



## Asylum Claim and Regularization at the Mexican Southern Border: Legal Ethnography Based on Experiences of Foreign Women in Tapachula

Solicitud de refugio y regularización migratoria en la frontera sur de México: Etnografía jurídica a partir de experiencias de mujeres extranjeras en Tapachula

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### Abstract

In the last decade, Mexico's southern border has become increasingly controlled and militarized, cementing Mexico's role as a containment territory on the North American continent. In this context, the doctrine of "safe, orderly and regular migration" emerges, according to which migration is allowed - even promoted - as long as it is carried out in the appropriate manner, that is, safely, orderly and regularly. The opposite is presented as an undesirable phenomenon to eradicate. This dichotomous logic not only reproduces hierarchies of migrants but is also integrated into the regional consultative processes of the American continent, as well as in the elaboration of migration policies at the national level and bilateral cooperation programs. Through the analysis of semi-structured interviews, this contribution seeks to critically analyze how women asylum seekers and refugees in Tapachula (Chiapas, Mexico) experience the legal dichotomies of migration, in this case the migratory "regularity" and "irregularity". Specifically, it is intended, through legal ethnography, to understand the causes of their "irregular" migration, to analyze how the migratory status ("regularity" and "irregularity") has impacted the migratory experiences of these women, and understand how women in transit perceive and relate, directly or indirectly, to "regularity" and "irregularity".

**Keywords:** *Legal Ethnography, Irregular Migration; Asylum seekers; Refugees; Women.*

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### Resumen

En la última década, la frontera sur de México se ha vuelto cada vez más controlada y militarizada, consolidando el papel de México como territorio de contención en el continente norteamericano. En ese contexto emerge la doctrina de la “migración segura, ordenada y regular”, según la cual se permite – incluso promueve – la migración, siempre y cuando se realice de la manera adecuada, es decir, segura, ordenada y regularmente. Lo contrario se presenta como un fenómeno indeseable a erradicar. Esta lógica dicotómica no solamente re(produce) jerarquías de personas migrantes, sino que también se integra en los procesos consultivos regionales del continente americano, así como en la elaboración de políticas migratorias a nivel nacional y programas de cooperación bilaterales. A través del análisis de entrevistas semiestructuradas, esta contribución busca analizar de manera crítica, cómo mujeres solicitantes de asilo y refugiadas en Tapachula (Chiapas, México) experimentan las dicotomías jurídicas de la migración, en este caso la “regularidad” e “irregularidad” migratoria. De manera específica, se pretende, a través de la etnografía jurídica, entender las causas de su migración “irregular”, analizar cómo la condición migratoria (“regularidad” e “irregularidad”) ha impactado las experiencias migratorias de esas mujeres; y entender cómo las mujeres en tránsito perciben y se relacionan, directa o indirectamente, con la “regularidad” y la “irregularidad” migratoria.

**Palabras claves:** *Etnografía Jurídica; Migración Irregular; Solicitantes de Asilo; refugiadas; Mujeres*

## I. INTRODUCTION

This article focuses on the empirical part of the PhD research entitled *Legal construction of “migratory irregularity”: women in transit in Tapachula (Chiapas, Mexico)*,<sup>1</sup> which was presented at the 2023 Congress of the Latin American Studies Association.

The results obtained through semi-structured interviews with women asylum seekers and refugees, during the field research stay carried out in the city of Tapachula, Chiapas, between September and December 2022, are presented.

The objective of this article is to *critically analyze how women in transit in Tapachula (Chiapas, Mexico) experience regularity and irregularity in migration*. Specifically, it seeks to 1) understand the causes of “irregular” migration; 2) analyze how the migration status (“regularity” and “irregularity”) has affected the migration experiences of these women; and 3) understand how women in transit perceive and relate, directly or indirectly, to migration “regularity” and “irregularity”.

This approach is of particular interest in legal studies on migration, since it is focused in the *legal subjectivities* arising between the subject, on the one hand, and the law or State, on the other, i.e. how individuals relate to legal mechanisms and act as active subjects of their application.

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<sup>1</sup> The main objective of the PhD dissertation is to analyze how “migratory irregularity” is legally constructed, and what are the experiences of (ir)regularization of women in transit in Tapachula.

A normative objective of this work - and especially of the PhD thesis in which it is framed - is to contribute to incorporate into migration legal studies a field knowledge, stemming from the migrant subjects themselves, through methods and techniques inspired by sociology and anthropology. Ultimately, beyond the instrumentalization of a bi-, multi- or interdisciplinary model, we seek to apply a *transdisciplinary* model, where legal and socio-anthropological methods and techniques merge to overcome legal realism and nurture a new critical knowledge in migration law: one that seeks to understand, denaturalize and deconstruct the legal categories of migration through an epistemic critique. In this context, migrants are conceived as active, conscious and informed subjects of legal processes.

Below, the normative-conceptual framework (II) and research methodology (III) are presented, followed by the results corresponding to each of the specific objectives of this article: irregular migration (IV), migration and documentation (V), and subjectivity and documentation (VI). The article concludes with a brief conclusion (VII).

## II. NORMATIVE-CONCEPTUAL FRAMEWORK

In Mexico, the *Migration Law* defines the regularity/irregularity binomial as:

the legal hypothesis where a foreigner is situated according to the fulfillment or non-fulfillment of immigration provisions for entry and stay in the country. It is considered that the foreigner has a regular migratory situation when it has complied with such provisions and that it has an irregular migratory situation when it has not complied with them. (Migration Law, 2011, art. 3 §XXXVIII).

The law is characterized by a self-referential rationality, from which binary and opposable categories arise: legality vs. illegality, regularity vs. irregularity, etc. The law determines, through its categorical boundaries, who has rights and who does not, or to which extent. The law predetermines the possible checkboxes that can be checked, it *pigeonholes* migrants into categories that, for bureaucratic or administrative purposes, have the power to determine the extent of one's legal personality in a specific territory. The temporary worker, the student, the refugee, the permanent resident, the naturalized citizen and the birthright citizen have different rights and privileges. Therefore, migration experiences are diverse.

By definition, the category of “irregular migrant” is a *negative* category, interpreted in opposition to “regular migrant”, “legal migrant” or “documented migrant”. Irregularity is the opposite of regularity. It is the category that, according to the dominant narratives, should be reduced or, better yet, eliminated. Migratory irregularity is synonymous to or is presented as subordination, marginality, vulnerability, even criminality and (national) insecurity. In any case, the use of the expression “irregular migrant” emphasizes that the migrant's experience is outside the regular, ruled, legal, positive and desirable experience.

However, the semantics “regular” and “irregular” - and their corresponding legal categories - cannot be understood independently of the doctrine of *safe, orderly and regular migration, enshrined in the Global Compact for Safe, Orderly and Regular Migration* (2019).

Sergio PRIETO DÍAZ argues that “irregular” migration is addressed from a problem-solving approach, where “irregular” migration has to be eradicated, to the benefit of “regular” migration. In this context, the doctrine of safe, orderly and regular migration appears as a specific product of the twentieth century, a “result of the state monopolization of legitimate means of movements.”<sup>2</sup> Indeed,

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<sup>2</sup> PRIETO DÍAZ (2019), p. 23.

this approach has become hegemonic in the legislative and political initiatives of the so-called “migration management”. Thus, MSOR is promoted as a solution to its antagonistic elements, to a problem that must be “managed” or controlled, i.e., “unsafe, disorderly and irregular” migration.

Indeed, it is necessary to specify that the *Global Compact* does not provide a definition of “safe, orderly and regular migration”, nor of its opposing elements: “unsafe, disorderly and irregular migration”. Elspeth GUILD (2018) states an analysis of the latter three elements individually.<sup>3</sup> Based on GUILD’s conceptualization, *unsafe migration* is understood as the use of pathways and methods of cross-border mobility in which the safety, integrity and lives of migrants are put at risk. *Disorderly migration* refers to border crossing at locations where there are no border control agents and, therefore, where the administrative formalities for entry or transit are not complied with. Disorderly migration does not *necessarily* imply an element of risk to the security, integrity and life of persons. *Irregular migration* is distinguished from unsafe and disorderly migration in that it does not refer to the border crossing as such, but rather to the presence of a foreigner within the borders of a State, and in particular to his or her legal status. Irregular migration is the result of a subjective relationship between the individual and the laws and regulations of a given State. By not complying with the requirements of national migration law, a foreigner is in an irregular migration situation.

Based on the above, “safe, orderly and regular migration” can be understood as the use of ways and methods of cross-border mobility in which the safety, integrity and lives of migrants are not put at risk; border crossing at locations where border control agents are present and, therefore, in which the administrative formalities of entry or transit are met; and compliance, by a foreigner, with the requirements of a given State’s national law on migration.

