

# FOREIGN POLICY COLLABORATIONS TO MANAGE MIGRATION IN THE AMERICAS

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## ABSTRACT

This Essay examines the impact of foreign policy collaborations, leading up to the Los Angeles Declaration on Migration and Protection, signed by twenty Western Hemisphere governments in 2022, on peoples' possibilities for migration and residence. Engaging Critical Legal Rhetoric and Rhetorical Historiography methodologies, this Essay examines the long history of foreign policy and interstate partnerships in the Americas to manage human migration in the region. We argue that foreign policy collaborations are yet another method to augment US power and influence in the region, limit possibilities for human migration northward, and completely remake the regional landscape of borders and nation-state sovereignty in the Americas. After outlining our methodology, our analysis begins with the collaborative response to the Central American civil wars of the 1980s and 1990s and the rhetoric deployed to warrant the political arrangements. In Part II.B., we examine discourse and political arrangements from the period between 2014-2021 when more Central Americans, especially families and minors, began presenting at the US-Mexico border than Mexican migrants. Our final section considers the regional collaborations implemented since 2021 to manage and regulate movement from South America to North America. Reading the moments together, we see the development of a regional migration management infrastructure through foreign policy collaborations to shift human migration south, farther away from the US southern border, and to prevent individuals from reaching territories where they may be able to seek

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asylum and other forms of humanitarian immigration relief. To conclude, we discuss the implications of a regional migration management system and suggest a need to rethink what nation-state borders are, how they function, and how collaborating countries serve each other's goals.

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## INTRODUCTION

This Essay examines the role of foreign policy collaborations between the United States and other countries in managing the options people have for movement and residence in the Western Hemisphere. The reality today is that people seeking asylum in the United States or Canada will begin their Western Hemisphere journey in South America. In 2022 alone, over 250,000 migrants from Venezuela, Ecuador, Haiti, Cuba, and even as far away as Cameroon and Afghanistan crossed from South America to Central America, through the Darién Gap, in hopes of moving northward to find and establish a safe home.<sup>1</sup> The number surpassed five hundred thousand in 2023.<sup>2</sup> Prior to 2021, the migration route was not a common one, as only about ten thousand people a year would journey

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<sup>1</sup> Juan Pappier, *How the Treacherous Darien Gap Became a Migration Crossroads of the Americas*, HUM. RTS. WATCH (Oct. 10, 2023, 6:07 AM), <https://www.hrw.org/news/2023/10/10/how-treacherous-darien-gap-became-migration-crossroads-america#:~:text=In%202022%2C%20arrivals%20jumped%20to,the%20Darien%20in%20recent%20months> [https://perma.cc/W5CJ-34H5].

<sup>2</sup> Elida Moreno et al., *Record Half-Million Migrants Crossed Latin America's Dangerous Darien Gap in 2023*, REUTERS (Jan. 2, 2024, 6:31 PM), [https://www.reuters.com/world/america/record-half-million-migrants-crossed-latin-america-dangerous-darien-gap-2023-2024-01-03/#:~:text=PANAMA%20CITY%2C%20Jan%202024%20\(Reuters,seen%20by%20Reuters%20on%20Tuesday](https://www.reuters.com/world/america/record-half-million-migrants-crossed-latin-america-dangerous-darien-gap-2023-2024-01-03/#:~:text=PANAMA%20CITY%2C%20Jan%202024%20(Reuters,seen%20by%20Reuters%20on%20Tuesday) [https://perma.cc/Z4SB-4VGX].

through the Darién Gap region.<sup>3</sup> While migrants seeking to apply for US and Canadian immigration relief once began their journey in Mexico or Central America, a complex set of factors have pushed the migration starting point into South America.<sup>4</sup>

The entire path to the United States and Canada is dangerous, but the Darién Gap is currently recognized by experts as the most concerning part of the journey.<sup>5</sup> The sixty-mile stretch is the only point between Alaska and Argentina where the Pan-American Highway stops. The land and climate are simply too volatile to build infrastructure like roads and train lines. People journey on foot, exposed to treacherous jungle terrain, dangerous animals, disease and health risks, physical and sexual violence, and extortion by criminal organizations.<sup>6</sup> How did it come to be that people fleeing their homes from around the world would end up in South American countries, such as Brazil, Ecuador, and Colombia, to begin their journey northward to ultimately seek asylum in the United States and Canada? While there are many factors that are important to investigate in understanding why people are forced to leave their homes and seek residence elsewhere, it is equally important to examine the political infrastructure of foreign policy and interstate collaborations that pushes human migration to longer, more perilous pathways.

On June 10, 2022, the United States entered into an agreement with other Western Hemisphere governments to manage migration on the continent.<sup>7</sup> The agreement, titled the Los Angeles Declaration on

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<sup>3</sup> Pappier, *supra* note 1.

<sup>4</sup> See Pappier, *supra* note 1 (noting a new trend of migrants from outside the Western Hemisphere first traveling to South America). See generally Sara L. McKinnon, *Necropolitics as Foreign Affairs Rhetoric in Contemporary U.S.-Mexico Relations*, in PRECARIOUS RHETORICS 62, 69 (Wendy S. Hesford et al. eds., 2018) [hereinafter *Necropolitics*]; Sara L. McKinnon, *Dead, Dying & Failing: Violent Mexico in the Context of Transnational U.S. Politics*, in THE CONCEIT OF CONTEXT: RESITUATING DOMAINS IN RHETORICAL STUD. (Kendall R. Phillips & Charles E. Morris III eds., 2020) [hereinafter *Dead, Dying & Failing*].

<sup>5</sup> See Luke Taylor, *Record Numbers of People Risking Lives to Cross Darién Gap to US*, GUARDIAN (Oct. 13, 2022, 5:43 AM), <https://www.theguardian.com/world/2022/oct/13/record-numbers-risking-lives-cross-darien-gap-us-migration-poverty-humanitarian-crisis> [https://perma.cc/Y9CP-3YT2]; see also Julie Turkewitz, *A Girl Loses Her Mother in the Jungle, and a Migrant Dream Dies*, N.Y. TIMES (Nov. 9, 2022), <https://www.nytimes.com/2022/11/09/world/americas/migrants-darien-gap.html> [https://perma.cc/B3RG-GA9K].

<sup>6</sup> Juan Pappier, *Los Migrantes Que Cruzan El Darién Necesitan Asistencia Humanitaria Urgente* [*Migrants Crossing the Darien Need Urgent Humanitarian Assistance*], EL PAÍS (Sept. 23, 2022, 10:04 PM), <https://elpais.com/americas-colombia/2022-09-23/los-migrantes-que-cruzan-el-darien-necesitan-asistencia-humanitaria-urgente.html> [https://perma.cc/96W6-7VMU].

<sup>7</sup> *Fact Sheet: The Los Angeles Declaration on Migration and Protection U.S. Government and Foreign Partner Deliverables*, WHITE HOUSE (June 10, 2022), <https://www.whitehouse.gov/briefing-room/statements-releases/2022/06/10/fact-sheet-the-los>

Migration and Protection, was signed at the Summit of the Americas by major heads of state from twenty countries, including Argentina, Barbados, Belize, Brazil, Canada, Chile, Colombia, Costa Rica, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Jamaica, Mexico, Panama, Paraguay, Peru, the United States, and Uruguay.<sup>8</sup> The purpose of the agreement was to organize intergovernmental action around four tracks or “pillars”: “(1) stability and assistance for communities, (2) expansion of legal pathways, (3) humane migration management, and (4) coordinated emergency response.”<sup>9</sup> Experts and commentators hailed the move by the region’s state officials. Andrew Selee of the Migration Policy Institute called it “a significant step forward in creating a common language and a coherent set of ideas for more cooperatively managing migration movements across the Americas.”<sup>10</sup> Julio Rank Wright, the International Rescue Committee’s deputy regional director for Latin America, described the declaration as a “welcome” step to “foster a regional and hemispheric approach” built on “responsibility sharing, collaboration with civil society and the establishment of financial support mechanisms to support people on the move in the Americas.”<sup>11</sup>

In this Essay, we contextualize the significance of the Los Angeles Declaration by examining the long history of foreign policy and interstate partnerships to manage human migration in the region. Both the newest and the historic collaborations we analyze are rhetorically justified as necessary to support humanitarian and security needs. In each case, their effect has been to prevent migration, push routes farther south in the continent, and make journeys longer and more dangerous. US migration studies concentrate on US immigration and the US-Mexico border, including deportation, detention, and surveillance policies that militarize

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angeles-declaration-on-migration-and-protection-u-s-government-and-foreign-partner-deliverables/ [https://perma.cc/SN8K-8398] [hereinafter *Fact Sheet: Los Angeles Declaration*].

<sup>8</sup> *Id.*; *Los Angeles Declaration on Migration and Protection*, WHITE HOUSE (June 10, 2022), <https://www.whitehouse.gov/briefing-room/statements-releases/2022/06/10/los-angeles-declaration-on-migration-and-protection/> [https://perma.cc/ET4J-SJ7Q] [hereinafter *Los Angeles Declaration*].

<sup>9</sup> *Los Angeles Declaration*, *supra* note 8.

<sup>10</sup> Andrew Selee, *The Los Angeles Declaration Could Represent a Big Step for Real Migration Cooperation Across the Americas*, MIGRATION POL’Y INST. (June 2022), <https://www.migrationpolicy.org/news/los-angeles-declaration-migration-cooperation> [https://perma.cc/9WDJ-PDT6].

<sup>11</sup> Press Release, Int’l Rescue Comm., IRC’s Statement on L.A. Declaration on Migration & Prot. (June 10, 2022), <https://www.rescue.org/press-release/ircs-statement-los-angeles-declaration-migration-and-protection> [https://perma.cc/V9AP-HHZ2].

the border space and criminalize migrants.<sup>12</sup> We suggest that analyses of foreign affairs and foreign policy relations show a much more complicated picture of efforts to manage human migration.

