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Title: *COVID-19, Wall building, and the effects on Migrant Protection Protocols by the Trump administration: The spectacle of the worsening human rights disaster on the Mexico-U.S. border*

For: *Administrative Theory & Praxis* Call for Dialogue submissions Rhetoric, Reality, and Pandemic Response

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Abstract

The COVID-19 pandemic has repercussions well beyond the confines of borders. National border policies can thwart international efforts to combat the spread of infectious diseases. These problems are especially relevant for the United States with the spectacle of President Trump's "big, beautiful border wall" used as leverage to maintain political and economic power domestically and globally while confronting the coronavirus pandemic. The focus of this paper is the implementation of Trump's Zero Tolerance Policy, Migrant Protection Protocols, and the Asylum Cooperation Agreement, all aimed primarily at migrants and refugees from Central America to prevent entrance into the U.S. using the border security apparatus. These policies have adverse consequences for people dwelling throughout the Americas as the COVID-19 pandemic spreads.

Introduction

...The spectacle has spread itself to the point where it now permeates all reality. It was easy to predict in theory what has been quickly and universally demonstrated by practical experience of economic reason's relentless accomplishments: that the globalisation of the false was also the falsification of the globe (*Source: Guy Debord, 1988, p.6*).

With the onset of the coronavirus, the U.S. public's attention moved away from the spectacle of President Trump's border wall building project and abuse of migrants and asylum seekers along the Mexico-U.S. border towards the pandemic (Based on Debord, 1967/1994; Garrett, 2018a; 2018b; Kellner, 2016). Trump continues threatening property rights and civil liberties of borderlanders, using eminent domain for border wall construction on private lands and increasing the suffering of border crossers with Zero Tolerance Policy, Migrant Protection Protocols, and the Asylum Cooperation Agreement implementation. The global pandemic garners the media's agenda setting tendency, leaving the mass suffering at the border in its wake.

The lack of a coherent and humanitarian hemispheric migration policy for the U.S., Mexico, and other states continues with corporate interests adhering to the status quo or worse for migrants since the 1990s with the worsening of policies directed at migrants and asylum seekers under the current administration. Border dwellers' rights are subsumed to the need for a larger security apparatus – more U.S. military, Department of Homeland Security (DHS) agencies including U.S. Border Patrol (USBP), Customs and Border Protection (CBP), and Immigration Customs and Enforcement (ICE) agents, increased surveillance, and more border infrastructure (Agamben, 2009; Garrett, 2020). Cheap migrant labor is still available for corporate interests – agricultural, industrial, and the service sector (Garrett, 2012). The global pandemic continues to displace the border wall building spectacle.

Trump and the Border Wall Spectacle

Trump announced shortly after he recognized the COVID-19 threat in March 2020 after knowing that contagious disease was with a declaration of a national emergency. The costs will be about \$2 trillion going for the initial economic stimulus package in the coronavirus crisis. Additionally, the multi-billion-dollar border wall construction would continue despite the threat of the COVID-19 pandemic in terms of the potential loss of thousands of American lives. Lahkani (March 22, 2020) notes that “Customs and Border Protection (CBP) announced plans to erect more than 150 miles of the 30ft border wall in Arizona, New Mexico and California – in addition to ongoing construction work at least 15 sites across those states and Texas” (para. 2) despite the fact that there are tens of thousands of U.S. confirmed cases of COVID-19 and over 260 deaths as of March 22, 2020. The current wall construction comes from an anti-migrant campaign promise by Trump that he also uses at campaign-style rallies throughout his

presidency as he promises to build a “big, beautiful wall” along the 1,954-mile southern border between Mexico and the U.S. Along those lines of campaign-style promises “the Trump administration has pledged to erect or replace 450 to 500 miles of the wall by the end of 2020, at a cost of almost \$18.5 bn. The vast majority of the money was diverted from the US Department of Defense, specifically from counter-drug operations and military infrastructure projects, after Trump declared a national emergency, widely seen as spurious, in February 2019 to fund the wall” (para. 12). Corporate wall-builders are thusly guaranteed their lucrative government contracts to build wall structures that sixty percent of the public (Norman, February 4, 2019) and borderlanders do not want. The border wall-building spectacle continues during the COVID-19 pandemic although somewhat masked by international health disaster.

Migrants and Asylum Seekers: Policies to Keep Them Out of the U.S. and COVID-19

While the Trump administration is not the first to implement anti-migrant policies, it is highly aggressive towards migrants and asylum seekers with the Zero Tolerance Policy (ZTP), Migrant Protection Protocols (MPP), and Asylum Cooperation Agreement (ACA). DHS agencies that are responsible for the implementation of these policies include USBP, CBP and ICE. ZTP, which officially began April 6, 2018 and lasted until June 20, 2018, is designed to separate migrating minor children from their parents. The intent of ZTP is to discourage migrant family units from entering the U.S. through the southwest land border to claim asylum – particularly people from El Salvador, Honduras, and Guatemala (collectively known as the “northern triangle” countries). ZTP officially ended in 2018, however, it is still being put into practice (Garrett, 2018; 2020). In the case of Texas, where the middle of the Rio Grande is the actual border between Mexico and the U.S., CBP agents stand at the markers on the bridges designating the international boundary, preventing targeted migrants particularly from northern triangle

