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# Arbitrary Detention of Mexican Citizens by Mexican Immigration Authorities

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## Abstract

On 3 September 2015, Mexican immigration authorities detained four Indigenous Tzeltal Mexicans who were travelling by bus to the northern state of Sonora. Despite identifying themselves as Mexican citizens, the authorities considered their documents false, and they were detained for nine days until their identities were certified. The Mexican State took four years to acknowledge publicly and apologise for this arbitrary detention. Similarly, in 2017, a 39-year-old man born in Oaxaca, living in the streets of Puebla after being deported by the United States Government, was detained for being ‘identified’ as a Salvadorian citizen by Mexican authorities. However, it would be a mistake to consider these cases an exception or anomaly in the Mexican Transit Control Regime. Drawing on statistical and archival information from 2010 to 2020, as well as semi-structured interviews conducted in 2021, in this article, we examine the arbitrary detention of Mexican citizens by Mexican immigration authorities. We highlight the multiple rights violated, question how these detentions have been framed in the official discourse and examine the outcome of these detentions. Our analysis sheds light on the racialisation of migration control in Mexico.

**Keywords:** Mexico; migration; detention; racialisation; citizens.

## Introduction<sup>1</sup>

On 3 September 2015, Mexican immigration authorities detained four Mexicans, Indigenous Tzeltal people, who were travelling by bus to the northern state of Sonora. Despite identifying themselves as Mexican citizens, the authorities considered that they ‘looked like migrants’ (Flores 2019) and that their documents were false, which led to them being detained for nine days until their identities were certified (Díaz Prieto 2016). It took the Mexican State four years to publicly acknowledge and apologise for this arbitrary detention. At the apology ceremony, the Director of the National Migration Institute (*Instituto Nacional de Migración* [INM]), Francisco Garduño, shamelessly declared: ‘the reason for their detention was their phenotype, poor understanding of Spanish, and illiteracy’ (Flores 2019). However, it would be a mistake to consider this case an exception or anomaly in Mexico’s migration control, but rather it must be understood as a testimony to the exclusionary and racialised nature of migration control in the country and how it affects Mexicans (Duarte et al. 2020). In fact, it was this underlying exclusion that led the *Suprema Corte de Justicia de la Nación* (Supreme Court of Justice) (2022: 1) to declare, in May 2022, that internal immigration verifications were unconstitutional ‘for being contrary to the rights of free circulation and transit within the national territory, as well as to the rights of equality and non-discrimination, because they are over-inclusive by not distinguishing between nationals and foreigners, in addition to generating differentiated impacts on Indigenous and Afro-Mexican communities’. Despite this groundbreaking ruling, which promises to fundamentally change the management of



migration control in Mexico, it is still important to examine these practices considering the increasingly restrictive migration control in the country.

In this article, we examine the arbitrary detention of Mexican citizens by Mexican immigration authorities—that is, the exclusion and criminalisation of citizens through border practices. In Mexico, as of 2020, the total population in Indigenous households was 11,800,247 people, and 2,576,213 people self-identified as Afro-Mexican or Afro-descendant, equivalent to 9.4% and 2% of the country's total population, respectively (INEGI 2021). Due to the *sui generis* Mexican racism fostered by *mestizaje* (racial mixing) ideology, this population, as well as others who, although not ascribed to these two groups, diverge from the imaginary of Mexicanness,<sup>2</sup> is systematically treated with suspicion and criminalised by border control agents, further deepening the systemic exclusion they experience on a daily basis (Duarte et al. 2020). We address the 'racial project' of Mexico's migration enforcement practices, in which 'immigration controls, laws, bureaucracy, and government technologies ... promote racial hierarchies around citizenship and belonging' (Armenta 2017: 83). We underscore how through this racialisation of migration control, Mexican citizens who are perceived to look like foreign nationals are subjected to the same coercive tools.

Border criminology scholars have examined the interactions between bordering, criminalisation and race, both conceptually and in practice (Van der Leun and Van der Woude 2011). 'Borders and their control across Western liberal democracies', Alpa Parmar (2020b: 175) wrote, 'are like mirrors that represent, reflect and, at times, deflect the reality of exclusionary attitudes and the racialized anxieties they foment'. In this article, we argue that Mexico's border practices maintain and reproduce longstanding racial and class discrimination against historically marginalised populations in Mexico. Thus, we examine migration control as a process that amplifies the exclusion and criminalisation of citizens who do not conform to the imagined 'we' of the nation and, thus, add to the growing border criminology literature on the politics and policing of belonging (Aliverti 2020; Parmar 2020a; Weber 2019).

