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**MUTED VOICES: TOWARD AN UNDERSTANDING
OF THE U.S. ASYLUM PROGRAM
AT THE SOUTHWEST BORDER**

by

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December 2020

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PROGRAM AT THE SOUTHWEST BORDER**

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ABSTRACT

The often-dismissed people who live, work, and pass through the Mexico–U.S. border can offer new insight into the U.S. asylum program crisis. This thesis develops a concept called muted voices that can help identify, access, and hear the subjective stories of displaced people, border patrol agents, and U.S. Citizenship and Immigration Services officers. These individuals go through a similar journey of trauma and stress in their interactions with U.S. bureaucratic systems—systems made even more cumbersome by executive orders and procedural changes from a presidential administration hell-bent on restricting the U.S. asylum program. The fictional narratives and historical background presented in this thesis illuminate the everyday realities, struggles, and complexities along the border as well as the geopolitical, historical, and economic conditions that have culminated in the current crisis. The accounts of a displaced youth fleeing his home, a border patrol agent implementing the praxis of bordering, ordering, and othering, and a refugee officer interpreting asylum procedures reveal how policies shape lives and help to situate implications and recommendations for homeland security.

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LIST OF ACRONYMS AND ABBREVIATIONS

APSO	Affirmative Pre-screening Officer
AO	Asylum Officer
BP	United States Border Patrol
BPA	Border Patrol Agent
CAM	Central American Minors
CAT	Convention against Torture
CBP	U.S. Customs and Border Protection
CHDS	Center for Homeland Defense and Security
DHS	Department of Homeland Security
DOJ	Department of Justice
FY	Fiscal Year
ICE	U.S. Immigration and Customs Enforcement
IIRIRA	Illegal Immigration Reform and Immigrant Responsibility Act of 1996
INA	Immigration and Nationality Act
INS	U.S. Immigration and Naturalization Services
IRCA	Immigration Reform and Control Act of 1986
ISO	Immigration Services Officer
JOH	Juan Orlando Hernández
MPP	Migrant Protection Protocols
NTCA	Northern Triangle of Central America
ORR	Office of Refugee Resettlement
PL	<i>Partido Liberal</i> (Liberal Party)
PN	<i>Partido Nacional</i> (National Party)
POE	Port of Entry
PTSD	Post-traumatic Stress Disorder
RAIO	Refugee, Asylum, International Operations
SIA	Special Interest Alien
TVPPRA	Trafficking Victims Protection Reauthorization Act of 2008
UN	United Nations

UNHCR	United Nations High Commissioner for Refugees
USCIS	U.S. Citizenship and Immigration Services
ZAR	Arlington Asylum Office
ZHN	Houston Asylum Office

EXECUTIVE SUMMARY

The U.S. asylum program at the Southwest border is the locale of a dynamic, contentious crisis. The number of asylum seekers at the Mexico-U.S. border began to soar in 2014 as families fled from violence and poverty in the Northern Triangle of Central America (El Salvador, Guatemala, and Honduras).¹ The asylum screening backlog grew by more than 777 percent, from 9,000 in fiscal year 2010 to 79,000 in 2017.² This crisis is compounded by mounting affirmative asylum cases at the U.S. Citizenship and Immigration Services (USCIS) and removal cases awaiting hearings in the U.S. immigration court system. Mainstream media and some politicians, especially forty-fifth U.S. President Donald Trump, drew attention to the surge at the border, cultivating a narrative of a “crisis,” characterized by migrants who were seeking to exploit “loopholes” in the asylum program so they could stay in America.³ Meanwhile, critics argued that the real crisis was a humanitarian one, exacerbated by the Trump administration’s efforts to keep asylum seekers from their legal right to protection.⁴

When the Trump administration took office in January 2017, it responded to the Southwest border crisis with policy, procedural, and programmatic changes—including zero tolerance and family separation policies, along with Migrant Protection Protocols—

¹ Scott Latta, “Central American Migration Facts,” Mercy Corps, May 1, 2019, <https://www.mercycorps.org/articles/quick-facts-central-american-migration>.

