Asylum at the Border – Continuing Crises
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Presenters

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Agenda

• Asylum Procedures – old and new
• Estamos Unidos Response
• How you can help!
Asylum then…

**Metering (Turn Backs)**

- Metering was used as early as February 2016.
- Wait times varied from a low of one to three days to up to six months or more.
- At POEs in Reynosa, Tamaulipas and McAllen, Texas, Ciudad Juárez, Chihuahua and El Paso, Texas.
- CBP has said that Mexicans and unaccompanied children are not subject to metering.
  (not true)
- Lawsuit filed: Al Otro Lado, Inc. v. Wolf (turn back policy)

**Asylum Bans**

**Asylum Ban 1** – Bar to Those Who Enter the United States Without Inspection. Litigation, *East Bay Covenant Sanctuary v. Trump* (Nationwide injunction in place).

**Asylum Ban 2** – Third Country Transit Ban

Applies those who arrive on or after July 16, 2019, and who traveled through a third country (mostly non-Mexicans) did not apply for asylum in at least one of the countries transited. Can apply for WOR and/or CAT. Exceptions apply to those who are subject to severe form of trafficking.

Litigation: *East Bay v. Barr*. Asylum Ban currently in effect. *Al Otro Lado v. Wolf*, if arrived to POE before July 16 and metered, not subject to Asylum ban 2 in 9th Cir.
Migrant Protection Protocols

On January 25, 2019, DHS initiates (MPP)
- San Ysidro, CA
- Calexico, CA
- Nogales, AZ
- El Paso, TX
- Eagle Pass, TX
- Laredo, TX
- Brownsville, TX

Through December 2019, over 59,000 asylum seekers placed in MPP.

Migrant Protection Protocols

- Exempts unaccompanied minors and those considered ‘vulnerable.
- Can Request Nonrefoulement Interview with USCIS.

Challenges

- As of November 2019 only 4% of asylum applicants in MPP gained representation and .02% Asylum grant rate. (TRAC)
- Asylum seekers in Mexico regularly face danger, discrimination, victimization and death.
- Non-refoulement Interviews with Asylum Officers lack transparency, fairness and due process.
- CBP officers not referring people for fear screenings
- Tent Courts with limited to no due process.
The top seven national origins of those in MPP according TRAC:

- Nicaragua: 41%
- Honduras: 4%
- El Salvador: 6%
- Guatemala: 28%
- Venezuela: 14%
- Cuba: 4%
- Ecuador: 4%

Credible Fear Changes
- Prompt Asylum Claim Review (PACR) applies to non-Mexican asylum seekers
- Humanitarian Asylum Review Process (HARP) applies to Mexican asylum seekers
- Requires asylum seekers to wait in "hieleras" (iceboxes) with no access to counsel to prepare for CFIs.
- Must undergo CFIs in CBP custody.
- Also CBP conducting interviews; new heightened standard CFI.

Asylum Cooperative Agreements
- El Salvador, Honduras, Guatemala
- Asylum Officers must determine, before doing a CFI, if the ACA applies to the asylum officer, or if the exception (in the national public interest) applies.
- AOs must also determine if the asylum seeker would "more likely than not" suffer persecution on account of a protected ground or tortured in the ACA country.
Humanitarian Emergency

- Around 20,000 asylum seekers and migrants alone have been returned under MPP through El Paso, TX to Cd. Juárez. (HOPE border Institute)
- Cd. Juárez has been unable to accommodate the asylum seekers and migrants
- 16 shelters/safe spaces - inadequate access to basic needs
- UN states that Juarez is listed as part of the 10 municipalities where femicide is most prevalent in MX.
All of 2019 – 276 femicides
Up to April 23, 2020 – 85 femicides
(Source: Fiscalía de Genere)

What we were doing Pre-COVID-19?

• Operations in Juarez started Aug 19, 2019
• Rotation of shelters and Cathedral
• KYRs, Consultations, 589 pro se assistance, translation services, NRI prep, Hearing On the Merits prep
• Placement of case with Pro Bono Counsel (when possible: asylum case, BIA appeal, and Mtn to Reopen)
• Assistance in obtaining evidence for NRI
Effects on asylum seekers

What are we doing during COVID-19?