As we will demonstrate, there has been a long buildup to the context of countries such as Mexico and those farther south collaborating to prevent movement to the United States. Though we see the interstate architecture most clearly in the contemporary moment with agreements such as the Los Angeles Declaration, the formation of this regional management structure began in the 1980s and has intensified each decade since. We argue that the foreign policy collaborations are yet another method to augment US power and influence in the region, limit possibilities for human migration northward, and completely remake the regional landscape of borders and nation-state sovereignty in the Americas. The result of foreign policy collaborations, we suggest, is a system for managing migration that is more transnational than it is national. In an influential essay entitled “The Emerging Migration State,” James Hollifield suggests that a regional migration system, like the current iteration of the European Union, might be the best option states have to address the complexities of immigration, while still privileging their national goals. As he writes:

Creating a regional migration regime and a kind of supra-national authority to deal with migration and refugee issues allows the member states to finesse, if not escape, the liberal paradox. Playing the good cop/bad cop routine and using symbolic politics and policies to maintain the illusion of border control help governments fend off the forces of closure, at least in the short run.<sup>13</sup>

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<sup>12</sup> See J. David Cisneros, *A Nation of Immigrants and a Nation of Laws: Race, Multiculturalism, and Neoliberal Exception in Barack Obama's Immigration Discourse*, 8 COMM'C'N, CULTURE & CRITIQUE 356, 357–58, 367 (2015); Amy N. Heuman & Alberto González, *Trump's Essentialist Border Rhetoric: Racial Identities and Dangerous Liminalities*, 47 J. INTERCULTURAL COMM'C'N RSCH. 326, 328 (2018); see generally WHO BELONGS IN AMERICA? PRESIDENTS, RHETORIC AND IMMIGRATION (Vanessa B. Beasley ed., 2006); BORDER RHETORICS: CITIZENSHIP AND IDENTITY ON THE US-MEXICO FRONTIER (D. Robert DeChaine ed., 2012); Jason A. Edwards & Richard Herder, *Melding a New Immigration Narrative? President George W. Bush and the Immigration Debate*, 23 HOWARD J. COMM'C'NS 40 (2012); Lisa A. Flores, *Constructing Rhetorical Borders: Peons, Illegal Aliens, and Competing Narratives of Immigration*, 20 CRITICAL STUD. MASS COMM'C'N 362 (2003); Karma R. Chávez, *Protecting LGBT Migrants: The Rhetoric of Identity and the Expansion of the Prison-Industrial Complex*, in THE RHETORICS OF US IMMIGRATION: IDENTITY, COMMUNITY, OTHERNESS (E. Johanna Hartelius ed., 2015); KENT A. ONO & JOHN M. SLOOP, *SHIFTING BORDERS: RHETORIC, IMMIGRATION, AND CALIFORNIA'S PROPOSITION 187* (2002).

<sup>13</sup> James F. Hollifield, *The Emerging Migration State*, 38 INT'L MIGRATION REV. 885, 903 (2004).

Our analysis in this Essay demonstrates that we are now, in the Americas, operating with an informal regional migration system that is guided by US goals but implemented by Mexico, Guatemala, Costa Rica, Panama, Colombia, and others.

To make this argument, we move historically from the 1980s onward to demonstrate the emergence and growth of the regional power system of the Americas. After outlining our methodology, our analysis begins in Part II.A. with the collaborative response to the Central American civil wars of the 1980s and 1990s, and the rhetoric deployed to warrant the political arrangements. In Part II.B., we fast forward to the period from 2014–2021 when more Central Americans, especially Central American families and minors, began presenting at the US-Mexico border than Mexican migrants. Here, we focus on the proliferation of US-Mexico collaborations to manage regional migration in the contemporary moment and on the justifications via rhetorics of humanitarian crisis and security to implement the measures. Our final section returns to where we began this Essay, with migration from South America toward North America, and the regional collaborations implemented since 2021 to manage and regulate movement. Across each moment appears a regional migration management infrastructure that operates through foreign policy collaborations to shift human migration south, farther away from the US southern border, and to prevent individuals from reaching territories where they may be able to seek asylum and other forms of humanitarian immigration relief. To conclude, we discuss the implications of a regional migration management system, suggesting a need to rethink what nation-state borders are and how they function, and how collaborating countries serve each other's goals by functioning as buffer states and camps.

Taken together, we suggest that these strategies might be best understood as rhetoric of stoppage,<sup>14</sup> or deterrence and prevention<sup>15</sup> that create the “forced immobility of bodies—literal and figurative,” which professor of rhetoric Lisa Flores describes as processes of racialization that “‘manage’ race” in the nation-state.<sup>16</sup> Stoppage and prevention projects are

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<sup>14</sup> Lisa A. Flores, *Stoppage and the Racialized Rhetorics of Mobility*, 84 W.J. COMM’N 247, 248 (2020).

<sup>15</sup> See generally JENNA M. LOYD & ALISON MOUNTZ, *BOATS, BORDERS, AND BASES: RACE, THE COLD WAR, AND THE RISE OF MIGRATION DETENTION IN THE UNITED STATES* (2018); see also CARL LINDSKOOG, *DETAIN AND PUNISH: HAITIAN REFUGEES AND THE RISE OF THE WORLD’S LARGEST IMMIGRATION DETENTION SYSTEM* 151–52 (2018); TIMOTHY J. DUNN, *THE MILITARIZATION OF THE U.S.-MEXICO BORDER, 1978-1992: LOW-INTENSITY CONFLICT DOCTRINE COMES HOME* 52, 85–86, 165–66 (1996).

<sup>16</sup> Flores, *supra* note 14 at 248.

about controlling the racial composite of a nation. They are also about racializing particular communities as other, different, criminal, violent, or inadmissible, thus justifying their exclusion and dispossession. No matter the form, they work in migration processes to make it harder and harder for people to reach the places and positionalities where they may safely seek permanent residence. In sum, this project encourages a rethinking of immigration policy, moving from a nation-focused analysis to one attending to the transnational relations and foreign policy collaborations that constitute the material options migrants have before them.

## I. METHODOLOGY

Words matter greatly, especially the words implemented in law and policy that shape the realities of people's lives. As if one needs an example, legal scholar Elizabeth Mertz suggests that one only need to consider how "changing the words used in a legal opinion can automatically cause real change on the ground."<sup>17</sup> Guided by this awareness, we apply a Critical Legal Rhetorical (CLR) methodology to examine law and policy "as a rhetoric."<sup>18</sup> We pair this with rhetorical historiography, which examines what is present in the historic record to understand how relations of power have been made, remade, packaged, and refigured through the language choices of key actors. This approach encourages researchers to read the archive for what is evident and obvious alongside the silences and absences, for which there may be whispers, rumors, or traces in the record to follow and consider.

Both historic and contemporary rhetorical studies are guided by questions about the function of language. Rhetorical critics ask, "What does language do?" or "What is the practical function of language?"<sup>19</sup> Applying this frame to legal and policy studies, CLR guides our attention to the discursive world of the laws and policies themselves, but also the language worlds built around laws and policy, as this is where we can most concretely grasp how certain definitions, arguments, ideals, and ideologies

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<sup>17</sup> Elizabeth Mertz, *Introduction: New Legal Realism: Law and Social Science in the New Millennium*, in *TRANSLATING LAW—AND—SOCIETY FOR TODAY'S LEGAL PRACTICE 2* (Elizabeth Mertz et al. eds., 2015).

<sup>18</sup> John Louis Lucaites, *Between Rhetoric and "the Law": Power, Legitimacy, and Social Change*, 76 Q.J. SPEECH 435, 439, 447 (1990).

<sup>19</sup> Stephen E. Lucas, *The Schism in Rhetorical Scholarship*, 67 Q.J. SPEECH 1, 6–7 (1981); Sara L. McKinnon, *Text-Based Approaches to Qualitative Research: An Overview of Methods, Process, and Ethics*, in *THE INTERNATIONAL ENCYCLOPEDIA OF MEDIA STUDIES: RESEARCH METHODS IN MEDIA STUDIES* (Angharar N. Valdivia & Fabienne Darling-Wolf eds., 1st ed. 2014).

gain traction and force. At its core, CLR questions the way language is used to maintain and resist existing power configurations. It is attentive to the function of language in shaping power relations—not only who has it, and what it is, but how words and messages are used to produce iterations of power. Within the legal studies tradition, CLR resonates with legal realist approaches that question the relationship between law and society, and it draws on social science methodologies to critique the taken-for-granted assumptions inherent in law and legal practices.<sup>20</sup> CLR specifically offers “discursive tools to examine the terms, definitions, arguments and evidence used in legal reasoning and decisions . . . used in the service of maintaining, strengthening, contesting, or changing societal power relations.”<sup>21</sup>

In this Essay, we focus on the world of immigration law and its intermingling with foreign policy collaborations. As a particular form of rhetoric, we can understand foreign policy rhetoric as concerning the “actions undertaken by a government in relation to other nations” or in consort with other governmental actors.<sup>22</sup> Language-and-message work is fundamental to foreign policy, for state officials must speak to both national and international audiences—and often across cultural, national, linguistic, social, and economic differences—to create a shared vision for action that moves across nation-state lines.<sup>23</sup> By looking at foreign policy and foreign affairs rhetoric, we learn what particular publics hold to be true about themselves and the world, what issues nation-states can come together on as issues to be solved, and how interstate collaborations are activated to address both international and national issues.<sup>24</sup> The impact of implemented policies and collaborations extend in complex ways to shape people’s lives, often across many nations. Scholars studying foreign policy rhetoric are attuned to these impacts; as they ask what language does, rhetorical critics must turn to ask how implemented foreign policy collaborations impact the everyday realities of people in the affected countries and regions. With an understanding of the methodology, we shift now to Part II of this Essay where we analyze the US rhetorical framing

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<sup>20</sup> See generally Alan Hunt, *The Theory of Critical Legal Studies*, 6 OXFORD J. LEGAL STUD. 1 (1986).

<sup>21</sup> Sara L. McKinnon, *Critical Legal Rhetoric Takes on Immigration and Asylum Law*, in RESEARCH HANDBOOK ON MODERN LEGAL REALISM 178, 176 (Heinz Klug et al. eds., 2021).

<sup>22</sup> Philip Wander, *The Rhetoric of American Foreign Policy*, 70 Q.J. SPEECH 339, 341 (1984).

<sup>23</sup> See generally Thomas A. Hollihan, *The Public Controversy over the Panama Canal Treaties: An Analysis of American Foreign Policy Rhetoric*, 50 W.J. SPEECH COMM’N 368 (1986).

