

Border Security at a Crossroads: The Uncertain Future of America's Southwestern Border



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by Grace Watson and Igor C. Magalhaes

Executive Summary

During the early months of 2019, the United States experienced a massive surge of migrants making their way to America's southwestern border in numbers that had not been seen in over a decade. Unlike previous waves of migrants, this one was comprised primarily of family units and unaccompanied minors from Central America, many of whom actively sought out Border Patrol agents to start asylum claims in the hope of quickly gaining permission to live and work in the United States.

The volume and composition of the migrants quickly overwhelmed the fragile border region, and a crisis ensued. Largely due to the structural weaknesses of the American asylum system, migrant shelters overflowed, children were separated from their parents, and immigration court dockets soared. In response to the crisis, the Trump administration undertook several initiatives to mitigate the situation. Besides moving forward with the construction of a wall on the southern border—President Trump's signature 2016 campaign promise—the administration also closed several loopholes in the asylum system and negotiated agreements with Mexico and the Northern Triangle countries aimed at discouraging migrants from making the dangerous journey to the American border and thereby relieving the overwhelmed asylum apparatus.

While many of these efforts were criticized and challenged in the courts, they succeeded in decreasing the number of migrants attempting to enter the United States through the southern border. However, it is unclear if these improvements will last. With the outbreak of a global pandemic, the worsening conditions in Latin America, and a looming presidential election, the future of the border remains uncertain.

Conditions at the Border

The Border Crisis

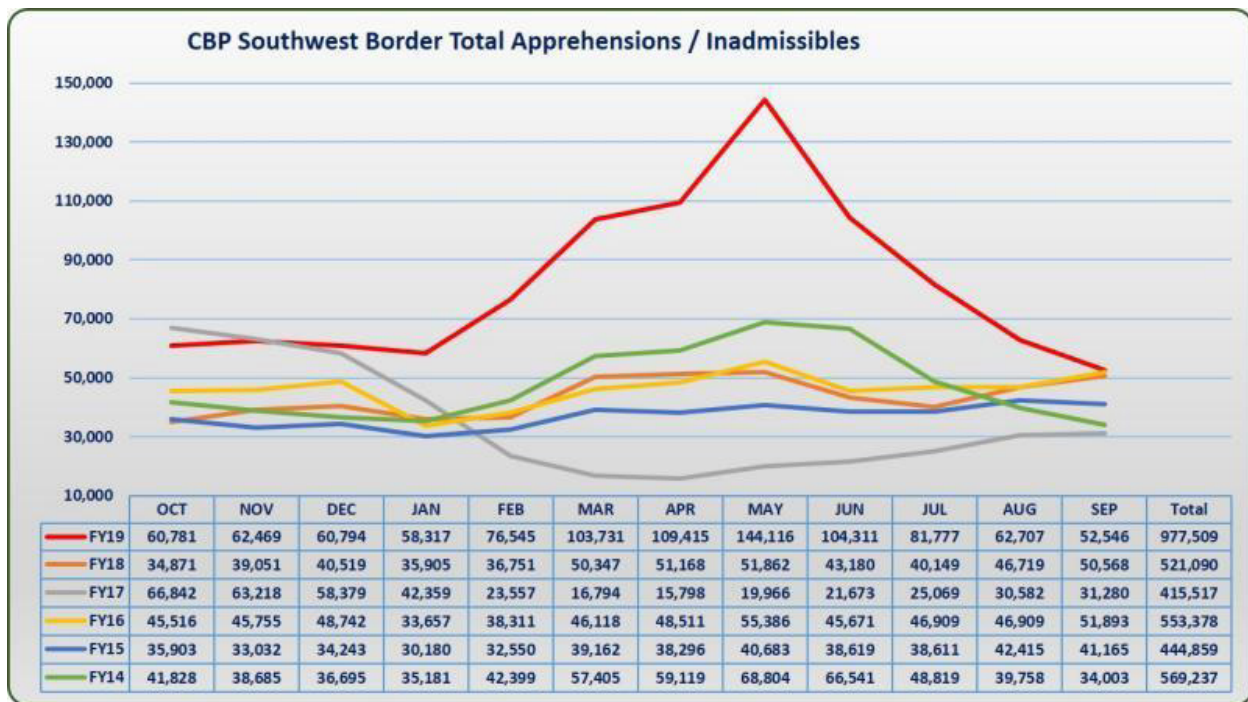
In fiscal year 2019, the United States faced a crisis with almost a million migrants either being apprehended or found inadmissible at the border. U.S. Customs and Border Protection (CBP) reported numbers of apprehended and inadmissible individuals surging to 6 digits for 4 successive months—from March through June ([U.S. Customs and Border Protection, 2019a](#)). Apprehension numbers have not been as high in over a decade, with one having to look all the way back to fiscal year 2007—in other words, before the recession—to find higher annual apprehension numbers ([U.S. Customs and Border Protection, 2019b](#)).

Key Points

- During the border crisis of 2019, apprehensions reached levels not seen in recent history. Both the magnitude and the characteristics of the migrants themselves made the situation extremely difficult to handle.
- The Trump administration took numerous steps aimed at securing the southern border and limiting incentives to file frivolous asylum claims, which resulted in a reduced number of detentions at the border.
- The effects of COVID-19, worsening conditions in Latin America, and the upcoming election each have the potential to drastically change the state of the American border going forward.

Figure 1

CBP Graph Showing a Rise in Migrants Who Are Apprehended or Found Inadmissible at the Border in FY 2019 Compared to Previous Years



Note. Image taken from *Southwest Border Migration FY 2019*, U.S. Customs and Border Protection, November 14, 2019 (<https://www.cbp.gov/newsroom/stats/sw-border-migration/fy-2019>).

This massive wave of migrants resulted in overcrowded detention facilities that were not designed to accommodate migrants—and especially children—for extended apprehension periods. CBP is only supposed to detain migrants who illegally entered the United States for a short period of time before transferring them to other government agencies—namely, U.S. Immigration and Customs Enforcement (ICE) in the case of single adults and some families, or U.S. Department of Health and Human Services (HHS) in the case of unaccompanied alien children (UACs). However, in 2019, migrants were staying under CBP care for prolonged periods of time because the other agencies were already “operating at or above capacity” ([Office of Inspector General, 2019, p. 3](#)).

A report by the Office of the Inspector General of U.S. Homeland Security (DHS) indicated that some Border Patrol facilities in the Rio Grande Valley sector—where the majority of apprehensions took place in fiscal year 2019—could not provide children with showers, a change of clothes, or hot meals ([Office of Inspector General, 2019, p. 6](#)). The report also indicated that conditions for single adults were even worse, with some not having been able

to shower for up to a month. Many were still wearing the same clothes they had been wearing when they were initially apprehended and had to clean themselves with wet wipes ([pp. 8-9](#)). One facility in the sector was so crowded that there was standing room only for detained single adults ([p. 6](#)). As Raul Ortiz, chief Border Patrol agent of the Del Rio sector, stated, “Our stations were not built and equipped to manage the (numbers) we’re experiencing right now” (quoted in [Tufts, 2019, “What Del Rio Sector agents need” section](#)).

Apart from the astounding numbers, what made this surge even more unique was the composition of the migrants themselves. Historically, migrants crossing the southern border were single adults from Mexico who attempted to bypass law enforcement in order to enter the country undetected. In fiscal year 2019, the migrants consisted primarily of family units and unaccompanied minors from Central America, especially from the Northern Triangle countries of Guatemala, Honduras, and El Salvador. In contrast to migrants of previous years, many of them actively sought out border agents to start asylum claims.

Figure 2

Overcrowding of Families at Border Patrol's McAllen, Texas, Station on June 10, 2019



Note. Image taken from *Management Alert – DHS Needs to Address Dangerous Overcrowding and Prolong Detention of Children and Adults in the Rio Grande Valley*, Office of Inspector General, U.S. Department of Homeland Security, 2019, p. 4 (https://www.oig.dhs.gov/sites/default/files/assets/2019-07/OIG-19-51-Jul19_.pdf).

Between fiscal year 2007 and fiscal year 2010, Mexicans comprised around 92% of all apprehensions at the border, while migrants from the Northern Triangle only constituted about 7% ([U.S. Customs and Border Protection, 2019c](#)). That dynamic began to change in the new decade. By fiscal year 2014, the Northern Triangle surpassed Mexico as the number one source of migrants apprehended at the border (apart from a brief uptick in the proportion of Mexican migration in fiscal year 2015).