We start our analysis with an explanation of Mexico's internal bordering, and following critical border scholars, we underscore that these border-related tasks conducted outside the designated places for that (e.g., border crossings and airports) reveal the disarticulation of the physical border from the border control apparatus (Amilhat Szary and Giraut 2015). We identify how these control practices are highly discretionary and governed by stereotypes of Mexicanness. In the section 'Mexico Mestizo: What Does a Mexican Look Like?', we reflect on how the myth of mestizo as a national ideology fosters a homogenised 'us' that is ultimately an ideology of oppression for communities outside this imaginary. After a section setting out some methodological considerations, in the last two sections, we discuss our results. First, we examine the statistical information of people apprehended and registered as Mexicans from 2010 to 2020, contextualise it in light of Mexican laws and regulations, and situate it in the context of aggressive migration control in the country. Second, we present three testimonies of Mexican citizens detained by immigration authorities to highlight the scenarios and situations, as well as to show the arbitrariness in which such detentions are carried out.

Our analysis sheds light on the effects of Mexico's aggressive migration containment policy on the free movement of the Mexican population. We explore how when race and social class intersect, the officers' approach is one of suspicion, and therefore, they assume that the documentation provided is false or stolen, leading to the detention of this population. We also identify practices that contravene immigration laws in violation of the rights of this population, such as prolonged detention periods. We highlight the lack of reparation mechanisms and guarantees of non-repetition. We underline the existence of a 'racial project' in Mexican migration enforcement practices that reproduces Mexico's politics of belonging and its racial, social and class foundations.

### **Mexico's Internal Bordering**

Mexico's migration control apparatus for transit migration control works mostly through internal bordering. According to the provisions of Article 97 of *Ley de Migración* (Migration Law), enacted in 2011, in addition to the places destined for the international transit of persons, the INM may carry out migration controls in the national territory to verify the migration status of foreigners (Diario Oficial de la Federación 2011). In practice, these controls take the form of migration checkpoints that work as border control layers aiming to limit the possibility of migrants travelling north. It should be noted that these internal controls are key to the enforcement strategy of what has been termed the 'Mexican Transit Control Regime' (Campos-Delgado 2021a) where, in response to migration and border management alliances forged with the United States (US), Mexico's immigration control apparatus and border practices are focused on intercepting, detaining and deterring migrants in transit to the US.

Migration checkpoints are non-permanent INM inspection posts for migration verification within the territory. While the INM sporadically carries out immigration verification operations in the form of raids in urban settings, these checkpoints are the main hallmark of the control regime and are mostly located in transit zones with the objective of detecting and controlling populations on the move (Díaz Prieto 2016). They are coordinated by the INM but take place in coordination with other government security organisations, usually the Federal Police (recently renamed as *Servicio de Protección Federal*) and, since its creation, the National Guard (or *Guardia Nacional*), as well as with the participation of local (i.e., municipal and state) police and military forces.

Migration checkpoints are typically enforced in two different settings: railways and highways. Therefore, they seek to target two different groups of migrants: (1) migrants travelling atop cargo trains, generally alone or with someone who has done the journey before; and (2) migrants travelling by bus or other private transportation, generally supported by the services of the border crossing industry. Nevertheless, as we know from previous studies (Angulo-Pasel 2018; Brigden 2015; Vogt 2016), this distinction is not so clear-cut. Currently, migrants' experiences—regardless of whether or not they have financial support from their families—involve diverse strategies of mobility and immobility, journeys within journeys and longer waiting periods and, therefore, a constant recalibration of their plans (Brigden and Mainwaring 2016; Red de Documentación de las Organizaciones Defensoras de Migrantes 2020).

According to the INM, the aim of migration checkpoints on the railways is 'to verify the legal stay of foreigners who use this means of transport to move to any point of Mexico or to a neighbouring nation' (FoI-INM-01 2012). This last reference highlights Mexico's role in controlling transit migration, as it is well known that the railway is a means of transport for thousands of irregular migrants travelling through the country (Casillas 2008; Ruiz Marujo 2003; Sladkova 2013). During this check, the security staff are deployed in the vicinity of the tracks and request the train driver to stop the train. The security forces are positioned depending on the length of the train and the place where the train is to stop. In practice, this type of checking is the cause of many injuries and lacerations suffered by migrants. The migrant trail is full of violence but also, as Wendy Vogt (2016) argues, forms of reciprocity. The ride on the train creates a spontaneous system of organisation where migrants help each other through the informal allocation of roles. For example, the migrants situated in the train's first carriages are in charge of being alert to any immigration inspection on the way and are to then warn the others. So, when there is a migration inspection, migrants usually jump off the train while it is still moving, with the risk of being seriously injured when falling.

In contrast to the checkpoints on railways that allude directly to Mexico's regime of transit control, the INM stated that the aim of the migration checkpoints implemented on highways and roads is to 'verify the execution of the legal general migratory dispositions' (FoI-INM-01 2012). For the development of these checks, an officer stops a vehicle and asks for the passengers' documentation. While this can apply to personal vehicles, in general, the target of this type of operation is paid private transportation (e.g., taxis, buses and commercial trucks).