countries from crossing the line into U.S. territory to claim political asylum. Migrants were backed up on the bridges until Mexican police eventually forced them from camping there as they were waiting for a chance to enter the U.S. As a result, many of them had to stay in unsafe urban areas where rape, kidnapping and robbery occurred by transnational criminal organizations or other criminals. Eventually, many migrants gave up attempting to cross legally at the bridges and attempted to cross the Rio Grande thus violating as a misdemeanor the U.S. law known as 1911.8 U.S.C. 1325 – Unlawful entry, failure to depart, fleeing immigration checkpoints, marriage fraud, commercial enterprise fraud (civil penalty) (Department of Justice, n.d). USBP captures the family usually waiting at the border wall because the entire structure that exists is on U.S. territory. The migrants and refugees are then sent to the *hielera* (ice box), holding processing centers, where children are separated from their parents. The migrant children are then taken to the juvenile detention centers by the Office of Refugee Resettlement (ORR) under the auspices of the U.S. Department of Health and Human Services. Nearly all of these detention centers are privately owned businesses or nonprofits. Migrant parents are sent by USBP to the *perrera* (dog kennel), metal cages for holding adults. Usually within 48 hours, the accused appears before a judicial magistrate and pleads guilty to the “1325” misdemeanor charge and then is promptly deported by ICE with their children left behind in the U.S. Hundreds of migrant children are still left in the U.S. under ORR and the process continues (Garrett, 2018a; 2020).

The Migrant Protection Protocols (MPP) – or “Remain in Mexico Policy” – was the next step designed by the Trump administration and implemented by DHS and its agencies - CBP/USBP and ICE – to remove migrants and asylum seekers, effectively expediting their removal with the Asylum Cooperation Agreement (ACA, see more below) policy provisions (e.g. DHS, January 24, 2019; July 23, 2019). Then-DHS Secretary Kirstjen Nielsen articulated

the MPP as *“We have implemented an unprecedented action that will address the urgent humanitarian and security crisis at the Southern border. This humanitarian approach will help to end the exploitation of our generous immigration laws. The Migrant Protection Protocols represent a methodical commonsense approach, exercising long-standing statutory authority to help address the crisis at our Southern border.”* (DHS, January 24, 2019, para. 1, italics in the original). Effectively, the U.S. is using Mexico as a shield to prevent asylum seekers and migrants from entering the U.S. and staying to await their court hearing. The effects of MPP on migrants and refugees have been catastrophic, as “the Trump administration has forced more than 55,000 asylum seekers to wait for months in lawless Mexican border towns” with the so-called “Remain in Mexico” policy (Jordan, December 21, 2019, para. 7). Transnational criminal organizations (TCOs) have exploited the migrants and asylum seekers by engaging in human trafficking, kidnapping, rape and murder with 636 documented violent attacks since MPPs were put in place (Jordan, December 21, 2019, para. 21). This policy has led to migrant abuse in northern Mexico border cities. Border tent courts or “port courts” are utilized by DHS and keep migrants and refugees in Mexico to await their court date to appear before a judge to make an asylum claim where it is often dangerous (Fernandez, Jordan, and Dickerson, September 12, 2019). The number sent back to Mexico to await their asylum hearing was 42,000 from July to mid-September 2019 (Fearnow, September 16, 2019).

Another Trump administration technique used to remove migrants and refugees rapidly from the border is the Asylum Cooperation Agreement (ACA) policy. From the end of October 2019 until March 2020, the Trump administration signed an agreement with Guatemala to send asylum seekers from the Mexico-U.S. border to Guatemala – including migrants who are citizens of other northern triangle countries, Hondurans and Salvadorans (Miroff, October 28, 2019). The

ACA has expedited the removal of migrants from the Mexico-U.S. border. By late February 2020, “the Asylum Cooperation Agreement, sen[t] flights full of shackled Honduran and Salvadoran asylum seekers to Guatemala daily. So far, more than 600 people have been sent to the Central American country to seek asylum there under the agreement, but the vast majority end up abandoning their claims and going home to their countries of origin, according to Guatemalan immigration officials” (Hernandez and Sieff, February 27, 2020, para. 17). The Trump administration set up the ACA as a means to increase the removal of Guatemalans, Hondurans and Salvadorans. The policy was achieving the desired effect until the COVID-19 pandemic came to the Americas, effectively ending the cooperation between the governments of Guatemala and the U.S. on about March 17, 2020 as Guatemala became the first country in the Western Hemisphere to block travelers from the U.S. The moratorium placed on the agreement has impacted the ACA policy as “since November, the U.S. has sent Guatemala more than 900 men, women and children who have arrived at the border from El Salvador and Honduras” (O’Toole and Carcamo, March 17, 2020, para. 9). As of the date of this writing, it is unknown how long the Guatemalan travel restrictions for U.S. citizens and others will remain in place as the COVID-19 pandemic continues.