<sup>24</sup> See *Necropolitics*, *supra* note 4, at 69. See generally *Dead, Dying & Failing*, *supra* note 4.

of Central American civil wars of the 1980s–1990s and the burgeoning of a regional migration management system in collaborations between the United States and Mexico.

## II. ANALYSIS

### A. CENTRAL AMERICAN WARS AND EARLY FOREIGN POLICY COLLABORATIONS

To understand how immigration policy in the Americas became imbricated in foreign policy efforts, it is necessary to track back to the 1980s and 1990s when US officials first worried about Central American migration to the United States. Almost as soon as conflict began in the Central American countries of Guatemala and El Salvador with US involvement, people began to flee due to violence and insecurity.<sup>25</sup> Testimony from early Guatemalan and Salvadoran asylum cases in the United States showcased the horrors that migrants were fleeing.<sup>26</sup> Asylum seekers described scene after scene of guerrilla forces entering their villages, murdering family members, and sexually violating women and children.<sup>27</sup> Anticipating an influx of asylum seekers and other migrants from the region, US officials began to preemptively implement stoppage or prevention strategies to keep people on the move from being recognized as having viable claims to legal and permanent residence in the United States.<sup>28</sup>

The first stoppage strategy was a rhetorical one. It involved discussing Central American civil wars and Central American migration as separate matters. President Reagan spoke frequently about the situation in Central America during his tenure, as involvement in the region was key to his Cold War agenda, though he largely avoided using terms like “refugee” or “asylum seeker” that would grant legitimacy to asylum

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<sup>25</sup> See generally MARÍA CRISTINA GARCÍA, *SEEKING REFUGE: CENTRAL AMERICAN MIGRATION TO MEXICO, THE UNITED STATES, AND CANADA* (2006); see also Sara L. McKinnon, *Transnational Publicity Gender-Based Violence, and Central American Women's Asylum Cases*, in *GENDERED ASYLUM: RACE AND VIOLENCE IN U.S. LAW AND POLITICS* (2016) [hereinafter *Transnational Publicity*].

<sup>26</sup> *Transnational Publicity*, *supra* note 25, at 24.

<sup>27</sup> See Sara L. McKinnon, *Excavating Gender in Women's Early Claims to Political Asylum in the United States*, 33 *WOMEN'S STUD. COMM'N* 79, 84–85 (2010).

<sup>28</sup> These strategies were generally described as prevention through deterrence measures. See generally DUNN, *supra* note 15; LOYD & MOUNTZ, *supra* note 15, at 61–62.

seekers' actual claims.<sup>29</sup> Instead, when US officials spoke of Central American civil wars, they rarely spoke of the people who were forcibly displaced in those contexts.<sup>30</sup> Conversely, when US officials discussed Central American migrants, they were talked about in a-contextual, strategically broad terms.<sup>31</sup> Such discursive strategies, however, did not prevent Central American migrants from *claiming* asylum under the recently adopted 1980 Refugee Act, which established a legal system for processing the requests of asylum seekers who arrived at or in US borders to seek relief.<sup>32</sup>

As Central American asylum claims mounted, US officials began to implement a second stoppage strategy—a more material one—toward managing regional migration. This strategy involved foreign policy collaborations with Mexican officials, activating Mexican national law and policy in service of US immigration goals.<sup>33</sup> As early as 1989, US immigration officials were in conversation with Mexican counterparts to consider ways to prevent Central American migrants from arriving at the US-Mexico border.<sup>34</sup> This collaboration involved stationing US border patrol and anti-smuggling intelligence agents in Mexico and Guatemala to “provide predictive intelligence to ensure that the Border Patrol’s mobile corridor and Anti-Smuggling resources are properly deployed so as to be most effective.”<sup>35</sup> The information was then shared with the US State Department, the Central Intelligence Agency (CIA), and the Defense Intelligence Agency (DIA).<sup>36</sup> In addition to information gathering and sharing efforts, Immigration and Naturalization Service (INS) officials trained Mexican migration and customs officers and judicial police in various immigration matters.<sup>37</sup> Mexican officials denied the existence of such collaborations in 1989, stating that “no diplomatic agreement exists between Mexico and the United States stipulating co-operation between

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<sup>29</sup> See Susan Bibler Coutin, *Falling Outside, Excavating the History of Central American Asylum Seekers*, 36 L. & SOC. INQUIRY 569, 576 (2011).

<sup>30</sup> *See id.*

<sup>31</sup> *See id.*

<sup>32</sup> Refugee Act of 1980 § 202, 8 U.S.C. § 1101(a); *see also Transnational Publicity*, *supra* note 25, at 28.

<sup>33</sup> Wendy A. Vogt, *The Arterial Border*, in LIVES IN TRANSIT: VIOLENCE AND INTIMACY ON THE MIGRANT JOURNEY 51, 59 (2018).

<sup>34</sup> *Id.*; *see also* GARCÍA, *supra* note 25, at 157.

<sup>35</sup> Bill Frelick, *Running the Gauntlet: The Central American Journey in Mexico*, 3 INT’L J. REFUGEE L. 208, 211 (1991).

<sup>36</sup> *Id.* at 211–12.

<sup>37</sup> *Id.* at 212.

the Mexican police and the U.S. Immigration and Naturalization Service to prevent illegal immigrants from entering U.S. territory.”<sup>38</sup> However, information from a fact-finding mission by the US Committee for Refugees in 1990 evidenced a robust collaboration between the two countries through more informal, behind-the-scenes, back-door processes than official diplomatic agreements.<sup>39</sup>

In addition to training and information sharing, the collaboration ramped up Mexico’s deportation efforts.<sup>40</sup> Within the span of a year and a half (January 1989–July 1990), Mexico deported approximately 165,000 migrants back to Guatemala.<sup>41</sup> These deportations happened under direct guidance from the INS to apprehend and deport any Central Americans seeking passageway north.<sup>42</sup> By comparison, prior to 1989, Mexico annually deported an average of fourteen thousand Central American migrants at its southern border.<sup>43</sup> As Mexican deportation numbers increased, apprehensions of Central American migrants at the US-Mexico border drastically diminished. Reports suggest a 21 percent decrease between 1989 and 1990 compared to prior years.<sup>44</sup>

The collaboration also involved a shift in Mexican law. Prior to 1990, Mexican law included neither a definition of refugee nor protections for individuals recognized as refugees.<sup>45</sup> There were ad hoc programs and settlements for Central American refugees before the decade turn, yet the lack of a formalized system made it challenging for individuals to gain permanent residence and status in the country.<sup>46</sup> The 1990 reform to La Ley General de Población did much to change this.<sup>47</sup> For the first time in Mexican legal history, there was a definition in which applicants could ground asylum claims.<sup>48</sup> As stated in La Ley General de Población, refugees include people who have experienced the following situations of forced displacement: “general violence, foreign aggression, internal conflicts, massive human rights violations, or other circumstances that

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<sup>38</sup> *Id.* at 213.

<sup>39</sup> *See id.* at 238–39.

<sup>40</sup> *Id.* at 210–13.

<sup>41</sup> *Id.* at 208.

<sup>42</sup> *Id.* at 211.

<sup>43</sup> *Id.* at 210.

<sup>44</sup> *Id.* at 208–09.

<sup>45</sup> *Id.* at 215–16.

<sup>46</sup> *See generally* GARCÍA, *supra* note 25.

<sup>47</sup> *See* Ley General de Población [LGP] [General Population Law], Diario Oficial de la Federación [DOF] [Official Journal of the Federation] 07–01–1974, reformas DOF 17–07–1990 (Mex.).

<sup>48</sup> *See id.* art. 42.

have greatly upset public order in their nation of origin, such that they have had to flee to another country.”<sup>49</sup> Interestingly, this definition was much broader than the 1951 United Nations definition adopted by the United States in the 1980 Refugee Act, which defines a refugee as someone “with a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion.”<sup>50</sup> Language in the Mexican definition arguably was written with Central Americans in mind as it included references to “generalized violence,” “internal conflicts,” or “massive human rights violations”—all items that were rarely recognized in other states’ refugee definitions as grounds for refugee protections.<sup>51</sup> Historian María Cristina García writes that even before the legal reform, Mexico was providing refuge to a significant portion of the region’s displaced population.<sup>52</sup> By 1990, over two hundred thousand Guatemalan and five hundred thousand Salvadoran refugees were living in temporary settlements in Mexico.<sup>53</sup> The Mexican refugee definition and policy came with complications, which García outlines, yet it also allowed Central Americans to arrive in Mexico and created new avenues for permanent settlement.<sup>54</sup> Many Guatemalans took residence in the Mexican state of Chiapas. Salvadorans preferred Mexico’s urban centers.<sup>55</sup>

As Mexico became a country of residence and welcome for Central Americans, the implemented legal changes provided justification for US officials to suggest yet another rhetorical strategy of stoppage: US officials began to deploy the label of economic migrant to suggest that Central Americans were not refugees, but instead solely sought economic advancement. Then commissioner of the INS, Alan Nelson, explained in testimony before US Congress in 1989: “Most of the Central American arrivals appear to be economic migrants rather than applicants who seek

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<sup>49</sup> Author Translation: “para proteger su vida, seguridad o libertad cuando hayan sido amenazados por violencia generalizada, la agresión extranjera, los conflictos internos, la violación masiva de derechos humanos u otras circunstancias que hayan perturbado gravemente el orden público en su país de origen, que lo hayan obligado a huir a otro país” in original text. *Id.*

<sup>50</sup> *Compare* Convention Relating to the Status of Refugees art. 1, July 28, 1951, 19 U.S.T. 6223, 189 U.N.T.S. 137, with Refugee Act of 1980 § 202, 8 U.S.C. § 1101(a)(42).

<sup>51</sup> See, e.g., Sarah Tudor, *Refugees and Asylum-Seekers: UK Policy*, U.K. PARLIAMENT HOUSE OF LORDS LIBR. (Dec. 1, 2022), <https://lordslibrary.parliament.uk/refugees-and-asylum-seekers-uk-policy/#heading-1> [<https://perma.cc/CXT3-2APP>].

<sup>52</sup> See GARCÍA, *supra* note 25, at 45.