These controls are a breeding ground for discriminatory practices. While officers have argued that they recognise irregular migrants, among other characteristics, by their nervous demeanours (Campos-Delgado 2020: 76), in fact, factors such as skin colour, physical features, clothing, appearance and accents are preponderant in decisions to detain them (Comisión Nacional de los Derechos Humanos [CNDH] 2006: 7). It has even been documented how agents have argued that smell is a preponderant consideration in their decision (Rojas 2001). Officers decide whom to ask for documentation based on what they call 'intuition' (Campos-Delgado 2020), the officer's 'gut feelings' (Salter 2004: 3776). However, as expected, and similar to the US case where immigration and other law enforcement agencies use 'Mexican appearance' as a factor in immigration checkpoints or other traffic stops (Chacón and Coutin 2018; Smith et al. 2021), this so-called intuition is shaped by biased expectations according to prototypical images of Mexicanness, resulting in agents requiring Mexican citizens to prove their citizenship because they consider that they 'do not look Mexican'.

### **Mexico Mestizo: What Does a Mexican Look Like?**

Mexico has a problematic historical relationship with its racial diversity. The caste system developed during the Spanish colony in the fifteenth century that appealed to 'blood mixtures' (e.g., *criollos*, *mestizos*, *mulatos*, *moriscos*, *zambo*, *cholo*, *lobo* and *saltapatrás*) is very present in the collective imagination of the origins of the nation and accounts for an inheritance of social stratification and racial exclusion (Vázquez Parra, Rivas and Navarrete 2017). At the dawn of the 1920s, during the so-called period of Mexican nationalism, the concept of the *Raza de Bronce* (Bronze Race) promoted the ideal of national cultural homogenisation by appealing to a *mestizaje*. While in its counterhegemonic dimension, *mestizaje* could be understood 'as a liberating force that breaks open colonial and neocolonial categories of ethnicity and race' (Mallon 1996: 171), in Mexico, as elsewhere in Latin America (Miller 2004), the ideology of *mestizaje* is 'exclusionary and fundamentally racist' (Wade 2003:

227). It became a nation-building ideology used to create a homogenised ‘us’ built on the social and racial promise of equality, but with whiteness as a core structuring motif (Moreno Figueroa 2010: 388) and, therefore, constituted an ideology of oppression towards the country’s Indigenous and Afro-descendant communities.

The notion of *mestizaje* is central in discussions about political identity and citizenship. According to Florencia E Mallon (1996: 171), in the Latin American context, it is through the *mestizaje* that the newly formed nation stated its claim to authenticity by ‘creating an intermediate subject, and interpellating him/her as “the citizen”’. So, it is worth asking: how is this ‘Mexican citizen’ archetype constructed? What are the moral and ethical values that shape this archetype?

Mexico’s mestizo cultural nationalism forged the imaginary of a Mexicanity that exalts cultural traits of pre-Columbian civilisations while advocating for the assimilation and acculturation of Indigenous populations. Mexican *indigenismo* (indigenism) became an ambiguous movement of the vindication of a glorious past while seeking the ‘Mexicanisation’ (de la Peña 1950) of these populations and, ultimately, State-driven ‘assimilationist racism’ (Gall 2004). ‘The ideology of *mestizaje*’, Federico Navarrete Linares wrote (2022: 145), ‘defined a new form of whiteness that was more inclusive and more hegemonic than in the nineteenth century, embodied in a fully modern mestizo people, who defined their subjectivities according to their class consciousness and national identity, to which they added the decorative, but never defining, touch of the indigenous past’. In other words, the mestizo cultural nationalism created what Stutzman (1981: 49) called an ‘all-inclusive ideology of exclusion’, where *mestizaje* is understood as a process by which Indigenous and Afro-descendant populations are gradually eliminated, a ‘*blanqueamiento*’ (whitening).

The imaginary of the ‘raceless *mestizaje*’, what Olivia Gall (2013) defined as ‘mestizophilia’, created a sui generis Mexican racism. The particularity of this sui generis Mexican racism is that, as Mónica Moreno Figueroa (2010: 389) underscored, ‘racist practices have been discursively separated from the particular understandings of “race” from which they have emanated, acquiring dynamics of their own’, creating ‘racist logics’ that are translated and shape everyday life, making racism a normalised feature. Further, it is noteworthy that the paradox of Mexican racism in which, as happens in other Latin American countries shaped through the *mestizaje* ideology, ‘pervasive and very visible discriminatory practices coexist with the denial of racism’ (De La Cadena 2001: 16).

An example of these racist logics in everyday life is the reference to ‘race improvement’ in day-to-day conversations. This ‘improvement’ refers to having ‘good looking’ children with fairer skin colours, an aspiration that is related to the Westernised politics of beauty and the construction of aesthetic ideals (Deliovsky 2008; Tipa 2022) but also speaks about the widespread awareness among the population of Mexico’s long-established pigmentocracy (Telles, Flores and Urrea-Giraldo 2015). Hence, as Hugo Nutini (1997: 231) highlighted, ‘the juggling of cultural and phenotypic characteristics and perceptions is an inseparable aspect of the process of upward social mobility that has characterized Mexico for centuries’. In other words, the neo-Hispanic ‘colourism’ (Hunter 2007), as well as the historical quest for and valuing of *blanquitud* embedded in the *mestizaje* ideology, are fundamental to understanding contemporary Mexican society and the mundane politics and practices of everyday life.