² Doris Meissner, Faye Hipsman, and T. Alexander Aleinikoff, *The U.S. Asylum System in Crisis: Charting a Way Forward* (Washington, DC: Migration Policy Institute, 2018), 11, <https://www.migrationpolicy.org/research/us-asylum-system-crisis-charting-way-forward>.

³ See Donald J. Trump, “The Democrats should change the Loopholes and Asylum Laws so lives will be saved at our Southern Border...,” Twitter, June 2, 2019, <https://twitter.com/realdonaldtrump/status/1143948712684576768?lang=en>; Mica Rosenberg and Kristina Cooke, “Exclusive: New Training Document for Asylum Screenings Reflects Tougher U.S. Stance,” Reuters, May 4, 2019, <https://www.reuters.com/article/us-usa-immigration-asylum-exclusive/exclusive-new-training-document-for-asylum-screenings-reflects-tougher-u-s-stance-idUSKCN1SA0LG>.

⁴ Alan Bersin, Nate Bruggeman, and Ben Rohrbaugh, “Yes, There’s a Crisis on the Border. And It’s Trump’s Fault,” *POLITICO*, April 5, 2019, <https://www.politico.com/magazine/story/2019/04/05/border-crisis-donald-trump-226573>.

which aim to deter asylum seekers from crossing the border.⁵ Although these changes have reduced the number of migrants entering the United States, they have also added layers of bureaucracy that have handicapped the asylum program, overwhelmed staff, and inflicted cruelty on the migrants.⁶ News from the Southwest border became increasingly alarming: separation of children, overcrowded facilities, deaths of migrants, staff suicides, and open rebellion among staff and detainees.⁷ The U.S. asylum program's overall quality and integrity began to diminish as its mission and objectives grew murkier, making the program more vulnerable to national security threats.

The asylum program at the Mexico-U.S. border is a complex ecosystem, diverse in processes and procedures, and in the people who live, work, and pass through it. Behind the headlines is a transient community of displaced people, border patrol agents, and USCIS officers who populate the U.S. asylum ecosystem; they intermingle, interact, and collide with each other and the natural and human-made structures and systems. While much of the inquiry into immigration and border security has focused on the programs, processes, and procedures, this research emphasizes the people. Their accounts of traversing through the asylum program, encountering and processing irregular entries, and interpreting procedures reveal how policies shape lives, and their voices offer a richer understanding of the homeland security issues at the border during this “crisis” period.⁸ To identify, access, and hear the voices of these people, this thesis develops a concept it calls *muted voices*.

⁵ Sarah Pierce and Jessica Bolter, *Dismantling and Reconstructing the U.S. Immigration System: A Catalog of Changes under the Trump Presidency* (Washington, DC: Migration Policy Institute, 2020), <https://www.migrationpolicy.org/research/us-immigration-system-changes-trump-presidency>.

⁶ Office of U.S. Senator Jeff Merkley, “Shattered Refuge: A U.S. Senate Investigation into the Trump Administration’s Gutting of Asylum” (report, Office of U.S. Senator Jeff Merkley, 2019), <https://www.merkley.senate.gov/imo/media/doc/SHATTERED%20REFUGEE%20-%20A%20US%20Senate%20Investigation%20into%20the%20Trump%20Administration%20Gutting%20of%20Asylum.pdf>.

⁷ Office of U.S. Senator Jeff Merkley.

⁸ The specific period covered in this thesis spans from 2016 to 2019.

The thesis has three main chapters—bookended by an introductory chapter and a conclusion—which contain fictional narratives and historical background. The narratives follow a displaced Honduran youth seeking asylum at the Mexico-U.S. border, the U.S. Border Patrol agent he encounters, and the refugee officer who screens him for credible fear.⁹ The background contextualizes these three individuals’ experiences and their interactions within history, society, and policies. By interweaving historical context and fictional perspectives based on facts and lived experiences, this thesis adds flesh and bones to the impact of policies and the daily choices individuals must make. The narratives and analysis present a holistic understanding of the border ecosystem and illuminate the everyday realities, struggles, and complexities of interactions at the border.