<sup>53</sup> *Id.*

<sup>54</sup> See *id.* at 76–77.

<sup>55</sup> *Id.* at 45.

refuge from political persecution.”<sup>56</sup> The Reagan nominee elaborated: “We are convinced that the large majority of Salvadorans are economic migrants. We know currently that there are somewhere up to half a million illegal Salvadorans in the United States. Most of those came in many, many years ago, long before there was any kind of significant violence there.”<sup>57</sup>

To make the rhetorical frame of “economic migrant” stick<sup>58</sup> even more to Central American migrants, US officials argued that if Central American migrants were actually refugees, they would remain in Mexico and apply for asylum there under *La Ley General de Población*.<sup>59</sup> The fact that many migrants forwent the opportunity of claiming asylum in Mexico (assuming that they knew it was available) in order to make their cases in the United States was, according to US officials, clear evidence that they were fleeing for economic reasons, not out of a fear of persecution and violence.<sup>60</sup> Because migrants were seen as bypassing the opportunity to claim asylum in Mexico, and instead coming to the United States as asylum seekers or unauthorized migrants, Mexico served as a discursive space in the 1980s and 1990s where refugees turned into undocumented, unauthorized migrants. With the Mexican law in place, the “economic migrant” argument became the primary justification for denying Central American US asylum claims.<sup>61</sup> Over 97 percent of Salvadoran and Guatemalan asylum seekers were denied asylum in the 1990s.<sup>62</sup> In the next section, we build on this history by discussing the contemporary immigration moment where the foundations of these foreign policy collaborations solidify, intensifying the foreign policy collaborations that manage migration in the region.

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<sup>56</sup> *Central American Asylum Seekers: Hearing Before the Subcomm. on Immigr., Refugees, and Int'l L., H. Comm. on the Judiciary*, 101st Cong. 42 (1989) (statement of Alan C. Nelson, Comm'r, Immigr. and Naturalization Serv.).

<sup>57</sup> *Extended Voluntary Departure for Salvadorans: Hearing on H.R. 4447 Before the Subcomm. on Rules of the H., H. Comm. on Rules*, 98th Cong. 8 (1984) (statement of Alan C. Nelson, Comm'r, Immigr. and Naturalization Serv.).

<sup>58</sup> SARA AHMED, *THE CULTURAL POLITICS OF EMOTION* (2d ed. 2014); Sara Ahmed, *Affective Economies*, 22 *SOCIAL TEXT* 117 (2004) [hereinafter *Affective Economies*].

<sup>59</sup> See GARCÍA, *supra* note 25, at 87.

<sup>60</sup> See *id.*

<sup>61</sup> See Coutin, *supra* note 29.

<sup>62</sup> *Transnational Publicity*, *supra* note 25, at 29.

## B. MANAGING THE HUMANITARIAN CRISIS

The year 2013 marked a notable shift in migration to the United States. For the first time in contemporary US history, there were more Central American migrants detained at the US-Mexico border than Mexican migrants.<sup>63</sup> While US officials of earlier decades refused to discuss the connection between civil strife in Central America and displacement, this time there would be no denying the link. News media outlets, human rights groups, and those acting independently on social media platforms repeated this message on an almost automatic cycle. The *Guardian* ran the following headline: “‘Flee or Die’: Violence Drives Central America’s Child Migrants to US Border,”<sup>64</sup> while the *New York Times* caught readers’ attention with “Fleeing Gangs, Children Head to U.S. Border.”<sup>65</sup> The *Tucson Sentinel* alerted readers that “Violence is Causing Children to Flee Central America.”<sup>66</sup> The spotlight that the messages placed on young children, women, and families trudging on foot across hundreds of miles of Mexico’s interior to flee violence only urged greater attention to the link between violence and northbound migration.

1. *Constructing a Crisis*

On June 25, 2014, the US Committee on Foreign Relations met to discuss the shift in migration patterns in a hearing entitled “Children Migrating from Central America: Solving a Humanitarian Crisis.”<sup>67</sup> Notably, there is no mention of “economic migrants” or people migrating out of a personal desire to improve their lives—messages that were

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<sup>63</sup> *Children Migrating from Central America: Solving a Humanitarian Crisis: Hearing Before the Subcomm. on the W. Hemisphere, H. Comm. on Foreign Affs.*, 113th Cong. 7 (2014) (statement of Rep. Albio Sires, member, Comm. on Foreign Affs.).

<sup>64</sup> Jo Tuckman, ‘Flee or Die’: Violence Drives Central America’s Child Migrants to U.S. Border, *GUARDIAN* (July 9, 2014, 11:28 AM), <https://www.theguardian.com/world/2014/jul/09/central-america-child-migrants-us-border-crisis> [<https://perma.cc/NM3X-HP8S>].

<sup>65</sup> Frances Robles, *Fleeing Gangs, Children Head to U.S. Border*, *N.Y. TIMES* (July 9, 2014), <https://www.nytimes.com/2014/07/10/world/americas/fleeing-gangs-children-head-to-us-border.html> [<https://perma.cc/J42Z-534N>].

<sup>66</sup> Center for American Progress, *Violence Is Causing Children to Flee Central America*, *TUCSON SENTINEL* (Aug. 14, 2014), [https://www.tucsonsentinel.com/opinion/report/081414\\_violence\\_central\\_america/violence-causing-children-flee-central-america/](https://www.tucsonsentinel.com/opinion/report/081414_violence_central_america/violence-causing-children-flee-central-america/) [<https://perma.cc/CX9C-N69N>].

<sup>67</sup> *Children Migrating from Central America: Solving a Humanitarian Crisis: Hearing Before the Subcomm. on the W. Hemisphere, H. Comm. on Foreign Affs.*, 113th Cong. (2014).

plentiful with preceding eras of Central American migration.<sup>68</sup> Instead, policymakers from across the political spectrum readily deployed the frame that migration flows were a “humanitarian crisis” and that there was a clear link between violence in the region and movement.<sup>69</sup>

One might imagine that the “crisis” drawing lawmakers’ attention was the violence in the Northern Triangle states of Central America that was propelling movement. US officials instead named the US-Mexico border as the subject of the “humanitarian crisis.” Republican Congressman Matt Salmon of Arizona began the hearing:

President Obama’s political spin team and the White House are calling this a humanitarian situation. I visited a location where these children are being held in Nogales, Arizona. I saw children as young as four essentially warehoused and I can tell you it is not a situation. It is a crisis.<sup>70</sup>

Democratic Congressman Gregory Meeks of New York moved the humanitarian crisis even farther into the interior of the United States:

Current migration patterns demonstrate if we don’t pay attention to what is happening just beyond our borders it will be to our own children. . . . [T]he headlines of the day may draw attention to faraway places like Iraq and Iran and Ukraine and, make no mistake, these are important issues that also demand our attention, but we must not lose sight of what is happening closer to home.<sup>71</sup>

Meeks’s use of “our own children” suggests that through human migration, violence and crisis might creep northward and create similar situations of insecurity for US families. Republican Congressman Jeff Duncan of South Carolina was even more explicit in articulating why the border site might be imagined as a “humanitarian crisis”: “I also am very concerned about the national sovereignty of this nation and our porous southern border and also elements that may be coming along with the children that are transiting into our country and what they are coming for.”<sup>72</sup>

Mentions of “elements that may be coming along with the children” and “what they are coming for” signals a specter of danger that travels with the discourse about migrants fleeing violence. Central

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<sup>68</sup> See generally *id.*

<sup>69</sup> *Id.* at 1, 3, 7.

<sup>70</sup> *Id.* at 3.

<sup>71</sup> *Id.* at 18.

<sup>72</sup> *Id.* at 18.

American migrants are recognized as fleeing violence, but as rhetoric, communication, and cultural studies scholars suggest, discursive frames stick with or travel with subjects beyond the immediate context.<sup>73</sup> This means that the violence frame does not necessarily disappear when Central American migrants move northward. If anything, frames of violence become more prescient in shaping the way Central Americans are discursively imagined in the minds of the US public. As numerous scholars suggest, the threat of violence has been associated with what sociologist Cornelius Castoriadis described as social imaginary,<sup>74</sup> as part and parcel of what Central Americans and Mexicans might bring when they move to the United States.<sup>75</sup> This happens because violence is marked as not only prevalent in these places but racialized as essential to the core of how Central American and Mexican communities and cultures operate. It is thus not a large imaginative leap to fear that Central American migrants might bring violence with them when entering the United States. That Central American migrants are almost always discussed as “surging” or photographed as moving en masse only heightens the risk that fear-inducing messages about “elements that may be coming along with the children” will play on.<sup>76</sup> Messages disseminating from US news media outlets typically involve mentions and visual images of Central American migrants surging, flooding, or caravanning.<sup>77</sup> Stories and images of floods, hoards, and surges induce in audiences a fear of being overwhelmed and destroyed in the wake of whatever is coming.<sup>78</sup>

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<sup>73</sup> See generally *Affective Economies*, *supra* note 58; LISA A. FLORES, DEPORTABLE AND DISPOSABLE: PUBLIC RHETORIC AND THE MAKING OF THE ‘ILLEGAL’ MIGRANT 62 (2021); J. David Cisneros, *Contaminated Communities: The Metaphor of ‘Immigrant as Pollutant’ in Media Representations of Immigration*, 11 RHETORIC & PUB. AFFS. 569, 591–92 (2008); Matthew Houdek, *Common Sense Racism: The Rhetorical Grounds for Making Meaning of Racialized Violence* 89 (May 2018) (Ph.D. dissertation, University of Iowa) (Iowa Research Online).

<sup>74</sup> See generally CORNELIUS CASTORIADIS, *THE IMAGINARY INSTITUTION OF SOCIETY* (Kathleen Blamey trans., Polity Press 1998).

<sup>75</sup> See *Necropolitics*, *supra* note 4; HECTOR AMAYA, *TRAFFICKING: NARCOCULTURE IN MEXICO AND THE UNITED STATES* 53, 66 (2020).

<sup>76</sup> *Children Migrating from Central America: Solving a Humanitarian Crisis: Hearing Before the Subcomm. on the W. Hemisphere, H. Comm. on Foreign Affs.*, 113th Cong. 18 (2014) (statement of Rep. Jeff Duncan, member, Comm. on Foreign Affs.).

