

CLOSING OFF ASYLUM AT THE U.S.-MEXICO BORDER

FIELD REPORT | AUGUST 2018



Cover Photo: Children look from the Mexican side of the U.S.-Mexico border fence at dusk on July 22, 2018, in Nogales, Arizona. (Photo by John Moore/Getty Images)

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SUMMARY

The Trump administration is engaged in a sustained campaign against vulnerable women, men, and children seeking asylum in the United States. It is an effort waged through policies and actions designed to deter individuals from seeking protection, and to close off avenues for asylum that are well grounded in international and domestic law and established practice. Refugees International (RI) is deeply concerned that these policies have created needless suffering and that the administration's demonization of asylum seekers has mischaracterized and disadvantaged the asylum-seeker population.

The recent separation of families of asylum seekers, described in the pages below, was perhaps the most publicly visible of these unfortunate policies. But other measures have also caused asylum seekers significant harm. These include the blocking of access at U.S. ports of entry, the criminal prosecution of asylum seekers for unauthorized entry without regard to the credibility of their requests for protection, an unreasonable narrowing of grounds for asylum, and pressure in detention facilities for asylum seekers to self-deport. Refugees International believes that all of these actions are in conflict with important U.S. legal and policy commitments to the protection of vulnerable persons fleeing persecution and violence and must come to an end.

The report that follows is based on a recent RI mission to border communities in the United States and Mexico between July 24 and August 2, 2018. The RI team was in several locations, including:

- Tucson, Arizona and Nogales, Mexico
- San Diego, California and Tijuana, Mexico
- McAllen and Brownsville, Texas and Matamoros, Mexico

During our mission, RI met with asylum seekers who fled their homes after being shot or threatened by gangs in the Northern Triangle of Central America (El Salvador, Guatemala, and Honduras). Many had been sheltering for weeks or months on the Mexican side of the border, confronting serious risks in Mexico and U.S. government restrictions on access to asylum in the United States. On both sides of the border, RI also met with attorneys, humanitarian aid providers, and others from civil society working to provide protection to these vulnerable populations.

RECOMMENDATIONS

Drawing from RI's mission to the border and the analysis that follows in this report, RI offers the following recommendations to the Trump administration, to the Inspectors General of the Department of Homeland Security and the Department of Justice, to the U.S. Congress, and to the U.S. philanthropic community.

The Trump administration should:

- Put an end to public comments that vilify asylum seekers and appear to reflect ignorance of and hostility to the asylum process, and make clear that those fleeing persecution have a right to seek asylum in the United States;
- Strengthen procedures to identify and hold accountable officials who disregard the obligation to clearly communicate to asylum seekers at the border that they have a right to request asylum;
- End the practice of turning away asylum seekers at ports of entry and instructing them to return at other times, and commit the resources necessary to process asylum seekers in an orderly and humane manner;
- Suspend any effort to reach an agreement with Mexico on the deportation of Central Americans to Mexico, in light of the risks faced by Central Americans in Mexico and the fact that Mexico is already hosting an increased population of asylum seekers;
- Devote substantially greater political will and resources to uniting families torn apart through the family separation policy, and – as an act of basic decency – direct that family members victimized by the separation policy may remain in the United States or re-enter the United States if they have already departed (pending a permanent legislative remedy for this population that provides a pathway to application for permanent residence);
- Reject the replacement of a family separation policy with a family detention policy that will lead to needless suffering; pursue alternatives to detention that have proven successful in the past;
- End criminal prosecutions of asylum seekers for unauthorized entry and implement existing policy guidance that anticipates parole (release pending determination of claims) for claimants who have established a credible fear of persecution or torture;
- Investigate conditions in immigration detention centers – and hold accountable officials responsible for abuses – in light of consistent reports of ill-treatment that has compelled asylum applicants to consider self-deportation;
- Reverse the Attorney General's decision in *Matter of A-B-*, which unreasonably restricts access to asylum, and thus ensure that individuals who are fleeing domestic violence, gang violence, and other forms of private harm have a reasonable opportunity to obtain asylum in the United States.

The Inspectors General of the Department of Homeland Security and the Department of Justice should:

- Conduct a thorough review of migration and asylum policies, guidance, and procedures adopted or abandoned during the first part of the Trump administration, to identify measures that have caused needless suffering of asylum seekers as outlined in this report, to establish accountability, and to identify means to avoid such suffering in the future.