However, it seems relevant to approach the *Global Compact for Safe, Orderly and Regular Migration* beyond its apparently “neutral”, “technocratic” and “depoliticized” language,<sup>4</sup> in order to avoid an interpretation in which it is claimed that the three elements of the expression would have the same importance, on the one hand, and universal access, on the other. Indeed, a person who intends to migrate, but who does not have the possibility of doing so in a regular manner, is unlikely to be able to do so in a safe and orderly manner; at the same time, a person who intends to migrate, but who does have the possibility of doing so in a regular manner, is more likely to be able to do so in a safe and orderly manner.

Thus, considering the differentiated opportunities among citizens of the world, the doctrine of safe, orderly and regular migration contributes to (re)produce a hierarchy among migrants, between those who have the right to migrate without *putting their safety, integrity and life at risk*, and those who do not.

The doctrine of “safe, orderly and regular migration” is a global trend and is accompanied by regional, subregional and local initiatives in this regard. In the Americas, there is a “regional concern about migration”.<sup>5</sup> Migration is increasingly a priority issue in regional institutions, whether or not they are specialized or focused on migration. The importance that the topic of migration has taken on in regional forums such as the Summit of the Americas<sup>6</sup> and the Economic Commission for Latin

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<sup>3</sup> GUILD (2018).

<sup>4</sup> PÉCOUD (2021).

<sup>5</sup> CARREÓN DIEZ et al (2009), p. 247.

<sup>6</sup> At the last Summit of the Americas in 2015, the link between migration and development was recognized (Seventh Summit of the Americas, 2015).

America and the Caribbean (ECLAC),<sup>7</sup> as well as the conclusion of bilateral agreements on migration, to name but a few, contribute to illustrate the regional concern for migration.<sup>8</sup>

*Migration and security; migration and development; and migration and human rights* are common axes in which the importance of migration management is presented in these forums. In other words, migration “management” appears as the dominant paradigm to address the phenomenon of migration<sup>9</sup> and its corollaries: security, development and human rights.

However, it is argued that, beyond a concern for migration, there is a particular concern for *irregular* migration. What is presented as a threat to security, development and human rights are not people who cross borders in a regular and orderly manner, but those who do so in an “irregular” and “disorderly” manner.

Regional migration institutions are coordinated and influenced by international migration institutions such as the IOM. Mary Luz ESTUPIÑÁN SERRANO and Stefanie KRON, who analyze the role of IOM in the regional governance of migration in the Americas, highlight the central role that IOM has played in the establishment of Regional Consultative Processes (RCPs) thanks to its technical and logistical assistance,<sup>10</sup> which has facilitated “adherence to a migration *management mode*” that followed the paradigmatic orientation of migration management at the global level.<sup>11</sup> Regional initiatives thus appear as uncontrollable tools of the IOM for a multi-level extension of its public policies at the global level.<sup>12</sup> The work of the Regional Conference on Migration (RCM), a RCP, is key in understanding the integration of the doctrine of safe, orderly and regular migration in North America.

Indeed, Stefanie KRON, based on the *RCM Plan of Action* (1997), highlights that “seven of the twelve objectives focus on the reduction of irregular migration and the eradication of smuggling and trafficking in persons”,<sup>13</sup> and thus states that “the Puebla Process was initiated with the firm

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<sup>7</sup> ECLAC, “Migration”, online: <<https://www.cepal.org/es/temas/migracion>>.

<sup>8</sup> CARREÓN DIEZ et al (2009), p. 246. “Several bilateral agreements were signed with Guatemala, Belize, Honduras and El Salvador on orderly and safe repatriation, consular protection and border security issues. Among the agreements signed are the Memorandum of Understanding of Human Rights of Migrants between Mexico and Guatemala; the Memorandum of Understanding for the Protection of Women and Minors Victims of Trafficking and Smuggling of Persons on the Mexico-Guatemala border and between Mexico and El Salvador. Other bilateral agreements have also been reached such as the Arrangement for the Safe and Orderly Repatriation of Central American Migrants Mexico-Guatemala and Mexico-El Salvador and the Action Plan for Cooperation in Migration and Consular Protection with El Salvador and Honduras, respectively”. (Carreón Diez et al, 2009: 246).

<sup>9</sup> GEIGER y PÉCOUD (2010), KRON (2011), ESTUPIÑÁN SERRANO (2013), SANTI (2020).

<sup>10</sup> ESTUPIÑÁN SERRANO (2013), pp. 11-12; KRON (2011), p. 54.

<sup>11</sup> ESTUPIÑÁN SERRANO (2013), p. 11 (*italics added*).

<sup>12</sup> “The main feature of the migration management paradigm is its multi-level and multi-actor approach, as intergovernmental actors such as IOM cannot implement their programs without the cooperation of local actors [...] PRCs are thus networks where IOM ‘can align its activities with broader regional governance, development and aid projects.’” (Kron, 2011: 59, *emphasis added*).

<sup>13</sup> KRON (2011), p. 65. It is worth mentioning that Stefanie KRON considers that the reduction of irregular migration, on the one hand, and the eradication of smuggling and trafficking in persons, on the other, are closely linked: “smuggling and trafficking in persons served as an easy resource to initiate the meeting, since irregular migration and the networks that make it possible were presented as a common threat to the security of all, and one that came from outside the region”. KRON (2011), p. 64.

intention of reducing irregular migration in the northern region and Central America”.<sup>14</sup> “Irregular” migration takes on prominent importance in RCM discussions, particularly since 2017. It is considered in this paper that the negotiation and adoption of the *Global Compact*, at the global level, contributed to consolidate such a trend in RCPs, in this case the RCM.

In this context, Mexico, being a territory of origin, transit, return and destination of migration, appears as a key actor in the “management” of irregular migration, particularly before its northern neighbor, the United States. Emphatically, the Guatemala-Mexico border zone is a critical point of South and Central American migration to North America. The Soconusco region (Chiapas), and more precisely the city of Tapachula is an “area of great strategic importance in terms of migration”.<sup>15</sup>

Migration in the southern border of Mexico is not a recent phenomenon, given the territorial, socio-cultural and historical continuity in that space.<sup>16</sup> Mercedes OLIVERA BUSTAMANTE and Luis Antonio SÁNCHEZ TRUJILLO (2008) argue that women from the Central American isthmus region have migrated to the current Mexican territory since pre-Hispanic times, “as part of groups, as happened with the Olmec migrations, of the Mayan groups, or of the Tolteca-Chichimeca that in pre-Hispanic times successively populated the Mexican southeast”.<sup>17</sup> However, during the last decades of the 20th century, especially since 1990, a “feminization of migration” has been observed. The authors state that:

since the last decades of the last century, there has been a clear trend of an increase in the individual migration of both types of women, Chiapanecan and Central American transmigrants, which can be related to the serious economic and social crisis that has affected the population since the 1980s.<sup>18</sup>

This feminization of migration means that women no longer migrate only as part of groups or as companions, but also exponentially as individuals and as a “recognized labor force”.<sup>19</sup> Of these, a significant part is in an irregular migratory situation.<sup>20</sup>

Pursuant to Mexican Constitutional Article 11 (1917 [2023]), the specific issues of entry, exit and transit of foreigners in Mexico are regulated by legislation. The *Migration Law* (2011) and the *Law on Refugees, Complementary Protection and Political Asylum* (2011; hereafter LRPCAP) have distinct objects of legislation:

[...] the Migration Law regulates the international mobility of persons in its broadest sense, the internment and legal stay of foreigners in the country, transit and part of the emigration and return of migrants. The General Population Law regulates population, internal migration and part of emigration. Meanwhile, the Law on Refugee and Complementary Protection regulates Mexico’s international obligations regarding humanitarian protection.<sup>21</sup>

Thus, since 2011, the *Migration Law* and its *Regulations* govern migration matters, except for asylum and refugee issues.

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<sup>14</sup> KRON (2011), p. 64.

<sup>15</sup> MacArthur y Centro de Derechos Humanos (2014), p. 9.

<sup>16</sup> CLOT y MARTÍNEZ VELASCO (2005), p. 4.

<sup>17</sup> OLIVERA BUSTAMANTE y SÁNCHEZ TRUJILLO (2008), p. 262.

<sup>18</sup> OLIVERA BUSTAMANTE y SÁNCHEZ TRUJILLO (2008), p. 262.

<sup>19</sup> OLIVERA BUSTAMANTE y SÁNCHEZ TRUJILLO (2008), p. 262, 268.

<sup>20</sup> Unidad de Política Migratoria (2023), table 3.1.

<sup>21</sup> Senado de la República (2010).

