

The Gendered Consequences

of Seeking Asylum in U.S.-Mexico Border Encampments

Author: Abigail Isaac
Discipline: Political Science

ABSTRACT: This policy paper explores the gendered vulnerabilities of migrants seeking refuge from unlivable conditions in El Salvador, Honduras, and Guatemala (Northern Triangle Countries), who are forced to the U.S.-Mexico border and stranded in border camps strung along U.S. entry ports. In particular, it examines the impacts of four immigration and border policies initiated by the Trump administration, and details the compounded risks of violence faced by displaced women and gender-diverse communities while travelling to the border and in border encampments. Migrants seeking asylum experience a range of physical and psychosocial trauma, and their safety is contingent on the varying stakeholder positions of the American and Mexican governments, transnational non-governmental organizations, and the United Nations High Commissioner for Refugees (UNHCR). In evaluating the barriers to accessing basic resources and legal support faced by marginalized communities at the border, I argue that conditions in-camp require gender-sensitive humanitarian interventions from the UNHCR as mandated by its ethical and legal obligation to protect the rights of asylum-seekers. Following my analysis of the gendered vulnerabilities in border encampments and their historical roots, I then propose three potential policy choice sets to address the increasing urgency of the crisis.

KEYWORDS: Borders, gender, humanitarianism, immigration, migration, policy

Executive Summary

As a result of increasing violence in El Salvador, Honduras, and Guatemala, also known as the Northern Triangle Countries, there has been an influx of migrants and asylum seekers to the United States and Mexico (Fleury 2016). However, new policies implemented by the Trump administration directly impacting asylum seekers at the U.S.-Mexico border have detrimentally altered the lives of asylum seekers along U.S. entry ports (Narea 2019). The living conditions and exacerbated vulnerabilities of asylum-seekers awaiting entry in extremely dangerous Mexican shelters clearly indicate an urgent and growing humanitarian crisis. Despite this, the issue of makeshift border encampments and gender-based violence (GBV) facing asylum seekers stranded in Mexico remains under-reported and unaddressed, and migrants situated in Mexican border towns are still waiting for humanitarian assistance (Narea 2019).

Women and gender-diverse migrants are subjected to the compounded risks of violence at home, violence in encampments, and violence in immigration detention centers (Parish 2017). Their increased vulnerability is a result of gender-discriminatory norms and roles, and the risk of violence is only increasing as a result of the recent implementation of four dangerous immigration policies by the Trump administration (Fleury 2016). Namely, these are: an immigration “metering” policy, Migrant Protection Protocols, an Asylum Transit Ban, and the Prompt Asylum Claim Review/Humanitarian Asylum review Process policies. Further, in camp, migrants are exposed to extortion, murder, kidnapping, abuse, and sexual assault from various criminal actors, and women often experience sexual violence and forced disappearances near the border (Fleury 2016). There are various urgent policy options at the UNHRC’s disposal in addressing this issue. First, UN agencies could administer more on-the-ground humanitarian support for migrants stranded at the border. Second, the UNHCR could apply greater pressure to the US government in challenging the devastating consequences of new immigration policy. Third, the UNHCR could further coordinate with partners and migrant women-led groups in the area to empower local support systems, health infrastructure, and increasing accessibility of hotline services and information campaigns (UN Refugee Agency). Ultimately, the Trump administration’s initiation of catastrophic immigration policy is a blatant violation of asylum policy and legal precedent. In response, the international community has a responsibility to ensure a cultural and gender-sensitive approach is taken to rectify the harm committed against migrants by cruel and unlawful American immigration policies.