To Members of the U.S. Congress:

- Direct the U.S. Government Accountability Office to conduct a thorough review of migration and asylum policies, guidance, and procedures adopted or abandoned during the first part of the Trump administration, to identify measures that have caused needless suffering of asylum seekers as outlined in this report, to establish accountability, and to identify means to avoid such suffering in the future;
- Hold hearings in the Senate and House Committees on the Judiciary, on Foreign Affairs and Foreign Relations, and on Homeland Security and Government Affairs and Homeland Security, with administration officials and non-governmental experts, on the concerns outlined in this report – to focus on U.S. compliance with obligations under the Refugee Convention and Protocol, as well as to identify measures that have caused needless suffering of asylum seekers as outlined in this report, to establish accountability, and to identify means to avoid such suffering in the future;
- Generously fund the Department of Justice Legal Orientation Program, which provides critical information and advice to those fleeing persecution and violence;
- Provide a permanent legislative remedy that provides a pathway to application for permanent residence for families torn apart by the family separation policy.

To the Philanthropic Community in the United States:

- Substantially augment financial support for non-governmental organizations on both sides of the border involved in provision of services, advice, education, and legal advocacy.

PERSECUTION, VIOLENCE, AND TRAUMA EXPERIENCED BY ASYLUM SEEKERS FROM THE NORTHERN TRIANGLE

Citizens from the Northern Triangle of Central America attempting to enter the United States are often fleeing horrific violence and insecurity in their home countries. As RI and others have documented, such violence and insecurity include threats of extortion, forced recruitment into gangs, rape, murder, and displacement.¹ Moreover, there is considerable evidence that officials in each of the Northern Triangle countries have extremely limited capacity – and in many cases limited will – to protect those at grave risk.

RI field interviews conducted during the July–August mission to the U.S.-Mexico border strongly reinforced these findings. RI interviewed asylum seekers from Honduras, El Salvador, and Guatemala. Most had fled their homes in the Northern Triangle region after experiencing or being threatened with violence at the hands of gangs and other criminal elements. Mothers and girls alike escaped to avoid being subjected to sexual abuse and violence by gang members. Other individuals with whom RI met also reported having been shot, as evidenced by visible wounds they bore.

When interviewed by RI, some of these individuals were in states of understandable despair at the prospect of being returned to

their home countries where they faced a very real risk of death. One young man with bullet wounds told RI he had already sought refuge in the United States after fleeing gangs in Honduras. He had been deported back to Honduras where he had once again been under threat. He was sheltering in northern Mexico with the aim of crossing back into the United States, but he harbored a high degree of anxiety that this would no longer be possible. Another man from Guatemala had brought his 18-year-old son to Nogales, Mexico after both were threatened by gang members. From Nogales, he was planning to travel to different points of entry into states other than Arizona where he believed his son would spend the fewest months in detention as he sought asylum.

To be sure, not every individual seeking protection in the United States has a well-founded fear of persecution about return to his or her country of origin. But there is overwhelming evidence that large numbers of asylum seekers do indeed merit the protection of the United States under U.S. law and policy. For this reason, Refugees International is deeply troubled by statements from within the administration that suggest both ignorance about and hostility toward the asylum process. In this regard, a June 24, 2018, tweet from President Trump is illustrative:

We cannot allow all of these people to invade our Country. When somebody comes in, we must immediately, with no Judges or Court Cases, bring them back from where they came. Our system is a mockery to good immigration policy and Law and Order. Most children come without parents...

This is only one of many such comments that inevitably create fear and uncertainty among

1. Francisca Vigaud-Walsh, Eric Schwartz, and Gabriela Dehesa-Azuara, “Putting Lives at Risk: Protection Failures Affecting Hondurans and Salvadorans Deported from the United States and Mexico,” *Refugees International*, February 2018, <https://www.refugeesinternational.org/reports/protectionfordeported>.



Gabriela M. Dehesa-Azuara of Refugees International looks at the border wall separating Mexico and Arizona.

those who would legitimately seek the protection of the United States. (We also note that RI is not aware of any data to support the president’s claim that “most children come without parents.”)