According to the *Migration Law*, there are three conditions of stay: visitor, temporary resident and permanent resident,<sup>22</sup> which are subdivided into different categories (see Table 1).

**Table 1. Conditions of stay in Mexico**

Condition of stay	Categories
Visitor	<ul style="list-style-type: none"> <li>• Visitor without permission to perform remunerated activities</li> <li>• Visitor with permission to perform remunerated activities</li> <li>• Regional visitor</li> <li>• Border worker visitor</li> <li>• Visitor for humanitarian reasons</li> <li>• Visitor for adoption purposes</li> </ul>
Temporary resident	<ul style="list-style-type: none"> <li>• Temporary resident</li> <li>• Student temporary resident</li> </ul>
Permanent resident	<ul style="list-style-type: none"> <li>• Permanent resident</li> </ul>

Source: Own elaboration based on the content of article 52 of the *Migration Law* (2011).

According to article 52, section V.c), of the *Migration Law* (2011), applicants for refugee status may request the status of Visitor for Humanitarian Reasons, which supports the immigration regularity of the person in Mexican territory for a limited period of time, as long as no decision is issued in his or her case:

V. VISITOR FOR HUMANITARIAN REASONS. This condition of stay will be authorized to foreigners who are in any of the following cases:

[...]

c) Being a political asylum seeker, of recognition of the status of refugee or of complementary protection of the Mexican State, until their migratory situation is not resolved. If the request is positive, they will be granted the status of permanent resident stay, in terms of article 54 of this Law (LM 2011: art. 52, section V.c).

Persons with refugee status, as well as family members who are beneficiaries of refugee status by derivation (LRPCAP 2011 Regulations: art. 95), are entitled to permanent residence, as established in article 52, fraction V. c), of the *Migration Law* (2011), Article 44, section VII of the LRPCAP (2011) and Article 87 of the LRPCAP *Regulations* (2011): “The Institute, in accordance with the applicable provisions, will grant refugees and foreigners who receive complementary protection, the status of permanent residence” (LRPCAP Regulations 2011: art. 87).

In other words, the law provides for a process of migratory regularization for asylum seekers and refugees in Mexico: first, they register their asylum application with the Mexican Commission for Refugee Assistance (COMAR), then they go to the National Migration Institute (INM) to submit their humanitarian visitor’s card (TVRH), which has a limited validity (usually between 6 months and 1 year). If COMAR issues a resolution in favor of granting refugee status, the foreigner goes from being an asylum seeker to a refugee, thus enjoying international protection, so that he/she can go again to the INM (by its Spanish acronym) to apply for a change to permanent resident status. The

<sup>22</sup> Prior to the adoption of the Migration Law, an earlier version of the *General Population Law* prevailed in Mexico, which established three “migratory qualities”: non-immigrant, immigrant, immigrant. LÓPEZ ZÚÑIGA (2011), p. 79.

COMAR offices in Tapachula receive the highest number of applications in Mexican territory (see Table 2).

**Table 2. Comparison of applications before COMAR, by delegation (2020, 2021 and 2022)<sup>23</sup>**

**SOLICITUDES POR DELEGACION**

DELEGACION	2020		2021		2022	
	CASOS	PERSONAS	CASOS	PERSONAS	CASOS	PERSONAS
BAJA CALIFORNIA	1,306	1,676	2,462	3,683	2,406	3,416
**CDMX	5,840	7,714	11,922	18,101	12,798	17,364
CHIAPAS/TAPA.	17,146	26,503	48,849	89,540	46,127	76,239
CHIAPAS/PALEN.	124	157	3,437	5,689	5,452	7,967
TABASCO	1,988	2,745	4,323	7,110	2,976	5,728
**VERACRUZ	1,574	2,119	3,484	5,668	5,595	7,764
<b>TOTAL</b>	<b>27,978</b>	<b>40,914</b>	<b>74,477</b>	<b>129,791</b>	<b>75,354</b>	<b>118,478</b>

Source: Graph retrieved from the website of the Mexican Commission for Refugee Aid (2023).

This article is interested in the process of migratory regularization for humanitarian reasons, one that allows several foreigners to enjoy a regular migratory situation in Tapachula during the decision of their case before COMAR and after its positive decision, if any. However, this process has several limitations, such as the length of the process over time, the difficulty of reuniting with family members, especially minors, the assignment to a specific residence entity, and insufficient wages or employment.

Several women mentioned the difficulties, instability and danger associated with continuing the transit to the north, especially when traveling with children, thus motivating their decision to regularize their status through the humanitarian route in Tapachula. This type of information was accessed through the work of legal ethnography in Tapachula, that is, through the study of the ways in which women experience migration regularity/irregularity. Beyond the existence of legal provisions and programs of international protection and migratory regularization, understanding the motivations and perceptions of the subjects of law brings us closer to a more complex legal knowledge.

### III. METHODOLOGY

This section presents the methods and techniques used (3.1), as well as some ethical considerations (3.2) in the context of field research.

#### 3.1 Legal ethnography

To do legal ethnography today is to approach law, to study the reception, the perception, the implementation of law, to study legal institutions, to study law as it is experienced, suffered, mobilized by the actors. Legal ethnography is an ethnography

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<sup>23</sup> [Note of the Translator: The Spanish text of the following table reads:

APPLICATIONS BY DELEGATION

DELEGATION, 2020, 2021, 2022

CASES, PERSONS, CASES, PERSONS, CASES, PERSONS].



that is truly committed to law. It takes it seriously, studies complex legal processes and does not limit it to a homogeneous and uniform black box.<sup>24</sup>

Ethnography is characterized by its qualitative, non-probabilistic and inductive method, its improvised but rigorous character, as well as a more or less prolonged immersion time.<sup>25</sup> In this case, considering the limits of temporal and economic resources, the research was conducted over an intermittent period of three months.

The main techniques were participant and non-participant observation, for a total period of 6 weeks, and semi-structured interview. Participant observation<sup>26</sup> was carried out in the municipalities of Tapachula, Ciudad Hidalgo (border point), Talismán (border point) and Unión Juárez (border zone). The neuralgic points in Tapachula were observed, such as COMAR, INM and the historic center of the city.

This paper does not deal with the results of participant observation in a systematic and direct manner, however, the immersion - although relatively short - in the field of study allows for a better understanding of the ecosystem in which the phenomenon is inscribed and is of great relevance for interpreting the results of the interviews. For example, when visiting the INM facilities in Tapachula, certain systematization of the channeling of irregular migration through the application for refugee status before COMAR was observed. Indeed, when approaching the line for migratory procedures, the agents seem to systematically ask if the foreigner had previously gone to COMAR, which contributes to demonstrate the existence of a “control” policy of irregular migration based on the request for refugee status, a “humanitarian” handling of irregular migration. However, it was highlighted in several informal conversations - as well as in the interviews - that many people apply for refugee status with the sole purpose of obtaining a TVRH (by its Spanish acronym) or permanent residency, and thus continue to transit northwards in a “safer” way. This process is extended over time, which has the effect of discouraging migration, thus immobilizing part of the migrant population in the Mexico-Guatemala border zone. Other people, despite having applied for refugee status, but who have relatives or acquaintances in other parts of Mexico or the United States, or who do not have the economic resources to stay in one place for weeks, months or years, prefer to continue moving north, either individually or in groups, for example, through migrant caravans. One effect of this phenomenon is to saturate the shelter and migration system in Tapachula, thus subjecting people to wait for days and nights in lines with no sanitary facilities and outdoors (sun, heat, rain and thunderstorms). These are some elements that allow a better understanding of the general conditions involved in requesting refugee status and migratory regularization, beyond its legal possibility.

In this research, it is primarily about understanding subjective experiences, representations and social meanings, and not necessarily about measuring the frequency of certain attitudes or establishing patterns of behavior.<sup>27</sup> As the focus is more on women’s relationship to the dichotomies of migration (regular and irregular migration status), rather than on the law as it is read, interpreted and applied, it is particularly important to consider women’s personal experiences, feelings, perceptions and responses.<sup>28</sup>

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<sup>24</sup> FORTIN (2021), p. 42, free translation.

<sup>25</sup> FORTIN (2021), p. 53; OXFORD (2012), p. 416.

<sup>26</sup> BERNHEIM (2021), pp. 144-151.

<sup>27</sup> CASTLES (2012), p. 15.

<sup>28</sup> ANDERSON et al. (2012), p. 400.

