



Working Paper 17

Asylum seeking African families in transit through Mexico: between border controls and international protection

by

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Made in Mexico / Hecho en México

Abstract

African migrants in Mexico are migratory flows that have been less studied than migration from Latin America (Cinta Cruz, 2020). In the last five years, migrants from 35 different African countries were detained in Mexico. Although arrests of African persons are much lower than in the case of Central American countries, on average, between 6 and 19 African persons are detained per day. It is essential to know their mobility patterns, identify their international protection needs, and the main obstacles they face, whether to cross into the United States or to remain in Mexico as refugees (Narváez Gutiérrez, 2015). In this working paper, my objective is to present some data on the migration of African people in Mexico after the arrival of caravans in 2018 and to reflect on the impact of a global discourse that stereotypes migrants as criminals or sick people in the access to human rights of African asylum seekers in Mexico and on the effects of a growing tendency to treat migrants as beneficiaries of temporary humanitarian aid rather than as subjects of rights.

Resumen

El flujo migratorio de africanos en México es uno de los menos estudiados desde Latinoamérica (Cinta Cruz, 2020). En los últimos cinco años, migrantes de 35 países africanos fueron detenidos en México. A pesar de que estos arrestos son mucho menores que en el caso de países centroamericanos, en promedio entre 6 y 19 personas son detenidas diariamente. Es esencial conocer sus patrones de movilidad, identificar sus necesidades de protección internacional, y los principales obstáculos a los que se enfrentan, ya sea que crucen a los Estados Unidos o se queden en México como refugiados (Narváez Gutiérrez, 2015). El objetivo de este artículo es presentar algunos datos sobre la migración de personas africanas en México después de la llegada de las caravanas en 2018, y reflexionar sobre el impacto de un discurso global que estereotipa a los migrantes como criminales o enfermos, y cómo esto afecta el acceso a los derechos humanos de los solicitantes de asilo en México y sobre los efectos de una tendencia creciente a tratar a los migrantes como beneficiarios de ayuda humanitaria temporal y no como sujetos de derechos.

Asylum Seeking African Families in Transit Through Mexico: between Border Controls and International Protection

Alethia Fernández

Introduction

Mexico has ceased to be a point of origin and transit for economic migration. Instead, it has become a country that contains forced migration from around the globe through immigration detention and deportation (París Pombo, 2017). Within the complexity of the migratory flows arriving through Mexico's southern border are diverse nationalities, including people from Central American countries and the entire Latin American region and extra-continental people with diverse international protection needs. For example, migrants from 35 different African countries were detained in Mexico in the last five years (INM, 2019, 2020; SEGOB/INM, 2018; Unidad de Política Migratoria, 2021).¹

The year 2021 has the highest record in immigration detentions. *The Instituto Nacional de Migración* (INM) detained 307,679 people (86.8% from Central America and Haiti). Of these, only 2,034 cases,

¹ Algeria, Angola, Benin, Burkina Faso, Cameroon, Central African Republic, Chad, Democratic Republic of Congo, Côte d'Ivoire, Egypt, Equatorial Guinea, Eritrea, Ethiopia, Gambia, Ghana, Guinea, Guinea Bissau, Kenya, Liberia, Libya, Madagascar, Mali, Mauritania, Morocco, Niger, Nigeria, Senegal, Sierra Leone, Somalia, South Africa, Sudan, Togo, Tunisia, Uganda, Zimbabwe.

which represent less than 1% of total apprehensions, belong to African countries, and only seven ended up in deportation (Unidad de Política Migratoria, 2021). In contrast, in 2019, the INM reported the detention of 7,065 people from African countries, representing almost 4% of total detentions, and only ten persons were deported (INM, 2019). Although arrests of African persons are much lower than in the case of Central American countries, mainly due to the volume of flows, on average, between 6 and 19 African persons are detained per day. The majority of African migrants cannot be deported because there are no deportation agreements with the governments of the countries of origin.

African migrants in Mexico are migratory flows that have been less studied than migration from Latin America (Cinta Cruz, 2020). It is essential to know their mobility patterns, identify their international protection needs, and the main obstacles they face, whether to cross into the United States or to remain in Mexico as refugees (Narváez Gutiérrez, 2015). In addition, these populations are often highly stigmatized and exposed to face racism and institutional violence when they contact Mexican authorities (Black Alliance for Just Immigration, 2021).