While the crisis at the border has no single, easy solution, this research produced some novel approaches to tackling the broader issues. For instance, the concept of muted voices—radical subjectivity—can challenge irrational populist notions and the mainstream media’s portrayal of immigrants. The way this thesis shares their stories alongside each other highlights the humanity in the crisis and breaks down the notion of the other, offering an ethical approach to the problems of polarization and the us-versus-them heuristics. The circumstances that push distressed individuals and families to flee to the United States are complex; because policy-makers have failed to decipher how migration functions, its evolving nature and changing patterns, its drivers, and how it builds on the past, the United States has misidentified points of intervention and missed opportunities for adaptation and mitigation. Thus, this thesis recommends that the United States must, initially, confront its past interventions and the unintended consequences of its domestic and foreign policies—a regional truth and reconciliation—to achieve true migration collaboration with the United Nations High Commissioner for Refugees, Northern Triangle of Central America, and Mexico. The United States must also rein in its border enforcement praxis of “bordering,

⁹ Individuals in the expedited removal process, who are seeking asylum, must establish that they have a credible fear of persecution or torture to have a hearing in front of a judge in immigration court.

ordering, and othering” and refine the role of border patrol agents.¹⁰ Customs and Border Protection needs to confront the consequences of its practices, primarily the distancing that has produced and cultivated racist and xenophobic views and the emotional anguish that contributed to more than one hundred suicides among its staff in just twelve years.¹¹

The research also recommends concrete steps the United States can immediately take to restore the asylum program to its efficient, effective, fair, and humane state. The United States must roll back the unreasonable and often cruel barriers used to deter asylum seekers from obtaining protection; it must cease relentlessly dialing up the level of bureaucracy and cruelty. The asylum program would also benefit from restoring the credible fear screening to its original intent: a quick assessment of admission into the asylum process. A related recommendation is to refer positive credible fear cases to the Asylum Division for affirmative adjudication. Finally, this thesis advocates for the reestablishment of the Central American Minors program for children with families in the United States. If policy-makers can reduce the number of asylum seekers at the Mexico-U.S. border, they can relieve the burden and stress on the Border Patrol and the U.S. asylum system. The interventions described in this thesis would allow USCIS to control the flow of migrants and ensure the United States operates judiciously within national and international laws. Ultimately, these interventions would remove the conditions that created many of the challenges plaguing the transient community that lives, works at, and crosses the border.

¹⁰ Henk van Houtum and Ton van Naerssen, “Bordering, Ordering and Othering,” *Tijdschrift Voor Economische En Sociale Geografie* 93, no. 2 (May 2002): 125–36, <https://doi.org/10.1111/1467-9663.00189>.

¹¹ “CBP Employee Suicide Report: Data from 2007–Present,” U.S. Customs and Border Protection, September 11, 2019, <https://assets.documentcloud.org/documents/6534877/Suicide-Summary-20190911-1.pdf>.

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I. INTRODUCTION

For most of its history, the U.S. asylum program efficiently adjudicated thousands of cases according to U.S. law and international standards. Starting in the early 2010s, however, a spike in affirmative filings resulted in a backlog in the U.S. Citizenship and Immigration Services (USCIS) Asylum Division.¹ According to the Migration Policy Institute, the affirmative asylum requests totaled 28,000 in fiscal year (FY) 2010; by FY 2017, the number of applications reached 143,000, an increase of more than 410 percent.² And as of June 2018, the USCIS Asylum Division had 320,000 claims pending adjudication.