Since one of the objectives is to propose plural legal narratives regarding migratory “regularity” and “irregularity”, a qualitative perspective seems more appropriate to understand subjectivity in the “regular/irregular” dichotomy,<sup>29</sup> considering that it is not only a unilateral categorization of the State towards the individual, but rather a subjective relationship between States and individuals.<sup>30</sup> Above all, the dichotomy “regular/irregular” is superficially binary and reproduces the internal logic of modern law, as well as its structures of thought and power. Thus, by proposing plural legal narratives based on the qualitative method, we seek to break down the barriers of binarism in the ways of thinking and experiencing migratory “regularity” and “irregularity”. The interpretation of the legal categories of migration is intrinsically dynamic, and therefore requires qualitative data.<sup>31</sup>

A semi-structured interview guide was used, which was corrected and improved throughout the field research. The interview guide comprises three modules, corresponding to the three specific objectives of this article, each one containing two topics with their respective battery of questions. The analysis of the interviews follows the same logic, for greater ease of manipulation and treatment of the information, without the intention of enclosing the stories in homogeneous and hermetic categories. The selected extracts can be placed and analyzed in more than one category, or in categories different from those proposed in the article. Similarly, the role of gender does not constitute a theme in itself, but is rather *transversal*, and its analysis is relevant with respect to each of the themes: gender violence in the country of origin, risk in transit, risk for girls and adolescents, separation of families, persistence of the role of provider for the children, feelings of guilt in relation to the migratory process, etc.

The first module, “Irregular migration”, has the purpose of understanding the causes of “irregular” migration, that is, through questions on *origin and transit*, i.e., migration from its beginning to the moment it enters Mexican territory. The questions in this module resulted in responses that include, regarding origin, the following content: country of origin, cause of migration, age, profession or occupation, socioeconomic status and level of studies, family composition; and regarding transit: countries or places of transit, route of entry into Mexico, route of arrival in Tapachula, duration of stay or permanence in Tapachula, and other movements carried out.

The second module, “Migration and documentation”, seeks to analyze how migration status (“regularity” and “irregularity”) has impacted women’s migration experiences, through questions on the migration *process*, on the one hand, and the migration *project*, on the other. The first topic includes the following information: passport, migratory procedures, refugee application, regularization process, evolution of the migratory situation, relationship with institutions and migratory detention. The second topic covers: mobility within Mexico, mobilization of aid programs, expulsion and return, preferred destination, as well as obstacles and incentives to their mobility project.

The third module, “Subjectivity and documentation”, aims to understand how women in transit perceive and relate, directly or indirectly, to “regularity” and “irregularity” in migration. The latter is sought through two themes: *representations of “ir/regularity” and agency*. The former comprises: use and usefulness of the migratory document, meaning of the migratory document,

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<sup>29</sup> ANDERSON et al. (2012), p. 400.

<sup>30</sup> ECHEVERRÍA (2020), p. 12.

<sup>31</sup> OXFORD (2012), p. 415.

meaning of “regularity” or “irregularity” of migration; while the latter refers mainly to the decision-making processes and the role played in terms of migratory status.

**Table 3. Structure and content of the interview guide**

Module	Topic	Content
Irregular migration	1. Origin	<ul style="list-style-type: none"> <li>• Country of origin</li> <li>• Causes of migration</li> <li>• Age</li> <li>• Profession/occupation/socioeconomic status and education level</li> <li>• Family composition and family unit (spouse, children, siblings)</li> </ul>
	2. Transit	<ul style="list-style-type: none"> <li>• Countries or places of transit</li> <li>• Routes of entry to Mexico</li> <li>• Routes of arrival to Tapachula</li> <li>• Duration of stay or permanence in Tapachula</li> </ul>
Ir/regularization process	3. Migration process	<ul style="list-style-type: none"> <li>• Possession of travel documents</li> <li>• Migratory procedures</li> <li>• Asylum and refugee application (COMAR)</li> <li>• Regularization process (INM)</li> <li>• Evolution of the migratory situation</li> <li>• Relationship with institutions</li> <li>• Migration Detention</li> </ul>
	4. Migration project	<ul style="list-style-type: none"> <li>• Mobility within Mexico</li> <li>• Mobilization of aid programs (UNHCR)</li> <li>• Expulsion and return</li> <li>• Preferred destination</li> <li>• Obstacles and incentives to mobility project</li> </ul>
Normative subjectivity	5. Representations of ir/regularity	<ul style="list-style-type: none"> <li>• Use and usefulness of the migration document</li> <li>• Meaning of the migration document</li> <li>• Meaning of migratory regularity or irregularity</li> </ul>
	6. Agency	<ul style="list-style-type: none"> <li>• Decisions made</li> <li>• Justification of Tapachula as a place of destination/transit.</li> <li>• Reason for regularization process</li> <li>• Role of gender</li> </ul>

In the same way that the interview guide and its corresponding congruence matrix had a dynamic development, the construction of the object of study benefited from a similar handling, thus seeking to “listen to the field”, an inspiration also from grounded theory, which encourages openness and sensitivity to the field, and not to make the results fit the theory in a forced or superficial way.<sup>32</sup>

Although we prioritized participants who were in an “irregular” migratory situation - for the purposes of the current research - most of the interviewees were regularized in Tapachula, this is mainly due to the difficulty of accessing the migrant population in an “irregular” condition, being in Tapachula for a relatively short time and considering the informal nature of the daily life of these people. Additionally, for security and confidentiality reasons (both for the researcher and the participants), it was preferred to conduct interviews in “controlled” environments, that is, not in the public space, which inevitably reduced access to people in “irregular” migratory condition. However, it is not considered to dissatisfy the intended objectives of the research stay, since this substantial change in the conduct of the fieldwork made it possible to analyze the “regularity-irregularity” dichotomy through their respective experiences. Indeed, most of the people interviewed have been in an “irregular” migratory situation and obtained the “regular” status through a “regularization” process before the Instituto Nacional de Migración, so the experience of the participants points to both realities (both “irregular” and “regular”), but also to the temporal and legal space that lies between these administrative poles: the “regularization”.

Likewise, it was not initially planned to interview refugees or asylum seekers, because it was considered that they fit within a completely separate legal regime - which is theoretically true to a certain extent. However, the meeting with the participants made evident the interrelationship between the migration regime and the asylum and refugee regime, given that most of the people interviewed regularized their migratory status through the assumption of the Migration Regulation according to which people with refugee or asylum seeker status can go through the process of migratory “regularization” before the Instituto Nacional de Migración. This was an important finding in the framework of the PhD research, since it led to an amplification of the legal theoretical framework that underlies this work and indicates the importance of the refugee and asylum regime in the determination of “regularity” and “irregularity”.

In addition, although it was initially planned to interview women from Central America, mainly Guatemala, El Salvador and Honduras, the field experience provided the opportunity to broaden the profile to also include men and people of Haitian origin, with the effect of comparing - although not in a representative manner - the different experiences, with the migration documentation process.

The sample was established according to the random snowball<sup>33</sup> sampling method. The sample is not intended to be representative, so the number and profile of interviewees was flexible,<sup>34</sup> depending on access to and availability of participants, as well as circumstances related to the safety of the interviewee and the interviewer. A minimum of 10 interviews and a maximum of 30 were expected. 14 women and 2 men were interviewed, after which the research is considered to have

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<sup>32</sup> THORNBERG and CHARMAZ (2014).

<sup>33</sup> For confidentiality and security reasons, the places where the participants were recruited and where the interviews were conducted are not specified.

<sup>34</sup> SÁNCHEZ-AYALA (2012), p. 128.

reached the so-called theoretical saturation point.<sup>35</sup> In this article, only the interviews conducted with women are analyzed.

**Table 4. Participant profiles<sup>36</sup>**

#	Alias	Age	Origin	Migratory status
1	Paula	37	Guatemala	Refugee with RP (permanent residence, by its Spanish acronym)
2	Cecilia	57	Honduras	Refugee with RP
4	Liliana	20	El Salvador	Refugee with TVRH, awaiting RP
5	Yessi	32	Honduras	Asylum seeker, awaiting TVRH
6	Amelia	39	El Salvador	Refugee with permanent residence
7	Manuela	36	Honduras	Refugee with TVRH
9	Virginia	N/A <sup>37</sup>	Honduras	Refugee with RP
10	Miriam	N/A	Honduras	Asylum seeker, awaiting TVRH
11	Céleste	N/A	Haití	Refugee with TVRH
12	Vanesa	36	Honduras	Asylum seeker with TVRH
13	Baty	N/A	Haití	Refugee with TVRH
14	Florencia	N/A	Guatemala	Refugee with RP
15	Adriana	34	Honduras	Asylum seeker (process suspended)
16	Carla	30	Honduras	Asylum seeker with TVRH

Data collection and analysis began simultaneously<sup>38</sup> with the fieldwork, which allowed for the adjustment of the general question of the PhD research, as well as the adjustment of specific questions related to the fieldwork and included in the data collection instruments. Indeed, from the outset, it was understood that the results of the field research would inform both the theoretical framework<sup>39</sup> and the research question,<sup>40</sup> not only at the end of the fieldwork, but also during and between the different phases of its conduction.