<sup>77</sup> See generally Lesley J. Pruitt, *Closed Due to ‘Flooding’? UK Media Representations of Refugees and Migrants in 2015–2016 – Creating a Crisis of Borders*, 21 BRIT. J. OF POLS. & INT’L RELS. 383 (2019); Terence Wright, *Moving Images: The Media Representation of Refugees*, 17 VISUAL STUD. 53 (2002).

<sup>78</sup> Zaria Goverett, *How the News Changes the Way We Think and Behave*, BBC (May 12, 2020, 12:29 PM), <https://www.bbc.com/future/article/20200512-how-the-news-changes-the-way-we-think-and-behave> [https://perma.cc/QQ8Y-BQR4]. See generally Sara L. McKinnon, *Positioned in/by*

In addition to hearing stories about the dangers in the Northern Triangle, US audiences learn about the dangers of migrant passageways in Mexico. While criminal organizations were once involved primarily in the trafficking of illegal substances, by 2014, their businesses had expanded significantly to include migrant smuggling, extortion, and trafficking.<sup>79</sup> State Department Representative Ambassador Thomas Shannon emphasized this point in his 2014 comments before the US Committee on Appropriations, suggesting that what US and Mexican officials fear most is “for these children to be caught somewhere between our Southwest border and [Mexico’s] southern border . . . where they would be subject to criminal gangs.”<sup>80</sup> While officials certainly are worried about the safety of the people themselves, we suggest that an undercurrent in the discourse is a worry of migrants shifting from evaders of violence to perpetrators of it. Exposure to violence along the path to settlement, the logic goes, could entice or force migrants to transform from victims to culprits. As we demonstrated in the previous section, in the 1990s, Mexico served as the discursive space turning refugees into economic migrants. In this moment of the discourse, we suggest, government officials argued that movement through the country turned would-be refugees into would-be violent criminals. That the laws for shaping people’s movement through the Americas increasingly criminalize people for seeking safe residence only amplifies the way migrants are turned into criminal suspects.<sup>81</sup>

## 2. Responding to the Crisis

With the humanitarian crisis clearly framed as a problem at the US-Mexico border, and a fear of violent, criminal, migrant subjects arriving in the United States, US officials had sufficient justifications to implement policy that would address the concern about people on the

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*the State: Incorporation, Exclusion, and Appropriation of Women’s Gender-Based Claims to Political Asylum in the United States*, 97 Q.J. SPEECH 178 (2011).

<sup>79</sup> See Jarod Forget, *Violent Drug Organizations Use Human Trafficking to Expand Profits*, U.S. DRUG ENF’T ADMIN. (Jan. 28, 2021), <https://www.dea.gov/stories/2021/2021-01/2021-01-28/violent-drug-organizations-use-human-trafficking-expand-profits> [https://perma.cc/6Q9J-ZGLS]. See generally *Review of the President’s Emergency Supplemental Request for Unaccompanied Children and Related Matters: Hearing Before the Comm. on Appropriations*, 113th Cong. 113–854, 50–51 (2014) (statement of Hon. Thomas A. Shannon, Couns. of the Dep’t of State).

<sup>80</sup> *Review of the President’s Emergency Supplemental Request for Unaccompanied Children and Related Matters: Hearing Before the Comm. on Appropriations*, 113th Cong. 113–854, 50–51 (2014) (statement of Hon. Thomas A. Shannon, Couns. of the Dep’t of State).

<sup>81</sup> See 8 U.S.C. § 1325.

move to the United States. Officials once again relied on foreign policy collaborations as a stoppage measure to make it harder for people to arrive at or within US territory. In addition to implementing measures through the national immigration system in the United States, foreign policy efforts focused on building prevention and deterrence measures south of US territory.

Mexico was yet again a vital foreign policy partner for US officials. As Congressman Salmon urged in the hearing discussed above, “Mexico is affected by the growing violence in Central America just as we are. We have got to find ways to get Mexico to take a bigger role in helping Central American nations in partnership with the United States.”<sup>82</sup> Department of State Representative Francisco Palmieri and USAID Representative Mark Lopes explained in their testimony that by 2014, interstate collaborations between the United States and Mexico through defense, diplomacy, and development initiatives to prevent individuals from accessing the US-Mexico border space were already quite involved and complex. They included the 1998 Border Security Initiative, which ran public service announcements throughout Mexico and Guatemala about the dangers of migration, and the 2008 Merida Initiative, which militarized Mexico’s southern border in the name of curbing drug trafficking and violence.<sup>83</sup>

To add to this, in 2014, the United States funded measures along Mexico’s southern border with Guatemala through an initiative called Programa Frontera Sur, a trilateral arrangement between the three countries.<sup>84</sup> Official messaging was that the program would “guarantee the

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<sup>82</sup> *Children Migrating from Central America: Solving a Humanitarian Crisis: Hearing Before the Subcomm. on the W. Hemisphere, H. Comm. on Foreign Affs.*, 113th Cong. 3 (2014) (statement of Rep. Matt Salmon, Chairman, S. Comm. on the W. Hemisphere).

<sup>83</sup> *Border Patrol History*, U.S. CUSTOMS & BORDER PROT., <https://www.cbp.gov/border-security/along-us-borders/history> [<https://perma.cc/J6SE-G3GA>] (July 21, 2020); *Joint Statement on the Merida Initiative: A New Paradigm for Security Cooperation*, U.S. DEP’T OF STATE (Oct. 22, 2007), <https://2001-2009.state.gov/t/pa/prs/ps/2007/oct/93817.htm> [<https://perma.cc/7DSH-EDUP>].

<sup>84</sup> *Programa Frontera Sur: Proteger La Vida De Las Personas Migrantes Y Fortalecer El Desarrollo Regional* [Southern Boarder Program: Protect the Live of Migrants and Strengthen Regional Development], SECRETARÍA DE GOBERNACIÓN (May 11, 2015), <https://www.gob.mx/segob/articulos/programa-frontera-sur-proteger-la-vida-de-las-personas-migrantes-y-fortalecer-el-desarrollo-regional> [<https://perma.cc/5A3W-9NY6>]; Luis Alfredo Arriola, *Mexico’s Not-So-Comprehensive Southern Border Plan*, RICE U. BAKER INST. PUB. POL’Y (Aug. 5, 2016), <https://www.bakerinstitute.org/research/securing-mexicos-southern-border> [<https://perma.cc/4A4B-DQE9>].

integrity and respect of migrants' human rights" and "protect migrants."<sup>85</sup> In practice, it was challenging to see how Programa Frontera Sur supported humanitarian objectives. As implemented, the policy augmented surveillance, security, and policing measures along Mexico's southern border with Guatemala; increased documentation measures so that migrant movement in the country could be tracked; and intensified information sharing about migrant movement between US and Mexican agencies. As evidence of its efficacy, in 2010, Mexico deported just under sixty-three thousand migrants back to Guatemala. In 2014, the number was closer to 115,000; in 2015, it was just under 118,000; and in 2016, it was a little more than 143,000.<sup>86</sup> Detention numbers reveal a similar trend, leading the Washington Office on Latin America to conclude at the time that Mexico detained more Central American migrants than the United States did.<sup>87</sup>

Programa Frontera Sur ran under that name for the duration of the Barack Obama (United States) and Enrique Peña Nieto (Mexico) presidencies. Many held hope that the new Mexican President, Andrés Manuel Lopez Obrador, would shift course when he entered office in 2019, especially because he often spoke about "Mexico's Central American migrant brothers and sisters" on the campaign trail.<sup>88</sup> Indeed, the theme of migration was a major focal point of the 2018 election. While

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<sup>85</sup> Author Translation: "garantizar la integridad y el respeto de los derechos humanos de los migrantes" and "proteger migrantes." SECRETARÍA DE GOBERNACIÓN, *supra* note 84.

<sup>86</sup> José Meléndez, *México Supera a EU en Cifra de Deportaciones de Migrantes [Mexico Surpasses US in Number of Migrant Deportations]*, EL UNIVERSAL (Oct. 14, 2015), <https://www.eluniversal.com.mx/articulo/nacion/seguridad/2015/10/14/mexico-supera-eu-en-cifra-de-deportaciones-de-migrantes> [<https://perma.cc/GA39-CDGL>]; Héctor Camín Aguilar, *Deportaciones: El Escándalo Centroamericano [Deportation: The Central American Scandal]*, MILENIO (Feb. 22, 2017), <https://www.milenio.com/opinion/hector-aguilar-camin/dia-condia/deportaciones-el-escandalo-centroamericano> [<https://perma.cc/EV36-T2BL>].

<sup>87</sup> Between October 2014 and April 2015, U.S. Customs and Border Protection detained 70,448 "Other than Mexican" citizens at its border. The overwhelming majority of these were Central Americans, but we do not yet know exactly how many. During this same period, Mexican authorities detained 92,889 Central Americans in Mexico. *Mexico Now Detains More Central American Migrants than the United States*, WASH. OFF. ON LAT. AM. (June 11, 2015), <https://www.wola.org/2015/06/mexico-now-detains-more-central-american-migrants-than-the-united-states/> [<https://perma.cc/LL4Q-B5Y6>].