While the strategies of racial differentiation permeate the whole of society, the country’s Indigenous and Afro-descendant communities are undoubtedly the most affected. According to the National Council to Prevent Discrimination (*Consejo Nacional para Prevenir la Discriminación*) (2011: 1), many ‘people in our country—including nearly 7 million [I]ndigenous people and an estimated 450,000 Afro-Mexicans—are exposed to mistreatment, marginalisation, and rejection because of their physical appearance, in relation to their skin colour or ethnic origin’. The communities have been historically marginalised and deprived of education, without access to the right to health care, largely impoverished and highly criminalised<sup>3</sup> (Hernández Castillo 2010; Segato 2007). Further, while Indigenous populations have historically suffered from marginalisation and exclusion, Afro-Mexican communities have also been invisible to the point where it was only in August 2019 that Article 2 of the *Constitution of Mexico* was reformed to officially recognise their rights (Diario Oficial de la Federación 1917). Indigenous and Afro-descendant communities face a double exclusion. Through the ‘imaginary ethnicization of the nation’ (Giménez 2009: 83) or the fabrication of the imaginary of a homogenous Mexican *mestizo/a*, they are perceived as outsiders. While, at the same time, *mestizaje* is used as an ideological resource to hide the reality of the discriminatory practices they experience (Moreno Figueroa and Saldívar Tanaka 2016; Navarrete Linares 2022).

## Methodology

The data examined in the section ‘Arbitrary Detention’ were obtained through freedom of information (FoI) requests to the INM for statistical information, from 2010 to 2020, about people who identified themselves as Mexican during their registration at the detention facility, as well as information regarding the procedures implemented by the INM in case of establishing that

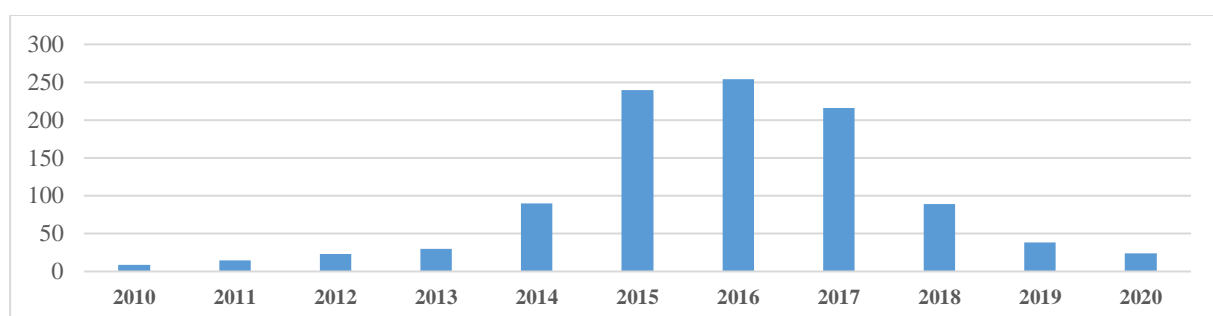
the nationality of a detainee is Mexican. The INM responded to the requests without delay within the time frame established by law. Only in two of the requests was it necessary to implement a *recurso de revision* (appeal for review): the request for statistical information on detainees self-identified as Mexican nationals from 2010 to 2015 and 2016 to 2020, as the INM's first response did not provide the requested information. During the analysis of the statistical information, inconsistencies were detected in the capture and systematisation of data, making it impossible to carry out an analysis of all the factors during the period studied. For example, the lack of registration of the schooling and marital status of detainees from 2018 to 2020. This, although beyond the scope of this article, sheds light on the inconsistencies and fluctuations in migration management after changes in the federal government. The responses received are originally in Spanish and the quotes presented in this document were translated by the authors into English. Information obtained through FoI requests is distinguished from information disseminated by the INM, such as INM press releases, by referring to the former as FoI-INM and the latter as INM.

The testimonies presented in the section 'Bordering Testimonies' are the result of archival research and onsite monitoring in INM detention facilities in Puebla and Tlaxcala<sup>4</sup> (see Yrizar Barbosa et al. 2022). The archival information refers to migratory resolutions obtained through FoI requests made to the INM between 2017 and 2018. About 1,126 individual cases or migratory resolutions were received, of which 3% corresponded with people who identified themselves as Mexican. All this documentation was reviewed and organised into a database with a limited number of key socio-demographic, migratory and legal variables from a human rights perspective (i.e., considering levels of vulnerability, e.g., whether the person was a victim of a crime, a pregnant woman or under 18 years old while travelling alone). By analysing the key variables and characteristics and then examining each individual case file, we were able to identify sections that included the oral *testimonios y declaraciones* (testimonies and statements) provided by the people detained as recorded and transcribed by INM officials.