<sup>35</sup> GESUALDI-FECTEAU and GUÉNETTE (2012), p. 92.

<sup>36</sup> For the purposes of this article, only the profiles of female participants are presented. The interviews with men correspond to interviews #3 and #8.

<sup>37</sup> Some women did not answer the question about age. If so, "N/A" is entered.

<sup>38</sup> OXFORD (2012), p. 417.

<sup>39</sup> CASTLES (2012), p. 16.

<sup>40</sup> OXFORD (2012), p. 417

The analysis of the interviews is done through ethnographic techniques, mainly coding according to the research objectives, description of the content, translation into the discipline and interpretation based on the theoretical framework. Such theoretical framework, which is developed in the PhD thesis, as well as in other works,<sup>41</sup> proposes decolonial tools of migration law, where “irregular” migration is conceived as a primarily juridical phenomenon and as a state tool of production and reproduction of historical alterities, that is, of migratory subalternity.<sup>42</sup> In this context, the doctrine of safe, orderly and regular migration stands as a globalist narrative in the face of “irregular migration”, and proposes, instead of reducing the legal obstacles to migration, more border and migratory control, which undoubtedly causes more insecurity in migration.<sup>43</sup> The incorporation of such a doctrine is manifested in a regional policy of contention for the countries of the global North, in which Mexico plays a key role, particularly in its southern border.

When analyzing the data collected, we considered the fact that migrants, throughout their migratory history, have been interviewed at multiple moments by a variety of actors (border and migration agents, family members, employers, public and private service providers, etc.), and that they can adapt - consciously or not - their speech to the expectations of their interlocutor.<sup>44</sup> Having said the above, it is not about identifying the “truth”, or differentiating the “true” from the “false”, such that the sincerity of the interviewees is not a criterion for the success of the research, but rather how they use their discourse and words to interact with the different actors on migration. Rather, when talking about migration subjectivities, the adaptability of migrants to a variety of situations and interlocutors is recognized as a migration strategy, and this adaptability should be considered, and may even be interpreted as a result of the research *per se*.

### 3.2 Ethical considerations

Working with migrants involves a number of ethical considerations. It is important to address them, since migrants and refugees are considered vulnerable populations. On the one hand, it can be difficult to build rapport or trust. On the other hand, people who decide to tell their story must be guaranteed confidentiality and security. On some occasions, a certain distrust on the part of the participants could permeate, which required adapting the questions or the way they were presented, or even raising the possibility of terminating the interview. In these cases, it could be difficult to clearly understand the situation of the participants, as they often did not communicate accurate or complete information. These are issues that affected all stages of the field research, from the recruitment of participants to the presentation of the results.

After careful consideration and weighing of the advantages and risks of recordings,<sup>45</sup> it was decided to record the interviews for practical purposes, mainly. However, for reasons of confidentiality, the participants were told that under no circumstances would their identity or elements that could lead to their identification be disclosed, and the process of data recording was explained to them and they were informed that at any time during the interview they could decide not to answer the question, or even to end the interview.

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<sup>41</sup> BOIVIN y ELSAYEH (forthcoming); BOIVIN (forthcoming).

<sup>42</sup> PRIETO (2019).

<sup>43</sup> GUILD (2018), p. 1781.

<sup>44</sup> VAN LIEMPT and BILGER (2012), p. 452.

<sup>45</sup> VAN LIEMPT and BILGER (2012), p. 420.

In order to establish a bond of trust, or at least reduce mistrust,<sup>46</sup> direct questions about migration status (“regular” or “irregular”) were avoided, and we sought to elaborate questions that allow inferring such status indirectly.<sup>47</sup>

A security protocol was established to ensure the safety of both the participants and the researcher; therefore, the interviews were conducted in “controlled” spaces, i.e., not in public spaces where the research participants were exposed. With regard to informed consent, confidentiality and security were strictly and systematically applied in accordance with the ethical principles of research in the discipline and the specific institutional guidelines of the Southern border College.

With each participant, the objectives of the research were explained, the modalities of consent - free, informed, consensual, and without compensation of any kind - were clearly stated, and the door was opened to questions and doubts. Informed consent was obtained verbally.<sup>48</sup>

#### IV. IRREGULAR MIGRATION

The specific objective of this section is to understand the causes of “irregular” migration by analyzing the conditions of origin and exit from the country (4.1), and of transit and entry into Mexican territory (4.2).

##### 4.1 Origin

The women interviewed come mostly from Honduras and El Salvador, others from Guatemala and Haiti. Those of Honduran and Salvadoran origin fled mainly because of violence, some alone, others with their children, others with their mothers and siblings, or even grandmothers.

One element shared by all the women interviewed from Honduras and El Salvador is the urgent and unplanned nature of their departure from their country. They said they were forced to flee to protect either their own life or that of someone in their family. The obligatory or forced nature of their migration is found in almost all of the testimonies.

“We migrated because we, if we lived well in our country, why would we come here to suffer...”

- Yessi<sup>49</sup>

“It was because of the pandemic, so I had to, as they say... migrate because I had never migrated before. But I... felt obligated... because of the lives of my daughters”.

- Amelia

“Well, migrating here was not because I wanted to, I mean, I am not here because I want to, it is for my safety. I had my job and I was running away because of a mistake I didn’t make.”

- Manuela

Several women interviewed commented that it was after a particular event that they made the decision to leave, for example a direct aggression, direct threats or threats to family members, or the murder of a family member, friend or acquaintance. It is worth mentioning that, in these cases, such an event is not usually the only reason for fleeing, but rather an event that is added to a profoundly difficult social and economic climate, acting as a triggering situation that motivates leaving the country, since staying in the same place, or even in other places in the same country, is no longer considered

<sup>46</sup> VAN LIEMPT and BILGER (2012), p. 458.

<sup>47</sup> ANDERSON et al. (2012), p. 402.

<sup>48</sup> GESUALDI-FECTEAU y GUÉNETTE (2021), p. 90.

<sup>49</sup> To protect the confidentiality of individuals, we use pseudonyms.

an option. In this sense, several of the women interviewed mentioned such a *triggering situation*, despite the fact that no such question was part of the interview guide. It is assumed here that at the time of the interview the interviewees already had experience with Mexican refugee and migration institutions and were accustomed to telling their story in a certain way or including certain specific elements, in a repetitive manner, so that the reason for fleeing is automatically part of their migration narrative in Mexico. Indeed, several women, especially Central American women, stated that their testimony - without the need to present additional evidence - allowed them to argue their admissibility to refugee status in Mexico before COMAR.

A factor that also stands out in the women interviewed is the feeling of guilt or responsibility towards family members, to justify leaving the country, even if a particular event did not happen - or was not mentioned: protecting a child, feeding them, etc.

“... I never dreamed that I would be around here. It was something that the... need to not even have to feed my children, so that’s why I made that decision”.

- Yessi

“I came... here to seek refuge in Tapachula because of a son I have... He used to hang out with his friends a lot, and his friends were killed. So, everyone scared me, and they told me that I had to take him with me, and that I had to take him with me, because they could kill him too, even my own children”.

- Cecilia

“Then one night they came to my house... two-armed people came in, they started to throw everything at me looking for money... So it was like a shock, a trauma for my child and for me, then, they even pointed a gun at me and told me that I had to pay or else I would pay with my life, so that was the... moment when I decided to leave my country...”

- Virginia

In addition, it was mentioned that the COVID-19 pandemic negatively affected the economic situation of some of the people interviewed, so that they could no longer sustain themselves and in some cases, they could no longer pay the “derecho de piso” imposed on them by the criminal groups.

“I sold very little; I no longer earned the same amount [compared to before the COVID-19 pandemic] to be able to pay what they charged me... It was very difficult to make a decision like that, because basically I didn’t want to leave my country because... I felt that I was doing well with my daughters. Unfortunately, the pandemic also affected us, in the sense that many people were unable to pay their... apartment, so that’s how I left El Salvador”.

- Amelia

“My business was small, it was like a little store they call it here, we call them “pulperías” there, so, it is something small, but it was enough for me to survive in my country, then... the pandemic hit and I didn’t pay anymore, so yes, they threatened me several times, as they saw that I... didn’t pay...”