Statement of the Issue

Applying a gender-sensitive lens to the danger facing women and gender-diverse migrants in encampments at the border is critical to understanding the degree of harm they face. The gendered consequences of seeking asylum at the U.S.- Mexico border have been exacerbated as a result of the COVID-19 pandemic, making it critical for UN agencies to focus attention on the more at-risk migrants, like women and gender-diverse asylees (Fleury 2016). Stranded women, trans, and queer migrants at the border lack access to menstrual hygiene products and healthcare services, face an increased risk of sexual violence, exploitation and bodily harm, and experience a range of physical and psychosocial trauma (Parish 2017). LGBTQIA+ migrants in particular are often “targets of violence” in their origin states, and are hyper-visible and unprotected by border agents and police in the migratory process (Lubhéid 2020, 29). This often results in a lack of access to critical health care services while in detention, facing discriminatory treatment and verbal abuse by security actors, and being forced into homelessness and “survival sex work” at the border (Lubhéid 2020, 29). To this end, trans migrants are frequently subjected to gendered violence while in detention facilities, including the “denial of hormones and appropriate medical care,” and for trans women, detention in all-male facilities (Lubhéid 2020, 30).

According to Amnesty International, between 60 and 80 percent of female migrants travelling through Mexico are raped while travelling, and despite the danger, many still pursue the journey as a result of GBV and discrimination in their home countries (Parish 2017). After leaving home, migrants are met with highly gendered encampments on the “basis of demographic and economic structures” (Jensen 2019). Thus, understanding how socio-cultural views on masculinity and heterosexuality impact survivors of sexual violence is necessary to fully grasp the scope of the challenges facing women and gender-diverse migrants (Jensen 2019). Women are often “symbolized as mothers” and caretakers of children and are frequently represented by the amalgamated term “womenandchildren,” reducing their agency as individuals and community leaders in-camp (Jensen 2019, Sjoberg and Gentry 2015, 1). Alternatively, “manhood is equated with violence,” and sites of violence and unrest (i.e. border camps), often serve as “amplifying circles” for masculine dominance and imbalanced gender power dynamics (Jensen 2019). Since the makeup of border encampments is constantly changing with the arrival of new groups, it can be difficult to foster a “sense of community” and solidarity between women migrants (Jensen 2019). Additionally,

women and gender-diverse migrants at border camps often face a “lack of education, individual documentation, economic self-reliance,” and resources needed to mediate GBV (Jensen 2019). This “culture of cruelty” means that marginalized migrants are faced with severe violence, and obstructed access to accountability measures and critical healing resources (Lubhéid 2020, 31). These barriers, coupled with the conditions in-camp make UNHCR humanitarian intervention a necessary measure in alleviating and preventing gender-based harm.

Background

U.S. immigration controls have served to reproduce ideals of the ‘transnational’ and the ‘national’ as “sites of inequality” (Luibhéid 2020, 20). By framing immigration as a matter of “individual decision-making” as opposed to an issue of “transitional dynamics and inequalities,” American immigration controls render migrants outside of a “white, patriarchal, heterosexual, middle-class” framework to a status of disposable and criminalized ‘Other’ (Luibhéid 2020, 20). Recognizing GBV and discrimination against women as a result of intersecting oppressions, and both a cause and risk of migration is crucial to understanding the current state of affairs (Ruyssen & Salomone 2018, 150). According to the OECD Development Centre’s Social Institutions and Gender Index (SIGI), there are five dimensions of oppressive social institutions that disproportionately affect migrant women’s lives; these include a “discriminatory family code, restricted physical integrity, son bias, restricted resources and assets, and restricted civil liberties” (Ruyssen & Salomone 2018, 158). Gendered migration patterns also reflect economic opportunity and network ties, as well as political instability and national security conditions in nations of origin (Donato 2010, 82). Migrants and asylum seekers face harsh realities at the border as a result of decisions made by critical stakeholders in the crisis, including the United States and Mexican governments, and various United Nations entities and non-governmental organizations (NGOs).

A brief overview of political stakeholder positions:

- **United States:** The U.S. sent around \$139M in aid to Mexico in 2019 to support migrants, but has done little else to alleviate the challenges facing migrants in border camps (Narea 2019).
- **Mexico:** Migrant shelters are at capacity in Mexico, and the government has deployed its National Guard and military to increase security measures in border towns and opened a limited number of shelters (Narea 2019). The state has not done

much else to protect migrants in the encampments and is under pressure from the U.S. government to address the influx of stranded migrants as an ‘enforcement’ issue (Casares and Carillo 2020).

