rivers 2020). Even its new human rights-oriented laws appear to be overlooked by authorities. Human rights non-governmental organizations argue that the López Obrador administration treats migrants as abhorrently as the Trump administration (Vivanco 2020). Further, most Central American migrants are shuffled into the Mexican immigration system via the so-called humanitarian visa. Ostensibly, the visa is a positive tool, as it gives immigrants the right to remain and even work in Mexico. However, the visa's duration only lasts one year, and its renewal is usually not assured (Vonk 2019). Moreover, the receipt of the humanitarian visa prevents qualified migrants from applying for any human rights-related statuses, such as refugee status (Vonk 2019).

Conclusion

There is no international normative framework for irregular migration – but that does not mean no one controls irregular migration. Core countries, those receiving immigrants, tend to be the ones setting the rules not just when it comes to their own *immigration* laws, but also when it comes to laws and policies affecting their neighbors. This influence is often transmitted through horizontal networks between state agencies by providing funding and capacity-building support. To be clear, the influence of core countries is not the sole reason why periphery countries change their national rules on migration. Moreover, a reluctance by periphery countries' leaders to admit to the core's influence for internal political reasons also muddies the water and prevents a clear cause-and-effect line to be drawn. Still, there is a palpable effect of influence from core countries that can best be explained through the concept of transnational governance.

The US and Mexico form a prime example of the influence a core country can exert on its peripheral neighbor. Internal changes in US laws and greater cooperation on the US-Mexico border have increased the relevance of such cooperation and funding to be applied to Mexico's southern border. Moreover, these collaborations and cooperations precipitated internal legal and policy changes in Mexico, which support the rights of migrants on paper, but follow the

same restrictive notions of US policies in practice. Far from being an emigrant country only concerned with how the northern neighbor treats Mexican citizens, Mexico has become a transit and immigration country with a new migration law on the books. Its migration policy has developed alongside these collaborations and has the same goals as in the US: deterrence and containment. This change is not unusual when realizing that transnational governance methods are imbued with power imbalances that favor core countries. Still, it is somewhat astounding that peripheral countries adopts the same viewpoint as quickly as they have; leading to the conclusion that Mexico is slowly shifting its position and is becoming part of the core.

From a transnational governance perspective, this seems a success story: the system works as intended. Information-sharing, capacity-building, and ultimately transnational harmonization – all of the elements are present and provide a viable governance system of a transnational phenomenon. The question remains of course whether the system in place is one we want to have.

Notes

[1] Cf. Hathaway and Gammeltoft-Hansen (2015). Nevertheless, even Hathaway and Gammeltoft-Hansen look at the issue from the perspective of human rights and refugee law, not from the perspective of migration governance.

[2] Slaughter (2005, 25) notes specifically that looking through the disaggregated state lens, states can be more effective in realizing global governance.

[3] Cf. Nethery, Rafferty-Brown, and Taylor (2013, 94–98); Helbling and Leblang, (2019, 259–260).

[4] Designating Aliens for Expedited Removal, Fed Reg 35,409 (23 July 2019) (making any alien less than two years in the US removable via expedited procedures regardless of where apprehended).

[5] Sum of funds appropriated through 2019.

[6] Sum of funding in the given years deriving from the Foreign Military Financing and International Military and Eduction Training funds.

[7] The funding amounts varied between $3 and $8 million; however, there were two spikes in funding in 2008 and 2010 of over $116 and over $260 million, respectively.

[8] Ley General de Población, Diario Oficial de la Federación, 7 de enero de 1974 (Mexico), Art 103.

[9] Originally reported by Dave Gibson, 'DHS Official: Our Southern Border Is Now with Guatemala' Examiner.com (no longer accessible).

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