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## **New Rules at the Border**

### **'Catch and Return' Policy Eliminates Court Hearings For More Illegal Immigrants**

By **MIRIAM JORDAN**

Isabel Guzman spent three weeks in a detention center in the Arizona desert, then boarded an unmarked plane usually used for transferring convicts between U.S. prisons. She and 90 other illegal Guatemalan immigrants were going back home.

A 35-year-old Guatemalan peasant, Ms. Guzman had never seen the inside of an aircraft or a jail before she came to the U.S. She and most of the other passengers on the Jan. 20 flight broke U.S. immigration law by making a clandestine entry into the country from Mexico. U.S. authorities detained her, without a hearing before an immigration judge, until the day when she and the other Guatemalans were escorted by 16 air marshals, some of them armed, onto an MD-80 in Mesa, Ariz., bound for Guatemala City.

"Luck didn't come to me," says Ms. Guzman, bleary-eyed with exhaustion, as she sat in the section at the front of the plane assigned to women in the group. None of the passengers had a criminal record, according to immigration officials. They were instructed not to leave their seats: If they had to use the bathroom, they waited for a marshal.



Isabel Guzman with one of her sons, back home in Guatemala's Asintal district.

The speedy repatriation is part of a new effort by the U.S. government to cut the red tape in deportations of illegal border-crossers. Amid the heated debate over the rising numbers of undocumented Latin Americans entering the U.S., the Department of Homeland Security in September announced a new initiative to expand the use of "expedited removals," or deportations that take place without an immigration hearing. Under the new policy, two or three flights filled with deportees head to Guatemala each week. Similar flights are bound for Brazil, El Salvador and Honduras.

The policy's success depends on getting deportees to spread the message back home that the rules have changed, and that a failed border crossing will result in rapid eviction from the U.S. "We want word to get back that you will possibly spend all your money on a coyote, and two weeks later you're on a plane home," said Michael Keegan, a spokesman for the Immigration and Customs Enforcement agency, a unit of Homeland Security, during the four-hour flight to Guatemala City. So-called coyotes smuggle people across the border for steep fees.



In the more than four months since expedited-removal flights have begun, the ICE unit has removed more than 5,000 illegal immigrants under the program, mainly by putting them on flights home. Officials say they sense a sharp decline in attempts among Brazilian nationals.

But anecdotal evidence and recent history suggest that no matter how risky, or costly, attempted illegal border crossings may be, economic incentives are often too powerful to dissuade people like Ms. Guzman from trying again. Undocumented immigrants enter the U.S. at a rate of about 500,000 a year, according to independent estimates.

Until last fall, non-Mexicans, like Ms. Guzman, caught crossing the U.S. border illegally received a notice to appear at a local immigration court, often several months later. (Most Mexicans are processed and returned to Mexico in a matter of hours.) The main reason for issuing court dates was simple: There weren't enough beds to detain everybody who was caught.

But most of these illegal immigrants wouldn't show up for the deportation hearing, well aware that they didn't stand much chance of persuading a judge to let them stay. Last year, in some Texas border-area courts, such as Harlingen, the no-show rate at hearings was 98% for Guatemalans and 99% for Brazilians. The immigrants would settle somewhere in the heartland, find a job and disappear amid the masses of other undocumented workers.

"As long as you got across the border, you were basically here to stay," says Julian Cardenas, a detention and deportation officer for ICE.

Under the new policy, part of the Secure Border Initiative, which is aimed at keeping out terrorists and reducing illegal immigration, anyone caught within 100 miles of the border and within 14 days of illegally entering the U.S. is subject to expedited removal. They are entitled to present their case to an immigration judge if they have a credible fear of persecution or torture.

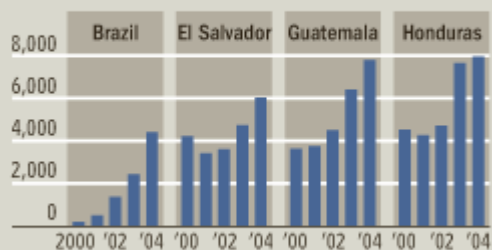
Few illegal immigrants are political refugees. Still, says Jeanne Butterfield, executive director of the American Immigration Lawyers Association, "it's hard to see how such a procedure could be implemented on such a broad scale while still providing adequate protection to those we want to protect."

Expedited removals have been used since 1996, mainly at airports and other ports of entry. A person trying to enter the U.S. without a visa, or with an altered passport, might be subject to expedited removal and put on the next plane back home.

Even before the new policy greatly expanded the use of expedited removal, a February 2005 report by a bipartisan government agency, the U.S. Commission on International Religious Freedom, found "serious problems" with the practice. According to the report, in 15% of expedited removals, people who expressed fear of return to their country of origin weren't given a chance to be interviewed by an asylum officer.

## One-Way Tickets

People from select countries deported from the U.S.:



Note: For fiscal years ended Sept. 30

Source: Department of Homeland Security

Immigration lawyers and human-rights groups believe the wider use of expedited removals will result in expulsion of people legitimately seeking asylum from political or other persecution. "The process lacks the safeguards necessary to prevent the mistaken deportation of refugees, in violation of our obligations under the Refugee Convention," says Eleanor Acer, director of the asylum program for Human Rights First, an advocacy organization.

The new program, like its predecessor, faces a daunting challenge: It must be more powerful than the poverty dominating places like Guatemala, where unemployment rates in rural areas can top 40% and the U.S. is seen as the only way out. The question is: Will Isabel Guzman, and people like her, stay put -- or try to come north again?

A couple of days after landing in Guatemala's muggy, impoverished lowlands, Ms. Guzman's prospects weren't looking good. "Here you can barely make enough money to eat," she says, sitting in the thatched-roof shack she calls home in a village in the Asintal district. A single mother of four, Ms. Guzman had been making her second attempt to reach Los Angeles and "work any job, anything to better our life," when U.S. border-patrol officers shined a spotlight on her as she slept, curled up in some bushes.

Now, she finds herself in a bind: barely able to survive on the \$3 a day she earns hand-washing laundry for upper-class families in the nearby town of Retalhuleu, but unable to pay -- at least for the time being -- the fee a coyote would charge to guide her back to the U.S.

Experts in illegal immigration say it isn't only poverty at home that pushes people to the U.S. It's also that U.S. businesses roll out the welcome mat. "There are powerful forces at work on both sides," says Wayne Cornelius, a scholar at the University of California at San Diego, who has studied migrant flows for three decades. As long as employers offer work to illegal immigrants, it will be difficult to discourage them from coming to America, he says.

In a January 2005 study, Prof. Cornelius found that 92% of those who tried to enter the U.S. made it by the fourth try. A majority made it by the second time. Only 8% gave up after failing. "It's overwhelmingly rational for them to try again," Prof. Cornelius says.

For Ms. Guzman, who has three years of schooling, getting into the U.S. is like playing the lottery: It's the luck of the draw. As she sees it, her neighbor, Urbano Cabrera, was one of the lucky ones. Until he got to the U.S. and started sending money back home, his family lived in a wooden-slab shack like hers. In December, Mr. Cabrera paid a visit to his family for the first time in six years.

"Look at the difference," she says, entering her neighbor's airy, bright-green four-room house, with tiled floors, solid-wood doors and modern appliances. "They can afford to buy meat," she says. "What a shame that I didn't make it."