In this working paper, my objective is to present some data on the migration of African people in Mexico after the arrival of caravans in 2018 and to reflect on two questions: 1) How does the global discourse that stereotypes migrants as criminals or sick people affect the adequate access to human rights of African asylum seekers in Mexico? and 2) Why is there a growing tendency to treat migrants as beneficiaries of temporary humanitarian aid rather than as subjects of rights?

African migrants in Mexico

Since the end of the 20th century and especially after 2015, due to restrictive migration and asylum policies in Europe, there has been an increase in the presence of the African population from several countries, mainly from Cameroon, the Democratic Republic of Congo, Eritrea, Ghana, and Somalia in transit through Mexico. Faced with difficulties migrating to Europe, people opt for the United States or Canada as destinations to work or seek asylum. Most of them leave their countries of origin due to structural violence, gender-based violence, armed conflicts, and food insecurity, so they need international protection as refugees (Black Alliance for Just Immigration, 2021).

In some cases, they are economic migrants searching for employment or higher education. These populations usually migrate first by air to countries that admit visas, such as Brazil and Ecuador. Then, they cross by land through several countries, including the Darien jungle between Colombia and Panama, one of the most dangerous routes due to organized crime, guerrillas, and the jungle's natural inclemency. In addition, because of their skin color, Africans are often more visible to migration authorities when traveling without documentation; they report fear of detection by officials and organized crime (Duarte *et al.*, 2020; Black Alliance for Just Immigration, 2021).

Since 2007, the *Instituto Nacional de Migración* includes African populations in its annual migration statistics reports. However, the growth of these migrations has been more evident in the last eight years, with 785 arrests of African people in 2014 (Black Alliance for Just Immigration, 2021), and five years later, this figure grew exponentially by 800% to 7,065 cases in 2019 (INM, 2015). That year marked

a turning point for migrants from Africa because the Mexican State's response to the migrant caravans was higher border controls, detention, and deportation, especially with the Guardia Nacional [National Guard] in charge of migration verification work (Gandini *et al.*, 2020).

In addition, two migration policy practices implemented in 2019 particularly affected the African population. First, the INM suspended granting exit permits to transit between 30 and 45 days through Mexican territory to leave the country through the northern border. Secondly, the obstacles to applying for asylum in the U.S. through implementing the Program *Quédate en México* or Migration Protection Protocols forced thousands of families to wait for their asylum procedures in the U.S. in Mexican territory. As a result, African migrants stayed either in the city of Tapachula, Chiapas or in cities at the northern border.

Despite Mexico's racial diversity, with at least 1.3 million Afro-Mexicans (INEGI, CONAPRED and CNDH, 2017), people from African countries are often discriminated against and vulnerable to abuse by authorities, organized crime, and society. Various civil society organizations have documented that the human rights violations suffered by Afro-Mexicans and black migrants are mainly due to institutional racist practices (Black Alliance for Just Immigration, 2021). For example, officials of the *Instituto Nacional de Migración* often systematically intimidate Afro-Mexican people at migration checkpoints because of the color of their skin (Duarte *et al.*, 2020).

In addition, black women face racial and gender discrimination and are particularly affected by labor market inequalities, isolation, and the absence of support networks. Even though the Migration Law guarantees access to health and education services regardless of immigration status, African migrant women face various barriers to

accessing health services. For example, pregnant women are usually not informed that it is their right to free medical care, are often denied service for not presenting national documentation, and are not provided with translation services (Gandini *et al.*, 2021b).

Generally, few migrants from Africa initially perceive Mexico as a destination country to seek asylum; those who settle in the country do so due to the restrictions and obstacles they must overcome to reach the United States. It is also common for those seeking asylum to do so as an alternative to immigration detention.

I have documented practices of institutional violence and institutional racism against black people, specifically in immigration detention in Chiapas, who are not informed of their right to apply for asylum and to make phone calls (Fernández de la Reguera, 2020). It is also common for Africans to be mistaken for Haitians during asylum procedures, which can significantly affect the resolution of their claim. There is a profound ignorance on the part of immigration authorities about the contexts and conditions of departure and transit of these populations.