- Remote consultations, 589 pro se assistance, translations, prep for NRI
- Whatsapp group (229 in group)
- Welfare calls
- Coordination with government, health and local humanitarian aid, and international org.

Who have we helped?

<table>
<thead>
<tr>
<th>Individuals Served</th>
<th>Gender</th>
<th>Age (yrs. old)</th>
<th>By Countries</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total</td>
<td>Female (940) Male (889)</td>
<td>0-17 (743) 18-30 (407) 31-50 (459) 51+ (34) Unknown (186)</td>
<td>Honduras (580) Guatemala (553) El Salvador (247) Cuba (135) Mexico (96) Nicaragua (59) Ecuador (42) Venezuela (35) USA (13) Brazil (12) Peru (11) Colombia (4) Panama (1)</td>
</tr>
</tbody>
</table>
Services

<table>
<thead>
<tr>
<th>Service</th>
<th>Individuals Served</th>
</tr>
</thead>
<tbody>
<tr>
<td>Know Your Rights (KYR) events</td>
<td>79</td>
</tr>
<tr>
<td>Consultations</td>
<td>595</td>
</tr>
<tr>
<td>Accompaniments</td>
<td>9</td>
</tr>
<tr>
<td>Total</td>
<td>683</td>
</tr>
</tbody>
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Psychological Toll

According to the World Health Organization (WHO): Mental Health-Related Problems:

- Victim of crime
- Victim of terrorism or torture
- Imprisonment and other incarceration
- Target of (Perceived) Adverse Discrimination or Persecution.

Problems related to other legal circumstances

MPP and its implications:

- Stressful/poor conditions (crime, medical assistance, institutional violence, etc)
- No full legal representation for most of cases
- Poor access to legal orientation (high demand)
Common mental health issues for those in MPP

• Post-Traumatic Stress Disorder
• Depression
• Anxiety

Implications

• Asylum seekers returning to the countries where they fear harm
• Asylum Seekers/Migrants exposed to human traffickers
• Administration using procedural obstacles as deterrent to asylum seekers

Border Closed due to COVID 19

• Expulsions (Coronaretornos)
• 20,000 adults, children and families returned to their home country.
• Historically new procedure to "close" the border, including people requesting asylum and minors. Only exception: if you express fear of being tortured.
COVID 19 – US Side

• MPP hearings postponed until June 22.
• As of May 10 to June 7th, individuals no longer must go to borders for a ‘tear sheet’
• Individuals with a hearing date prior to June 22, should present themselves one month later than the date indicated.
• El Paso and San Diego Courts open for filings
• Can file documents electronically

Covid 19 in Mexico

• On April 21, the Mexican government announced the start of Phase 3 of the pandemic response
• On April 16, the Mexican government extended nationwide restrictions through May 30
• May 8 – imposed curfew. Stricter prevention measures.

Current Challenges

• Asylum seekers in crowded shelters
• Difficult to achieve social distance
• Lack of health care and testing
• Fear among asylum seekers from different countries.
• Many return or don’t come.
How you can help?

- Data Entry
- I589 completions/declarations
- NRI preparations
- Translations (SP to ENG, PR to ENG)
- Supporting doc for asylum packages
- Preparing a person for an individual hearing.
- All work is by phone only.
- Ways to volunteer: Whatsapp, facetime and email.

Find our volunteer application in

https://airtable.com/shrX8s41coLDaGLmW

Representation Matters

- Pro bono cases
- Pro bono BIA appeals
- Pro bono Motions to Reopen
Come and See Us Again!

**Webinar Series:**
- Citizenship and Naturalization, June 6 – 30
- Refugee and Asylee Issues, July 16-30

**E-Learning Courses:**
- Comprehensive Overview of Immigration Law, May 25 – July 9
- Case Management Techniques and Strategies, May 27 – June 24

And Again!