- **NGOs:** Essential healthcare services are administered from US-based nonprofits, which are shouldering the majority of the burden for providing on-the-ground services with limited capacity (Narea, 2019). Some shelters and informal schooling systems have also been initiated by nonprofits and volunteers working in the area (Narea 2019).
- A brief timeline of U.S. immigration policy at the border shows:*
- **April 2018:** US immigration officials formalize a “metering” policy, which is the “practice of allowing a limited number of asylum seekers into ports of entry” per day where migrants are left awaiting the opportunity to request asylum at the border (HRW 2020). More recently, the Trump administration has begun metering Mexican asylum seekers despite claims of “fear of return” to their home conditions (HRW 2020). There are many days where no migrants are removed from the CBP “list” through which people can be admitted and processed to request asylum (AIC 2020).
 - **December 2018:** The administration announces a new program called “Migrant Protection Protocols” (AIC 2020). As of January 2020, the MPP policy is active in seven U.S. border towns, and migrants can be transported by CPB to Mexico at a location “far from where they arrived” at the border (AIC 2020). The MPP process is also discretionary and arbitrary, and made by individual CBP officers and Border Patrol agents (AIC 2020). Migrants often face institutional barriers to exercising their right to seek asylum and can resort to dangerous methods to seek entry to the U.S. illegally when looking to escape the dangerous conditions in Mexico (Schacher 2019).
 - **July 2019:** The Trump administration declares an Asylum Transit Ban for “any individuals who enter the United States at the ‘southern land border’ after transitioning through another country and leaving their home” (AIC 2020). The ban applies to all migrants crossing the border after July 16th, irrespective of immigration status or method of entry (AIC 2020). It does not make exceptions for unaccompanied children, and its application depends on an individual’s status under the asylum process (AIC 2020).
 - **October 2019:** The CBP begins two pilot programs, the Prompt Asylum Claim Review (PACR) for Mexican nationals, and the Humanitarian

Asylum Review Process (HARP) for non-Mexican nationals (AIC 2020). Initiated in El Paso, these programs are designed to keep migrants in short-term detention facilities during the expedited removal process (AIC 2020). Prior to these interventions, individuals who were not subject to MPP and placed in the “expedited removal” process were sent to ICE detention centers if they demonstrated a “credible fear of persecution” (AIC 2020). Against protocol, migrants are often held by CBP for weeks in freezing conditions with “limited access to hygiene, and inadequate food and water” (AIC 2020).

While many of these programs are being challenged in court, the state of asylum at the border has drastically changed in 2019 and 2020, and migrants are still stranded in dangerous conditions with limited government assistance and access to basic necessities (HRW, 2020). Mandating that CBP send thousands of migrants back to countries that do not have the necessary temporary housing required to safely wait through the immigration process has resulted in the creation of border towns, rendering women and gender-diverse migrants vulnerable to the same violence and discrimination they were looking to escape. The gravity of this crisis cannot be overstated - as of May 2020, there have been at least 1,114 reported cases of murder, rape, torture, kidnapping, and other violent assault against vulnerable asylum seekers victim to the MPP policy residing at the border (HRF 2020). These figures are likely an underrepresentation of the gendered harm facing migrants, as the vast majority of those subject to MPP have not been interviewed or had access to legal support (HRF 2020). Despite being increasingly

vulnerable, women and gender-diverse migrants lack critical protection and healing resources while in-camp, and only 0.1% of migrants receive asylum at the border (Kelley 2019). Clearly, the dangerous conditions in encampments should be a primary international humanitarian concern.

Recommendations

Policy Choice Sets and Consequences

1. **Deploy humanitarian workers on the ground and increase general presence in the area.**

Merits: Migrants in particularly vulnerable encampments are in need of greater humanitarian aid in order to access basic supplies like food and bedding (Narea 2019). One of the merits of deploying humanitarian workers on the ground to manage the tent camps and ensure the provision of basic necessities is reliable camp oversight (Narea 2019). Safe supervision and community leadership for women and gender-diverse migrants is currently lacking since many camps are run by the migrants themselves with little oversight from the Mexican government (Narea 2019). This means that women and gender-diverse migrants who are vulnerable to violent assault and exploitation within the camps from criminal actors do not have the necessary protection or resources needed to survive (Narea 2019). Another merit of deploying humanitarian workers includes increasing the provision of “basic hygiene kits [and], support to local authorities in identifying health issues,” and information to asylees about their legal options, which has proved helpful in ensuring protection



during the pandemic (Guerrero 2020).