As for the onsite monitoring in detention centres, the information used in this article is drawn from six visits carried out between 11 August and 15 September 2021 at the INM facilities in Puebla and Tlaxcala (three visits in each place). Access was obtained through a request to INM headquarters in Mexico City and was formalised through an access letter issued by the INM. During these visits, semi-structured interviews were conducted with detainees. Participation was voluntary, informed consent was obtained (oral or written, with only a mark or initials if desired by the participant), and interviews were not audio-recorded. Because these interviews were conducted during the COVID-19 pandemic, the INM required particular sanitary measures: no more than three people allowed on each visit, mandatory vaccinations, wearing masks at all times, avoiding physical contact and frequent use of liquid alcohol as hand sanitiser.

## Arbitrary Detention

The migration containment policy implemented in Mexico (Campos-Delgado 2021a; Casillas 2007) has affected the free movement of the Mexican population. It is no coincidence that the period with the highest level of detentions of people who self-identified as Mexican nationals was between 2014 and 2017, during the implementation of the *Programa Frontera Sur* (see Figure 1). This plan was the Mexican authorities' response to pressure from the US over the so-called crisis of unaccompanied minors at the US southern border (Castañeda 2015). Presented with a political narrative of protection, it ramped up migration controls within the country, leading to an increase in the number of migrants apprehended, detained and expelled. It also generated 'less visible consequences' such as the proliferation of assaults and extortion of migrants and a general atmosphere of persecution towards the migrant population (Villafuerte Solís and García Aguilar 2017).



**Figure 1. Detention of self-identified Mexicans (2010 to 2020)**

Source: Created by the authors using information from the National Migration Institute (obtained through freedom of information requests FoI-INM-02 2021; FoI-INM-03 2021)

Even though Article 11 of the *Constitution of Mexico* (Diario Oficial de la Federación 1917) guarantees the right to free transit, when confronted with a migration checkpoint, it is not enough for a person to verbally declare their Mexican nationality; they must carry identity documents, and, in particular, these must be reliable proof for the officer on duty. For example, in the case of the four Indigenous Mexican Tzeltal people who travelled by bus to the northern state of Sonora in 2015 (see ‘Introduction’), although they presented identity documents, these were discredited as false because ‘they have a physical appearance that matches that of a foreigner in the imaginary of the responsible authorities’ (Suprema Corte de Justicia de la Nación 2019: 23). If the officer considers the documents false, the person is confronted with an informal interrogation, which could consist of singing a few verses of the national anthem to giving references for places and distances. The INM explained this process with the following statement:

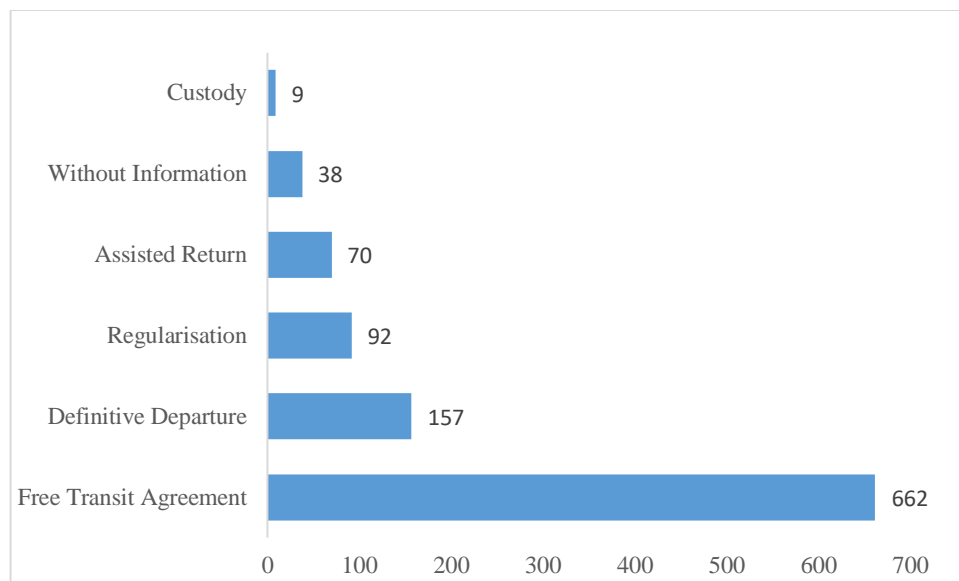
If at the time of the immigration proceeding the person does not provide reliable proof of Mexican nationality, they are transferred to the immigration facilities, where the administrative procedure is initiated, in order for them to provide evidence and statements that they deem appropriate. (FoI-INM-04 2021)

The notion of ‘reliable proof’ referred to by the INM, but also present in worldwide migration management policies, is very elusive and embodies an officer’s discretionary power because it depends to a large extent on the officer’s perception and preconception when assessing such proof. In fact, Mexico’s CNDH (2015: 57) found that ‘it is a common practice that in immigration inspection, public servants make a subjective assessment of the persons without taking into consideration the documents they carry to prove their statements, assuming that in all cases they are false or stolen documents’. As Eule et al. (2018: 64) wrote, ‘the discretionary practices of street-level officials do not necessarily follow a “national” policy logic: rather, they are influenced by what is practically possible, feasible, comfortable or in line with the values and beliefs of enforcement agents’. In this sense, when assessing proof of identity, Mexican immigration officials rely on their own preconceived images of Mexicanness and often ignore the law. Although according to Article 3 of the *Ley de Nacionalidad (Nationality Law)* (Diario Oficial de la Federación 1998), birth certificates and passports are documents that accredit Mexican nationality, officials request the voter’s credentials (known as INE for the institution in charge of the electoral process), a document not included in the law but which, unlike the birth certificate, does contain a photograph of the individual.