- Virginia

But beyond understanding the causes of migration, the question here is to understand the causes of *irregular* migration, i.e., how to explain that migration was irregular? In this sense, first of all, it should be noted that even people who had a passport at the time of leaving their country of origin did not have the opportunity to migrate in a regular manner, since doing so requires planning and economic resources (paperwork, tickets, etc.). For their migration to be regular, people from



Honduras and El Salvador, due to the “original mobility restriction”,<sup>50-51</sup> need a positive response to their visa application to enter Mexican territory. However, in order for them to apply for humanitarian visitor status, they have to request recognition of refugee status or complementary protection from the Mexican State (Migration Law, 2011, art. 52 V. c), which is done in national territory and therefore usually forces irregular transit and internment.

Thus, staying longer in the place of origin to plan a “safe, orderly and regular migration”<sup>52</sup> would result in a radical increase of the risk to her integrity and life, besides being impossible in certain cases. Considering the urgent circumstances of departure, and the precarious economic situation in watermark of the insecurity characterizing their daily lives, there is hardly any room for planning.

“I have no passport, because there was no... when I came here, there was no time, and I quickly came here.”

- Yessi

“... they helped me and took me to the hospital, but they came to ask for me at the hospital, so I escaped from the hospital... I escaped from the hospital... to save my life”.

- Manuela

“I left with my daughters in the early morning, I left almost all my things, I didn’t sell them, I left them so I could come with them... My things are no longer [still there]. Let’s say in the place where things were, the owner had to get rid of them... because my fear was that they had threatened me that they were going to kill any of my daughters... and I decided to leave everything and come with them”.

- Amelia

“So, I just grabbed the only thing, just some papers, I just grabbed my backpack and a few rags and that was it. I came, I came just like that and with my baby, I had to go around [avoid official border points] there in Guatemala, at the Honduras-Guatemala border I had to go around because they asked me for the child’s passport and my child doesn’t have one, so I can’t take a baby out of a country, just like that”.

- Virginia

None of the women interviewed commented on the need for orderly and regular migration from their country of origin; rather, the priority for them was to leave the country as soon as possible, so the question of documents was relegated to second or third priority. Even at the time of departure, a final destination is not necessarily known, but rather the transit goes rather in stages depending on priorities (first safety, then economic resources and documentation, which sometimes - as mentioned later in this article - are linked) and the people they meet, together with the support they may receive along the way. The sometimes improvised nature of migration, by definition, prevents effective planning, which is why irregular migration appears as the only possible route at the moment.

It is also worth mentioning that, in terms of the level of education of the people interviewed, it does not stand out that they have completed university studies. They have also commented that, since they do not have a university degree in their country of origin, it is extremely difficult - or even

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<sup>50</sup> PRIETO (2019), p. 28.

<sup>51</sup> After compiling the countries that can be visited without a visa, according to nationality, Sergio PRIETO DÍAZ shows that there are countries of “restricted nationality”, in which the freedom of movement provided by their passports is less than that provided by other passports. He defines this inequality in freedom of movement as an “original restriction of mobility”.

<sup>52</sup> Pacto Mundial (2018).

impossible - to access a job or a good salary, which also coincides with economic difficulties and exposure to criminal groups.

“Yes, in Honduras it’s nice and all, but you can’t find work. And if there is work, sometimes those who study, everything, and I have not studied. I have my children studying, because I don’t want them to go through what I am going through. I want them to be different. And... and that’s why almost all the majority of people come, quite a lot, they come with family and everything, because of the same thing.”

- Yessi

“... because imagine... in your country [Honduras], where you were born, they don’t give you a job, not even as a sweeper... or anything! Because when you’re old you’re not worth anything... In my country they only take in kids... Besides, when you... want to have something... they catch you quickly, they think you have money, maybe you have worked with loans, and to be able to do, or start a business, but... the gangs, extortion, and everything... all of that, all of that!”

- Cecilia

“I can’t [migrate to another place within my country] because the town where my daughter is, you can say it’s a little bit safe... but there’s no work... it doesn’t generate work, there’s nothing. Most of the people work in the fields and... they don’t get paid much, I didn’t even have a house, in other words I had to rent”.

- Amelia

“... I was a street vendor in Honduras, we call it ‘street vendors’. I used to sell in the streets and... they even beat me, they threatened me several times... they... asked me... to sell them drugs, because all of us who were there, practically all of us were selling drugs and... there were four of us who... didn’t sell drugs, so I told them no, that I was going to keep the little I earned, because that way I wouldn’t have any problems with the law or with anyone, so they told me that the next time, well ... they would see what I would decide, they came again and I told them the same thing, they came again and I told the same words.. that I didn’t want to sell drugs and that the little I earned was enough. Then they beat me...”

- Manuela

It can be provisionally suggested that people with university degrees do not usually find themselves in similar situations (due to their residential environment or access to economic resources), or they manage to migrate on a regular basis due to the possibility of preparing the trip in advance and thanks to more abundant resources. It is also recognized in this research that it was not possible to interview people with university degrees, possibly because of access to a limited and relatively homogeneous group (in socioeconomic terms). The socioeconomic issue in relation to the causes and modalities of migration would have to be investigated in more depth in probabilistic research to be able to confirm such a generalization, which is not the objective of this research. What can be observed, however, is that the lack of studies and resources has an impact on the conditions of departure, i.e., its unpredictability and improvisation, and therefore its “irregular” character.

## 4.2 Transit

In terms of transit, several elements stand out: 1) the fear and suffering during the journey to Mexico, 2) the irregular entry into Mexican territory, and 3) the relativity of the stay or permanence in Tapachula.

Particularly noteworthy from the interviews are the stories of suffering and fear on the road between their country of origin and Mexico, since, in order to reach Mexico to request refuge, one has to transit through other countries. Although transit from Guatemala to Mexico is more direct, entry from Guatemala to Mexico is also often irregular. Several women commented on how difficult

it is to travel by bus without being victims of extortion by the authorities in order to pass, due to their irregular status. Fear of sexual abuse was also mentioned.

“Those people [referring to the Guatemalan authorities] are very annoying. They don’t even give you permission for anything... that’s when the COVID thing... Ugh! That was worse with that disease... name. It is a miracle of God that I am here. Very difficult...”

- Cecilia

“... I was very scared because I was thinking more about my daughters... And my daughter has a very beautiful body... I was afraid of that”.

- Amelia

In other words, between leaving their country and requesting refuge in Mexico, they are exposed to risks in transit because - and it is exacerbated because - they do not have the proper migratory documentation, a situation that has been studied in several works.<sup>53</sup> Although such events hardly respond to the objective of understanding the *causes* of irregular migration, they do contribute to illustrate how the impossibility of migrating regularly also causes the impossibility of migrating safely, in such a way that it is part of a broader discussion in which, rather than the causes of irregular migration, the causes of *unsafe, disorderly and irregular migration* are explained.<sup>54</sup> It is also (chrono)logically linked to another common element that stood out from the interviews: irregular entry into Mexican territory.

Indeed, one factor shared by the interviewees is the irregularity of their entry, i.e., through informal border points rather than official crossings. None of the participants entered through an official point, nor did they mention any interest in doing so, even if they had passports. Moreover, the mention of their irregular entry into Mexican territory never gained much relevance in the narratives of the interviewees and was more often mentioned as a simple *ordinary* event.

Thus, the participants first entered the country irregularly and then went to the respective institutions to request refuge in order to regularize their migratory situation. In this sense, if the causes of the irregular migration are investigated, it can be noted that the very precipitous nature of the departure and the corresponding impossibility of planning the trip, condemns the person to a persistent situation of migratory irregularity, until regularization is achieved, if this is the case.

On the same notion of “transit”, in the interviews conducted, the indetermination of the final destination of the migration stands out, which is analyzed below. What stands out here is the difficulty of being able to statically determine that the women interviewed are at their final destination or in a transit situation in Tapachula, since the possibility of continuing - or even returning - to the north, either in Mexico (Monterrey or Tijuana, for example) or to the United States, never disappears completely. Thus, the notion of “transit” is relative, but, above all, dynamic, that is, it fluctuates depending on a variety of factors (e.g., having friends or relatives in a certain place, having heard stories from acquaintances in Tapachula or along the way, possessing a migratory document and a passport, having access to programs that allow mobility, etc. ), in such a way that the fact of enjoying the conditions of refugee and permanent resident does not automatically equate to the end of the transit, since it may also correspond to a more or less extensive period in which they are legally,

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<sup>53</sup> CRUZ (2011); OLIVERA et al. (2008); Centro de Derechos Humanos Fray Matías (2014); BLANCO (2014); GARCÍA (2017); RAMÍREZ (2018).

<sup>54</sup> GUILD (2018).

economically and psychologically stabilized. Thus, Tapachula is the first place where they can settle for an undetermined period of time.