<sup>88</sup> Author Translation: "los hermanos migrantes centroamericanos." *En México Habrá Trabajo Para Mexicanos y Centroamericanos; Hermanos Migrantes Cuentan con Nosotros, Afirma Amlo en Chiapas [In Mexico there will be Work for Mexicans and Central Americans; Migrant Brothers are Counting on Us, Says AMLO in Chiapas]*, AMLO (Oct. 21, 2018), <https://lopezobrador.org.mx/2018/10/21/en-mexico-habra-trabajo-para-mexicanos-y-centroamericanos-hermanos-migrantes-cuentan-con-nosotros-afirma-amlo-en-chiapas> [<https://perma.cc/NPG8-ZQLU>].

campaigning in Chiapas, Lopez Obrador spoke directly to the then caravan of Central Americans traveling through Mexico:

Here I take a moment to also speak to the Central American migrant brothers. To tell them that they can count on us. I offered work visas to poor Central Americans who leave their country because they have no options. Why do I offer that for Central Americans? Because there will be work for Mexicans and work for Central Americans in our country. What do we say, because we Mexicans are very supportive, very fraternal. What do we say in families? Where one eats, two eat.<sup>89</sup>

Once in office, and in collaboration with US officials, President Lopez Obrador's message to the Central American migrant brothers and sisters shifted drastically. He began to tell people to stay home. Using rhetoric of humanitarianism and violence as justification, the Mexican president told Central American communities that for their safety, it was better to stay home:

We do not want them to have free passage and not only for legal reasons but for security reasons . . . unfortunately in the north we have had problems of murder of migrants in the past and we do not want that, we fear greater violence in the north and we prefer to attend to the migrant population of Central America in the south, southeast.<sup>90</sup>

Lopez Obrador backed this message up by doubling down on the securitization, deportation, and detention procedures of his predecessor through Programa Frontera Sur. He did this first by establishing his own militarized police body, La Guardia Nacional, on May 27, 2019, to address what he framed as issues of national security. The president deployed

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<sup>89</sup> *Id.* Author Translation: “Aquí hago un paréntesis para también referirme a los hermanos migrantes centroamericanos. Decirles que cuentan con nosotros, yo ofrecí visas de trabajo a los centroamericanos pobres que salen de su país porque no tienen opciones. ¿Por qué ofrezco eso para los centroamericanos? Porque va a haber trabajo para los mexicanos y trabajo para los centroamericanos en nuestro país”; “Qué decimos, porque somos muy solidarios, muy fraternos los mexicanos. ¿Qué decimos en las familias? Que donde come uno, comen dos.” *Amlo Pide Solidaridad con a Caravana Migrante: ‘Donde Come Uno, Comen Do’* [AMLO Asks for Solidarity with the Migrant Caravan: ‘Where one eats, two eat’], FORBES POLÍTICA (Oct. 22, 2018), <https://www.forbes.com.mx/amlo-pide-solidaridad-con-la-caravana-migrante-donde-come-uno-comen-dos/> [<https://perma.cc/KJ78-G79X>].

<sup>90</sup> Author Translation: No queremos que tengan libre paso y no solo por cuestiones legales sino por cuestiones de seguridad. . . desgraciadamente en el norte hemos tenido problemas de asesinatos de migrantes en otros tiempo y no queremos eso, la violencia mayor la tenemos en el norte y preferimos atender a la población migrantes de Centroamérica en el sur, sureste. *Estes es la razón por la que AMLO frenó a migrantes centroamericanos* [This is the Reason Why AMLO Stopped Central American Migrants], LA VERDAD (Apr. 23, 2019), <https://laverdadnoticias.com/mexico/Esta-es-la-razon-por-la-que-AMLO-freno-a-migrantes-centroamericanos-20190423-0135.html> [<https://perma.cc/CQP8-Q3JT>].

fourteen thousand troops to the northern border to manage security in camps and shelters that had popped up at key entry points to the United States and twelve thousand to Mexico's southern border to do the work of interception and deportation.<sup>91</sup> Daily newspaper and television reports from that time show troops in full riot gear preventing migrants from crossing from Guatemala into Mexico. La Guardia Nacional checked the papers of people on the rafts that crossed the Suchiate River between Tecún Umán, Guatemala, and Ciudad Hidalgo, Mexico, and they frequently made raids in the middle of the night on people staying at motels just across the border.<sup>92</sup> These interception tactics added to the methods of stoppage and prevention that people on the move confronted as they tried to seek safe residence.

Mexico also ramped up its deportation efforts to stop migrants from moving farther North. According to the Secretaria de Relaciones Exteriores (SRE), in Mexico, there were 280,000 Central Americans "rescatado" in 2019.<sup>93</sup> "Rescatado," which translates to "rescued" in English, is a deceptive word, as it actually means that migrants were caught in rivers, were caught crossing mountains and jungles, or were just refused passage across bridges from Guatemala to Mexico.<sup>94</sup> And depending where you look for statistics, in 2019, Mexico formally deported somewhere between 84,000 (SRE) and 119,000 (Instituto Nacional de Migración) individuals back to Guatemala.<sup>95</sup> Even with these

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<sup>91</sup> Maya Averbuch & Kirk Semple, *La Nueva Guardia Nacional Mexicana Propaga Miedo Entre Quienes Migran* [*The New Mexican National Guard Spreads Fear Among Those Who Migrate*], N.Y. TIMES (June 24, 2019), <https://www.nytimes.com/es/2019/06/24/espanol/america-latina/guardia-nacional-migrantes-mexico.html> [https://perma.cc/2E7T-N972]; Excelsior, *Guardia Nacional impide el paso de migrantes en el Río Suchiate* [*National Guard Prevents the Passage of Migrants in the Suchiate River*], YOUTUBE (June 16, 2019), <https://www.youtube.com/watch?v=W1vPBv8Jqzo> [https://perma.cc/Z8LP-J5CY]; Gaspar Romero, *Guardia Nacional Incrementa Vigilancia en el Río Suchiate* [*National Guard Increase Surveillance in the Suchiate River*], EXCELSIOR (July 3, 2019), <https://www.excelsior.com.mx/nacional/guardia-nacional-incrementa-vigilancia-en-el-rio-suchiate/1322345> [https://perma.cc/AB6E-9WJ8].

<sup>92</sup> Maureen Meyer & Adam Isacson, *The 'Wall' Before the Wall: Mexico's Crackdown on Migration at its Southern Border*, WASH. OFF. ON LAT. AM. (Dec. 17, 2019), <https://www.wola.org/analysis/mexico-southern-border-report/> [https://perma.cc/S259-UCVJ].

<sup>93</sup> *Tema Migratorio* [*Immigration Issue*] 281219, INSTITUTO NACIONAL DE MIGRACIÓN (Dec. 12, 2019), <https://www.inm.gob.mx/gobmx/word/index.php/tema-migratorio-281219/> [https://perma.cc/P2XC-RG6U].

<sup>94</sup> *Id.*

<sup>95</sup> *Brutal: en 2019 el Gobierno de AMLO Deportó a 84000 Migrantes Centroamericanos* [*Brutal: In 2018 ALMO Government Deported 84,000 Central American Migrants*], LA IZQUIERDA DIARIO (Nov. 9, 2020), <https://www.laizquierdadiario.com/Brutal-En-2019-el-gobierno-de-AMLO->

vast numbers of deportations, people still find ways to enter the country, and these measures pushed even more into the informal processes of migrant smuggling to continue their journey north. In lieu of paying a smuggler to assist with passage northward, many people chose to wait in camps at Mexico's southern Border to apply for refugee status with the Comisión Mexicana de Ayuda a Refugiados (COMAR), Mexico's refugee agency. In 2019, COMAR received sixty-seven thousand applications for asylum in Mexico, a 300 percent increase over the prior year's applications.<sup>96</sup> There was a 5,300 percent increase in asylum requests from 2013 to 2019 in Mexico, and application numbers continue to break records.<sup>97</sup>

Officials paired the southern Mexican border measures with a policy implemented under US President Donald Trump called "Migrant Protection Protocols" (MPP), or what came to be known as the "Remain in Mexico Policy."<sup>98</sup> While the policy is associated most with President Trump, it is important to recognize that it was initiated in conjunction with Mexican officials. Specifically, the MPP gave US officials the authority to return asylum seekers to Mexico to wait for their asylum hearing requests to be processed. At the announcement of the policy, officials from Mexico's SRE stated that Mexico would allow non-Mexican nationals to "stay for humanitarian reasons." As elaborated in the statement: "They will be entitled to equal treatment with no discrimination whatsoever and due respect will be paid to their human rights."<sup>99</sup> They will also have the opportunity to apply for a work permit for paid employment, which will allow them to meet their basic needs."<sup>100</sup> Between January 2019 and December 2020, approximately seventy thousand people were returned

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deporto-a-84-mil-migrantes-centroamericanos [https://perma.cc/U2T5-5VCK]; INSTITUTO NACIONAL DE MIGRACIÓN, *supra* note 93.

<sup>96</sup> INSTITUTO NACIONAL DE MIGRACIÓN, *supra* note 93.

<sup>97</sup> Maureen Meyer & Elyssa Pachico, *Mexico Has a Major Role to Play in Undoing Trump's Disastrous Migration Policies*, WASH. OFF. ON LAT. AM. (Dec. 2, 2021), <https://www.wola.org/analysis/mexico-migration-under-biden/> [https://perma.cc/BDX4-YCW3].

<sup>98</sup> 'Remain in Mexico': Overview and Resources, HUM. RTS. WATCH (Feb. 7, 2022), <https://www.hrw.org/news/2022/02/07/remain-mexico-overview-and-resources> [https://perma.cc/A6G5-H3XF].

<sup>99</sup> Secretaría de Relaciones Exteriores [Secretary of Foreign Relations], *Position of Mexico on the Decision of the U.S. Government to Invoke Section 235(B)(2)(C) of Its Immigration and Nationality Act*, GOBIERNO DE MÉXICO (Dec. 20, 2018), <https://www.gob.mx/sre/en/articulos/position-of-mexico-on-the-decision-of-the-u-s-government-to-invoke-section-235-b-2-c-of-its-immigration-and-nationality-act-185795?idiom=en> [https://perma.cc/A7ZN-5HRJ].

<sup>100</sup> *Id.*

from the United States to Mexico to await their immigration hearings.<sup>101</sup> Of the forty-two thousand cases heard by December 2020, only 521 people were granted immigration relief.<sup>102</sup> Awareness of the relationship between Central American violence and migrant flight had changed since the 1980s and 1990s when Central Americans were figured as “economic migrants,” but the recognition of Central Americans as refugees remained stagnant at a 1 percent approval rating from the 1980s onward.<sup>103</sup>

### C. PUSHING MIGRATION FARTHER SOUTH

The latest phase of foreign policy collaborations in the Americas targets migration starting points that are much farther south than Mexico, or even Central America. US officials saw an uptick in Venezuelan asylum applications, surging from 4,500 in 2020 to over 50,000 in 2021.<sup>104</sup> Seeking to quell the trend in 2022, US officials called on Mexico to participate in a “collaborative, regional approach” to addressing migration.<sup>105</sup> The response? On January 21, 2021, the Mexican government began requiring that any Venezuelan entering Mexico arrive with a passport and visa in hand. Prior to that date, there were no visa requirements for Venezuelans arriving in Mexico.<sup>106</sup> This meant that many of the approximately six million Venezuelans who left their country seeking asylum in the United States could no longer first fly to Mexico where they could more easily cross the US-Mexico land border.<sup>107</sup> Starting in 2021, any Venezuelans entering Mexico would need to first apply for a tourist visa with proof that they had the financial means to travel as well

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<sup>101</sup> *The “Migrant Protection Protocols”: an Explanation of the Remain in Mexico Program*, AM. IMMIGR. COUNCIL (Feb. 1, 2024), [https://www.americanimmigrationcouncil.org/sites/default/files/research/migrant\\_protection\\_protocols\\_2024.pdf](https://www.americanimmigrationcouncil.org/sites/default/files/research/migrant_protection_protocols_2024.pdf) [https://perma.cc/PM4Y-FCND].