From fiscal year 2016 to fiscal year 2018, the proportion of Mexican apprehensions at the southwest border stayed relatively constant in the mid to high 40% range, and Northern Triangle apprehensions remained in the low to mid 50% range. Fiscal year 2019 brought a drastic change with Mexican apprehensions dropping to just under 20% and Northern Triangle apprehensions soaring to over 70%. To illustrate the incredible scope in the increase of migration from the Northern Triangle, from fiscal year 2007 to fiscal year 2010, 177,833 migrants from the region were apprehended at the border; but in fiscal year 2019 alone, that figure increased to 607,774 ([U.S. Customs and Border Protection, 2019c](#)).

The vast majority of apprehensions also previously consisted of single adults. From fiscal year 2013 to fiscal year 2018, unaccompanied alien children (UACs) and family units combined made up less than 30% of all apprehensions—and never accounted for more than 40% in any given year. Yet in fiscal year 2019, they amounted to an astonishing 65% of all apprehensions ([U.S. Customs and Border Protection, 2019b](#); [2019d](#); [2019e](#)).

The number of asylum seekers was also unprecedented. Asylum is a safe haven for foreign nationals who can successfully demonstrate that they have either been persecuted or have a credible fear of persecution in their country of origin due to their race, religion, nationality, membership in a particular social group, or political opinion ([U.S. Citizenship and Immigration Services, 2020](#)). When migrants are apprehended at the border, whether they are trying to circumvent immigration enforcement or are actively presenting themselves to Border Patrol, they are subject to expedited removal. While in removal proceedings, they may apply for asylum defensively ([U.S. Citizenship and Immigration Services, 2015](#)). Historically, a relatively small number of apprehended migrants claimed asylum. According

to CBP, between 2000 and 2013, less than 1% of those who encountered Border Patrol initiated an asylum claim ([U.S. Customs and Border Protection, 2018](#)). However, the numbers have since skyrocketed. In fiscal year 2018, 18% of migrants apprehended or found inadmissible at the border claimed credible fear—equaling 92,959 claims in total. The percentage of those claiming credible fear in fiscal year 2019 dropped slightly to 15%, but the amount of apprehended or inadmissible migrants that year almost doubled, bringing the total number of claims to over 146,000 ([U.S. Customs and Border Protection, 2020b](#)).

When apprehended migrants consisted mostly of single Mexican adults, immigration officers could quickly process them and send them back across the border without lengthy stays in the custody of the U.S. government. However, the process is very different for family units and unaccompanied minors, especially for those who claim asylum or are from non-contiguous countries.

When a migrant initiates an asylum claim at the border, the first step in the process is for an asylum officer to conduct a credible fear interview to determine if that individual has a “significant possibility” of qualifying for asylum ([American Immigration Council, 2020](#)). This credible fear standard is a low threshold to reach, with around 74% of people found to have such credible fear in fiscal year 2019 ([U.S. Citizenship and Immigration Services, 2019b](#)). If an individual is found to have a credible fear, they will then be scheduled to make their case in front of a judge in immigration court. However, if they are not found to have a credible fear by the asylum officer, they may appeal their finding ([American Immigration Council, 2020](#)).

In other words, regardless of the original fear assessment of an asylum seeker, they may still pursue asylum in immigration court. Because of the massive wave of migrants at the border last year, asylum cases consequently flooded the immigration court docket. In the first 11 months of fiscal year 2019 alone, nearly 400,000 cases were added to the existing immigration docket, and the backlog of cases reached one million in September 2019 ([Transactional Records Access Clearinghouse, 2019a](#)). Almost a quarter of all the cases in immigration court decided in fiscal year 2019 were asylum cases—up from just a little over 10% in fiscal year 2014. Due to this backlog, asylum seekers had to wait, on average, almost 3 years, or 1,030 days, before their cases were decided, with a quarter of them waiting even longer at 1,421 days ([Transactional Records Access Clearinghouse, 2020a](#)).

Before the Trump administration implemented several changes to the system, asylum seekers were allowed to stay in the United States while waiting for their court date and were able to receive work authorization after 180 days ([U.S. Citizenship and Immigration Services, 2019a](#)). At the time, asylum was deemed the easiest path for migrants to gain entrance into the United States, whether they had legitimate fears of persecution in their home countries or not. Therefore, many migrants sought to take advantage of the system for greater economic opportunities or to be reunited with family members already in the United States. One asylum seeker from Honduras admitted “[w]e’re not looking for asylum, we’re looking for a job. For a year or a few months, that’s all we’re looking for” ([Root, 2019, para. 26](#)).

Given how so many of those claiming asylum were not actually fleeing persecution, it is not surprising that almost 70% of asylum seekers were eventually denied asylum or other immigration relief in fiscal year 2019—almost 10% higher than the previous year ([Transactional Records Access Clearinghouse, 2020a](#)). Denial rates are even higher for migrants from Mexico and the Northern Triangle countries of El Salvador, Honduras, and Guatemala, where the vast majority of migrants at the border originate. In fiscal year 2018, denial rates for migrants from these four countries ranged from a low of 76.5% for Salvadorans to a high of 85.5% for Mexicans ([Transactional Records Access Clearinghouse, 2018](#)).¹

Besides overwhelming American detention facilities and immigration courts, abuse of the asylum system especially hurts those who actually possess legitimate fear of persecution by forcing them to wait for the relief that they desperately need. More individuals from China were granted asylum during the fiscal year 2019 than any other nationality, even though there were significantly fewer applicants from China compared to other countries. While almost 70% of asylum claims were denied in total, only about 1 in 4 Chinese nationals were denied ([Transactional Records Access Clearinghouse, 2020a](#)). With the grave human rights abuses by the Chinese Communist Party—such as the suppression of Uyghur Muslim population which is escalating to the level of genocide ([Beauchum, 2019](#))—it is easy to see why. However, with the extent of frivolous asylum claims clogging immigration courts, people with a legitimate basis for their asylum claims may have to wait years before finally receiving safe haven.

The structural deficiencies in the American asylum system are even more glaring when it comes to family units and

¹ For a more comprehensive analysis of the structural weaknesses of the American asylum system, see *Toward a 21st-Century Asylum System* by John Daniel Davidson, Texas Public Policy Foundation, 2019 (<https://www.texaspolicy.com/toward-a-21st-century-asylum-system/>).

UACs.² The *Flores* Settlement, a court settlement from the Clinton administration, has guided government procedures regarding the treatment of UACs who present at the American border. In this court settlement, the government agreed to release a UAC to a relative or guardian who resides in the United States “without unnecessary delay,” among other requirements (*Flores v. Reno*, 1996, p. 10).

In 2015, however, a judge broadened *Flores* to encompass all minors at the border, regardless of whether they were accompanied by an adult or not, and interpreted the “without unnecessary delay” clause to mean 20 days—even though no specific time limit was given in the original settlement (Sussis, 2019). Since the full adjudication of cases cannot happen in such a short period, the government had two choices: they could either separate families or release the whole family unit into the interior of the United States—a practice that became known as “catch and release.” The Trump administration faced backlash due to the increase of family separations under the “zero-tolerance” policy, or the prosecution by the Department of Justice of all adults who crossed the border illegally—even though family separation was already taking place prior to the implementation of the policy, including under the Obama administration (U.S. Government Accountability Office, 2019, p. 7). After this backlash, thousands of family units continued to be routinely discharged after a brief detention period and were simply released into the country to wait for their immigration court dates (Sussis, 2019).

Largely due to the expansion of *Flores*, many migrant children were put in precarious situations. In many cases, fraudulent family units presented themselves at the Border Patrol. In these instances, minors traveled with an unrelated adult who claimed to be their parent and often used fraudulent documentation (U.S. Immigration and Customs Enforcement, 2019). In some cases, migrants attempted to purchase children in Mexico on their way to the United States to facilitate entry (Fry, 2019). There were even “child recycling rings” that enabled single children to be used for multiple entries (Secretary Nielsen, 2019).

Apart from *Flores*, deficiencies in the Trafficking Victims and Protection Reauthorization Act (TVPPRA) also negatively affected migrant children apprehended at the border by treating UACs from contiguous countries, namely Mexico and Canada, differently from UACs of all other

nationalities. Under this law, UACs from Mexico and Canada who are neither victims of trafficking nor asylum seekers may be swiftly returned to their country of origin without having to go through immigration court or stay in the care of the American government for an extended period of time (8 U.S.C. § 1232(a)(2)).