The number of irregular entries at the Mexico-U.S. border also began to soar in the 2010s as families fled from violence and poverty in the Northern Triangle of Central America (NTCA)—the countries of El Salvador, Guatemala, and Honduras.³ The asylum screening backlog for the same period—FY 2010 to FY 2017—grew by more than 777 percent, from 9,000 to 79,000.⁴ To compound the problem, removal cases in the immigration court system, known as the Executive Office for Immigration Review, quadrupled between FY 2010 and 2019, reaching over a million cases.⁵ U.S. politicians and media directed attention to the surge of asylum seekers at the border, cultivating a

¹ Under USCIS, Refugee, Asylum, and International Operations (RAIO) handles all humanitarian immigration programs. The Asylum Division within RAIO specifically deals with asylum adjudications and pre-screenings.

² Doris Meissner, Faye Hipsman, and T. Alexander Aleinikoff, *The U.S. Asylum System in Crisis: Charting a Way Forward* (Washington, DC: Migration Policy Institute, 2018), 2, <https://www.migrationpolicy.org/research/us-asylum-system-crisis-charting-way-forward>.

³ Latta, “Central American Migration Facts.”

⁴ Meissner, Hipsman, and Aleinikoff, *The U.S. Asylum System in Crisis*, 11.

⁵ Marissa Esthimer, “Crisis in the Courts: Is the Backlogged U.S. Immigration Court System at its Breaking Point?” Migration Policy Institute, October 1, 2019, <https://www.migrationpolicy.org/article/backlogged-us-immigration-courts-breaking-point>.

narrative of a migrant “crisis” and “loopholes” in the asylum program.⁶ In doing so, they disregarded the asylum system’s inefficiencies and manufactured a crisis to validate their anti-immigrant, nativist agenda.⁷ In the process, they corroded the asylum program.

The spotlight on the increased caseload was a political opportunity. During the 2016 presidential election, immigration became a major topic and the subject of polarizing and racially charged sound bites.⁸ Nearly every day, mainstream media reported stories: terrorists hiding among Central American asylum seekers heading toward the United States; abuse of migrants by the U.S. Border Patrol; and a U.S. asylum program full of loopholes. When Donald Trump moved into the White House in January 2017, his administration enacted policy and procedural changes to U.S. humanitarian programs, including programs affecting asylum at the border. Although these changes have reduced the number of migrants entering the United States, they have also created processes and procedures that have handicapped the asylum program. Meanwhile, the backlogs continue and the U.S. asylum program’s overall quality diminishes as its mission and objectives grow murkier, making the program more vulnerable to national security threats. News coming from the Southwest border has become increasingly alarming—children separated from their parents, overcrowded facilities, food and hygiene supply shortages, sick and dying migrants, staff turnovers, suicides, and open rebellion among staff and detainees.

⁶ See Donald J. Trump, “The Democrats should change the Loopholes and Asylum Laws so lives will be saved at our Southern Border...,” Twitter, June 2, 2019, <https://twitter.com/realdonaldtrump/status/1143948712684576768?lang=en>; Mica Rosenberg and Kristina Cooke, “Exclusive: New Training Document for Asylum Screenings Reflects Tougher U.S. Stance,” Reuters, May 4, 2019, <https://www.reuters.com/article/us-usa-immigration-asylum-exclusive/exclusive-new-training-document-for-asylum-screenings-reflects-tougher-u-s-stance-idUSKCN1SA0LG>.

⁷ Alan Bersin, Nate Bruggeman, and Ben Rohrbaugh, “Yes, There’s a Crisis on the Border. And It’s Trump’s Fault,” *POLITICO*, April 5, 2019, <https://www.politico.com/magazine/story/2019/04/05/border-crisis-donald-trump-226573>.

