

SPECIAL REPORT

## **A brief look at legal infrastructure and its implications for migrants along the U.S.-Mexico border**

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**Abstract** Hadfield's *Rules for a Flat World* describes how today's legal infrastructure harms people globally who live in the "Bottom of the Pyramid" (BoP). People who pass through the Kino Border Initiative on the U.S.-Mexico border provide vivid and personal examples of how lack of robust legal infrastructure contributes to acute insecurity in terms of economic well-being and personal safety in parts of Mexico and Central America. The legal infrastructure around immigration and deportation in the U.S. poses additional perils for migrants. Efforts to empower people in the BoP to play a role in legal infrastructure play a critical role in addressing the root causes of migration while respecting their human rights.

**Keywords:** *immigration, legal infrastructure, human dignity, deportation*

**Video interview with Sean Carroll, S.J. (6:11):** "*We disrupt law by humanizing law*"  
[https://youtu.be/amAIT\\_yEHdw](https://youtu.be/amAIT_yEHdw)

**I**n *Rules for a Flat World*, Professor Gillian Hadfield highlights the harmful effects of an inadequate legal infrastructure for today's modern economy and its particularly destructive impact on people who live in what she refers to as the "Bottom of the Pyramid" (BoP). She focuses particularly on how the lack of a functioning legal infrastructure harms economic development and well-being for people in the BoP. I have witnessed this phenomenon firsthand through my work at the Kino Border Initiative, a bi-national non-profit located on the U.S.-Mexico border with a mission to be a humanizing presence and to foster bi-national solidarity on the issue of migration through humanitarian assistance, education and research/advocacy.

Our staff and I have met people like Hortensia from Oaxaca, a single mother with two disabled sons, who migrated to the United States to earn enough money to pay for their treatments. Hortensia's experience powerfully reflects the economic motive for migration. In the three-state region of Guerrero, Chiapas and Oaxaca, 70.2% of the population live in poverty (Aguilera, 2017), while 72% of Mexico's indigenous population lives in extreme poverty. (Nickolau, 2017) The Kino Border Initiative surveyed 10,991 migrants it had served at its Nogales, Sonora center last year, and we discovered that 86% of the people migrated for economic reasons. They have no ready access to markets, especially since so many people from Southern Mexico live in remote areas, nor do they have the education to develop skills to thrive economically.

At the same time, I have seen the consequences of ineffective and even destructive legal infrastructure that leads to insecurity and the migration of people. Last summer, I met Haydée, a mother of two from Tegucigalpa, Honduras, who sat in the Nogales, Sonora downtown port of entry to present herself along with her daughter and her cousin to U.S. Customs to request asylum in the United States. As she waited, she carried the following items: a newspaper article about the murder of her mother at the hands of gang members, a photo of her mother's grave, a photo of her bloodied husband after he had been beaten by people involved in organized crime, and a police report documenting a threat made against her. Lack of legal infrastructure explains the danger she faced at home that caused her to travel north.

Deportation of gang members to Central America over the years has compounded this problem since organized crime groups like MS-18 have begun to take over territory within the Northern Triangle of Honduras, Guatemala, and El Salvador. These gangs participate in the drug trade and extort local populations while some police officers are complicit in these activities. The legal infrastructure is too weak to provide adequate security to local citizens and to people who are deported back to these countries after fleeing violence. From January 2014 to October 2015, Professor Elizabeth Kennedy estimates that eighty-three people who were deported to El Salvador, Honduras and Guatemala were murdered after they returned to these countries. (Brodzinsky & Pilkington, 2015)

Lack of a functioning and just legal infrastructure has also led to the separation of families, which has caused immeasurable harm, especially for children. In February 2017, Guadalupe García de Rayos, a mother of two children, arrived in our shelter for migrant women and children in Nogales, Sonora, after being deported from the Phoenix area. She had reported to ICE authorities for her semi-annual visit to request permission to stay and work in the U.S. After she arrived at the ICE offices, she was arrested and deported to Nogales, Sonora, and was separated from her son and daughter along with her husband. Her deportation happened after President Donald Trump's removal of prosecutorial discretion that had previously prioritized the prosecution of people committing serious crimes. Under the new policy, anyone living in the United States illegally could be deported.