In contrast, UACs from non-contiguous countries—such as the Northern Triangle—are instead transferred to the custody of the Office of Refugee Settlement (ORR), a division of HHS, within 72 hours barring any “exceptional circumstances” (8 U.S.C. § 1232(b)(3)). The law then mandates that these UACs be “promptly placed in the least restrictive setting that is in the best interest of the child” (8 U.S.C. § 1232(c)(2)). In many cases, this means being released to the care of a parent, legal guardian, adult relative, or an approved unrelated adult in the United States (Office of Refugee Resettlement, 2019a). Before such a release can take place, HHS must determine if “the proposed custodian is capable of providing for the child’s physical and mental well-being” (8 U.S.C. § 1232(c)(3)). In addition to other requirements, all sponsors must pass a background check and agree to guarantee that the UAC will attend future immigration proceedings (Office of Refugee Resettlement, 2019b). In some instances, HHS also conducts a home study before releasing a child into the care of one of these adults (8 U.S.C. § 1232(c)(3)).

Unfortunately, some of these safety procedures were rolled back since HHS did not have the resources to adequately conduct them (Dickerson, 2019). These procedures also do not prevent UACs from being released to the care of a person who resides in the country illegally. Statistics presented during a hearing of the Senate Homeland Security and Government Affairs Committee in April of 2019, for example, showed that over 80% of the sponsors who received custody of UACs between July 2018 and January 2019 were either undocumented or were facing deportation (Arthur, 2019). It is therefore very possible that foreign nationals illegally residing in the United States are contracting with criminal smuggling networks to bring their minor children or relatives to the border just to have the American government release them to their care.

It is also worth noting that with the increase in migratory flows comes an increase in deadly circumstances as travel along illegitimate pathways is fraught with risk. In 2019, the International Organization for Migration reported the highest number of deaths on migratory routes in the

2 For a more comprehensive analysis of the practices relating to unaccompanied alien children (UACs) at the border, see *Unaccompanied Minors at the Border* by John Daniel Davidson, Texas Public Policy Foundation, 2019 (<https://files.texaspolicy.com/uploads/2019/08/16092111/2019-08-PP-ROI-Davidson-Unaccompanied-Minors-at-the-Border.pdf>).

Americas since they began gathering the data 6 years ago. They recorded a minimum of 810 deaths—with more than half of them happening on the U.S.-Mexico border and over 100 just on the Rio Grande River between Texas and several Mexican states ([International Organization for Migration, 2020](#)). Migrants are also frequently subject to abuse by the smuggling network they use to reach the American border or other criminal organizations, or worse, may become victims of human trafficking along the way ([U.N. Office on Drugs and Crime, 2018, pp. 8, 41-42](#)).³

The Border in 2020

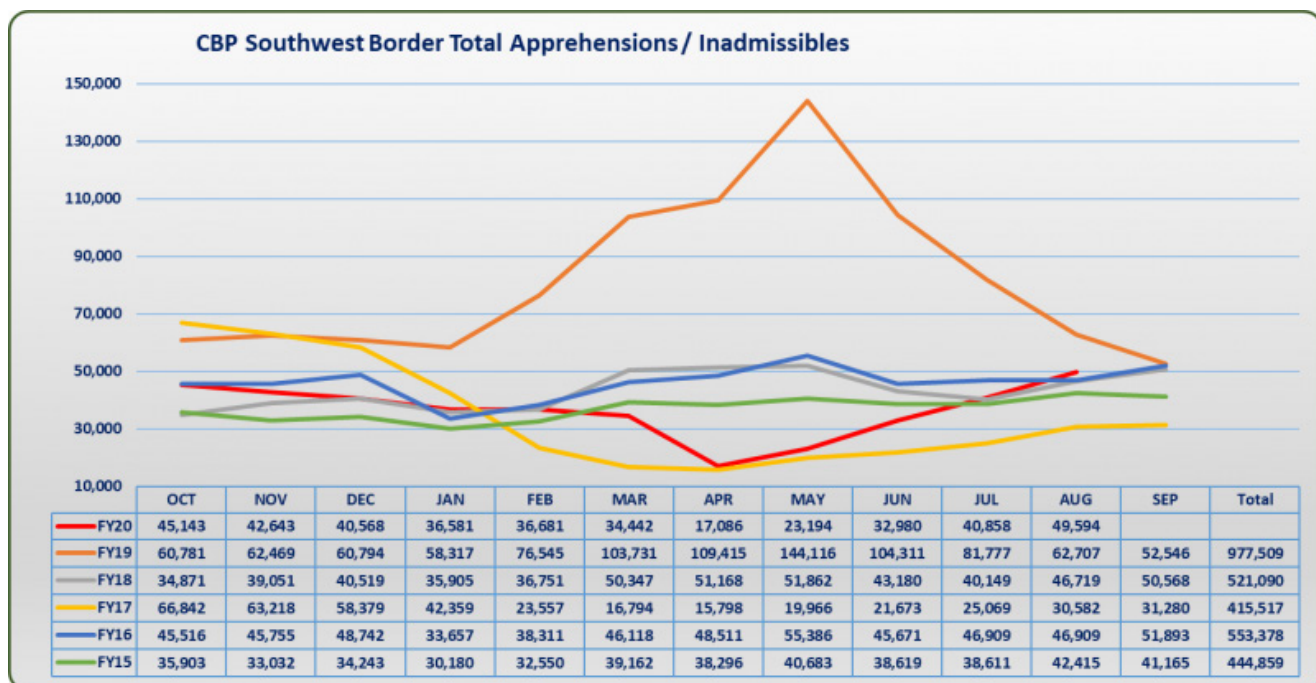
Current conditions at the border are much different from what they were in 2019. According to CBP, there has been a major decline in the number of migrants encountered at the southern border since May 2019, the height of the border crisis. The number of monthly apprehended migrants at the border has dropped from over 144,000 in May 2019 to just over 23,000 in May 2020. Compared to the same time

period last year, single adult encounters have fallen by 18%, and those of UACs dropped by 65%. The largest decrease is demonstrated in encounters with family units—the largest subset of apprehension during fiscal year 2019—which decreased by a striking 87%, or from 332,908 encounters in the first 8 months of fiscal year 2019 to 42,240 during the same period in fiscal year 2020 ([U.S. Customs and Border Protection, 2019a; 2020j](#)).

This significant decrease is not mere happenstance. It is instead the result of an array of measures instituted by authorities at the federal level. The measures taken have included the implementation of the Migrant Protection Protocols (often referred to as MPP), Asylum Cooperation Agreements (ACAs), changes to procedures of executive agencies, increased border wall construction and, most recently, actions to prevent the possible spread of COVID-19 across American borders.

Figure 3

CBP Graph Shows FY 2020 Numbers of Migrants That Are Apprehended or Found Inadmissible at the Border Are Now Closer to Pre-Crisis Years.



Note. Image taken from *Southwest Border Migration FY 2020*, U.S. Customs and Border Protection, September 4, 2020 (<https://www.cbp.gov/newsroom/stats/sw-border-migration>).

³ For a more comprehensive analysis of the intersection between irregular migration and human trafficking, see *Combating Transnational Human Trafficking of Migrants in the United States* by Igor C. Magalhaes, the Texas Public Policy Foundation, April 2020 (<https://files.texaspolicy.com/uploads/2020/04/16095243/Magalhaes-Transnational-Human-Trafficking.pdf>).

Current Presidential Administration's Actions

The Trump administration has prioritized border security and the curtailment of illegal immigration since taking office in January 2017 ([Pierce, 2019, p. 1](#)).⁴ During his first month in the Oval Office, President Trump issued an executive order entitled “Border Security and Immigration Enforcement Improvements” ([Executive Order No. 13767, 2017](#)). The order stated that “Federal immigration law both imposes the responsibility and provides the means for the Federal Government, in cooperation with border states, to secure the Nation’s southern border” ([p. 8,793](#)). Among other items, the order commissioned the hiring of 5,000 Border Patrol agents as well as the immediate planning, designing, and construction of a border wall.