In addition to the discriminatory practice of requesting documentation based on appearance, if the officer on duty is not convinced of the validity of the documents, this population faces detention. Because checkpoints lack the equipment to connect to a central database and corroborate documentation, detainees are transferred to the nearest detention centre to initiate enquiries to support or refute the officer’s intuition. Between 2010 and 2020, Mexican authorities apprehended 1,028 people who identified themselves as Mexican nationals (65% male and 35% female). In conformance with the regime’s practice of ‘border layering’, 57% of these apprehensions took place in the southern region of the country, with a large proportion of these apprehensions (588) in the states of Chiapas, Veracruz and Tabasco (FoI-INM-02 2021; FoI-INM-03, 2021).

The average detention time for this population was one week, but 55 cases exceeded the detention time stipulated in the Migration Law (FoI-INM-02 2021; FoI-INM-03, 2021). This resonates with findings that highlight ‘the delay in the proceedings to authenticate the nationality of the Mexicans in their custody’ (CNDH 2015: 57). During the detention, they may be coerced or tortured into signing documents (CNDH 2019); or even admitting to having committed a crime, as was the case of a 26-year-old man from Chiapas who, while travelling by bus to Veracruz, was stopped at a checkpoint on the highway in May 2020 and held for 53 hours in detention and who denounced that he was psychologically tortured by elements of the National Guard to make him declare that he was a migrant smuggler (Mandujano 2022). Detained individuals have to endure appalling conditions, including the deplorable and inadequate infrastructure in which they are held, as well as the lack of basic information and communication with their families or relatives outside these places (Campos-Delgado 2021a; Morales 2021; Yrizar Barbosa et al. 2022).

According to the INM, ‘when it is proven that they do indeed hold Mexican nationality, in accordance with Articles 30 of the Political Constitution of the United Mexican States [referring to people who are Mexicans by birth and by naturalisation] and 3 of the *Nationality Law*,<sup>5</sup> their immediate release from the migration facilities is agreed, thus concluding the process’ (FoI-INM-05 2021). So, how did the process end for those 1,028 self-identified Mexicans? Only 22% of the cases ended in expulsion, either applied by the authorities (i.e., Assisted Return) or by the self-deportation scheme (i.e., Definitive Departure) (see Figure 2). The use of a ‘Free Transit Agreement’ stands out in 64% of the cases, a regulatory figure that, although not present in the Migration Law, is recurrently used in a discretionary manner in the country’s migration management (Campos-Delgado 2021b), which suggests that these are indeed Mexicans who managed to accredit their nationality and were released. It is also worth noting that of the 92 cases of release through regularisation, 87 were minors. It also highlights the case of the 38 detainees for whom there is no information on the process of their release. This ‘blank space’ in their release record is critical, as it indicates a lack of control over a population that, at the time of their apprehension, is officially under the care of the INM.



**Figure 2. Migratory resolutions for self-identified Mexicans (2010 to 2020)**

Source: Created by the authors using information from the National Migration Institute (obtained through freedom of information requests FoI-INM-02 2021; FoI-INM-03 2021)

The next questions would be: How does the INM repair the damage of the violation of the constitutional rights of the Mexicans who were wrongly detained? How are guarantees of non-repetition implemented? For the four Indigenous Mexican Tzeltal illegally detained, after the involvement of organised civil society associations, the INM:

registered the Mexicans in question in the National Register of Victims of the Executive Commission for Attention to Victims ([*Comisión Ejecutiva de Atención a Víctimas*] CEAV), subsequently, the CEAV granted comprehensive reparation for the damage in favour of the victims. Derived from the above in accordance with the provisions of Article 81 of the Rules of Procedure of the General Victims Act [*Reglamento de la Ley General de Víctimas*], through resources from the Fund for Aid, Assistance, and Comprehensive Reparation [*Fondo de Ayuda, Asistencia y Reparación Integral*] on 1 April 2019. (FoI-INM-06 2021)

During the public apology provided in Spanish and translated into Tzeltal, the INM's (2019) director stated, 'as part of the comprehensive reparation to which the victims are entitled, a measure of non-repetition was implemented, aimed at prevention through awareness-raising and training of public servants working for the INM on human rights, legality and non-discrimination'. However, although training and awareness-raising are necessary elements to avoid discriminatory practices in migration control in the medium and long term, the reality is that the INM has not protocols or direct redress mechanisms for the population affected by these measures (FoI-INM-05 2021). Redress, when it happens, is, like most things in Mexico's migration management, discretionary. For example, it can come in the form of MXN2,000, as happened with the aforementioned case of the 26-year-old man from Chiapas (Mandujano 2022).