Last summer, the Trump Administration's implementation of a zero-tolerance policy led to the separation of close to 2,500 children from their families. The human consequences of this policy and use of immigration legal infrastructure is incalculable. One young child returned to his mother screams at night for the social worker that cared for him for months after he was separated from his parent. Another is afraid to go to the bus station, due to anxiety about being separated from his mother. (Watson & Lee, 2018) This misuse of legal infrastructure causes deep harm to families and disrespects the human dignity of migrant men, women, and children.

These realities highlight the consequences of a dysfunctional, non-existent or misguided legal infrastructure, which causes economic harm and disrespects human rights. What could be some solutions to provide a way forward? Professor Hadfield rightly highlights the impact of micro-lending programs, which could have a significant impact in rural and indigenous areas of Southern Mexico. (Hadfield, 2016, pp. 311-318) NGOs could be organized and empowered to set up this infrastructure so that people could make products such as arts and crafts and sell coffee with access to markets that pay a just price for their products. Clear regulations would need to be in place to prevent predatory and unjust lending and loan recovery practices. (Levin, 2012) Another option would be to scale up sustainability projects like the Suyusama project in Southern Colombia which trains people in areas such as organic farming, civic engagement and social development planning. This type of preparation empowers them to work on issues such as food security and education, and they become the protagonists as they participate in the establishment of state and city development plans. In this way, they influence the legal infrastructure to work for them and in productive ways for their communities.<sup>i</sup>

A similar option would entail sponsoring pilot community-organizing efforts to empower people to be part of the solution leading to greater security. This could mean mobilizing faith-based communities to identify key security issues and address them together. PICO International works with faith-based communities in Central America on issues such as access to water and reduction of violence. Almost 300 leaders have been trained since 2008, and they have pushed for resources "to repair streets, improve access to clean water and establish new public safety measures."<sup>ii</sup> Their power could be leveraged to promote viable legal structures that would allow them to provide input on and to participate in solutions to lower violence in their communities.

Another approach could include developing a legal infrastructure that addresses effectively and humanely the phenomenon of migration. The Global Compact on Migration offers a promising approach for participating nations internationally to collaborate closely on issues

such as undocumented migration.<sup>iii</sup> Also, more efforts could be made to focus on migration policies at the regional level. For example, migrants fleeing violence in Central America could make asylum claims in countries such as Costa Rica and Panama as well as the United States. Such a practice would empower the region to provide safety and security without people having to make the dangerous journey north to the United States.

In the end, these initiatives would help support a legal infrastructure that supports economic development and respects human rights for migrant men, women, and children. This goal becomes critical, especially as these rights are disrespected in the United States as well as in Mexico and the Northern Triangle. At the end of her book, Professor Hadfield rightly calls on philanthropists and social-impact investors to focus their attention on improving legal infrastructure to address issues such as poverty and violence. (Hadfield, 2016, p. 354) Such an investment – along with key policy changes, community empowerment, and international collaboration – may help reduce undocumented migration as well, while ensuring respect for God-given human dignity.

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<sup>i</sup> For more information, visit the website for the Jesuits in the Colombian Department of Nariño at the following link: <http://www.jesuitasnarino.org.co/index.php/fundacion-suyusama/>

<sup>ii</sup> More information on PICO International's work in Central America and in El Salvador specifically can be found at the following link: <http://picointernational.org/central-america-history-methodology/>

<sup>iii</sup> The International Organization for Migration provides more specific information on the initiative to develop an international global compact on migration at the following link: <https://www.iom.int/global-compact-migration>

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