The president issued other orders aimed at preventing illegal immigration as well. One order called for hiring 10,000 additional immigration officers, prioritizing the removal of undocumented immigrants, and increasing the roles of state and local police in enforcing immigration law ([Executive Order No. 13768, 2017](#)).

Though certain items in these orders have not yet been carried through to completion, the issuance of such orders within weeks after the presidential inauguration demonstrates that securing the country’s borders is a major administration priority. In October 2017, the president sent a letter to House and Senate leaders detailing his administration’s immigration principles and policies, listing strategies under the categories of border security, interior enforcement, and merit-based immigration ([Trump, 2017](#)).

Border Wall Progress

The border security measure that has perhaps garnered the most recognition in the public eye throughout President Trump’s campaign and time in office is the border wall. On January 10, 2020, DHS Acting Secretary Chad Wolf was joined by Senator Martha McSally and two law enforcement officials to announce the completion of 100 miles of a new border wall ([U.S. Department of Homeland Security, 2020d](#)). On May 12, Wolf told the media that the DHS was on schedule to have completed 200 miles of the new system by early June and was on track to have 400 miles of the wall finished later in the year ([U.S. Customs and Border Protection, 2020e](#)). President Trump has stated that he wants 450 miles of the wall to be constructed by December 2020 ([Trump, 2020b](#)).

As of October 1, 2020, 341 miles of the new border wall system were completed ([U.S. Customs and Border Protection,](#)

[2020c](#)). Though significant progress has been made thus far, 450 miles of completed wall construction may be a challenging objective to reach in such a short amount of time. Four hundred sixty-five miles of border fencing were built during the entire George W. Bush administration, compared to only 133 miles during the 8 years Barack Obama was president ([Easter et al., 2019, p. 123](#)). It is worth mentioning that President Bush signed the Secure Fence Act into law in 2006, which authorized the construction of hundreds of miles of barrier along the southwestern border ([Office of the Press Secretary, 2006](#)). However, with 100 miles completed as of January 2020 and well over 100 additional miles constructed as of July, President Trump’s ambitious goal may not be entirely out of reach. Construction on the wall has continued unhindered, even during the coronavirus pandemic.

Border Wall Progress in Texas

The Texas-Mexico border comprises by far the largest portion of the entire U.S.-Mexican boundary. In fiscal year 2019, over 70% of apprehensions along the southern border took place in sectors that are completely or partly along the Texas-Mexico border ([U. S. Customs and Border Protection, 2019b](#)). Therefore, wall system progress and impediments in this state warrant an especially close look.

The U.S. southern border is divided into nine sectors, all of which are named and patrolled. The divisions located either partially or entirely in the state of Texas are the Big Bend, Del Rio, El Paso, Laredo, and Rio Grande Valley sectors ([U.S. Customs and Border Protection, n.d.](#)).

Big Bend Sector

Previously named the Marfa sector until 2011, the Big Bend sector accounts for close to 25% of the nation’s entire southwest border and contains a 517-mile-long boundary line along the Rio Grande River. Border Patrol agents in this area are responsible for covering over 135,000 square miles of land—which includes a large portion of Texas and all of Oklahoma—making this sector larger than all others along the nation’s southwest border ([U.S. Customs and Border Protection, 2020i](#)). The terrain is mountainous and difficult to traverse. Many people who live in the region believe that the Big Bend sector’s difficult landscape already serves as a natural barrier. In fiscal year 2019, the Big Bend sector accounted for the least amount of apprehensions of any southwest border sector, with less

⁴ For a more comprehensive analysis of the current administration’s policies regarding immigration, see *Assessing the Trump Administration’s Immigration Policies* by Charles Stimson, Hans von Spakovsky, and Lora Ries, Heritage Foundation, 2020 (<https://www.heritage.org/immigration/report/assessing-the-trump-administrations-immigration-policies>).

than 10,000 apprehensions ([U. S. Customs and Border Protection, 2019b](#)). One Border Patrol agent who works in the area emphasized the need for more personnel instead of physical barriers ([Burnett, 2017](#)). A 2017 DHS report stated that some miles along this boundary line are “unsuitable for construction” ([U.S. Department of Homeland Security, 2017, p.3](#)). Currently, there is no new wall construction in this sector ([U.S. Customs and Border Protection, 2020c](#)).

Del Rio Sector

The CBP describes the mostly rural Del Rio sector as a “major staging area for narcotic and alien smuggling operations.” With major highways across the border that come from the interior of Mexico and continue adjacent to the Rio Grande River, those seeking illegal entry into the United States have relatively easy access to cross the river at multiple locations. The high vegetation present in much of the area provides cover for those attempting to bypass immigration enforcement and restricts visibility by border patrol ([U.S. Customs and Border Protection, 2020d, “Area of Operation” section](#)).

In fiscal year 2019, almost 60,000 apprehensions took place in this sector ([U. S. Customs and Border Protection, 2019b](#)). There is presently very little new wall construction underway along this sector’s boundary. In fact, there are barely even any existing barriers at all. The CBP reports fencing only in the areas near the Mexican cities of Piedras Negras and Acuña, which are across the border from the American cities of Eagle Pass and Del Rio, respectively ([U.S. Customs and Border Protection, 2020c](#)). It is worth noting that a DHS waiver issued earlier this year is allowing for accelerated construction in this sector and was one of six waivers delivered altogether ([U.S. Customs and Border Protection, 2020g](#)). Border Patrol personnel in the area have also emphasized the need for other types of infrastructure in order to effectively achieve border security in the region ([Gypson, 2017](#)).

El Paso Sector

The El Paso sector covers two Texas counties as well as the entire state of New Mexico ([U.S. Customs and Border Protection, 2020f](#)). In contrast to Big Bend and Del Rio, many miles of the new border wall system have been completed in this sector ([U.S. Customs and Border Protection, 2020c](#)). In April 2019, the DHS issued a waiver to expedite construction of the wall in this region, which is an area of “high illegal entry” ([U.S. Department of Homeland Security, 2019a](#)). One of the

six waivers issued by DHS earlier in 2020 also applied to this sector ([U.S. Customs and Border Protection, 2020g](#)). In fiscal year 2019, the El Paso sector totaled the second largest number of apprehensions of any sector, numbering over 180,000 ([U. S. Customs and Border Protection, 2019b](#)).

Laredo Sector

Wall construction has also been underway in the Laredo sector ([U.S. Customs and Border Protection, 2020c](#)). According to the CBP, proposed border wall systems for 2020 in this sector entail 69 miles of construction divided between Webb and Zapata counties, each with 51 and 18 miles of the barrier, respectively ([U.S. Department of Homeland Security, 2020e](#)). In early August 2020, the CBP declared it had awarded an almost \$300 million contract to build 17 new miles of border wall. The following month, contracts totaling nearly another \$500 million were awarded for the construction of an additional 40 miles in the sector. In the media release announcing the most recent contracts, the CBP stated that, through the end of August 2020, well over 43,000 illegal aliens had been apprehended in the sector, in addition to over 39,000 pounds of illicit drugs seized ([U.S. Customs and Border Protection, 2020h](#)).

In fiscal year 2019, the Laredo sector reported almost 40,000 apprehensions ([U.S. Customs and Border Protection, 2019b](#)). The American city of Laredo is located in this sector and is directly across the border from the Mexican city of Nuevo Laredo.

Rio Grande Valley Sector

Construction of the border wall in the Rio Grande Valley (RGV) sector has continued during the novel coronavirus pandemic, with a concrete foundation for the wall poured and “shoring up” a levee already in place ([Sanchez, 2020](#)). This came as a result of an almost \$180 million contract with a south Texas construction company to build 15 miles of the new border system in the RGV ([U.S. Customs and Border Protection, 2020a](#)).

Despite encompassing a smaller land mass than some other sectors, this section of the U.S.-Mexico border is highly active and recorded the largest number of apprehensions of any sector in fiscal year 2019. Numbering around 340,000, this sector accounted for almost 40% of all apprehensions along the southern border ([U.S. Customs and Border Protection, 2019b](#)). It also ranks first in the country for seized cocaine, methamphetamines, and marijuana ([U.S. Customs and Border Protection, 2020a](#)).