⁸ As a candidate for president, Trump called Mexican immigrants “rapists” who are “bringing crime” and “bringing drugs” to the United States. The racist and dehumanizing language used to discuss immigrants, refugees, and asylum-seekers continued into his presidency. There are claims that Trump said immigrants from Haiti “all have AIDS,” and people from Nigeria would never “go back to their huts” upon arrival in the United States. He called Haiti, El Salvador, and parts of Africa “shithole countries.” Natasha Arnpriester, “Trumping Asylum: Criminal Prosecutions for ‘Illegal’ Entry and Reentry Violate the Rights of Asylum Seekers,” *Hastings Constitutional Law Quarterly* 45, no. 1 (2017): 3–46.

The asylum program at the Mexico-U.S. border is a complex environment, diverse in processes and procedures and in the people who live, work, and pass through it. Behind the headlines is a transient community of displaced people and migrants, border patrol agents, and USCIS officers who populate the U.S. asylum ecosystem; they intermingle, interact, and collide with each other and the natural and human-made structures and systems. While much of the inquiry into immigration and border security has focused on the programs, processes, and procedures, this research emphasizes the people. Their accounts of traversing through the asylum program, encountering and processing irregular entries, and interpreting procedures reveal how policies shape lives, and their voices offer a richer understanding of the homeland security issues at the border during this “crisis.”⁹

This thesis does not define *homeland security* in the narrow, simple sense of preventing terrorism or terrorists from crossing the U.S. border. It relates, instead, to the term *meta hazard*, which Christopher Bellavita of the Naval Postgraduate School defines as “a national effort to prevent or mitigate any social trend or threat that can disrupt the long-term stability of the American way of life.”¹⁰ This understanding reflects the idea that the U.S. asylum ecosystem is complex, even chaotic, and the thinking about homeland security expands beyond preventing terrorism. This interpretation of homeland security, as a field, acknowledges the diverse people, perspectives, and disciplines involved.

This thesis uses mixed qualitative methods—fictional perspectives and historical background—to provide a distinct portrait of the complex problems at the Southwest border. The fictional perspectives are based on a concept, developed in this thesis, called *muted voices*; it is used to identify, access, and hear the subjective stories of the transient border community. The narrative follows a displaced Honduran youth seeking asylum at the Mexico-U.S. border, the U.S. border patrol agent he encounters, and the refugee officer who screens him for credible fear.¹¹ The background contextualizes these three

⁹ The specific period covered in this thesis spans from 2016 to 2019.

¹⁰ Christopher Bellavita, “What Is Homeland Security?” *Homeland Security Affairs* 4, no. 1 (June 2008): 2, <https://www.hsaj.org/articles/118>.

¹¹ Individuals in the expedited removal process, who are seeking asylum, must establish that they have a credible fear of persecution or torture to have a hearing in front of a judge in immigration court.

individuals' experiences and their interactions within history, society, and policies. Together, the narratives and background unpack some of the drivers of migration, the conflicts within border enforcement and security, and the malady that afflicts the U.S. asylum program. They present a holistic understanding of the border ecosystem and illuminate the everyday realities, struggles, and complexities of the interactions at the border.

This study focuses on the following research question: How can hearing muted voices expand the understanding of the U.S. asylum program and protect the United States from threats to the American way of life?

A. LITERATURE REVIEW

This review traces approaches for understanding voluntary and forced migration—the distinction between the two is a key point of contention in the making of the so-called migrant crisis at the Mexico-U.S. border. Although migration is not binary, the literature shows that scholars often take either an economic or sociological approach; additionally, this outlook does not account for the subjectivity of migrants, displaced people, and other members of the border ecosystem.

A vast literature on population movement from different perspectives and disciplines attempts to define migration's nature and pattern and identify the determinants that compel a group of people to migrate. The first academics to explain migration patterns within and between nations were geographers.¹² Ernest George Ravenstein—writing in 1885, at the height of the Industrial Revolution, when millions of people left their homes in search of a better life—established the first “laws of migration.”¹³ Studying British census data, he observed a pattern of human movement from agrarian to industrial societies

¹² Djelti Samir, “The Evolution of the Human Migration Determinants 1,” paper presented at the international conference, 2017, https://www.researchgate.net/publication/320427737_The_Evolution_of_the_Human_Migration_Determinants_1_Draft_paper.