DENYING EFFECTIVE ACCESS TO ASYLUM AT THE SOUTHERN BORDER

On the Mexican side of the border, asylum seekers have faced new obstacles that appear to be designed to deter asylum claims. There are several elements to this

policy of deterrence, some of which we describe below.

Blocking access to asylum at U.S. ports of entry

In prior reporting, RI has expressed concerns that U.S. officials on many occasions have turned away asylum seekers at ports of entry, without referring them for the required protection screening.² RI concerns are supported by the experiences of other credible institutions. In a July 2017 lawsuit, the American Immigration Council, the Center for Constitutional Rights, and Latham & Watkins LLP claimed that border agents told asylum seekers that the United States was no longer granting asylum.³ Other migrants were

2. Ibid, p. 9.

3. *Al Otro Lado, Inc. v. Kelly*, Case No. 2:17-cv-5111, Complaint for Declaratory and Injunctive Relief, July 12, 2017, para. 85, https://www.americanimmigrationcouncil.org/sites/default/files/litigation_documents/challenging_custom_and_border_protections_unlawful_practice_of_turning_away_asylum_seekers_complaint.pdf. See also Dara Lind, “Trump Keeps Making it Harder for People to Seek Asylum Legally,” Vox, June 5, 2018, <https://www.vox.com/policy-and-politics/2018/6/5/17428640/border-families-asylum-illegal>.

reportedly threatened with being separated from their children if they attempted to cross the border and request asylum, even though they were at a port of entry.⁴ There have even been reports of border officers “blocking asylum seekers from entering ... and threatening to let dogs loose if they did not leave the [port of entry].”⁵ During the RI border mission, one U.S. legal service provider in Tijuana reported that she had personally witnessed a Customs and Border Patrol (CBP) officer tell an asylum seeker that the individuals did not have the right to seek asylum.

RI was also alarmed that asylum seekers at several ports of entry were being turned away and being told they must return at other times – presumably when there was additional processing capacity. The restrictions, which RI witnessed, led to additional risks to families who have been forced to wait and remain vulnerable to extreme heat.⁶ RI is concerned that the restrictions create vulnerability to acts of criminality and violence. A legal service provider in the United States told RI that many of her clients had been victimized while waiting on the Mexican side to apply for asylum in the United States.

Forcing vulnerable asylum seekers to pursue more treacherous border crossings

RI fears that the Trump administration’s practice of strictly limiting asylum requests at ports of entry has the effect of driving asylum seekers to enter the United States through

unauthorized border crossings. This imposes grave risks on the asylum seekers who find themselves in the hands of criminal elements involved in alien smuggling. It is likely to have had the effect of “artificially increasing illegal entry violations,” as is alleged in a lawsuit filed against the Trump administration by the Attorneys General of 17 States and of the District of Columbia.⁷ This is both tragic and ironic given the administration’s stated commitment to combat both smuggling and irregular entry into the country.

Risks to asylum seekers remaining in Mexico

Those asylum seekers who have been turned away completely by Customs and Border Patrol personnel or who have been forced to wait in Mexico at ports of entry face serious protection concerns in Mexico. RI has previously reported on protection challenges in Mexico,⁸ and, on our recent mission, the RI team received additional and credible reports of risks faced by Central Americans in Mexico. One Central American consular official who had interviewed thousands of asylum seekers in the United States observed that the challenges that undocumented migrants and asylum seekers confronted in the United States paled in comparison to abuses that asylum seekers had endured while crossing Mexico. These have included abuses at the hands of organized crime, exploitative smugglers, and predatory state security and police, as well as a lack of protection from gangs the asylum seekers had fled in the first place.

4. *Al Otro Lado, Inc. v. Kelly*, para. 87 (see footnote 3).

5. *Al Otro Lado, Inc. v. Kelly*, para. 87 (see footnote 3).

6. See Alice Driver, “Scenes from a Migration Crisis – On Both Sides of the Border,” *National Geographic*, June 29, 2018, <https://www.nationalgeographic.com/photography/proof/2018/06/mexico-immigration-children-parents-border-separation-culture/> and Terri Burke, “Chaos and Cruelty for Immigrants Held in Brownsville, Texas,” *ACLU*, June 20, 2018, <https://www.aclu.org/blog/immigrants-rights/immigrants-rights-and-detention/chaos-and-cruelty-immigrants-held-brownsville>.

