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The Migrant Rights Gap: How Non-State Actors Meet the Unrecognized Economic and Social Rights of Undocumented Immigrants (abstract)

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The Social Practice of Human Rights: Charting the Frontiers of Research and Advocacy

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Research Panel: Migrants and Minorities

Presenters: Barbara Frey, Programa de Derechos Humanos. University of Minnesota; Ana Melisa Pardo, Institute of Geography, National Autonomous University of Mexico

Title: The Migrant Rights Gap: How Non-State Actors Meet the Unrecognized Economic and Social Rights of Undocumented Immigrants

Abstract: This paper explains how non-state actors, including churches and non-profit organizations, work informally to protect the economic and social rights of undocumented Mexican immigrants. Under international law, economic and social rights should apply equally to non-citizens unless distinctions in their protection are necessary and proportionate to a legitimate State objective. There is no legitimate State objective to deny food, shelter or health care to non-citizens. Despite this, Federal and State governments in the United States take no express responsibility to respect, protect or fulfill the economic and social rights of undocumented migrants. The authors designate this lacuna in state protection as a “migrant rights gap.”

The authors focus their study on the State of Minnesota where churches and organizations have worked informally to meet the rights of the Mexican migrant community, which would have been otherwise unrecognized and unrealized by the State. While organizations in this informal network do not choose to explain or explicitly carry out their work through the human rights framework, the services they provide - often with the implicit approval of the government -- in fact allow the government to comply with its fundamental obligations with regard to the “migrant rights gap,” thereby addressing both the well-being of individual migrants and the society as a whole.

The article profiles several organizations in Minnesota which provide services to undocumented Mexican immigrants. The organizations generally offer their services without questioning the immigration status of the people they serve, though their staff people and volunteers are aware that a substantial percentage of the Mexican immigrants who walk in their doors do not have proper immigration status. The organizations are aware of the lack of options for undocumented immigrants and, expressly or implicitly, their services constitute the only path these migrants have to realize their economic and social rights.

Keywords: economic and social rights, non-citizens, compliance, role of non-state actors

Biographies:

Barbara A. Frey, J.D., directs the Human Rights Program at the University of Minnesota where she oversees interdisciplinary teaching, research and programmatic activities for undergraduates, graduate students and professional students. Her faculty home is the Institute for Global Studies and she is affiliated faculty with the Humphrey School of Public Policy and the Department of Spanish & Portuguese. Frey serves as Project Director of the UMN-Antioquia Human Rights Partnership with four law schools in Medellin, Colombia, a capacity-building project funded by Higher Education for Development and USAID from 2012-15. Her research themes, including forms of human rights advocacy and gun violence and human rights, grow out of her experience as a human rights activist. Frey was Executive Director of Minnesota Advocates for Human Rights from 1985-97 and was a founder of the

Center for Victims of Torture. She served as an alternate member of the U.N. Sub-Commission on the Promotion and Protection of Human Rights from 2000-2003, and as the Sub-Commission's Special Rapporteur on human rights violations and small arms through 2006.

Ana Melisa Pardo Montaño, works as a full time researcher in the Economic Geography department of the Institute of Geography at the National Autonomous University in Mexico (UNAM). Her research focuses on Migration Geography with an emphasis on remittances and regional development. Among her recent papers, stand out: "Death by homicide in Colombia and Mexico: magnitude and trends, 2000–2011" published in the Pan American Journal of Public Health and "Spatial Analysis and Transnationalism: A Geographic Perspective. The Morelos (Mexico)-Minnesota (USA) Case" in the Journal of *Cuadernos de Geografía*. She studied her Ph.D. in Geography at the National Autonomous University of Mexico; her master's degree in Population and Development from the Latin American Social Sciences Faculty in Mexico and her bachelor's degree in Social Sciences with an emphasis in Geography from the Valley University in Cali, Colombia.