Legal Challenges to Wall Progress in Texas

Some obstacles impeding wall progress consist less of rugged terrain and more of legal battles. Both El Paso County and the Border Network for Human Rights sued the Trump administration for declaring a national emergency at the southern border, thereby allowing \$3.6 billion of military construction funds to be used for the border wall, but a January 2020 order from the Fifth Circuit Court of Appeals cleared the way for the wall construction to continue in the El Paso sector ([Arthur, 2020](#)). This fight over using military funds for the wall continued on a national scale. Entities including the ACLU and the Sierra Club requested the U.S. Supreme Court to lift a stay it had granted a year prior in July 2019, which allowed construction to continue with these funds despite lower court rulings to the contrary. The request to lift the stay was denied ([Kruzel, 2020](#)).

Legal challenges may potentially be a concern for wall progress in the Laredo region as well. A spokesman for the CBP stated that only half of the 250 private land-owners with property at the sites of proposed border construction have “signed rights of entry to allow the government to survey for the wall” ([Findell, 2020, para. 8](#)). A quarter has refused, reportedly.

These legal battles confronting border wall construction are nothing new. In 2008, under the George W. Bush administration, a group of south Texas officials, collectively called the Texas Border Coalition, joined a class action lawsuit against the DHS with several Rio Grande Valley property owners. This was “partly intended to counter legal action that the federal government [had] taken.” The federal government had sued 50 Texas property owners as of early April 2008 in an effort to seize land upon which the border wall was planned to be built ([Latin American Digital Beat Staff, 2008, p. 1](#)).

Although private, non-governmental entities such as “We Build the Wall” are attempting fencing construction on private land ([Trevizo & Schwartz, 2020](#)), much of the legal debate surrounding border wall construction is based on one question: To what degree can the federal government use eminent domain in the scenario of constructing fencing or a wall on private property in the name of securing a national border? Texas Attorney General Ken Paxton agreed that property owners should be adequately compensated for government usage of their land but also made clear his support for construction of the wall, saying in an interview with the *Dallas Morning News* that “It’s a public purpose

providing safety to people not only along the border, but to the entire nation” ([Benning, 2017, para. 4](#)).

Additional Technology

Even though most of the attention—and controversy—surrounding the wall has been focused on the physical infrastructure aspect of the wall itself, the administration is also investing in other ways to secure the border. One of them has been described as a “virtual wall.” The Trump administration awarded a major border security contract to a technology company to install hundreds of solar-powered mobile surveillance towers in areas along the U.S.-Mexico border, where it is difficult to build a physical wall or to supplement security in areas with existing or new physical barriers ([Miroff, 2020a](#)).

These surveillance towers are equipped with cameras and thermal imaging to detect movement at the border. They are also outfitted with artificial intelligence able to distinguish between animals, humans, and vehicles with 97% accuracy. The technology can be moved in just two hours, giving Border Patrol personnel the flexibility to relocate it when migration patterns change or when land disputes occur. It is said to have a minimal environmental impact compared to physical barriers. The use of such technology has received bipartisan support, as Matthew Steckman, the chief revenue officer of Anduril Industries (the technology company that received the contract) said: “No matter if talking to a Democrat or a Republican, they agree that this type of system is needed” ([Miroff, 2020a, para. 10](#)).

Yet another type of barrier being advanced by the Trump administration is one that floats. Dubbed a Buoy Barrier System, it would blockade river crossings and reservoirs along the southern border ([Miroff, 2020c](#)). A federal contracting bulletin has been posted by the U.S. Army Corps of Engineers which states that requirements for the system include the ability to impede swimming and climbing ([U.S. Army Corps of Engineers, 2020](#)).

Migrant Protection Protocols

In collaboration with the Mexican government, the U.S. Department of Homeland Security launched the Migrant Protection Protocols (MPP)—also known as “Remain in Mexico”—in January 2019. Under MPP, some non-Mexican foreign nationals who either enter the United States illegally or who lack required documentation are returned to Mexico while they await their U.S. immigration court proceedings. The intention of MPP is both to provide migrants with safe and humane accommodations south of the U.S. border as they await the completion of their immigration proceedings, and to discourage those who would abuse the current asylum system from making frivolous claims

([U.S. Department of Homeland Security, 2019f](#)). It also aims to relieve the burden on immigration officers and resources, which have been severely overwhelmed due to the high influx of migrants making their way to the border, particularly of families and children who seek asylum ([Davis, n.d.](#)).

MPP was expanded to the whole border in June 2019—one month after the height of the crisis—following threats of tariffs by the Trump administration if Mexico did not increase its efforts to prevent migrants from traversing through the country on their way to the American border. Besides the expansion of MPP, the government of Mexico also agreed to deploy its newly formed National Guard to enforce immigration law throughout the country, especially its southern border. In addition, the government agreed to facilitate jobs, healthcare, and education to migrants waiting for the adjudication of their asylum claims in the United States ([U.S. Department of State, 2019a, para. 1](#)).

Although there currently is no official Migration Protection Protocol database, as of July 14, 2020, numbers by the Transactional Records Access Clearinghouse at Syracuse University indicate over 65,000 migrants have been returned to Mexico under the program since its inception ([Transactional Records Access Clearinghouse, 2020b](#)).

By the continual decrease of migrant apprehensions following the expansion of MPP ([U.S. Customs and Border Protection, 2019a](#)), it does appear that the program achieved its goal of persuading possible migrants not to make the journey north toward the American border, as it is no longer the case that individuals would be able to reside and work in the United States shortly after their arrival. Therefore, the program brought much-needed relief to the overwhelmed state of the border.

However, critics argue that the name of the program is misleading, since vulnerable people who claim to be fleeing persecution are not receiving protection but are instead returned back to an increasingly dangerous country. Human Rights First claims that, as of May 13, 2020, there have been at least 1,114 publicly reported cases of murder, rape, torture, kidnapping, and other violent crimes against migrants returned to Mexico under MPP ([Human Rights First, 2020](#)). Critics also highlight that it is more difficult for asylum seekers under MPP in Mexico to get legal representation for their cases and to attend all of their court hearings ([Mukpo, n.d.](#)). Data from December 2019 showed that while almost a third of asylum seekers allowed to stay in the United States obtained legal representation, only about 4% of migrants in MPP did ([Transactional Records Access](#)

[Clearinghouse, 2019b](#)). This reality negatively impacts the chances of migrants under MPP to receive asylum or other immigration relief since only 16% of unrepresented asylum seekers, compared to 33% of their represented counterparts, are eventually allowed to stay in the United States. Likewise, while almost 90% of asylum seekers allowed to stay in the United States make it to all of their court hearings, only half of those in Mexico do ([Transactional Records Access Clearinghouse, 2020a; 2019b](#)).

Nevertheless, the Immigration and Nationality Act (INA), which is codified under Title 8 of the U.S. Code, allows for the removal of aliens who enter the United States illegally back to the contiguous country from which they arrived ([8 U.S.C. § 1225](#)). Migration protection protocols have precedence within United States law, and on March 11, 2020, the Supreme Court officially allowed the Trump administration to enforce MPP while challenges to the program continue in lower courts ([Wolf, Sec. of Homeland, et al. v. Innovation Law Lab, et al., 2020](#)).

Asylum Cooperation Agreements

In 2019, the United States entered into three Asylum Cooperation Agreements (ACAs) with the Northern Triangle nations of Guatemala, Honduras, and El Salvador. All were signed in the wake of the tremendous increase in apprehended migrants at the United States border. The vast majority of border apprehensions in 2019 involved migrants who originated from these countries.

On July 16, 2019, both the DHS and the Department of Justice issued a rule that made aliens ineligible for asylum if they passed through “at least one third country” without applying for “protection from persecution or torture where it was available” ([U.S. Department of Homeland Security, 2019c, para. 2](#)). These ACAs allow migrants who pass through one of the countries involved in these agreements to be sent back there, providing that they are not citizens of that country. To illustrate, a Honduran migrant who presents at the American border to claim asylum may be sent back either to El Salvador or Guatemala, but not to the migrant’s home country of Honduras.

Because of this factor, the ACAs have often been mistakenly referred to in the media as “safe third country agreements.” In a press briefing, DHS Acting Secretary Ken Cuccinelli stated that Guatemala does not match the description of what is normally defined as a “safe third country.” Cuccinelli stated: “What is determined is whether they can safely and adequately conduct asylum processing and so forth ... in a fashion that is safe for the participants” ([U.S. Department of State, 2019b, para. 56](#)). According to the Department of Homeland Security, “DHS and its partners are developing

a safer and more prosperous region so that Central Americans can feel confident in creating futures in their home countries, rather than putting their lives in the hands of smugglers and criminal organizations to make the dangerous journey across the U.S. border” ([U.S. Department of Homeland Security, 2019e, p. 1](#)).

