Migrants Pour Into a System That's 'on Fire'
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SAN YSIDRO, Calif. -- It was never like this before.

The migrants come now in the middle of the night or in the bright light of day. Men and women arrive by the hundreds, caked with dirt, with teens and toddlers in tow. They jump the small fences in remote parts of Texas, and they gather on the hot pavement at the main border crossing in California. Tired and fearful, they look for the one thing that they pray will allow them to stay in the United States, at least for a while: a Border Patrol agent.

Gone are the days when young, strong men waited on the Tijuana River levees for their chance to wade across the water, evade capture and find work for the summer. These days, thousands of people a day simply walk up to the border and surrender. Most of them are from Central America, seeking to escape from gang violence, sexual abuse, death threats and persistent poverty. The smugglers have told them they will be quickly released, as long as they bring a child, and that they will be allowed to remain in the United States for years while they pursue their asylum cases.

The very nature of immigration to America changed after 2014, when families first began showing up in large numbers. The resulting crisis has overwhelmed a system unable to detain, care for and quickly decide the fate of tens of thousands of people who claim to be fleeing for their lives. For years, both political parties have tried -- and failed -- to overhaul the nation's immigration laws, mindful that someday the government would reach a breaking point.

That moment has arrived. The country is now unable to provide either the necessary humanitarian relief for desperate migrants or even basic controls on the number and nature of who is entering the United States.

The immigration courts now have more than 800,000 pending cases; each one takes an average of 700 days to process. And because laws and court rulings aimed at protecting children prohibit jailing young people for more than 20 days, families are often simply released. They are dropped off at downtown bus stations in places like Brownsville, Tex., where dozens last week sat on gray metal benches, most without money or even laces on their shoes, heading for destinations across the United States.

At the current pace of nearly 100,000 migrants each month, officials say more than a million people will have tried to cross the border in a 12-month period. Some of those arriving today will have a strong legal case to stay under international refugee treaties and federal asylum laws, but most won't have a formal asylum hearing until 2021.

The flow of migrant families has reached record levels, with February totals 560 percent above those for the same period last year. As many as 27,000 children are expected to cross the border and enter the immigration enforcement system in April alone. So crowded are border facilities that some of the nearly 3,500 migrants in custody in El Paso were herded earlier this month under a bridge, behind razor wire.

In recent days, officials have grasped for ever-more-dire ways to describe the situation: "operational emergency"; "unsustainable"; "systemwide meltdown."

One top official said simply: "The system is on fire."

An ineffective 'not welcome' message

For President Trump, the situation at the border has generated red-hot fury. It erupted again on Sunday as he abruptly forced out Kirstjen Nielsen, his long-embattled homeland security secretary, for what he considered her failure to put an end to the surge of migrants.

In recent days, the president has landed on a dark new message that, if taken literally, could mean an end to all immigration -- legal and illegal -- across the Mexican border.

"The system is full," the president said in California on Friday, standing in front of the rusting iron slats of the border wall that he wants to expand for hundreds of miles across the country's southern border. "Whether it's asylum, whether it's anything you want, it's illegal immigration. We can't take you anymore."

Yet, perversely, the president's own anti-immigrant rhetoric has helped supercharge the pipeline of migrants from Honduras, Guatemala and El Salvador. Smugglers lately have been buying radio ads in Central America, warning that Mr. Trump is about to shut down all immigration. If you ever want to go to the United States, they say, go now!

"They said they would take us by bus. We would be safe," said Jeremias Pascoal, 16, who crossed into Texas earlier this month after paying $3,200 for a "guide" who showed his group to a road where he said they could surrender to the Border Patrol.

Experts say the president is not wrong when he says that "legal loopholes" in America's immigration system are partly responsible for encouraging migrants to bring children like Jeremias on a dangerous journey that in some cases ends in tragedy. In December, two migrant children died in Customs and Border Protection custody after becoming gravely ill during their trip. Officials warn that more deaths are likely.

Christopher Cabrera, a vice president of the local union of Border Patrol agents in the Rio Grande Valley in South Texas, pulled out his phone last week and scrolled through dozens of pictures he has taken out in the field: Groups of more than 100 people turning themselves in at night; seriously ill children huddled on the ground, being given medical aid.

"The majority of our agents get sick. Infectious disease is everywhere," Mr. Cabrera said, including in the Border Patrol's migrant processing center. "There's always scabies in there. Usually we have chickenpox. We have tuberculosis in there. You name it, it's probably been through that building. So it's dangerous. It's dangerous for our agents. It's dangerous for the detainees that don't have anything."