Drawbacks: This policy would result in a significant shift of responsibility for ensuring the safety of migrants from the Mexican and U.S. governments to the UNHCR. This would mean less accountability on behalf of the states causing the crisis and a potentially limited ability for the UNHCR to help since it does not dictate policy changes or legislation to ensure a long-term fix for the crisis (Narea 2019). Despite providing financial support, legal aid, and safe housing for asylum seekers, the “long-term stability of refugees remains a concern” (UNHCR 2020). This lack of support would disproportionately impact marginalized asylum seekers, particularly women and gender-diverse communities, who are in urgent need of long-term safe living quarters.

Another potential drawback is the lack of accountability on behalf of political actors. The UN Guiding Principles on Internal Displacement note that it is a government’s responsibility to “address, prevent, and remedy internal forced displacement,” placing humanitarian actors in an unclear position when it comes to directly intervening in U.S.-Mexico political affairs (Deslandes, 2020). In order to ensure the sustainability of efforts made by international humanitarian organizations, there must also be the corresponding political infrastructure to stop the crisis from further spiraling. Without policy changes, international aid is simply a means for crisis mediation, not crisis prevention.

2. Challenge “Remain in Mexico” policy.

Merits: The immigration policies imposed by the Trump administration has resulted in disaster for thousands of people and indicate a “full dismantling of the US asylum system” (Amnesty 2018). Thus, an alternative approach to tackling the gendered crisis at the border would be to outwardly challenge the policies themselves. Not only is MPP a violation of international law by “increasing arbitrary and indefinite detention of asylum seekers” and enforcing degrading treatment, it also “undermines the international framework for refugee protection” (Amnesty 2018). Furthermore, regardless of whether the United States has signed the 1951 Convention on the Status of Refugees, all countries are bound to the international law principle of “non-refoulement” (Schacher 2019). In other words, a government should not return a person to a country where they are “at risk of being subjected to persecution, torture, or other

cruel or inhuman treatment” (HRW 2020). Given that women and gender-diverse migrants are also at risk of GBV violence in their home countries, challenging MPP accounts for the unique position gendered migrants are in, where they are not safe at home or at the border.

Accordingly, this approach presents more of an ethical and legal obligation than a series of “merits,” but if successful in court it could radically change the future of the treatment of migrants at the border for the better. While the UNHCR filed an amicus brief against the MPP policy with the Ninth Circuit Court of Appeals, the Supreme Court allowed protocols to continue while on appeal (Guerrero 2020). Nevertheless, continuing to apply pressure to the U.S. government, especially in the midst of a presidential transition and new foreign policy agenda, could have hopeful results for asylees subject to violence at the border.

Drawbacks: Despite the significant merit of challenging MPP, this crisis requires intervention policies that can be enacted swiftly. Violence and conflict is quickly intensifying, and the judicial process for striking down policy is long and arduous (Deslandes 2020). Marginalized migrants and asylum seekers, in particular, are in urgent need of attention or care. Without quick intervention, the violence they face goes unaddressed, and they lack the necessary resources to heal. Hence, a potential drawback of this strategy would be the lengthy timeline involved in pursuing a legal case and the uncertainty of success. Another potential risk of challenging the MPP policy is the UNHCR’s reliance on funding from the U.S. government for other humanitarian initiatives serving refugees and asylum seekers worldwide (Narea 2019). In 2019, the U.S. contributed around \$1.67 billion to helping displaced people worldwide, and while it is necessary to explore new sources of funding for humanitarian initiatives, losing American support could jeopardize the well-being of migrants internationally (Narea 2019). It is also important to note that since the UNHCR was not involved in “initial discussions” between the U.S. and Mexico about MPP, they are not “in contact with U.S. authorities,” nor privy to immigration policy discussion (Narea 2019).

