Trump’s Border Policy Is Creating Chaos

Asylum-Seekers Are Forced Back Into the Hands of Cartels

By Emily Gogolak, FOREIGN AFFAIRS, December 6, 2018

On the Gateway to the Americas International Bridge on November 14, U.S. President Donald Trump’s new asylum policy had already begun to take effect. Laura, a mother of two from Nicaragua, stood on the pavement over the Rio Grande between Nuevo Laredo, Mexico, and Laredo, Texas, and pulled a knit hat tight over her ears. The temperature had dropped below freezing the night before, and she and her children had been waiting there, suspended between two countries, for three days.

“They said that they were going to let us through but that it’s full inside,” she said as she looked toward the Customs and Border Protection agents standing ten feet ahead, in the center of the bridge, checking documents. A dozen adults and small children were bundled up, single-file, in front of her. It was gusty, and they had tied their blankets to the side of the bridge as a makeshift curtain. A Salvadoran woman in line next to Laura glanced at the city behind her, among Mexico’s most dangerous, and said, “No, no, we cannot go back.”

The principle of non-refoulement—no return—is the cornerstone of international refugee law: it prohibits the removal of asylum seekers to places where they are likely to be persecuted or tortured. Trump is apparently unperturbed by this prohibition. For months, ports of entry, like the one between Laredo and Nuevo Laredo, have been a staging ground for his administration’s dismantling of the U.S. asylum system.

The right to seek asylum is also enshrined in U.S. federal law, regardless of how an individual enters the country. Asylum seekers arriving at the southern border tend to do it two ways. Either you walk across the port of entry and present yourself to Customs and Border Protection (CBP). Or you cross the border between ports of entry, a misdemeanor, and turn yourself in to Border Patrol. Either way, you are entitled to an interview with an asylum officer. If you pass your interview, your application then goes on to the immigration court system, where a judge will ultimately decide the eligibility of your asylum claim.

On November 9, Trump signed a proclamation that banned anyone who crossed between ports of entry from applying for asylum. Soldiers in fatigues—roughly 5,900 troops are presently deployed to the southern border—laced the riverbanks beside the ports of entry with concertina wire. “Here’s the bottom line: Nobody is coming into our country unless they come in legally,” Trump said after CBP fired tear gas canisters at a crowd of Central American migrants in Tijuana after some had tried to rush the border.

Not only does the new policy run afoul of U.S. immigration law, as a federal judge found on November 19, temporarily blocking it, but the rhetoric with which Trump has defended it also
obscures the reality on the ground. For the last two years, asylum seekers have been turned away with increasing frequency at legal ports of entry. It’s refoulement before asylum seekers can even set foot on U.S. soil. The practice has led to a bottleneck of migrants in Mexico’s border cities—a crisis of Trump’s own making.

Guatemalan asylum seeker Ruben Prado waits on the Mexican side of the Gateway International Bridge after being denied entry by U.S. Customs and Border Protection officers near Brownsville, Texas, June 2018.

INTO THE HANDS OF THE CARTELS

In southeast Texas, the Rio Grande can feel like a River Styx. On one side are Laredo, McAllen, and Brownsville; on the other is the state of Tamaulipas, which ranks first in Mexico for disappearances. A 2018 State Department travel advisory assessed the level of insecurity in Tamaulipas as equal to that in Syria, Yemen, and Afghanistan. Migrants in the northern Mexican
state are targets for extortion, kidnapping, and worse—violence often similar to that which led them to flee their home countries.

In March of 2017, I visited Casa del Migrante Nazareth, a shelter in Nuevo Laredo for deportees and migrants, some of whom had been turned back by U.S. Customs and Border Protection. Father Giovanni Bizzotto, an Italian priest who was the shelter’s director at the time, told me that the migrants and deportees well knew that they were marked as prey. He described a kidnapping he had witnessed the day before, a few minutes from the bridge. He saw several men surround a bus that had just arrived. “One of them stood at the front of the bus, and said ‘Go over there’ and ‘You over there,’ ” Bizzotto recalled. “He literally said, ‘Nobody here has the clave’”—a code indicating who has already paid the cartel to pass through town—“‘so take all of them.’” His shelter, Bizzotto said, was surveilled by halcones, lookouts for the cartels: “We have all them around.” They’re hard to miss. One of them flashed us a big smile as were driving away from the shelter to go back to the bridge.

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Nuevo Laredo is a crucial drug-trafficking hub because of its proximity to Interstate 35, which runs from the mouth of the international bridge to Duluth, Minnesota. Los Zetas, once Mexico’s most feared cartel, started to operate in the city in the early 2000s. In addition to drugs, Los Zetas tapped other streams of revenue, including oil and migrants, whose border-bound routes the cartel took over, charging fees to smugglers bringing people north.

As Los Zetas’ strength grew, so did its reputation for brutality. In 2010, the cartel reportedly kidnapped and executed 72 South and Central American migrants traveling through Tamaulipas to the Texas border. The migrants were reportedly killed after they refused either to pay a ransom for their release or to work as hitmen for the cartel. Los Zetas has fractured with the arrests of top leaders in recent years, but its splinter cells still control trafficking in Nuevo Laredo. Migrants often use the term “Zetas” as a catch-all for criminal organizations working in the city.