Alongside MPP, these asylum cooperation agreements appear to have deterred Central Americans from making the trek north to the American border and have provided relief to the congested American immigration system. However, like in the case of MPP, critics of the ACAs worry about sending vulnerable populations to poor and unsafe countries in Central America that may lack either the knowledge or the resources to deal with asylum seekers properly.

Critics argue that the Northern Triangle countries cannot provide safety and economic opportunity for their own people, let alone asylum seekers. While homicide rates have decreased from earlier in the 2010s, the Northern Triangle countries are still some of the most dangerous countries in the hemisphere, particularly due to violent gangs in the region—most notably the Mara Salvatrucha (MS-13) and the “18th Street” gang (M-18). In 2019, Honduras had the highest homicide rate in Central America and the third highest in all of Latin America, placing just below Venezuela and Jamaica ([Asmann & O’Reilly, 2020](#)).

Violence in the region is especially prevalent toward women, with the Northern Triangle having some of the highest rates of femicide (the intentional killing of women) in the world ([Widmer & Pavesi, 2016](#)). Extortion is also rampant, with criminal organizations using violence or the threat of violence to coerce individuals, families, and businesses for money, goods, services, and even sexual favors ([The Global Initiative Against Transnational Organized Crime, 2019, pp. 3-5](#)).

Executive Agencies’ Administrative Changes

In addition to the wall and extended collaboration with countries south of the border, the Trump administration has also changed or enhanced several rules and practices by executive agencies in the hope of fulfilling its mission of securing the southern border and preventing abuse of the asylum system. While there have been many such changes with varying degrees of impact on the day-to-day operations of the executive agencies in charge of border security and immigration enforcement, some warrant a closer look.

“Last in, First Out”

On January 31, 2018, U.S. Citizenship and Immigration Services (USCIS) reinitiated the “last in, first out” policy where

the most recent asylum applicants are scheduled for asylum interviews ahead of older applicants. The agency cited the backlog in pending asylum cases as the reason for reinstating this practice, which was in place for almost 20 years until its termination in 2014. “Last in, first out” is intended to “deter those who might try to use the existing backlog as a means to obtain employment authorization” ([U.S. Citizenship and Immigration Services, 2018, para. 6](#)).

Defining the “Particular Social Group” Asylum Protection
Persecution due to membership in a “particular social group” is one of the five eligible conditions for someone to receive asylum in the United States ([U.S. Citizenship and Immigration Services, 2020](#)). However, given how broadly that protection may be interpreted, the Trump administration sought to further define the term to narrow its scope. On June 11, 2018, then-Attorney General Jeff Sessions overruled a 2014 decision by the Board of Immigration Appeals that concluded that victims of domestic violence constituted a valid “particular social group” because “[t]he mere fact that a country may have problems effectively policing certain crimes or that certain populations are more likely to be victims of crimes, cannot itself establish an asylum claim.” The attorney general also established that “a particular social group must exist independently of the harm asserted in an application” and that “[t]he applicant must show that the government condoned the private actions or demonstrated an inability to protect victims” ([Matter of A-B-, 2018, p. 316](#)). However, following legal battles regarding these new guidelines, USCIS was forced to change how it applies certain expectations of the attorney general’s decision ([American Immigration Lawyers Association, 2018](#)).

Attorney General William Barr has similarly attempted to define and narrow the “particular social group” asylum standard by concluding that most family relations do not meet the criteria since “most nuclear families are not inherently socially distinct” ([Matter of L-E-A, 2019, p. 581](#)).

DNA Testing

Due to the number of fraudulent family units presenting themselves at the border, DHS implemented several pilot programs to use DNA testing to determine family relations. According to a CNN article, during the first pilot program, dubbed Operation Double Helix 1.0, 16 out of 84 families were identified as fraudulent based on DNA results. The subsequent program, Operation Double Helix 2.0, determined 79 out of 522 were fraudulent ([Alvarez & Sands, 2019](#)).

The Department of Justice has since required DNA collection from “non-United States persons who are detained under the authority of the United States,” and has removed

the provision that allowed the secretary of homeland security to exempt DNA collection of “aliens from whom collection of DNA samples is not feasible because of operational exigencies or resource limitations” ([DNA-Sample Collection, 2020, p. 13,483](#)).

Change to Flores

In August 2019, following the surge of migrant family units, the DHS and HHS announced a rule that effectively replaced *Flores* and provided new guidelines for holding migrants who accompany minors. Under the new regulation, family units may be detained longer than 20 days in facilities with humane conditions. The rule is intended to serve as a deterrent to family units, whether legitimate or false, who were previously held for merely 20 days and then released into the country ([U.S. Department of Homeland Security, 2019b](#)). It also aims to be a disincentive for human smugglers who exploit children and family units by bringing them into the nation with the promise of ultimate release ([U.S. Department of Homeland Security, 2019d](#)).

Asylum Application Fee

Following its biennial fee review in 2019, USCIS determined that “current fees do not recover the full costs of providing adjudication and naturalization services” ([U.S. Citizenship and Immigration Services Fee, 2019, p. 62,280](#)).

Accordingly, USCIS proposed to establish a \$50 fee for asylum applications. As of October 1, the implementation of this fee was still being challenged in federal court. The U.S. government had never charged for such applications before and instead relied on the revenue of other fee-paying benefits to offset the cost. But with the increase in asylum applications and the massive processing backlog, USCIS concluded that such a fee would “alleviate the pressure that the asylum workload places on the administration of other immigration benefits.” The agency stated that such a fee is “less than the estimated cost of adjudicating the application,” which they estimated cost around \$366, and that other countries—such as Australia and Fiji—also charge such fees for asylum applications. UACs are to be exempt from such a fee ([pp. 62,319-62,320](#)).

USCIS also proposed an \$80 increase—from \$410 to \$490—for an application for employment authorization while an asylum claim is pending ([U.S. Citizenship and Immigration Services Fee, 2019, p. 62,320](#)).

Work Authorization for Asylum Seekers

During July 2020, DHS issued a final rule ([Asylum Application, 2020](#)), slated to become effective on August 25, to “modify DHS’s regulations governing asylum applications, interviews, and eligibility for employment authorization

based on a pending asylum application.” Some of the changes include:

- Extending the waiting period to apply for employment authorization from 180 days to 365.
- Excluding the following from being eligible to receive employment authorization:
 - Foreign nationals who entered or attempted to enter the country between ports of entry.
 - Foreign nationals who have been denied asylum by an asylum officer or immigration judge before the 365-day waiting period.
 - Foreign nationals with certain criminal records.
- Terminating existing employment authorization when an asylum application or appeal is eventually denied.
- Incorporating biometric collection (fingerprints, photographs, and signatures) into the employment authorization process.

The goal of this rule is to, among other things, “reduce incentives for aliens to file frivolous, fraudulent, or otherwise non-meritorious asylum applications to obtain employment authorization” and to “discourage illegal entry into the United States.”

Uncertainty Moving Forward

While such moves by the federal government were primarily responsible for the recent condition at the border, multiple global developments in the United States and the countries south of its border have recently impacted both legal and illegal migration toward the United States. They will likely continue to do so moving forward. Among them are the responses to the COVID-19 pandemic, the conditions in Latin America, and the upcoming American presidential election.

COVID-19 Pandemic

Since its outbreak, COVID-19 has become an international pandemic, leading to hundreds of thousands of deaths around the world and a global economic downturn of unparalleled proportions. As of September 2020, well over 800,000 confirmed COVID-19 deaths have been reported globally ([Our World in Data, n.d.](#)), and the World Bank forecasts that in 2020 the global economy will shrink by 5.2%—the largest recession since World War II ([World Bank, 2020, pp. 13-20](#)).

In an attempt to shield themselves against the further spread of COVID-19, countries have not only enacted safety measures domestically—such as mandating the use of masks, limiting business activity, and preventing

gatherings—but they have also combinedly imposed over 70,000 travel restrictions ([International Organization for Migration, n.d.](#)). Such restrictions have not only damaged major sources of income for people in every corner of the world by disturbing the global supply chains, trade, and the tourism industry —just to name a few—but they have also disturbed migration.