State neglect and criminalization of African migrants in Mexico

There is a compelling and globalized political discourse on migrants, in this case from Africa, as a threat to the receiving countries' security, economy, and health, and Mexico is no exception. It is believed “[...] that the migrant comes from a place considered unhealthy, where higher rates of infectious diseases are perceived than in the West, but also, and possibly even more importantly, because the migrant is assu-

med to engage in health-risk behaviors, and pay little attention to their well-being” (Round and Kuznetsova, 2016, p. 1020). Despite the guarantee of non-discrimination in the access to human rights by the Mexican Constitution, this discourse has a very negative impact at all levels of interaction between African migrants and hosting communities.

The increasing presence of vulnerable groups in migratory flows demands a more comprehensive response in international protection within the Mexican State’s obligations. However, migration policy has prioritized control and deterrence for more than twenty years. Furthermore, although the Migration Law stipulates specific measures to provide attention to vulnerable populations, and since the end of 2020 prohibits the detention of accompanied or unaccompanied children and adolescents, migrants and asylum seekers suffer various forms of structural² and institutional violence³. Therefore, it is possible to affirm that the fundamental human rights established in the Migration Law are not guaranteed for all migrants regardless of their migratory statuses, such as the right to health and the right to education.

The Mexican State’s responses to the growth and diversity of migratory flows in border areas are criminalization and control in co-existence with the participation of other actors to provide humanitarian assistance. This phenomenon is referred to as a humanitarian

² Structural violence is a form of violence that is exercised systematically by an entire society, in such a way that there are no direct perpetrators. It is a violence that limits the guarantee of basic human rights (Farmer, 2004; Galtung, 1969).

³ Institutional violence is “[...] a dynamically symbolic form of State metapolitical violence, which has structured over the long term a system of values that discriminates, differentiates and excludes through the ideological strategies of invisibility, concealment, denial, omission and stereotyping” (Maya Restrepo, 2009, p. 222).

border (Dijstelbloem and Van der Veer, 2019) or the constant tension between migration control and social protection efforts, with diverse actors such as federal and government agencies, international organizations, civil society organizations, and local actors. It is a phenomenon observed in many countries receiving forced migration. It illustrates the persistent conflicts between dissuasive and restrictive migration policies versus the obligation of governments to comply with protection measures for people in need of international protection (Hathaway, 2016).

The Mexican State has left a void in the provision of humanitarian services and in guaranteeing the human rights of all persons entering Mexican territory. Both in border areas such as Tapachula and Tenosique and communities receiving migrants in transit or asylum seekers, the actors in charge of providing services are civil society organizations, international agencies, and volunteers. The costs and responsibilities shift from governments to other actors (Bobes, 2017). In these terms, migration policy continues to be state-led but mediated by non-state actors (Jones *et al.*, 2017).

In the case of the African populations that arrived in Mexico in 2019, while the State repressed, it was civil society organizations that supported and managed essential services for the hundreds of African families who camped outside the *Estación Migratoria Siglo XXI* (Siglo XXI Migratory Station) in the city of Tapachula, Chiapas. Families with small children and pregnant women spent several months waiting to get an exit permit that would allow them to cross Mexican territory to the United States safely. Unfortunately, these permits never arrived, so some families decided to apply for asylum in Mexico, and others transited as best they could until they reached the north in hopes of applying for asylum in the United States.

In 2019 the *Asamblea de Migrantes Africanos* (Assembly of African Migrants) was created in Tapachula due to the abandonment of the State and the human rights violations faced by African populations. It was composed of about 3 000 African migrants. In a written statement issued in late August 2019, this Assembly reported that some of its members needed to continue their journey north to seek asylum in the United States or Canada, while others intended to apply for asylum in Mexico.

In addition, the Assembly expressed the “desperation, fear, lack of motivation, loneliness, and abandonment” they experienced during immigration detention at the Siglo XXI Station in Tapachula, Chiapas.

They described how Mexican officials “made them sign [immigration] documents they did not understand,” but, in many cases, they were still unable to leave Tapachula. Also, they expressed feeling besieged by constant surveillance by the National Guard and police (Black Alliance for Just Immigration, 2021). Several civil society organizations reported excessive force by the authorities to repress the African people who camped outside this compound at the end of 2019 (REDODEM, 2019).

Those who arrived in border cities such as Tijuana, Matamoros, and Ciudad Juarez had to remain in Mexico while applying for asylum in the United States under the *Quédate en México* Program or Migration Protection Protocols, leaving them exposed to criminal violence in these cities. As of May 2020, approximately 14,580 asylum seekers were on waiting lists in eleven Mexican border cities. About 40 percent of asylum seekers in Reynosa, Tamaulipas, come from African countries. In this context, the Cameroonian-American Council documented nearly two dozen cases of human rights violations against

Cameroonians that occurred when they had to stay in northern Mexico (Black Alliance for Just Immigration, 2021).