COVID-19 and the Border Security Apparatus, Support from the Supreme Court, and Central American Resistance

Former Obama administration CBP interim commissioner, Mr. David Aguilar, on April 4, 2017, in front of the U.S. Senate Homeland Security and Governmental Affairs Committee, testified that one of the primary policies of the agency is to hinder, if not stop completely, the unauthorized border crossing of “aliens” (border crossers). CBP uses a tripartite strategy that entails personnel (boot on the ground), surveillance, and border infrastructure (e.g., walls,

fencing, pedestrian and vehicle barriers) (Garrett, 2018a; 2018b; 2020). As such, CBP's USBP have over 18,000 agents on the southwestern border, a wide array of surveillance equipment that Bigo (2006; 2011) refers to as a ban-opticon extending beyond the Foucault/Bentham panopticon (Garrett, 2020; Foucault, 1977; Bentham, 1995) by banning or deporting migrants, and the border wall. The same tripartite strategy that was in place prior to the Obama administration and is in effect with the current administration. The primary difference between the two administrations is on the emphasis of the Trump administration to use policy such as ZTP, MPP, and ACA to remove migrants and asylum seekers from the southwestern border and, perhaps, a change in the makeup of the Supreme Court of the United States.

The Border Security Apparatus received a boost from a U.S. Supreme Court decision in which “justices in a one-line order put on hold a ruling by the U.S. 9th Circuit Court of Appeals two weeks ago that declared the disputed [MPP/ACA] policy illegal....Only ... [Justice Sonia Sotomayor] registered a dissent” that allows the policy to remain in effect until it is fully considered later (Savage, March 12, 2020, A8). Shortly thereafter, on March 13, 2020, President Trump declared a state of emergency regarding COVID-19 after he spent nearly two months downplaying the pandemic (Sonam, March 13, 2020). The MPP and ACA in combination return Salvadoran, Honduran and Guatemalan migrants and asylum seekers along the Mexico-U.S. border into Guatemala which has not had anywhere near the impact of COVID-19 cases as in the U.S. as the first one recorded was March 19, 2020. Deportations of migrants are making the coronavirus potentially worse in Guatemala as the overcrowded detention facilities in the U.S. risk exporting the COVID-19 to Central America (Del Valle and Herrera, March 23, 2020). The justification for the more aggressive deportation policy was articulated by Trump administration's Secretary of Health and Human Services, Alex M. Azar...

“When held at border facilities, these migrants were spreading the virus to other migrants, to C.B.P. agents and border health care workers and even the United States population as a whole,” he said, referring to Customs and Border Protection...*When asked about Mr. Azar’s claims that the migrants were carriers of the coronavirus, a spokesman for the agency could not point to any evidence showing that that was happening.* The spokesman, John Mennell, said only that “this is exactly what we are trying to prevent” (Kanno-Youngs and Semple, March 20, 2020, para. 10, italics added for emphasis).

Central American countries have little political and economic power to stop the U.S. Border Security Apparatus in the long term as Andrew Selee of the Migration Policy Institute notes “This is President Trump’s signature issue...and every country in the region knows that and knows there’s a limit to how much you can challenge the U.S. government on its immigration priorities without paying some sort of consequence” (Del Valle and Herrera, March 23, 2020, para. 24). Resistance to the MPP and ACA by these northern triangle countries is futile and will result in the hastening of COVID-19 infections and deaths in Central America and beyond.

Conclusion

As of March 24, 2020, *The New York Times* has noted that “The coronavirus pandemic has sickened more than 406,900 people [worldwide], according to official counts. As of Tuesday afternoon, at least 18,293 people have died, and the virus has been detected in at least 166 countries....” (March 24, 2020, para. 1). The U.S. has at least 52,215 cases of coronavirus confirmed by lab tests that are not so readily available to medical practitioners for the public and this shortfall has resulted in at least 675 deaths (para. 4) whereas Mexico and Central America have considerably fewer cases and deaths. President Trump, as against the advice of his core health care advisers, has suggested that Americans need to get back to work after the Easter holiday after and maintain their 6-ft. social distance to strengthen the economy as he tweeted ...

“WE CANNOT LET THE CURE BE WORSE THAN THE PROBLEM ITSELF,”
“AT THE END OF THE 15 DAY PERIOD, WE WILL MAKE A DECISION AS TO WHICH WAY WE WANT TO GO!” (Haberma and Sanger, March 23, 2020 [Trump’s tweet was capitalized by himself]).

As the United States attempts to deal with the pandemic and uses the border security apparatus to implement current public policies that effectively are hostile to border crossers and border dwellers, the people will continue to suffer the consequences. These policies – ZTP, MPP, and ACA – are designed to dissuade border crossers particularly from Central America from coming to the United States. Additionally, Trump is increasing the border security apparatus, particularly the border wall, that is largely ineffective and useless against the global pandemic. Property is taken from border dwellers under provisions of eminent domain in the Secure Fence Act of 2006 and the REAL ID Act of 2005 that permit the expansion of the border wall. The spectacle of the border wall continues and it is largely hidden in the U.S. from sight at least temporarily as long the COVID-19 pandemic ravages the globe.

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