The United States

COVID-19 has wreaked havoc in the United States. Even with President Trump's actions early in the year to prevent the spread of the virus in the country ([Taylor, 2020](#)), as of August 15, 2020, the Centers for Disease Control and Prevention reported over 5 million cases of the virus and well over 160,000 corresponding American deaths ([Centers for Disease Control and Prevention \[CDC\], n.d.](#)).

Besides the drastic health concerns, the American economy has also suffered as states implemented quarantine rules restricting the movement of people and the operations of businesses in the hopes of minimizing the spread of the virus ([Lee et al., 2020](#)). While the economy has experienced a modest rebound as states started to reopen, it is still sluggish compared to pre-pandemic figures. From February to June, 47 states have seen a net decline of jobs of more than 5%, and 39 states have lost more jobs as a result of the pandemic than they did during the Great Recession ([Ettlinger & Hensely, 2020](#)).

While the individual states have taken the majority of safety measures in the United States, the Trump administration has implemented several policies aimed at preventing foreign nationals from spreading the virus to the American people. The measures also aim to protect American workers from foreign competition in the now tighter job market. These actions also closely align with the administration's goals of promoting a secure border and recalibrating U.S. immigration policies and procedures.

For instance, the Trump administration invoked a public health law in response to the COVID-19 pandemic via a CDC order, which ultimately allowed for the rapid removal of migrants who entered the nation illegally ([Control of Communicable Diseases, 2020](#)). The Public Health Service Act allows for the barred entry of individuals in times of a public health crisis for as long as deemed necessary ([42 U.S.C. § 265](#)).

In March 2020, President Trump announced “the United States will expeditiously return aliens who cross between ports of entry or are otherwise not allowed to enter the country, as the facilities in which these aliens would normally be held cannot support quarantine for the time

needed to assess potential cases” ([The White House, 2020](#)). Essentially, this means that individuals who cross the United States border illegally will experience quick removal from the country, as the usual accommodations are not adequate for quarantine practices during a pandemic. Under these temporary measures, illegal aliens will be relocated either to the country from which they crossed the American border (Mexico or Canada) or to their home nation. The United States government also made agreements with both the Mexican and Canadian governments to restrict all non-essential travel between their respective countries.

These particular measures have been extended several times ([U.S. Department of Homeland Security, 2020b](#)). Secretary Wolf said in a statement regarding a previous extension in July that these measures would “continue to limit non-essential travel at our land ports of entry with Canada and Mexico.” He continued on to say the extension would keep “essential trade and travel flowing as we reopen the American economy” ([U.S. Department of Homeland Security, 2020a](#)). Essential trade and travel entail the lawful transit of goods across the border, as well as the return of lawful residents to the United States, and individuals' traveling to obtain medical care, among other items. It does not include tourism. The decision to extend was agreed upon by both the U.S. and Mexican governments ([U.S. Embassy & Consulates in Mexico, 2020](#)).

In response to the devastation that COVID-19 has wrought on the American economy, on April 22, 2020, President Trump issued a “Proclamation Suspending Entry of Immigrants Who Present Risk to the U.S. Labor Market During the Economic Recovery Following the COVID-19 Outbreak” ([Trump, 2020a](#)). Citing the number of Americans who had filed for unemployment at that time (22 million), the proclamation stated that the country “faces a potentially protracted economic recovery with persistently high unemployment if labor supply outpaces labor demand” ([para. 3](#)). Therefore, the proclamation declared a 60-day period in which aliens who have not yet obtained an immigrant visa will be unable to enter the United States. The decree allows certain exemptions, such as for those with spouses or parents who are U.S. citizens and those who are deemed by the offices of the secretary of state and secretary of homeland security as individuals who would further national interests or important law enforcement objectives. At the end of the initial 60 days, the president extended the measure to last for the rest of the year ([Trump, 2020c](#)).

Not surprisingly, the federal response to border security during the threat of COVID-19 has served to stem the tide of illegal immigration during the global pandemic and has

been effective, according to DHS leadership. On May 12, 2020, Acting Secretary of Homeland Security Chad Wolf stated that non-essential border traffic is down 65% to 70% due to the U.S. travel restrictions that were implemented beginning in March ([U.S. Customs and Border Protection, 2020e](#)). Secretary Wolf stated that this drop encompassed both vehicle and pedestrian traffic. He continued to say that approximately 80% of individuals who are apprehended while crossing the border illegally are being removed from the United States in “about two hours.” After acknowledging the inability of Border Patrol stations to provide the proper facilities for quarantine, Wolf said that these migrants come across the border with “little to no medical history, little to no travel history, and oftentimes with no identity documents” ([U.S. Customs and Border Protection, 2020e, 3:06](#)).

Mexico and the Northern Triangle

The COVID-19 pandemic has also led to horrific conditions in Latin America. As of August 2020, Mexico had the fourth highest COVID-19 death toll in the world, just behind the United States, Brazil, and the United Kingdom ([Jorgic, 2020](#)). According to data from the Pan American Health Organization, as of October 1, 2020 there have been more than 77,000 deaths from the virus in Mexico ([Pan American Health Organization, 2020b](#)). However, the country's death toll is probably even higher than official figures indicate, since Mexico has lagged far behind in COVID-19 testing in comparison to other major countries ([Luhnnow & Montes, 2020](#)).

While deaths from COVID-19 in the Northern Triangle are also significant, there are substantially fewer of them—understandably due to the smaller size of the countries. The Pan American Health Organization has reported just over 5,500 cumulative deaths as of September 4, 2020, in the three Northern Triangle countries ([Pan American Health Organization, 2020a](#)). To limit infections within their borders, the Northern Triangle countries have instigated lockdowns and their own travel restrictions ([UN News, 2020](#)).

Guatemalan borders are still closed to foreign travelers, with a few exceptions ([Overseas Security Advisory Council, 2020](#)). On March 5, the Guatemalan government declared “state of calamity,” under which it could implement certain actions such as curfews and border closures ([U.S. Embassy in Guatemala, 2020, p. 2](#)). This declaration has been extended to September 5. Also under the “state of calamity,” Guatemala is now refusing asylum-seekers, suspending the cooperation agreement it made with the United States in 2019 ([Menchu, 2020b](#)).

The Honduran government took a different approach to asylum-seekers. As of May 2, the nation had prepared

four temporary isolation centers to quarantine migrants returned from the United States and Mexico ([Despacho de Comunicaciones y Estrategia Presidencial, 2020](#)). The Honduran government also allowed international flights to resume on August 17 ([U.S. Embassy in Honduras, 2020](#)). In contrast, El Salvador still has not allowed normal international travel to resume ([U.S. Embassy in El Salvador, 2020](#)). Each of these countries have also implemented curfews and domestic restrictions similar to those of Guatemala. However, many of El Salvador's restraints may soon be lifted—including those relating to border closures—as the nation's legislature and president have been unable to agree on how best to go about an incremental economic re-opening. The Salvadoran Supreme Court ruled President Bukele's plan as unconstitutional. If this impasse continues, then the government may lose the ability to implement a gradual re-opening ([Aleman, 2020](#)).

The United States and Mexican governments recently agreed to extend travel restrictions limiting non-essential travel between the two nations' shared border ([U.S. Department of Homeland Security, 2020b](#)). Despite this—and largely due to Northern Triangle countries' lockdowns and closures inhibiting transit of migrants from those nations—Mexican nationals now account for the majority of U.S. border apprehensions. These have suddenly surged at least in part due to Mexico's economic downturn ([Semple, 2020](#)).

The Latin American economy is projected to be severely impacted by the COVID-19 outbreak. Due largely to the drop in commodity exports and the decline of the tourism industry, the World Bank predicts that Latin America will have its worst economic downturn since at least 1901—with its gross domestic product (GDP) projected to decrease more than 7% in 2020. David Malpass, the president of the World Bank, said that current conditions “hits the poor and vulnerable the hardest through illnesses, job and income losses, food supply disruptions, school closures and lower remittance flows” ([Martin, 2020, para. 4](#)).

Projections by the Economic Commission for Latin America and the Caribbean paint an even bleaker picture—with reports indicating Latin America's GDP as a whole will decrease by 9.1%. Central America and Mexico, specifically, are expected to experience a GDP drop of 8.4%. The Commission also predicts that the unemployment rate will rise substantially to around 13.5%, or 44.1 million unemployed people, and that the number of individuals living in poverty will increase to 230.9 million, compared to 185.5 million in 2019 ([Economic Commission for Latin America and the Caribbean, 2020](#)).