But the president has not chosen to prioritize a surge of new resources to the border, which could help ease the overcrowding and suffering that have gripped the migrants and the border communities where they arrive. Instead, Mr. Trump has insisted on simply trying to stop people from getting into the country in the first place -- a policy of deterrence that not only has failed but has made the problem worse.

In an effort to send a "you're not welcome" message, the administration has tried a series of strategies: prosecuting everyone who crosses illegally, taking their children from them, tightening asylum standards, slowing down the number of people allowed to apply for asylum each day, forcing asylum applicants to remain in Mexico while they wait for court dates.

In some cases, this approach has proved too cruel for the American public to tolerate and has run up against the protections enshrined in the Constitution, which the courts have decided protect migrants as well as citizens. Some of the president's agenda has been blocked by Congress or the courts. None of it has fixed the problem.

To the contrary, these policies have forced migrants to divert from well-staffed border stations like the one in San Ysidro, Calif., where agents deliberately slowed down the number of migrants they would allow to cross each day, toward remote areas of West Texas and New Mexico, where the two migrant children died in December.

And the administration has done little to speed up the immigration courts, though that could be just the deterrent the president has sought.

"The backlog has been allowed to build to the point of a crisis," said Doris Meissner, the immigration commissioner in the Clinton administration and now a fellow at the Migration Policy Institute. "They do not accept the basic proposition that this is a population where there are people qualified for protection and that enabling the systems we have is an answer."

Seeking asylum, with children

In a series of international human rights agreements, beginning with the 1951 Convention Relating to the Status of Refugees, nations agreed to allow anyone to seek asylum, even if they entered a country illegally. The agreements defined a refugee as someone with a well-founded fear of persecution based on "race, religion, nationality, membership in a particular social group, or political opinion."

Determining whether an applicant receives asylum was left up to individual nations, but in the United States, the international obligations and the standards for asylum were largely incorporated into American immigration law beginning with the Refugee Act of 1980.

Only about 20 percent of asylum seekers ultimately win the right to live and work in the United States by proving that they would face persecution in their home countries. Just wanting a better job doesn't qualify. Applicants have the burden to show evidence of past persecution or compelling testimony that establishes the "well-founded" fear that they would face danger if they return home.

Some have won asylum, for example, by proving that their membership in a religious minority singles them out for harassment or threats. In the past, women suffering domestic abuse have qualified, as have some victims targeted by gangs. Generalized fear of violence does not qualify. Neither does poverty.

The asylum process begins with a "credible fear" screening to see if an applicant is likely to succeed in the first place.

Out of nearly 100,000 credible fear interviews during the year that ended in September of 2018, an asylum officer confirmed a credible fear 74,677 times -- a nearly 75 percent approval rate. A senior Trump administration official vowed on Tuesday to dramatically reduce that rate by making the standards tougher.

But it is what happens after the credible fear interview that is at the heart of America's bitter immigration debate.

In 2017, 11,292 immigrants who had been released on bond or on their own recognizance were ordered deported because they failed to show up for their immigration proceedings, a 26 percent increase over the previous year, according to Justice Department data.

Blanca Vasquez, who fled Honduras after gangs killed her husband and torched their home, passed a credible fear interview at the border in 2013. She was released and settled in northern Texas, where she got a janitorial job and waited for her day in court. About a year later, she said, she unintentionally missed her first hearing and was most likely ordered deported for failing to appear.

She's not sure, because she stopped going to court at all. "I got confused," she said. "I ask God to look after me. There are too many problems in my country; I want to stay here."

Maria Perez, a Honduran who joined a caravan with her 8-year-old son, Yunior, in November, waited two months in Tijuana for the chance to apply for asylum after her son's father was killed by a man who continued to threaten her family. When her number -- 1,506 -- was finally called, she and her son were soon released to await their court hearings under the juvenile protection laws. She lives now with a friend in Northern California, but she does not have a lawyer and isn't sure how to proceed with her case.

"I am very worried. I don't know what to do," she said.

Families like Ms. Perez and her son are the biggest targets of Mr. Trump's fury. The president and his aides blame the nation's immigration laws -- the president derisively calls them "Democrat laws" -- for creating an incentive for migrants to bring a child with them to improve their chances of getting into the United States.

One of them is the Trafficking Victims Protection Reauthorization Act, a 2008 bill signed into law by President George W. Bush that requires immigration authorities to treat migrant children differently than they do adults. The other is a 1997 legal settlement in a case known as Flores, which prevents the government from holding children or families in secure detention facilities for longer than 20 days.

It was trying to get around those legal limits that prompted the administration last spring to begin forcibly separating migrant children from their parents -- detaining parents indefinitely while sending children to shelters and foster care. The fierce political backlash forced Mr. Trump to abandon that approach.