At the port of entry in Nuevo Laredo in November, I asked Laura, the asylum seeker from Nicaragua, how she got to the bridge. She spoke quietly. “Here in Nuevo Laredo, Los Zetas come into the hotels—bad guys—they come in there to ask for the clave, who brought you, where are you going, if you have family over there, they ask you to give money,” she said. When she was staying at one such hotel, she recalled, “Los Zetas came to ask me for the fee. I don’t know if they were Zetas, but those are the ones you know and hear about.” She didn’t specify who helped her pay the fee or how much it was. She spoke about the people who didn’t have help to pay. The cartel, “They say ‘O.K., we’re going to help you but you’re also going to help.’ You were going to work for them.

Guadalupe Correa-Cabrera, a professor at George Mason University, an expert on organized crime at the border, and the author of *Los Zetas Inc.*, a history of the cartel, described the dangers to migrants stuck in Tamaulipas in similar terms: Those who can’t leave must pay. Those who
can’t pay are kidnapped for ransom or forced to work for the cartel. To the extent that they supply cartels with more money and labor, Trump’s immigration policies strengthen organized crime south of the border.

BRIDGE TO NOWHERE

When Laura had paid the cartel’s fee and left the hotel, officials from Mexico’s Instituto Nacional de Migración (INM), the federal agency that enforces Mexican immigration laws, saw her family on the street and checked their papers. She and her children were in the country on humanitarian visas, which temporarily protected them from deportation by Mexican authorities. INM took them to a shelter and put them on what migrants and Mexican authorities refer to as “the list”: a roster that Mexican immigration officials and shelter directors maintain of those who will be let onto the bridge that day to seek asylum. Homeland Security calls this wait-list system “metering.” After 24 more days at the shelter, Laura and her family were brought to the bridge. She was one of the lucky ones, in that she would have the opportunity to present herself as a seeker of asylum.

The outcome, however, wouldn’t be guaranteed. Last year, I followed a woman in similar straits to that bridge. Marisol, a Salvadoran mother fleeing organized crime in both Mexico and her home country, asked for asylum after already having been turned away by CBP once before. She carried her six-month-old baby in her arms. Her five-year-old son walked next to her. She approached the CBP checkpoint and said, clearly, “I’m here seeking political asylum from El Salvador.” The officer responded, “Political asylum doesn’t exist for El Salvador.”

Accounts like this are the basis for a federal class action lawsuit, filed in July 2017 by a group of immigration advocates and six individual asylum seekers, challenging Customs and Border Protection’s practice of turning back asylum seekers at ports of entry. Twenty-two additional asylum seekers provided declarations about being turned around at ports of entry in California, Texas, and Arizona, and eight new asylum seekers joined the suit as named plaintiffs this October. A spokesperson from CBP said in an e-mail that the agency is “not denying or discouraging travelers from seeking asylum or any other form of protection, or from claiming fear of return to their home country.” When ports of entry reach capacity, he explained, CBP officers simply struggle to find the time and space to process people arriving without documents while managing “all of their missions—counter-narcotics, national security, facilitation of lawful travel and trade.”

BORDERLAND IN CRISIS

Meanwhile, the burgeoning supply of effectively stateless people on the Mexican side of the border creates opportunities for exploitation beyond that perpetrated by cartels. In Matamoros, the Tamaulipas city across from Brownsville, Mexican officials reportedly demand money to allow migrants pass to the bridge. Shelters in many Mexican border cities are overfull, but their occupants are afraid to leave them. In Tijuana, 5,600 Central Americans from the migrant caravan waited in squalid conditions at an outdoor sports complex until rains flooded the encampment and the migrants were moved to a different shelter, an events hall 45 minutes south of the border. One of the group’s organizers said that the migrants ruled out presenting
themselves at ports of entry in Tamaulipas because they knew that they would be targeted by the cartels.

Since April, when hundreds of migrants were traveling to Tijuana in an earlier caravan, the Trump administration has been pushing a “safe third country” deal with Mexico, whereby asylum applicants would remain in Mexico for the months or years that their claims could take to move through the U.S. immigration courts. Such a deal rests on the presumption that Mexico is a safe place for migrants to wait, but it manifestly is not, and naming it as such would result in the border cities becoming even more desperate and dangerous.

On November 24, The Washington Post reported that incoming President Andrés Manuel López Obrador’s government had agreed to a plan, known as Remain in Mexico, as a “short-term solution.” Hours later, Mexican authorities denied having made any such deal. Members of López Obrador’s cabinet came to Washington this week to discuss the matter with Secretary of State Mike Pompeo and Homeland Security Secretary Kirstjen Nielsen. Meanwhile, the U.S. Department of Justice is appealing the order blocking the new asylum rule.

When I visited last Wednesday, 35 asylum-seekers waited on the bridge, on the extreme edge of Mexico. The seekers, including two babies, had been there since the previous afternoon. One woman was crying. An INM officer monitored the line with a copy of the list on a clipboard. The bridge was tense. Halcones are known to linger there, waiting for migrants should they be turned back.

Christmas decorations and a digital billboard, alternating between “Welcome to Laredo, Texas,” and a perfume advertisement, shined on one side of the border. Vendors selling newspapers reporting on the week’s murders sat on the other.

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