## V. MIGRATION AND DOCUMENTATION

The objective of this section is to analyze how the migratory situation (“regularity” and “irregularity”) has impacted the experiences of women in transit within Tapachula, that is, the development of their migratory process (5.1) and the interrelation between the migratory situation and the migratory project (5.2).

### 5.1 Migration process

Most of the people interviewed followed the same sequence of migratory procedures, that is, in order to request the regularization of their migratory situation they first had to apply for refugee status at COMAR. He emphasized in the interviews that it was the regularization process promoted by the local migration authorities.

“It is that everything depends on COMAR... Migration does not give you a document if you do not go through COMAR [...] By force you have to go through COMAR.”

- Paula

Thus, in order to enjoy a regular migratory situation in the country it is necessary, within this process, to request international protection in Mexico, which limits the possibility of requesting it in other countries (for example, the United States), but also entails the risk of typecasting people in a victim role and lengthening the documentation process, considering that before being able to have a document from the Instituto Nacional de Migración (INM) it is necessary to go through a whole process at COMAR. Indeed, something that was systematically mentioned by those interviewed is how exhausting the procedures are, not only in terms of time and bureaucracy, but also physically and psychologically. Tedious, exasperating, anxiogenic, and tiring are terms frequently mentioned by the women interviewed. Similarly, they criticize the rigidity and apathy of the institutions or their officials.

“I went to immigration to wait in a long line... God forbid, I almost fainted with the sunny weather here, and that bunch of people [...] because I can’t stand to see people”.

- Cecilia

“And then, to finish with that because it’s tedious to be in that, involved in migration, COMAR, all of that. It’s... the truth... it’s tedious.”

- Paula

“They just say no, and they... Yes, one suffers. The one who has a hard time is you. They don’t, they do everything right. For them there is nothing to... If they say no to you, they solve it. And it’s not like that.”

- Paula

“Most of all, to wait, and they don’t say anything to you. We are going to give it to you, or we are not going to give it to you, but to wait.”

- Liliana

Among the reasons that delay immigration regularization is also fear. One of the women interviewed reported that she was afraid to go to the procedures because it implied exposing herself in a public space for an extended period of time, either on public transportation or in the same lines for the procedures. The woman in question already had her positive resolution from COMAR and her visitor’s card for humanitarian reasons, but she was hesitant to go out to apply for permanent residency for fear of meeting the people responsible for her flight from her country of origin, as she

said she had met some of them in Tapachula. Faced with this situation, the immobilization caused by the deadlines for obtaining a lasting regular migratory status - which does not expire after one year as is the case of the card of visitor for humanitarian reasons - in Tapachula, may imply a risk for the life and security of the people, in addition to the perpetuation of the psychological damage caused by the permanent fear. However, said person mentioned to keep trying because she considers that obtaining a permanent resident card is important to provide her with security, especially to avoid deportation, and to get a job, especially in the north of Mexico, where she mentions that employers are stricter with the documentation.

It is worth mentioning that having a passport is not a requirement for the refugee application and immigration regularization process, so that the importance of the passport has more to do with financial matters than with mobility, although some people interviewed do consider a passport necessary for mobility.

“I have been told by my friends... “try to get your passport, because here [in the northern border of Mexico] [...] the passport is vital”.

- Paula

However, most references to the need for a passport are related to sending and receiving funds.

“When I want someone to send me some money or I would like to send someone, I can’t [without a passport], so I don’t have a passport, I have to ask for help, someone to help me...”

- Yessi

“... and I want to get it because sometimes... I want to send at least 1,000 pesos to my mother. [...] So, the [permanent residency] card is very good for migration and so on, but without the passport you can't do much.”

- Cecilia

“Well, the passport, for those who have a passport... they need it... to withdraw the money that their relatives send them, that’s all it’s good for.”

- Manuela

## 5.2 Migration project

As mentioned above, Tapachula usually represents a place to take a break, to stabilize (economically and psychologically), as well as to obtain the necessary documents in Mexico. The stay in Tapachula may be brief, but in the case of those interviewed, it is mostly indeterminate in nature, that is, the possibility of continuing to migrate north - either in Mexico or the United States - is never completely out of the question. The decisions that the women interviewed have to make are particularly difficult, and a number of factors must be considered and measured (discussed in section 3.b).

There is an important link between motherhood and the outlines of the migratory project of the mothers interviewed. When asked about their migration project, women who were separated from their children upon migration mention the intention to reunite with their family in Mexico before anything else.

“I feel] sad, yes, because I don’t have them [my children], I’m not with them, I’m not giving them motherly love, that’s why I want to bring them here because when a child grows up, he grows up apart from his parents, later, it’s like one knows nothing about them, he says “my mother left me” ... sometimes they just take another path...bad paths. That while one as a mother goes around with them advising them, that’s the way... you walk around! [...] Yes... so, that’s why I’m going to bring them, and I didn’t bring them because I didn’t have, as I said, I didn’t have money for them, and I also

thought about coming here and not having a job or a place to get money and go with them”.

- Yessi

“She [my mom]<sup>55</sup> tells me yes [she wants to go to Tapachula with my children]... Because I tell her ‘Mami, if I move you with my children’ she says yes, the problem is my siblings who don’t agree.”

- Manuela

“I want to bring my children from Honduras. I want to join them, so I can’t find a way to do it. Because I have to ask for help so that they can help me, to be able to bring them, because I already have my papers, I already have them, I have them all, I have the visa, the visitor’s visa they call it... [My permanent residency] is in process. Then I want to give papers to my children, but they have not left the country yet.”

- Yessi

However, the mothers interviewed generally find it difficult to reunite with their family members. The women interviewed experience emotions of sadness, guilt, and worry about the difficulties of family reunification in Tapachula. Even if including their children in their application is legally a possibility or adding them until COMAR does not issue the decision on the case, the women interviewed face bureaucratic and material difficulties in doing so, either due to lack of documentation for the children, difficulty in accessing information, or lack of legal advice.

“... I want to bring my children from Honduras. I want to join them, so I can’t find a way to do it. Because I have to go and ask for help so that they can help me, to be able to bring them, because I already have my papers, I already have them, I have them all, I have the visa... the visitor they call it...”

- Yessi

Regarding material obstacles, it is mainly the fact that the children in question are in the country of origin and there is no way to get them to transit safely, for example by plane.

“she [her daughter] dreams of coming, but by plane, she says she doesn’t want to go through what I went through.”

- Amelia

Above all, it highlights a persistent sense of guilt, sadness and worry among the women for having left one or more of their children in their country of origin. They tend to justify why they did not come with their children, highlight the suffering they feel because of the separation, and emphasize the fact that they send them money when they can.

“... I left a daughter in Honduras for money reasons and because in the neighborhood where she is, there are gangs opposed to the gangs that were extorting me, so... I couldn’t bring her back because... I practically left her behind, and I had to come with my two children and my partner...”

- Miriam

“... I never dreamed that I would be in these places here. It was something that... I didn’t even have enough to feed my children, so that’s why I made that decision... I send them the little that I earn, I send them the little that I earn”.

- Yessi

In the case of families that are already in Mexico, it is of utmost importance for security reasons to provide documents to their children before considering moving again. However, for the

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<sup>55</sup> Manuela’s children are staying with their mother in Honduras.

women interviewed, whether they are mothers or not, documentation does not seem to be enough to guarantee their safety and well-being on the way north.

“In reality, we don’t find work, more in the North there is work, but I feel that, with children, only the people who go directly to the United States are the ones who perhaps leave with children, but if they are going to stay in another state, it is difficult, it is different.”

- Amelia

“because Tapachula, whether you like it or not, is a place that is not so good, but if you go with your children Tapachula is more recommendable, it is uglier in the North, if you go with your children, it is ugly, because I have seen it with my daughters, so I was afraid. As I tell you, whoever goes to the North with children is going straight to the United States”.

- Amelia

“But yes, migrants, we are treated badly, for example, hmmm... migration, even up there in the North, it is horrible [...] in Mexico itself”.

- Yessi

She also refers to the idealization of the United States: “It is that it is more difficult there, so no, I don’t really like the United States. Actually, I don’t like the United States... It’s very idealized, don’t like it really. The work is enslaving”.

- Liliana

There are testimonies of women who could not go through the process with their children or partner. The women interviewed do not know the specified motives of the authorities, but they affirm that COMAR did not authorize it. In some cases, the result of the interviewed woman’s procedure (positive) differs from that of the child or partner (negative). It may also be interpreted as an impossibility of formal family reunification, despite the fact that the individuals are physically together, as there is still concern and anxiety regarding the possibility of deportation of the children or partner whose refugee claim was not positive.