<sup>102</sup> *See id.*

<sup>103</sup> Susan Gzesh, *Central Americans and Asylum Policy in the Reagan Era*, MIGRATION INFO. SOURCE (Apr. 1, 2006), <https://www.migrationpolicy.org/article/central-americans-and-asylum-policy-reagan-era> [https://perma.cc/29VF-UK9Y].

<sup>104</sup> Kisten Martinez-Gugerli, *Mexico’s Restrictive Visa Policy Limits Venezuelans’ Ability to Flee to the U.S.*, WASH. OFF. ON LAT. AM. (Apr. 4, 2022), <https://www.wola.org/analysis/mexico-restrictive-visa-policy-limits-venezuelans-ability-flee-us/> [https://perma.cc/2X52-T56P].

<sup>105</sup> Alexandra Ulmer et al., *Mexico Considers Tighter Entry Rules for Venezuelans After U.S. Requests -Sources*, REUTERS (Nov. 15, 2021, 8:41 AM), <https://www.reuters.com/world/americas/exclusive-mexico-considers-tighter-entry-rules-venezuelans-after-us-requests-2021-11-12/> [https://perma.cc/4KMX-84HH].

<sup>106</sup> *Id.*

<sup>107</sup> Martinez-Gugerli, *supra* note 104.

as significant ties in their home country that would compel their return home, an option that was out of the question for most Venezuelans given the country's economic collapse in the wake of political instability. US officials asked Mexico to do the same with Brazil, but officials in Mexico City were more reticent, citing the financial hit Mexico would take if it made it harder for Brazilian tourists and business travelers to spend their money in the country.<sup>108</sup> The Venezuelan visa restrictions meant that Venezuelans in transit seeking safe residence would then have to find new pathways. Using the Darién Gap land route between Colombia and Panama to continue in buses northward quickly became one of the most viable options with almost 133,000 people using the route in 2021, up from 10,000 the previous year.<sup>109</sup>

In June 2022, guided by a clear recognition of the regional nature of migration, the Biden administration announced the signing of the Los Angeles Declaration and explained in detail the activities that the multistate agreement would entail.<sup>110</sup> These programs included Colombia, Ecuador, and Costa Rica supporting temporary protections for Venezuelans staying in one of the countries, including regularization documents and work permits.<sup>111</sup> It also outlined a program to expand Canadian and US refugee resettlement programs.<sup>112</sup> For its part, Mexico agreed to expand labor permits for noncitizens and to create a work program for those recognized as refugees in the country.<sup>113</sup> Outlined in the agreement were also plans to increase pathways for regular migration from South and Central America to the United States and plans to “improve the efficiency and fairness of asylum at the border,” though the details of those elements would not be released until 2023.<sup>114</sup>

With the end of the Title 42 era, which encompassed immigration policies that had been implemented to address what US officials framed as “public health” concerns at the US-Mexico border during the COVID-19 global pandemic,<sup>115</sup> the Biden administration announced a bevy of new

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<sup>108</sup> Gabriel Stargardter, *As Brazilians Flock to the U.S. Border, an Alleged Smuggler Cashes in*, REUTERS (Oct. 12, 2021, 3:43 PM), <https://www.reuters.com/world/americas/brazilians-flock-us-border-an-alleged-smuggler-cashes-2021-10-12/> [<https://perma.cc/K84U-XY3E>].

<sup>109</sup> Taylor, *supra* note 5.

<sup>110</sup> *Fact Sheet: Los Angeles Declaration*, *supra* note 7.

<sup>111</sup> *See id.*

<sup>112</sup> *See id.*

<sup>113</sup> *See id.*

<sup>114</sup> *Id.*

<sup>115</sup> Andrea Castillo, *What Is Title 42 and What Happens Now That the Immigration Policy Has Expired?*, L.A. TIMES (May 11, 2023, 9:00 PM), <https://www.latimes.com/politics/story/2023-05->

US immigration programs and policy in line with the Los Angeles Declaration that relied on actors outside of the United States for implementation.<sup>116</sup> First, the administration reinforced efforts developed by previous US presidents to deter irregular migration to the country, including the expanded use of deportation, expedited removal back to Mexico for non-Mexican migrants,<sup>117</sup> and exclusion from regular immigration programs for those who move through unauthorized methods.<sup>118</sup> A key element of these enforcement measures included what has popularly come to be known as the “asylum ban” or the “asylum transit ban” policy.<sup>119</sup> This gives US officials the right to refuse to process asylum cases from migrants who do not enter the United States at official ports of entry, who do not use the authorized technology to schedule an appointment, or who do not first seek and receive a denial for asylum in a country that they transited through on the way to the US-Mexico border.<sup>120</sup>

In addition to these border restrictions, the United States implemented new regular pathways for migrants from South and Central America to enter the United States, including the expansion of a humanitarian parole system for individuals from Cuba, Haiti, Nicaragua, and Venezuela to be sponsored.<sup>121</sup> Additionally, the administration established a family reunification parole program for nationals from Colombia, El Salvador, Guatemala, and Honduras, whereby family members already in the United States could sponsor their loved ones outside of the country to come.<sup>122</sup> Most significantly, US officials worked

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11/what-is-title-42-and-what-happens-when-the-immigration-border-policy-goes-away [https://perma.cc/VY95-B3B4].

<sup>116</sup> *Fact Sheet: Biden-Harris Administration Announces New Border Enforcement Actions*, WHITE HOUSE (Jan. 5, 2023), <https://www.whitehouse.gov/briefing-room/statements-releases/2023/01/05/fact-sheet-biden-harris-administration-announces-new-border-enforcement-actions/> [https://perma.cc/5R9W-W5E8].

<sup>117</sup> *Mexico and United States Strengthen Joint Humanitarian Plan on Migration*, WHITE HOUSE (May 2, 2023), <https://www.whitehouse.gov/briefing-room/statements-releases/2023/05/02/mexico-and-united-states-strengthen-joint-humanitarian-plan-on-migration/> [https://perma.cc/GMH8-8ZNV].

<sup>118</sup> WHITE HOUSE, *supra* note 116.

<sup>119</sup> Press Release, ACLU, Federal Appeals Court Grants Stay in Biden Asylum Ban Case (Aug. 3, 2023), <https://www.aclu.org/press-releases/federal-appeals-court-grants-stay-in-biden-asylum-ban-case>. [https://perma.cc/3L9X-67PJ].

<sup>120</sup> *Id.*

<sup>121</sup> WHITE HOUSE, *supra* note 116.

<sup>122</sup> News Release, USCIS, DHS Announces Family Reunification Parole Processes for Colombia, El Salvador, Guatemala, and Honduras (July 7, 2023), <https://www.uscis.gov/newsroom/news-releases/dhs-announces-family-reunification-parole-processes-for-colombia-el-salvador-guatemala-and-honduras> [https://perma.cc/7S9X-9D8P].

with regional partners to open the US refugee resettlement process to individuals from the Western Hemisphere.<sup>123</sup> The Biden administration announced that it would admit twenty thousand Western Hemisphere refugees for the 2023–2024 year. US officials also established Safe Mobility Offices (SMO) in Colombia, Costa Rica, and Guatemala where applications for parole, family reunification, and refugee resettlement programs would be assessed. This was a joint effort between the four countries, with technical assistance from the International Organization on Migration (IOM) and the United Nations High Commissioner for Refugees (UNHCR) operating in each country.<sup>124</sup>

While much remains unknown about this new system, its existence provides clues as to the role of foreign partnerships and interstate collaborations in the management of migration in the future. Evident is a complex regional migration management system that shapes how people move, experience borders, and make home and belonging. The system relies on the coordination of the governments hosting SMO offices, the US state departments in those countries, and the IOM and UNHCR, which are both in charge of screening and processing applications. The Safe Mobility system also relies on access to technology as a precursor to apply for the regular migration processes handled through the offices. Applicants must first register on a website called Movilidad Segura,<sup>125</sup> which automatically registers their information in the system. While it is yet too early to tell how effective this system will be, other applications of technology in processing claims for US immigration are rife with challenges and issues.<sup>126</sup> For example, in the context of the CBP One App that is the

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<sup>123</sup> WHITE HOUSE, *supra* note 116.

<sup>124</sup> Julia Ainsley & Dan De Luce, *Are the Biden Administration's 'Processing Centers' for Migrants in Latin America Doing Any Good?*, NBC NEWS (Aug. 2, 2023, 5:30 AM), <https://www.nbcnews.com/news/investigations/are-us-migrant-processing-centers-latin-america-working-rcna97584> [<https://perma.cc/AV6B-QDKH>].

<sup>125</sup> *Información General Sobre el Programa 'Movilidad Segura'* [General Information About the "Safe Mobility" Program], MOVILIDAD SEGURA, <https://movilidadsegura.org/> [<https://perma.cc/6YL3-8CJM>].