7. *State of Washington v. United States*, Case No. 2:18-cv-00939, Complaint for Declaratory and Injunctive Relief, 26 June 2018, para. 2, https://agportal-s3bucket.s3.amazonaws.com/uploadedfiles/Another/News/Press_Releases/complaint_6.pdf.

8. Francisca Vigaud-Walsh et al., “Putting Lives at Risk: Protection Failures Affecting Hondurans and Salvadorans Deported from the United States and Mexico,” p. 9–12 (see footnote 1).



Fence in Nogales, Mexico where families remember those who died in attempting to cross the border.

One asylum seeker interviewed by RI had refused to leave the port of entry to wait at a shelter for his family's turn to request asylum for fear of being kidnapped by criminals or of being deported by Mexican migration officials. As a result, he and his family were sleeping outside of the port of entry until they were permitted by U.S. officials to seek asylum. One pregnant woman from the Northern Triangle told RI that she had been held by the Mexican police for three days despite having a humanitarian visa – a document issued by the Mexican authorities that presumably should provide a measure of protection. The woman remained so fearful of Mexican police that she was refusing to leave her shelter.

RI strongly supports Mexican efforts to strengthen refugee protection and access to asylum for Central Americans and others. As we indicated in our report, *Putting Lives at Risk*, officials of Mexico's migration agency, Instituto Nacional de Migración (INM),

should commit to ceasing efforts to discourage migrants from making asylum claims and should inform migrants of their rights to seek asylum. But Mexico itself has in recent years experienced significant increases in its asylum-seeker population.⁹ More importantly, under current conditions, the risks faced by Central Americans in Mexico makes it imperative that asylum seekers from Central America have access to asylum in the United States. For this reason, RI strongly opposes U.S. efforts to reach an agreement with Mexico on the deportation of Central American asylum seekers to Mexico.

9. Nina Lakhani, "Asylum Applications in Mexico Have Soared 150% Since Trump's Election," *The Guardian*, April 18, 2017, <https://www.theguardian.com/us-news/2017/apr/18/trump-mexico-asylum-applications-soar>.

ABUSES AGAINST THOSE SEEKING ASYLUM AFTER ARRIVAL

Those who make it past obstacles imposed at the border find an asylum window that is rapidly closing. There have been several elements to the Trump administration's effort to accomplish this unfortunate objective.

Family separation and family detention

In May 2018, the Trump administration declared that migrant families would be separated at the border as a means of dissuading people from migrating to the United States without authorization – even in cases where individuals were seeking asylum.¹⁰ The policy was to be effected through criminal prosecution and incarceration of all those seeking to cross the border without authorization, including adults traveling with children – thereby resulting in the separation of those adults from their children. (After this announcement, there were also reports that some families appearing at ports of entry were also being separated.)¹¹

This policy was widely condemned; it was also implemented without adequate plans for where and how separated children would be processed, housed, or reunited with their

parents. More seriously, allegations have emerged of immigration officials coercing parents to withdraw their asylum claims by suggesting that they would be more quickly reunited with their children if they did so.¹²

The result of the policy was chaos, and while the practice of family separation has been suspended, the foreseeable trauma resulting from this human rights abuse is ongoing for many hundreds of children who remain separated from their parents. The circumstances of ongoing separation vary. As of late-August, 528 children remain separated from the adults with whom they entered the United States. Perhaps of greatest concern, hundreds of those adults are outside the United States, having been deported or having been recorded as leaving voluntarily. Others remained in custody and still others had apparently been released but not reunited with the children. The American Civil Liberties Union has argued in a filing that some parents who signed documents waiving their right to reunification did so under duress or without an awareness of what they were doing. And some parents have been kept from children due to a range of issues reportedly triggered by background checks.¹³ Service providers with whom RI spoke while on mission said that some number of the parents who have yet to be reunited with their children are being denied such access due to prior convictions for illegal entry into the United States.¹⁴

Refugees International believes that the pain and suffering visited upon these families

10. See Aric Jenkins, "Jeff Sessions: Parents and Children Illegally Crossing the Border Will Be Separated," *Time*, May 7, 2018, <http://time.com/5268572/jeff-sessions-illegal-border-separated/>.