Such a downturn in the economy is making already harsh conditions in countries south of the American border even worse. These worsening conditions will likely spur further migration toward the United States as people will be desperate to find better economic opportunities. Acting U.S. Homeland Security Deputy Secretary Ken Cuccinelli said that “when their [South and Central America’s] economies have struggles their illegal migration to our country expands” ([The Heritage Foundation, 2020, 6:30](#)).

It is pertinent to note that Democratic presidential candidate Joe Biden has stated that, if elected, he would focus on the push factors in the Northern Triangle countries—namely the “violence, instability, and lack of opportunity”—that encourage the citizens of those countries to flee toward the American border ([Biden for President, n.d.-a](#)). His website touts a 4-year, \$4 billion “Regional Strategy” plan toward the region in the hopes of reducing violence, improving educational opportunities, and rooting out corruption. Alongside foreign aid from the United States, Biden aims to “mobilize private investment” to the region, “improve security and the rule of law,” combat “endemic corruption,” and “prioritize poverty and economic development” ([Biden for President, n.d.-b](#)).

Critics of plans to increase foreign aid to Central America highlight that the United States has already provided these countries with billions of dollars in aid over the years and has given them preferential trade agreements in an effort to improve conditions on the ground, with limited success ([Berg, 2019](#)). As Kathleen Newland, the co-founder of the Migration Policy Institute, puts it, “[a] lot of donor countries and development agencies would like to think of development as a cure for migration but it’s not. There are so many other factors that go into people’s decision to leave” ([Averbuch & Kinoshian, 2018, para. 26](#)).

Besides the usefulness of the aid, the willingness of political leaders to give American tax dollars to some of the most corrupt countries in the hemisphere ([Transparency International, 2019](#)) complicates matters. Democratic Senator Patrick Leahy, the ranking member of the Senate Appropriations Committee, admitted that “[i]f we give American taxpayer dollars as aid to a foreign government whose leaders are not serious about rooting out corruption ... then there are severe limitations on what we can achieve” ([Averbuch & Kinoshian, 2018](#)). The willingness of several Northern Triangle country leaders to combat corruption is also seriously called into question by their recent failure to renew relatively successful international anti-corruption bodies in Guatemala and Honduras ([Ávalos & Robbins, 2020](#)).

Increased Violence in Mexico

In addition to the economic downturn in the country, Mexico is also experiencing record-breaking levels of violence. The already fragile state of security the country has faced for decades has worsened since the election of President Andrés Manuel López Obrador—commonly known as AMLO—who in 2018 campaigned on the promise of defeating the cartels with “hugs, not bullets.” In 2019, Mexico experienced its most violent year on record with more than 35,000 homicides and nearly 5,000 disappearances. Two instances in particular exemplify the Mexican security conditions in 2019. First is the horrific murder of nine members—three women and six children—of a religious community who had dual U.S. and Mexican citizenship and lived in Northern Mexico. Second is the brutal assault by the Sinaloa Cartel on the city of Culiacan in an effort to free the son of notorious drug lord “El Chapo” from incarceration—which proved successful ([Sheridan, 2020](#)).

The situation continued to deteriorate in 2020. During the first 6 months of the year, there were over 17,000 murders—a 1.7% increase from the previous year ([Reuters, 2020](#)). Virtually no one seems to be immune from violence in the country. In June, the Jalisco New Generation Cartel gunned down federal Judge Uriel Villegas and his wife in front of their two daughters. Villegas was the judge presiding over cases brought against the son of the Jalisco Cartel leader. Days later, the Jalisco Cartel attempted to assassinate Mexico City’s chief of police, Omar García Harfuch. Harfuch was shot three times but survived; however, two of his bodyguards and a bystander were killed. Such an audacious attack against a government official in the capital city—which has faced less violence from the cartels than most other cities in the country—indicates that the cartels are emboldened by the inability of the state to hold criminals accountable ([Córdoba, 2020](#)). Recently, a video has been circulating in which dozens of Jalisco Cartel members pose in front of heavily armored vehicles wearing camouflaged uniforms and armed with assault weapons ([Medina, 2020](#)). The video exemplifies the cartel’s capabilities and willingness to use violence to achieve its ends.

Not even a global pandemic could bring down the violence Mexico is facing. Instead, it has made things worse. The drug cartels have been economically impacted by the decrease in international trade and port closures in China, which have interrupted the production and smuggling of fentanyl and methamphetamine. Likewise, the closure of businesses has prevented them from receiving extortion money. These constraints have led these criminal

organizations to attempt taking over the territory of rival organizations for additional revenue, resulting in violent turf wars ([Córdoba, 2020](#)).

With such levels of violence, it is unsurprising that an increasing number of Mexican nationals are seeking to enter the United States illegally. A national survey in 2019 indicated that 52% of Mexicans believed that security-related concerns were the country's most important problem—vastly overshadowing other critical concerns such as economic and political issues ([Zechmeister & Lupu, 2019, p. 68](#)). Even before the virus reached Mexico and corresponding travel restrictions were implemented, Mexico retook its spot as the number one country of origin of apprehended migrants at the border—with many of them hoping to get asylum in the United States ([Villagran & Carranza, 2020](#)). Enrique Valenzuela, the head of the Chihuahua State Population Council, stated that “[m]ost of these people are running away from either threats or violent situations going on in their home communities. Many of them have actually been victims” ([Corchado & Solis, 2020, para. 26](#)). As of July 2020, even after Mexico and the United States agreed to halt all non-essential travel between the two nations, Mexicans continue to make up the largest share of people apprehended at the border ([Miroff, 2020b](#)). Some experts are already predicting that Mexican migration could become a crisis in the near future ([O’Neil, 2020](#)). While

efforts taken by the Trump administration to reduce illegal immigration and Mexico’s increased enforcement have limited the number of Central Americans making it to the American border, these initiatives do not have as much of an impact on Mexican nationals.

Conclusion

The border crisis came to a head in early 2019 but has seen significant mitigation since then. This is primarily due to multiple Trump administration actions in response to the crest of border apprehensions in 2019, as well as fallout from the global COVID-19 epidemic.

However, it is unclear if these conditions at the border are going to hold long term. With global travel restrictions in place due to COVID-19, worsening safety and economic conditions in Latin America, and the upcoming U.S. election, there are too many variables that may impact the future of the U.S. border moving forward. Even with the existing travel restrictions, apprehensions at the border have increased every month since their April 2020 low ([U.S. Customs and Border Protection, 2020j](#)). This illustrates how fluid the situation is at the border, and how only time will tell if illegal entry will stay relatively low or go back up to crisis levels. In short, the future of the border is uncertain. ★

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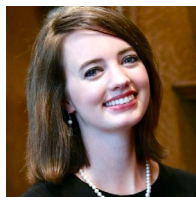
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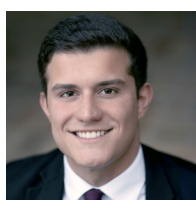
Grace Watson

Grace Watson is a former legislative fellow at the Texas Public Policy Foundation.

During the 86th Texas Legislature, Watson was the communications director for the office of state Representative Valoree Swanson. Prior to her time at the Texas Capitol, Watson worked in the tax office in her home county of Eastland and served her local community as a client advocate for a nonprofit family resource center.

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Magalhaes has worked in both chambers of the Texas Legislature—first as a legislative intern for State Representative Pat Fallon during the 85th Legislature, and then as a communications assistant for Lt. Gov. Dan Patrick during the 86th. Magalhaes also has been involved in numerous political campaigns throughout the state and served a semester as a legislative affairs intern at

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Magalhaes' passion for immigration policy and Latin American affairs stems from his Brazilian heritage, having been born in Brazil and immigrating to the United States as a child when his father was offered a career in Houston.

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Outside of work, Magalhaes enjoys practicing Brazilian jiu-jitsu, paddle boarding, and playing with his dog Reagan.

About Texas Public Policy Foundation

The Texas Public Policy Foundation is a 501(c)3 non-profit, non-partisan research institute. The Foundation promotes and defends liberty, personal responsibility, and free enterprise in Texas and the nation by educating and affecting policymakers and the Texas public policy debate with academically sound research and outreach.

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