<sup>126</sup> Maria Abi-Habib et al., *Migrants Struggle to Get Appointments on Border Protection App*, N.Y. TIMES (May 11, 2023), <https://www.nytimes.com/2023/05/11/us/migrants-border-app-cbp-one.html> [<https://perma.cc/RL49-F2L9>]; see *United States of America: Mandatory Use of CBP One Application Violates the Right to Seek Asylum*, AMNESTY INT'L (May 7, 2023), <https://www.amnesty.org/en/documents/amr51/6754/2023/en/> [<https://perma.cc/566L-37MF>]; Justo Robles, *'We Only Got Errors': Migrants Struggle with Asylum App at US-Mexico Border*, GUARDIAN (May 6, 2023, 6:00 AM), <https://www.theguardian.com/us-news/2023/may/06/us-mexico-border-cbp-one-app-migrants> [<https://perma.cc/9T2K-Q48X>]; Jennifer Dikler et al., *Biden's Asylum App is Basically Unusable*, SLATE (May 11, 2023, 12:48 PM),

primary method migrants in northern Mexico must use to get appointments with US Customs and Border Patrol to apply for asylum,<sup>127</sup> there are numerous issues, including: the requirement that people have access to a mobile device and internet service to seek asylum, the digital monitoring that can arise through the multiple “pings” marking a user’s location, challenges with accessing the limited number of slots each day, and the user errors that individuals receive frequently if they haven’t updated their cell phones.<sup>128</sup> The app presumes that migrants have sufficient literacy levels to complete the forms alone and is further limited in that it is only available in English, Spanish, and Haitian Creole, which means that folks who only speak and read a language like Mandarin, Russian, Quechua, K’i’che’, or Mayan cannot use the app. Furthermore, the photo capturing components of the app are reported to have issues recognizing darker-skinned people, which discriminates against Black migrants from places like Haiti and African countries whose biometrics the technology may not properly read.<sup>129</sup> While it is too early to tell if the Movilidad Segura website and system will have similar problems, it is important to recognize the ways these issues and challenges, and, in general, the interstate collaborations that make them possible, are a part of the regional system of making migration pathways more challenging and long.

In total, we see this new phase of foreign policy and interstate collaboration as exemplifying the development of a regional migration management system. While immigration laws remain national constructs, migration and immigration are experienced as transnational phenomena. States have begun to adapt to this transnationality by deploying soft-law, or less binding, mechanisms of agreements, partnerships, and interstate collaborations to manage migration flows. The explicit message warranting these joint activities is that states must collaborate to address humanitarian issues and the safety of the journey. As the historic record reveals, interstate collaborations often make human migration more challenging, illicit, and dangerous. It is still too early to tell if this current wave of foreign policy collaborations to create a regional migration

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<https://slate.com/news-and-politics/2023/05/bidens-asylum-app-cbp-one-broken.html>  
[<https://perma.cc/VX43-M6HK>].

<sup>127</sup> *Id.*

<sup>128</sup> Kate Morrissey, ‘System Error’: As Smartphone App Becomes Only Way to Request Asylum, It Locks out Many Migrants, SAN DIEGO UNION-TRIB. (May 11, 2023, 9:45 PM), <https://www.sandiegouniontribune.com/news/immigration/story/2023-05-11/cbp-one-asylum-error> [<https://perma.cc/B5NB-PRER>].

<sup>129</sup> See Robles, *supra* note 126.

management system will also push people into more perilous and illicit pathways. We will remain attentive to the policy changes that emerge with this new wave of foreign policy collaboration to manage migration, but we anticipate more of the same—making it harder for people to get to the places where they hope to seek safe residence.

### III. CONCLUSION

In this Essay, we have engaged two rhetorical methodologies—Critical Legal Rhetoric and Rhetorical Historiography—to demonstrate the buildup of foreign policy collaborations in the Americas as a mode of regional migration management. We worked historically through key migration moments since the 1990s, demonstrating how the United States increasingly involved partners from southern countries in the Western Hemisphere to accomplish its immigration aspirations and goals. The outcome of these collaborations, we have suggested, is the creation of a regional system of migration management. To conclude, we contemplate what this regional migration management system means for the ways we theorize migration and nation-state borders, and the experiences of people on the move throughout the Americas.

First, a regional migration management system built through foreign policy and interstate collaborations changes the ways we need to theorize what borders between nation-states look like, and how they are experienced. Scholars have theorized nation-state borders in the Western Hemisphere as arterial<sup>130</sup> in the way they function more as veins of entrance and stoppage throughout the region. Others have pointed to the vertical nature of borders,<sup>131</sup> in that a nation-state's border extends into other states' territories. We build on these frameworks to suggest that the US border structure is also variegated in function through the various foreign policy collaborations we analyzed here. The collaborations enable different pathways, entrances, and exits. They also create stairs that lead to nowhere, thresholds that if you pass through, you may never return, and doors that, if opened, mean almost certain stoppage or expulsion. In explicit terms, nation-states' sovereign legal structures remain intact. Yet, their influence and force are ever more prominently felt outside of the

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<sup>130</sup> Wendy Vogt, *The Arterial Border: Negotiating Economies of Risk and Violence in Mexico's Security Regime*, 3 INT'L J. MIGRATION & BORDER STUD. 192, 193–94 (2017).

<sup>131</sup> See Christine Kovic & Patty Kelly, *Migrant Bodies as Targets of Security Policies: Central Americans Crossing Mexico's Vertical Border*, 41 DIALECTICAL ANTHROPOLOGY 1 (2017).

nation-state territory. Countries routinely make rhetorical demonstrations of their sovereign right and independence. As political theorist Wendy Brown argues, this is a performative enactment of sovereign power in which all countries participate, maintaining the political theater of autonomy and internal control without external influence.<sup>132</sup> In practice, state inner workings are often enmeshed and involved.

An implication of our analysis is that foreign policy collaborations remake the region's sense of interiority and exteriority. Policies and programs implemented in Mexico, Guatemala, or Colombia are often more about the national desires of the United States than the countries in which they are implemented. Countries in the region implicitly function much like an official regional body such as the European Union in their collaborative actions. Yet, because there is no formal union or association, most of the collaborative energies happen through informal, soft-law processes, arrangements, and relationships that are often scantily or obscurely visible to relevant publics. The countries use each other as proxy agents and administrations of their proper governments while the rhetoric of sovereignty and independence maintains the theater of being separate actors.

It would be too simple, however, to say that the regional field of power is mutual and equal. The collaboration may involve many actors of the region, but the political and economic asymmetries of power between the actor states means that some states have more influence and power in dictating the terms of foreign policy collaborations. While Mexico and Central American countries have influence in shaping the terms of the policy arrangements, they are primarily answerable to the needs, desires, and even whims of the hegemonic United States. To shift a very popular neoliberal metaphor for economics in the 1980s, it can be helpful to think of the relation of power as one that trickles down—from north moving southward, where the ratio of influence and power diminishes the farther south you go.<sup>133</sup> In this trickle-down system of power and influence, Mexico and other regional states increasingly turn into buffer states<sup>134</sup> for US political and economic interests. The original conceptualization of buffer states was meant to refer to the state or region between two or more large state/regional powers that serve as cushions to maintain peace and

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<sup>132</sup> WENDY BROWN, *WALLED STATES, WANING SOVEREIGNTY* 9–10 (2010).

<sup>133</sup> See RALPH CINTRON, *DEMOCRACY AS FETISH* 39–40 (2020).

<sup>134</sup> See generally EDWARD N. LUTTWAK, *THE GRAND STRATEGY OF THE ROMAN EMPIRE: FROM THE FIRST CENTURY CE TO THE THIRD* (2016).

security. In the current context, Mexico and countries in Central and South America buffer the ills that migrants are discursively figured to bring, and consequently, the states themselves function as yet another form of stoppage.

In the buffer position, these countries also function as refugee camps and administrators for those seeking entrance to the US state, which is a second implication of our analysis of this regional migration management system. Political theorist Giorgio Agamben's writing on camps as zones of exception is quite helpful to understanding what it means for countries in the Americas to function as camps.<sup>135</sup> According to Agamben, camps are the places where "everything is possible."<sup>136</sup> He explains, "Insofar as its inhabitants were stripped of every political status and wholly reduced to bare life, the camp was . . . the most absolute biopolitical space ever to have been realized, in which power confronts nothing but pure life, without mediation."<sup>137</sup> Camps are spaces beyond the constraints of law and politics, which means that when individuals come face-to-face with institutional power in these spaces they are, quite literally, places where "pure life" faces pure "power."<sup>138</sup> Legal scholar Sherene Razack extends Agamben's theorizing to argue that camps are "the places where the rules of the world cease to exist." As she explains, "Today's empire is most distinguished by the proliferation of camps and by the culture of exception that underpins the eviction of increasing numbers of people from community."<sup>139</sup> "All such spaces are distinguished by a legally authorized suspension of law and the creation of communities of people without 'the right to have rights.'"<sup>140</sup> In the current context, we suggest that entire countries and regions, through foreign policy collaborations, have become camps that buffer the United States from the ills with which migrant communities are associated.

In addition to spatially operating as camps, these foreign partners also do the work of administering US immigration and refugee programs and policy. As this Essay demonstrated, this is not a new role for partnering countries. The information-gathering, tracking, detention, and

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<sup>135</sup> See generally GIORGIO AGAMBEN, *HOMO SACER: SOVEREIGN POWER AND BARE LIFE* (Werner Hamacher & David E. Wellbery eds., Daniel Heller-Roazen trans., 1998).

<sup>136</sup> *Id.* at 170.

<sup>137</sup> *Id.* at 171.

<sup>138</sup> *Id.*

<sup>139</sup> SHERENE H. RAZACK, *CASTING OUT: THE EVICTION OF MUSLIMS FROM WESTERN LAW AND POLITICS* 7 (2008).

<sup>140</sup> *Id.*

deportations measures that were put in place as early as the 1980s have only continued and amplified through the contemporary moment. Working in collaboration with the United States, governmental officials, police, nongovernmental agencies, and even those without official capacity, such as smugglers, extortionists, kidnappers, and cartel members, work in consort. These actors do the work of stoppage and prevention, making it more challenging for migrants to reach a place where they might apply for asylum or enter the United States in a way that has not already precluded them from regular, legal options because of the paths they have taken. While the United States has its own prevention strategies, such as placing detention centers in remote locations or forcing migrant foot trafficking through arduous desert mountain pathways, it also relies on its regional partners to do the work of prevention. That all of this happens within the context of a buffer state that operates like a camp beyond the bounds of law and politics means that prevention “by all means necessary” goes largely unnoticed in the public eye. Foreign policy collaborations create buffers and engage racialized projects of stoppage and prevention all in the name of making it more challenging, dangerous, and expensive for people to keep moving.