11. Jazmine Ulloa and Paloma Esquivel, "Customs Agency Says Only 7 Families Separated at Ports of Entry from May to June, Conflicting with News Reports and a Judge's Ruling," *Los Angeles Times*, July 9, 2018, <http://www.latimes.com/politics/la-na-pol-essential-washington-updates-border-patrol-says-only-seven-families-1531151865-htmlstory.html>.

12. *State of Washington v. United States*, para. 100 (see footnote 7).

13. Leslie Shapiro and Manas Sharma, "How Many Migrant Children Are Still Separated from Their Families?" *The Washington Post*, August 17, 2018, https://www.washingtonpost.com/graphics/2018/local/tracking-migrant-family-separation/?noredirect=on&utm_term=.85840cc7c83b.

14. As the Department of Homeland Security has indicated, "[t]here will be a small number of children ... that will remain separated [including where] the adult is a criminal alien" in Department of Homeland Security, "Fact Sheet: Zero-Tolerance Prosecution and Family Reunification," June 23, 2018, <https://www.dhs.gov/news/2018/06/23/fact-sheet-zero-tolerance-prosecution-and-family-reunification>. It appears that the reference to "criminal alien" includes those who have been previously convicted of unlawful entry into the United States.



A two-year-old Honduran asylum seeker cries as her mother is searched and detained near the U.S.-Mexico border on June 12, 2018 in McAllen, Texas. (Photo by John Moore/Getty Images)

justify extraordinary measures to address their collective trauma. In particular, as an act of basic decency, President Trump should direct that families victimized by the separation policy may remain in the United States or re-enter the country and remain if they have already departed. We also believe that Congress should provide a permanent legislative remedy for this population that provides a pathway to application for permanent residence. Whether or not such reasonable action is forthcoming, all individuals victimized by this policy must have a fair chance to make asylum and other claims within the United States and be accorded full due process rights.

RI is also deeply concerned about the June 20 Executive Order entitled “Affording Congress an Opportunity to Address Family Separation.” Pursuant to that order, the Trump administration appears intent on altering the policy of separating adult asylum seekers

from their children by incarcerating adults and children together.

Refugees International appreciates that the president has recognized that the practice of separating families was not sustainable. But RI remains concerned that the president seeks to replace a family separation policy with a family detention policy. Especially as reflected in our reporting on alternatives to detention,¹⁵ we believe such a policy is wholly unnecessary and will lead to needless suffering.

Criminal prosecution of asylum seekers and detention of credible claimants

RI is also concerned by the administration’s determination to impose criminal penalties on all asylum seekers who enter the country

15. Refugees International, “The Trump Zero Tolerance Policy: A Cruel Approach with Humane and Viable Alternatives,” July 31, 2018, <https://www.refugeesinternational.org/reports/2018/7/31/trump-zero-tolerance-policy>.

without authorization. Such action conflicts with a U.S. commitment under the UN Refugee Convention and Protocol not to impose penalties on refugees “on account of their illegal entry or presence” provided they present themselves to authorities and show good cause for such entry. RI is also troubled by evidence of widespread detention of asylum claimants deemed to be credible, in conflict with a U.S. Immigration and Customs Enforcement (ICE) policy directive on this issue.¹⁶ The Trump administration should immediately end criminal prosecutions of asylum seekers and restore policy relating to parole for claimants who have established a credible fear of persecution or torture.

Pressure to self-deport

During its mission, RI heard reports of poor conditions in detention centers having the effect of pressuring asylum seekers into self-deportation. The inadequacy of such conditions has been well-documented, with those detained consistently complaining of inadequate food, water, and sanitary conditions.¹⁷ The length of the detention for those seeking asylum is also a concern. Attorneys working at one detention center told RI that in asylum cases with which the attorneys were familiar, asylum seekers were being detained anywhere from four months to over a year. Previously, the periods of detention in similarly situated cases were much shorter. The attorneys also told RI of cases of vulnerable detainees, including those who complained of sexual assault, who were transferred to

segregation cells for their “self-protection.” In these units, the tenants were reportedly allowed one hour a day outside the cell for exercise at most. As one of the attorneys put it, “The separation cells are equivalent to isolation.” The lack of healthcare for significant medical conditions and the lack of mental health services also created pressure on detainees to self-deport.