3. Support women-led support groups and migrant workers in the area to increase camp and host community capacity.

Merits: On the border, many female migrants

work in an “informal economy” in dangerous conditions, while also facing routine abuse and discrimination (UN Women 2016). One of the greatest merits of increasing community capacity by supporting women-led support groups in-camp is helping women and gender-diverse migrants become self-sufficient (UN Women 2016). While the UN International Organization for Migration (IOM) currently works to help migrants obtain work permits, employment, accommodation, and cash assistance for basic necessities, expanding and localizing aid for women and gender-diverse migrants is a critical form of harm reduction and violence prevention (Narea 2019). Funding local human rights organizations and support groups to facilitate training for migrant women, allow space for them to “share their experiences,” identify areas of need, understand their rights, and “analyze migration from a gendered perspective” is important for long-term harm reduction (UN Women 2016). This allows women to develop “leadership skills” in-camp and contribute to local economies, allowing for self-protection against exploitation and facilitating community solidarity (UN Women 2016). This kind of community building also lends itself to community healing. By localizing aid, migrants who are victims of GBV have the support of their community in addition to quick access to critical health and financial resources. A focus on increasing community capacity and solidarity also allow opportunities for marginalized migrants, particularly those in the LGBTQIA+ community, to support one another in safe spaces while accessing healthcare and financial aid networks.

Another merit of working to support women-led groups in-camp is the inherent sustainability in skill-building and information dissemination programs (UNHCR 2020). Women-led refugee programs that establish “community focal point systems” and “expand the availability of hotline services” to link survivors of GBV with social workers and counsellors have proved critical to disseminating information on mitigating and healing from GBV (UNHCR 2020). Teaching women their “legal rights and responsibilities” through “culturally sensitive information campaigns” is a necessary long-term humanitarian intervention to combat violence, by encouraging independence, and confronting patriarchy and structural disenfranchisement in border camps (Jensen 2019).

Drawbacks: The logistical aspect of information dissemination in the pandemic is challenging. While technology is a valuable resource to provide information to migrants, access to online platforms

and other various communication tools is limited (UNHCR 2020). Nevertheless, this limitation has been overcome by UNHCR information campaigns in other refugee camps, where community leaders, health workers, and social workers use platforms like WhatsApp to deliver key messages to communities (UNHCR 2020). Similar methods could be applied to overcome communication challenges at the border camps in Mexico, and potentially side-step the consequences of increasing in-person humanitarian aid in the pandemic.

Recommendation: Choice III

Addressing the gendered consequences of the U.S.-Mexico border crisis by supporting women-led migrant groups and workers in border encampments applies a necessary gender-specific lens to the issue. While Choices I and II are viable approaches to the crisis, Choice III addresses the need for both swift and sustainable humanitarian interventions. Further, since Choice III applies a gender-sensitive perspective to the migrant crisis, it addresses a critical part of ensuring that policies will remain effective (Jensen 2019). Gender-based initiatives in-camp must be designed and implemented by women and gender-diverse migrants in order to identify key areas of need and alleviate harm for the long term, as the best solutions to violence against vulnerable peoples often come from those subjected to violence. Further Choice III addresses the issue of gendered violence and conflict at the border through a three-pronged approach: it works to disrupt oppressive beliefs about gender roles and norms in-camp through information campaigns, distribute necessary resources and strengthen health infrastructure by building safe communities, and ensure the sustainability of the intervention for the long-term by working with women-led groups and marginalized leaders in-camp.

Relying on changes in American immigration policy and Mexican camp oversight to stimulate long-term change and harm reduction is contingent on unpredictable state agendas and domestic interests. While nation-states debate the disposability of human life at the border, women and gender-diverse migrants remain subject to intensifying and ongoing abuse without the necessary resources to heal and thrive. The UNHCR must not only condemn the U.S. administration’s treatment of Mexican asylum seekers at the border, but more importantly, ensure that migrants have access to critical resources in accordance with international law. As the crisis intensifies, the urgency of further intervention has become self-evident, and overlooking the trauma and injury suffered by those who experience violence at the border would forgo the UNHCR’s ethical and legal obligation to protect the human rights of asylum-seekers worldwide.

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