## Bordering Testimonies

In this section, we reconstruct three testimonies of Mexican nationals detained by immigration authorities. We present them as counter-narratives (Patel 2012; Tabar 2007) that draw attention to the stories rendered invisible by official narratives, or official silences, and portray the situations and challenges that this population face. These testimonies elucidate the scenarios, situations, arbitrariness, abuse of power and, in general, web of exclusion, racism and classism that underlies the Mexican bordering practices.

### *Detained While in Transit*

In September 2021, a 62-year-old man from San Luis Potosí was detained in the INM Puebla facilities, more specifically in the temporary accommodation established in the parking lot of the building, which was overcrowded and in unsanitary conditions. With only about six years of formal education in Mexico, his story also reflects the reality of exclusion experienced by

thousands of Mexicans deported from the US (París Pombo 2012). After living 27 years in the US, and despite being married to a woman from Puerto Rico and having a US-born son in his twenties, he was deported in 2017 after being stopped by police in a southern US state for driving without a licence. Once in Mexico, he decided to travel on a freight train to the southern state of Yucatán to work on construction. Because he had no money, he decided to travel on the cargo train (north–south route); however, he was assaulted around Coatzacoalcos, Veracruz, and lost all his identity documents. Yet, thanks to the help of a civil society–led migrant shelter, he was able to print his CURP (Personal ID Code Number or Unique Population Registry Code [*Clave Única de Registro de Población*], an official document without photograph but helpful to identify the place of birth). After this violent incident, he decided to suspend his trip to Yucatán and return to his home state using freight trains again as a means of transport (south–north route). It was in this transit, not far from Puebla, that he was intercepted by INM and National Guard agents. Although he told his story and showed his CURP proving his Mexican nationality, the authorities did not believe him and destroyed his document. In recounting the story of his detention, he acutely summarised the key point of this process: *‘parece que es racismo’* (it seems like racism). He also witnessed the extreme level of violence during these operations, as, upon realising that a Jamaican migrant was escaping, he heard one National Guard agent say to another, ‘shoot him!’.

### ***‘I’m not Salvadorean’***

In January 2017, a man born in Oaxaca was detained in the Puebla-Tlaxcala region. His case is one that reveals processes of exclusion and precariousness that are not alien to a large part of the Mexican population. Without any formal education, at the age of 9, following a ‘very difficult family situation’, he moved out of his family residence. He had lived in at least seven different cities in Mexico (Tapachula, Puerto Escondido, Veracruz, Tehuacán, Querétaro, Mexico City and Puebla). Like the previous testimony, he had international migratory experience, particularly in California, Nevada, Texas and New York. In 2010, he was detained when he crossed the US border and was deported to Mexico. He did not have Mexican identification (ID), was completely lacking a support network and had no family ties; he did not know where his parents resided, and his brother was killed by organised crime in Mexico. As in the case of migrants who are deported and whose links and support networks are non-existent, broken or weakened, he entered a spiral of exclusion (Odgers Ortiz and Campos-Delgado 2014). According to the information provided by the INM, he declared ‘being a drug addict, living in the streets asking for money with other people from Central America’. He was initially detained by local security authorities in Puebla and then transferred to INM facilities. Although he self-identified as Mexican, the agents did not believe him and identified him as Salvadoran, to which he affirmed, ‘I have never been to El Salvador’. After seven days in detention, he was released with a Free Transit Agreement, highlighting the discretionary use of this migratory resolution.

### ***Working in a Bar***

In October 2017, a 23-year-old woman from Guadalajara, Jalisco, was detained by immigration authorities following a raid at her workplace. She had studied up to *secundaria* (high school) and was a dancer at a nightclub attended mainly by men. The raid, she was later told, was directed at finding a Colombian man; however, during the raid, everyone became a suspect. She recounted that, upon arriving at the premises, the INM agents said: ‘people with ID on the one hand, people without it [ID] on the other’. At the precise moment of the raid, she was dancing, so she did not have her ID with her. Her arrest shows agents’ narrow perception of so-called Mexicanness and ignorance of the diversity of phenotypes and accents within Mexican territory. She identified herself as Mexican but was detained because she had to corroborate it and, above all, because her accent did not match the expected accent of the region where she worked: ‘I told them I was Mexican, but due to our accent [from Jalisco] and for not having an ID at that moment, they told me to follow them [the INM agents] and get into a truck’. Once detained, and after being able to ask for help from people at work, she was able to provide documentary proof (CURP and ID voting card), and in less than 24 hours, she was released. However, as in the previous testimony, the authorities’ error was not formally accepted, and the migratory resolution for her release was a Free Transit Agreement.

These testimonies expose how racial, ethnic and class biases are mobilised during immigration verification operations and how the paradigm of suspicion works in practice. They shed light on the systemic violence experienced by the population in the context of mobility in Mexico and unveil the high level of arbitrariness in migration enforcement. Mexican immigration authorities use racial and class profiling to ‘detect’ irregular migrants; in short, this means the translation of the infamous *‘delito de portación de rostro’*<sup>6</sup> into migration management.