Narrowing the grounds for seeking asylum

As RI has indicated in prior reporting,¹⁸ we are deeply troubled by a range of Trump administration measures that have restricted access to asylum for those with fear of persecution. This includes a June decision, *Matter of A-B-*, in which Attorney General Jeff Sessions overturned a decision of the U.S. Board of Immigration Appeals (BIA) on the status of a Salvadoran woman who was a victim of domestic violence in her homeland and sought asylum in the United States.¹⁹ The decision will dramatically limit successful asylum claims and thereby put at risk the lives of thousands who seek to escape domestic and gang violence. RI is also concerned that the Attorney General substituted his judgment for evolving case law, the considered view of the BIA, and the federal judiciary. We also note with the strongest concern that the Attorney General’s decision “remind[ed]” immigration decision-makers that asylum is a discretionary form of relief, and that, to use the Attorney General’s words, “the circumvention of

16. See *Damus v. Nielsen*, Class Complaint for Injunctive and Declaratory Relief, March 15, 2018, <https://www.refugeesinternational.org/reports/2018/7/31/trump-zero-tolerance-policy>; *Damus v. Nielsen*, Memorandum Opinion Granting Preliminary Injunction, July 2, 2018, <https://www.aclu.org/legal-document/memorandum-opinion-granting-preliminary-injunction>.

17. See, for example, *Flores v. Sessions*, Case No. 2:85-cv-04544-DMG-AGR, Exhibits in Support of Plaintiffs’ Response to Defendants’ First Juvenile Coordinator Reports, July 16, 2018, <https://www.documentcloud.org/public/search/projectid:%20%2239797-Statements-by-migrants-in-U-S-custody%22>.

18. See Refugees International, “Report Card: The Trump Administration’s Performance on Refugee and Humanitarian Protection,” June 20, 2018, <https://www.refugeesinternational.org/reports/2018/6/19/report-card-on-the-trump-administrations-performance-on-refugee-and-humanitarian-protection>.

19. *Matter of A-B-*, 27 I&N Dec. 316 (A.G. 2018). See also USCIS, Policy Memorandum, PM-602-0162, July 11, 2018, <https://www.uscis.gov/sites/default/files/USCIS/Laws/Memoranda/2018/2018-06-18-PM-602-0162-USCIS-Memorandum-Matter-of-A-B.pdf> and U.S. Immigration and Customs Enforcement, Memorandum, from Tracy Short, July 11, 2018, <https://drive.google.com/file/d/1k8tC1FGaOaVbyXMfAKjM2s45Fk8JVVE/edit>.

orderly refugee procedures” may constitute a factor that weighs against a non-citizen in the exercise of official discretion.²⁰ Especially in light of the aforementioned Refugee Convention and Protocol prohibition on penalties against those who enter without authorization, present themselves promptly, and show good reason for such entry, the Attorney General’s directive is deeply troubling.

Attorneys interviewed during the RI mission reported to RI that, even before the Sessions decision, they had observed that an increasing number of asylum seekers from the Northern Triangle were failing the earliest stage of the asylum process – known as a credible fear interview. One lawyer with access to asylum seekers in detention centers stated “[w]e don’t understand why this is happening. In 2016, it was very rare to see a negative outcome for a credible fear interview. Now positive outcomes are extremely rare.” This trend has also been reported in the media.²¹ In addition, researchers at Syracuse University recently found that “the percentage of immigrants who pass the credible screening in court has plummeted since last fall.”²²

In fact, RI has in the recent past reported on Trump administration guidance that we argued would substantially increase the likelihood that errors will be made in the credible fear process and will exclude those who fear persecution. To cite just one example, in cases where there is reasonable doubt about the credibility of an asylum seeker, immigration officials are no longer advised to refer cases to an immigration judge for a full hearing. They are left instead to make their own final

judgment before an asylum seeker has had access to legal counsel or a judge.²³

Severe harm caused by the absence of planning

As noted above, the Trump administration’s implementation of the family separation policy represents a clear example of severe and unnecessary harm exacerbated by the absence of planning. However, it is not the only anti-immigrant or anti-asylum measure in which a failure to plan has inflicted additional and unnecessary suffering. Whether it is implementation of new policy guidance on considering persecution based on claims related to domestic abuse or gang violence, changing immigration enforcement priorities, establishing new systems for the processing of asylum claims, development of designs for the planned southwest border wall, or any number of new policies and procedures impacting protection issues, the Trump administration’s chaotic process of implementation has had serious and unnecessary negative consequences on asylum applicants.