While not excluding the possibility of moving elsewhere, some of the women interviewed stated a preference for staying in Tapachula to provide their children - or themselves - with stability, as well as the possibility of completing their studies or generating savings. In particular, women with children have generally commented, not wanting to migrate to the United States, or not being sure they want to do so, considering the additional difficulties of transit with children.

“That is why I tell you that for the moment I am staying in Tapachula, while my daughter studies, and God will say if I stay here forever or continue further North, but not to the United States, because Mexico is beautiful. Well, here where we are we can say, where my daughters feel well”.

- Amelia

“Well for my part I do plan to stay because I want to study [...] I haven’t made friends yet, and... I hope to do it in the university [...] I feel that a lot of time has already been wasted.”

- Liliana

Also, the personal experiences of the women interviewed contribute to stop their movement. This is the case of Paula, whose mother emigrated from Guatemala when she was about three years old:

“Yes, it is an experience I had with my mother. I didn’t have it myself, but my mom did... And... the person I call ‘mom’ or ‘mommy’ is my grandmother. But she raised me when I was little. Because my mom went here anyway... and we never heard from

her. For more than 30 years, we don't even know about her. 34 years to be exact. We don't know if she is alive, we don't know if she died, what happened to her [...]. To this day. All of that sometimes makes me stop".

- Paula

## VI. SUBJECTIVITY AND DOCUMENTATION

The specific objective of this section is to understand how women in transit perceive and relate, directly or indirectly, to migratory "regularity" and "irregularity". It is proposed to emphasize the representations that the interviewed women have of migratory documentation (6.1), as well as the different actions and decisions they took regarding documentation (6.2).

### 6.1 Representations of ir/regularity

According to the women interviewed, migration regularity is conceived as a tool to 1) reduce or eliminate the risk of deportation, 2) find a job or a better job, and 3) continue the mobility project.

Indeed, they commented that migratory regularization represents a protection for themselves and, if necessary, for their family members, against deportation to the country of origin.

"My only problem is my son... it cannot be that I have my papers, and he does not. And the one who is most in danger is him... because imagine if they take him away, I might have a heart attack."

- Cecilia

The idea that proper documentation allows access to employment and good salaries in Mexico is also shared. However, many of the women interviewed realized that documentation does not always outweigh xenophobia, but they continue to believe in the relevance of migratory documentation to improve their socioeconomic status in Mexico.

"Because here there is a job as an Oxxo and all that, but if you don't have a document or something, no, no, we even went to look for a job here... they didn't give it to us because they said we were... from another country. I went to a restaurant and I felt awful... They said, cooks and waitresses are needed and we went with a colleague to look for a job. And when we arrived, they told us to sit down... but when we sat down the person who was in charge of... giving a job to us came out and said "I see that you are foreigners", I said yes, "ah, no, there are no jobs for foreigners...". And I told him, but it's not because I am a foreigner, I just told him that, and I felt... between disgust and anger at the same time because I said it was unfair, we know how to do... work... I felt like they were racist that day, since then I didn't want to look for a job anymore".

- Amelia

"Since we are migrants, and you know that migrants almost never get a job anywhere... Maybe having all the papers, I mean, all the papers!... well, my husband went to look for a job, and they asked him for papers... We have the papers, we have them now, we are going to arrange papers, so we can have a good job and everything, and survive from there."

- Yessi

Regarding labor activities, although one of the reasons for starting and concluding the process of migratory regularization is to have the necessary documents to be able to get a job, or a better job, it is also perceived that migratory regularization is not a guarantee of decent working and living conditions, because factors such as national or ethnic origin (xenophobia) and level of studies intervene.



Finally, it is important to highlight that the process of migratory regularization is conceived by many people as a tool for mobility within Mexico and even for the United States, although it can also be a cause of immobility due to the waiting time.

“It is that they mostly take out the visa. It is the one that is most taken out. That is the one they wait for, and then people...most of them leave, with the visa.”

- Liliana

“Not to live, just to pass through. Visitor.”

- Céleste

“Maybe that’s why [they didn’t give a humanitarian visitor’s card to one of her minor daughters], I stopped a lot to stay in Tapachula, because I think that, if they had given me the humanitarian visa for the three of us [referring to her two daughters and herself], maybe I would have gone North sooner...but in the end...I think I’m going to stay in Tapachula.”

- Amelia

However, everything seems to indicate that Mexican migration authorities are aware of this phenomenon and hinder the movement northward, within the framework of a policy of containing migration to the United States.<sup>56</sup> Indeed, they also recount in the interviews, events of destruction of visitor cards for humanitarian reasons and voluntary returns to Tapachula due to difficulties encountered along the way, it is even alleged that the delivery of permanent residence cards to people who declare their intention to travel is delayed.

In terms of mobility, regularizing their migratory status allows them to request access to the labor mobility programs of the UN Refugee Agency (UNHCR, n.d.), which can offer work opportunities in other parts of Mexico, usually in the north of the country, for example in Monterrey or Aguascalientes, to refugees in Mexico who have the required documentation. Most of the people interviewed see this as a good economic opportunity, considering the support and higher salaries than in Tapachula, but also for mobility, since the jobs available through this program are in the north of Mexico.

“Well, to leave would not be so much of a problem because I can go with UNHCR. In other words, it is an advantage...”

- Paula

Finally, it should be noted that migratory regularization, or documentation, is not always a tool for some purpose, that is, they are not only utilitarian in nature but there is also a symbolic concern to do things “right”, or even by domino effect.

“I wanted to do things right.”

- Paula

“Because it’s nice when you get things legally and you go the legal route. Believe me since I go to church, there’s nothing nicer than going the right way, so you can go North, without the danger of going around.”

- Carla

“... because everyone went there [to COMAR] to hand in the protocol [the application]... because every immigrant [...] every foreigner... must... have a document”.

- Céleste

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<sup>56</sup> TORRE (2019); ANGUIANO and LUCERO (2020); ROJAS and BASOK (2020); CALVA and TORRE (2020); MORALES and SANROMÁN (2016).

Although they mention that migrating in a regular manner is “nice”, safer and cheaper, they also comment that having a valid document does not always guarantee a free and safe transit.

## 6.2 Agency

According to the accounts of the women interviewed, there is a variety of situations in which women migrate. Some have some or all of their children with them, others were separated from their children when they left their country, others come alone and without children, others come as a couple. What stands out is that these factors contribute to determine in various ways the decisions they make upon leaving the country, in transit, and upon entering Mexico. The often forced or obligatory nature of migration does not mean passivity, but rather triggers a series of decision-making processes, which tend to have a lesser or greater emotional impact on women depending on the people who accompany them and their respective roles. Decisions, in the case of adults traveling together, are not usually made unilaterally, but rather result from a process of negotiation, or even discussion, between the individuals involved.

Each decision involves a risk of which they are fully aware, not only for themselves, but also for the couple or other family members. However, each decision also involves potential benefits, such as the possibility of studying or sending their children to school, generating savings and stabilizing themselves in general.

“to move North you have to think it through...”  
- Paula

But in order to make informed decisions, access to information is crucial, which is why the same women interviewed often have access to a quantity (which can obviously become a negative point, because more information also means more misinformation) and a better quality of information to that of the researcher. The prejudice that people who migrate irregularly do so because of lack of information or misinformation<sup>37</sup> is generally invalid, although it is recognized that there are barriers to information.

Finally, there are feelings of guilt, responsibility and powerlessness during the migration and regularization process, but also of independence and autonomy.

## VII. CONCLUSIONS

In this article, the results obtained through semi-structured interviews applied in the framework of the field research stay carried out in the city of Tapachula, Chiapas, between September and December 2022, were described and interpreted.

The main objective was to critically analyze how women in transit within Tapachula (Chiapas, Mexico) experience the legal dichotomies of migration and, in this case, regularity and irregularity of migration. Specifically, we sought to 1) understand the causes of “irregular” migration; 2) analyze how migration status (“regularity” and “irregularity”) has impacted women’s migration experiences; and 3) understand how women in transit perceive and relate, directly or indirectly, to migration “regularity” and “irregularity”.

It was proposed that the causes of the irregularity of the women interviewed are mainly related to the urgent need to leave the country and the difficulty or impossibility of planning the trip, which forces them to transit and enter Mexican territory in an irregular manner. Subsequently, the migratory process and project were analyzed, where it was observed that the process of migratory regularization

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<sup>37</sup> DE VRIES and WEATHERHEAD (2021), p. 305.

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responds to safety needs, family reunification, stabilization and generates an imposing emotional and physical pressure. However, for the women interviewed, immigration regularization represents, for them, a tool to prevent deportation and to facilitate employment or socioeconomic ascent, or even a strategy for safe mobility. However, the regularization process does not systematically allow for safe transit and has a restraining effect by immobilizing the applicants for a more or less extended period of time.

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