Anyone who does not conform to what immigration officers consider a ‘Mexican’ is singled out as a suspect of being an irregular migrant in the country. Driven by a historically anchored colourism and disregarding the country’s racial, ethnic and cultural diversity, people with darker brown skin and Indigenous or Afro-descendant features are particularly suspicious to immigration officers. Hence, the use of the entire Mexican territory as a border zone to intercept migrants in transit, in addition to the direct and indirect effects on the vulnerability of the migrant population (Ruiz 2003), has opened up the possibility that

racialised populations continue to be excluded and punished by the ‘assimilationist racism’ (Gall 2004) represented by the ideology of *mestizaje*.

The key dilemma revealed by these testimonies, as well as the statistics we examined earlier, is the ease with which nonconformity with the prototypical imaginary of ‘Mexicanness’ translates into the revocation of the constitutional rights of any Mexican citizen. Further, their arbitrary detention is presented as a simple administrative process; there is a lack of reparation and reform to prevent these arbitrary acts from happening again. Instead, these violations are perceived as collateral damage for the migration control strategy.

## Conclusion

Mexico’s interior migration checkpoints violate the right to non-discrimination because they are based on prejudices about skin colour, clothing and speech. The fact that these controls are considered a valid and effective control strategy is indicative of the profound racialisation of migration control in the country. As the findings presented in this paper have shown, the ‘racial project’ of Mexico’s migration enforcement practices reinforces the hierarchies around belonging and citizenship; it is a project of ‘detection’ of the other, the ‘migrant other’, as well as the ‘Mexican other’.

Unsurprisingly, these deeply racialised bordering practices seem to have taken root among immigration authorities themselves as, according to accounts from Central migrants detained in the Tlaxcala’s detention centre, immigration officers and other law enforcement agents have told them that Mexicans have a ‘racial superiority over people from their countries’ and that they can, therefore, detain, treat and deport them whenever and however they want. This underlines that the internalisation of migration control, long discussed in the literature (Bigo 2001; Menjívar 2014), must be examined with an emphasis not only on how ‘b/ordering’ (Van Houtum and Van Naerssen 2002) strategies are internalised in the territory but also how the paradigms on which these strategies are based are internalised in the mindset of control bureaucracies.

The brutality of Mexico’s migration control is the result of a ‘racial project’ as well as the response to ‘neo-imperialist’ (Longo 2017) agreements that have in practice externalised US border control into Mexican territory. However, xenophobia and racialisation in migration control do not arise in a vacuum but are a social product (Aliverti 2020). If, as Alpa Parmar (2020b) argued, borders are mirrors, then Mexican borders portray the deep racialisation and class discrimination within Mexican society and the exclusion of citizens who do not conform to the imaginary of what a Mexican is and what a Mexican looks like. In Mexico, as in the rest of Latin America, the notion of race, as Rita Segato (2007: 145) sharply argued, differs from ‘the North American notion of race as a classificatory mechanism, but refers to race as a mark of dispossessed peoples’. For them, being detained in their own country by immigration authorities rubs salt into the wound of the systemic racism, marginalisation and social exclusion they have suffered throughout their lives. It is evidence of a country in which their ‘I’ does not fit the prototype of the nation’s ‘we’. Hence, our analysis has emphasised the invisibilised outcomes of the management of migration in Mexico, which resorts to ethnic and class stigmas to ‘detect’ migrants and ends up framing the apprehension and detention of Mexican nationals in their own country as collateral damage.

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<sup>2</sup> Similar to documented and researched cases in the US context, where US citizens, most of them of non-white descent, are ‘questioned about their citizenship and required to prove their belonging’ (Chacón and Coutin 2018: 159).

<sup>3</sup> The imaginary of the ‘raceless *mestizaje*’ has also contributed to the lack of information to examine in detail the criminalisation of these populations. ‘The racialisation of incarcerated persons’, Rita Segato (2007: 149) wrote, ‘is so naturalised that agencies and public bodies have not realised the need to name this fact and assign it categories that allow its measurability and its inscription in the discourse’.

<sup>4</sup> Under two parallel research projects: (1) ‘*Violaciones al derecho a la protección de la vida familiar de personas retornadas y transmigrantes en el estado de Puebla*’, approved by the Office of Research and Graduate Studies at Universidad Iberoamericana Puebla; and (2) ‘Mexico as Immigration Enforcer: Unintended Consequences to Migrant Family Life and New Diasporas in Mexico’, supported by a ConTex collaborative Research Grant (UT System and Conacyt).

<sup>5</sup> Article 3 of the *Nationality Law* establishes that any of the following are documents that accredit Mexican nationality: birth certificates, certificates of Mexican nationality, letters of naturalisation, passports, citizen identity cards (or *cédula de identidad ciudadana*) and consular registrations.

<sup>6</sup> This expression, translated as ‘the crime of having a suspicious face’, refers to the use of the ‘presumption of suspicion’ to carry out searches or arrests. It highlights how the ‘suspicion’ exerted by State agents operationalises class, ethnic and racial stereotypes and disproportionately affects the poor and the most vulnerable members of minority groups (Segato 2007; Reguillo 2008).

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