CIVIL SOCIETY RESPONSE TO THE NEW REALITIES

On both sides of the border, attorneys and policy advocates, as well as humanitarian aid providers and other non-governmental

20. Ibid, p. 345, fn. 12. See Matter of Pula, 19 I&N Dec. 467, 473–74 (BIA 1987).

21. Joel Rose and Marisa Peñaloza, “Denied Asylum, But Terrified to Return Home,” *NPR*, July 20, 2018, <https://www.npr.org/2018/07/20/630877498/denied-asylum-but-terrified-to-return-home>.

22. Syracuse University, “Findings of Credible Fear Plummet Amid Widely Disparate Outcomes by Location and Judge,” *TRAC Immigration*, July 30, 2018, <http://trac.syr.edu/immigration/reports/523/>.

23. Department of Homeland Security, U.S. Citizenship and Immigration Services, Memorandum, “Release of Updated Asylum Division Officer Training Course (ADOTC) Lesson Plans, Credible Fear of Persecution and Torture Determinations, and Reasonable Fear of Persecution and Torture Determinations,” February 13, 2017, <http://www.aila.org/infonet/uscis-asylum-division-memo-releasing-revised>; Tal Kopan, “Trump admin quietly made asylum more difficult in the US,” *CNN*, March 8, 2017, <https://www.cnn.com/2017/03/08/politics/trump-immigration-crackdown-asylum/index.html>.



A young Guatemalan asylum seeker attends an English class at a shelter in McAllen, Texas.

organizations are working to provide both protection and services to those impacted by the administration's policies on asylum and immigration. Indeed, non-governmental actors have played essential roles in meeting the needs of migrants along the border for decades. But the combination of ongoing violence in the Northern Triangle and the closure of asylum space in the United States has created a new set of challenges for civil society.

Strengthening civil society on both sides of the border

In the United States and Mexico, humanitarian service providers are providing aid such as short-term shelter, referral services, education, and legal advice – needs that in many cases should be the responsibility of the governments of Mexico and the United States. In circumstances where government support is not adequate or present, the philanthropic community in the United States

must do more to provide resources for these life-sustaining operations.

Funding for legal orientation and related programs

Especially in the absence of strong interest in the U.S. Congress to challenge policy measures that have so dramatically impacted refugee protection in the United States, the legal community is playing a critical role in litigating to protect the right to asylum. In addition, the Legal Orientation Program funded by the Department of Justice provides crucial information for asylum seekers in detention in the United States; and in some states, like California, these efforts are augmented by state funds for legal information and assistance. Congress must resist attempts – such as those reportedly made in May 2018 by the Trump administration – to cut this kind of assistance. Instead, it should be sustained and strengthened.

But even if fully funded, government programs fall woefully short of need. Given the complexity of the asylum process, every asylum seeker should have access to representation – but that is nowhere near the case. This too is an area where the philanthropic community in the United States can and should play a far more supportive role.

CONCLUSION

Refugees International has traditionally focused on refugee and humanitarian protection outside the borders of the United States. But as a refugee rights organization with a worldwide focus, we are obliged to report on compelling protection issues wherever they emerge. And compelling protection issues within the United States have indeed emerged in the first two years of the Trump administration. In particular, current policies and practices are choking off opportunities for asylum for those fleeing the Northern Triangle of Central America and others with well-documented persecution and violence in their countries of origin. As long as such practices continue, RI will continue its reporting and its advocacy, working to encourage a change of course consistent with U.S. and international law and policy around refugee rights.

THE REFUGEES INTERNATIONAL TEAM THAT TRAVELED TO THE U.S.-MEXICO BORDER INCLUDED RI PRESIDENT ERIC SCHWARTZ, RI VICE PRESIDENT FOR POLICY AND PROGRAMS HARDIN LANG, AND RI CONSULTANT GABRIELA M. DEHESA-AZUARA.



ABOUT REFUGEES INTERNATIONAL

Refugees International advocates for lifesaving assistance and protection for displaced people and promotes solutions to displacement crises around the world. We are an independent organization and do not accept any government or UN funding.

REFUGEES 
INTERNATIONAL

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