The president's most recent initiative was the one calling for many migrants to remain in Mexico for the months or years it could take for an American judge to hear their case; that policy, too, ran afoul of the courts when a federal judge in California blocked its implementation.

For some migrants, the policy effectively meant no asylum case at all.

Miguel Aquino, 29, who fled El Salvador in a caravan in October after being shot in the leg and hand by MS-13 gang members, waited for weeks in Tijuana to apply for asylum at the sprawling San Ysidro port, the biggest on the border. He was interviewed and sent back to Mexico to wait for a court date.

In March, when he arrived for a preliminary hearing without an attorney, the judge gave him more time to find one -- and sent him back to Mexico to wait. Mr. Aquino said he has called eight lawyers, and they all said they couldn't represent him because he is in Tijuana. At this point, he is tired of waiting.

"The next time, if I don't go with a lawyer and they don't give a clear answer," he said, "I'm going to look for another way to get in."

The source of the problem

Mr. Trump often says he plans to build a wall on the border with Mexico to halt illegal immigration. But when the standoff over funding for the wall led to a 35-day government shutdown in December and January, it actually made things worse. Many immigration judges were furloughed, and tens of thousands of deportation and asylum cases were delayed, in some cases for years.

There is another problem with the wall: Slowing the exodus of migrants from Central America would need to start in those countries first.

Central America's economies are still weak, and residents face drug and gang violence at levels largely unseen in other countries. Many are subject to deep poverty, a situation that recently reached a crisis with the collapse of coffee, corn and maize crops.

M.C., a 23-year-old Guatemalan woman who asked to be identified by her initials for safety reasons, received an anonymous letter recently in her hometown, San Marcos, warning her that she would be killed if she did not give the letter writers 65,000 Guatemalan quetzals, nearly $8,500.

M.C., who is three and a half months pregnant, went to the police in San Marcos. Then she got a second letter, warning her to never go to the police again. After she received a third letter, she made the decision to leave for the United States.

"I didn't want to come here at first, but then I think it's the best thing for the baby," M.C. said as she sat in a migrant shelter in the South Texas border city of Brownsville. "Here, he's going to grow without crime. He can go to school."

American diplomats say the best way to confront that kind of lawlessness is with the hundreds of millions of dollars in foreign aid that has been flowing to Guatemala, El Salvador and Honduras for several years, designed to bolster the rule of law and improve the economy.

Last week, Mr. Trump abruptly abandoned those efforts, ordering the State Department to scrap about $500 million in aid to the three countries. Mr. Trump's decision has been criticized by members of both parties, who call it shortsighted.

Likewise, critics say that Mr. Trump's repeated denigration of Mexico over the years -- including his insistence on building a border wall -- risks undermining Mexico's willingness to help to keep Central American migrants from traveling to the United States.

"This is the first Mexican administration that has even been oriented toward doing that," Ms. Meissner, the Clinton administration immigration commissioner, said.

But blaming other countries and painting those coming across the border from Mexico as a national security threat has never failed to animate Mr. Trump's core supporters -- the ones who helped deliver him the White House in 2016.

"It's an invasion," Mr. Trump declared in February, after Congress denied him money to build a wall. "We have an invasion of drugs and criminals coming into our country."

In fact, the migrants are mostly victims of the broken immigration system. They are not, by and large, killers, rapists or gang members. Most do not carry drugs. They have learned how to make asylum claims, just as the law allows them to do. And nearly all of them are scared -- of being shipped off to Mexico, separated from their children, sent to prison. Scared, especially, of going home.

Zolan Kanno-Youngs and Caitlin Dickerson contributed reporting.

CAPTION(S):

PHOTOS: Migrants in Matamoros, Mexico, top, lined up for food donations as they waited to cross into Brownsville, Tex. A sick Guatemalan teenager, above, was examined at a shelter in El Paso. At a motel in El Paso, left, migrants are being housed by a nonprofit. "The backlog has been allowed to build to the point of a crisis," a former U.S. immigration commissioner said. (PHOTOGRAPHS BY ILANA PANICH-LINSMAN FOR THE NEW YORK TIMES; TAMIR KALIFA FOR THE NEW YORK TIMES) (A20-A21) CHARTS: Southwestern border apprehensions are on the rise after years of decline.; A growing share of border crossers are from countries in Central America.; This year, a majority are children and individuals crossing with relatives.; Many are seeking asylum, adding to the sharp rise in cases in recent years. (Sources: U.S. Customs and Border Protection and Department of Justice | Note: Apprehensions are shown as a 12--month rolling average.) (CHARTS BY DENISE LU/THE NEW YORK TIMES) (A20)

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