In addition, in early 2020, the United States established Title 42, a provision of the Public Health Service Act of 1944 that authorizes the government to prevent the entry of persons during specific public health emergencies. Under this clause, the United States deported 197,043 individuals in FY2020, 1,040,220 in FY2021, and 89,244 in FY2022 (which covers from October 2021 to February 2022) (Department of Homeland Security, 2022). Many of these populations were deported to the immediate border, causing Mexico's northern border cities to suffer even more from the health crisis in the face of virtually no response from the federal government to generate social protection support directed toward Mexico's mobile populations (Gandini *et al.*, 2021a).

The implementation of Title 42 accentuated the crisis that began in January 2019 in the northern cities of Mexico under the implementation of the *Quédate en México* Program or the Migrant Protection Protocols, in which 71,076 people participated (TRAC, 2021).

The vast majority of those who participated in this program received a denial of their applications and were deported. The long waiting times had extremely negative effects on the health and safety of the African migrants.

From subjects of rights to beneficiaries of temporary humanitarian aid

In this context, the contradictions between dissuasive and restrictive migration policies and the obligation of governments to comply with protection measures for people in need of international protection

(Hathaway, 2016), especially in the face of a health emergency, have become even more accentuated.

Mexico stands out for the fragility of the responses to address the health crisis, especially with migrants and asylum seekers (Vera Espinoza *et al.*, 2021) replacing the right to social protection with temporary humanitarian assistance led by non-state actors. The Mexican State concentrates its efforts and budget on strengthening migratory controls. It shifts the costs and responsibilities for social protection to local governments, civil society, and international organizations such as the International Organization for Migration (IOM) and the United Nations High Commissioner for Refugees (UNHCR).

The humanitarian border (Dijstelbloem and Van der Veer, 2019) is a concept that illustrates an increasingly common scenario in countries that used to be transit areas for migration and have become recipients of displaced people in need of international protection. These are border areas struggling with the coexistence of militarization and border control practices, as opposed to the obligations of the States to guarantee access to the territory and the non-refoulement of persons requesting refugee status, principles of international law for refugees established in the 1951 Convention Relating to the Status of Refugees.

In Mexico, what permeates are the increasingly generalized practices of immigration control throughout the national territory carried out by the *Guardia Nacional*, which usually results in detentions, deportations without the right to due process, and thus violations of human rights of persons in need of international protection.

In Mexico, a policy of control and criminalization of migration coexists with the increasingly demanding obligations of the Mexican

State in terms of international protection of forced migrant populations and asylum seekers. As one of the main receiving cities of African migrants, Tapachula has ceased to be a transit place and has become a place of waiting and destination for highly vulnerable migrant populations rejected by the local community. It is worrisome that the federal government's strategy tends to delegate welfare responses to municipal governments, which have the tiniest budget.

Moreover, the pandemic accentuated the fragile response capacity of governments to guarantee the right to health and social protection. Actions to mitigate a health crisis were managed by the two most essential actors currently involved in protecting migrants, asylum seekers, and refugees: international organizations and civil society organizations. The latter never stopped being on the streets, even at the height of the pandemic, distributing cleaning kits and providing food and shelter support (Gandini *et al.*, 2021b). Other actors are also involved, including the business sector, which in alliance with NGOs, generated some actions at the local level to support the populations in mobility through the offer of temporary jobs and donations for necessities.

In the face of the constant tension between humanitarian assistance and the criminalization of migration, humanitarian borders will persist, with important implications in terms of international protection, as it sets back the human rights agenda for migrants. At humanitarian borders, the norm is transformed. It increasingly eliminates the conditions necessary for migrants, asylum seekers, and refugees to be recognized as law subjects. Instead, they become beneficiaries of temporary and emergency humanitarian aid.

Within the migrant groups, African people are possibly the most vulnerable to human rights violations from the moment they enter Mexico because they are discriminated against not only for being migrants, but also for not speaking Spanish and for the color of their skin. It is urgent to prevent and protect African migrants in their access to health, education, and free transit. Mexico has become an obligatory destination for many of these populations and the State's responses are not commensurate with its international protection obligations.

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