¹³ John Corbett, “Ernest George Ravenstein: The Laws of Migration, 1885,” in *CSISS Classics*, ed. Janelle Donald (Santa Barbara, CA: Center for Spatially Integrated Social Science, 2003): 3, <https://escholarship.org/uc/item/3018p230>.

that he attributed to economic aspiration.¹⁴ Ravenstein's study falls under the umbrella of the theory of spatial interaction, that is, the exchange of goods, ideas, and people from one location to another.¹⁵ Ravenstein's laws sparked many studies of migration determinants—distance, population, industrialization, labor market, and sex, among others.

Other geographers, for example, A. G. Wilson, expanded on the theory of spatial interaction initially with the gravity model, which posits that migration is positively correlated with large population size and negatively correlated with distance between origin and destination. By 1967, Wilson shifted to a more complex understanding of the spatial interplays among regions. In 1981, he highlighted distance, population, social modernization, and the environment as migration's leading drivers.¹⁶ His shift demonstrates the widening of the field and recognizes the study's interplay among multiple academic disciplines.

Although many scholars already separated migration determinants into *push* and *pull* factors, sociologist Everett Spurgeon Lee first coined the terms and elaborated on these factors. In his "A Theory of Migration," Lee contends that origin and destination countries have negative and positive factors, both economic and non-economic, that "push" and "pull" people to migrate; these factors determine migration volume.¹⁷ He explains that additional "intervening obstacles," including distance from the origin to destination, and the feasibility of transportation, as well as personal circumstances, influence one's decision to migrate.¹⁸ Lee's work continues to be widely used to explain migration today.

A free market perspective dominates most scholarship on migration to the exclusion of other viewpoints. Most empirical research on migration takes a neoclassical market

¹⁴ Ernest George Ravenstein, "The Laws of Migration," *Journal of the Statistical Society of London* 48, no. 2 (June 1885): 167–235.

¹⁵ "Spatial Interaction," *Geography*, accessed February 24, 2020, <https://geography.name/spatial-interaction/>.

¹⁶ A. G. Wilson, "A Family of Spatial Interaction Models, and Associated Development," *Environment and Planning* 3, no. 1 (March 1971): 1–32.

¹⁷ Evette S. Lee, "A Theory of Migration," *Demography* 3, no. 1 (1966): 47–57.

¹⁸ Lee, 50.

perspective that assumes population movements represent the collective, voluntary undertakings of male individuals and their rational assessment of economic advantages and disadvantages.¹⁹ For example, Larry Sjaastad attempts to untangle migration decisions through a human capital lens. He develops a model to study the effects of per capita income, rate of income growth, and educational level on migration, and finds a direct correlation between the promise of higher income and in-migration.²⁰ He characterizes migration as “an investment increasing the productivity of human resources, an investment which has costs which also renders returns.”²¹ His model is widely used and is the basis of many inquiries in the migration studies landscape. Another influential work among the plethora of neoclassical research studies on migration is from John Harris and Michael Todaro. They argue that the economic development of a particular location and the availability of jobs and higher wages primarily determine a migrant’s decision to leave.²² This scholarship on migration reflects and influences mainstream assumptions about the nature of population movement and shapes immigration law and policies in destination countries.

In contrast, sociologist P. Neal Richey offers a more nuanced economic perspective on migration. Focusing on international migration from developing to developed countries, Richey observes that migrants who are less educated and have lower earning potential tend to favor shorter-distance migration. He attributes this pattern to the practical advantage of lower transportation costs and accessible information about nearby places.²³ In their study, Oded Stark and David E. Bloom offer a perspective of decision-making at the household level; they note that the household decides who would migrate based on physical and

¹⁹ “Understanding Migration,” Striking Women, accessed March 2, 2020, <https://www.striking-women.org/module/migration/understanding-migration>.

²⁰ Larry A. Sjaastad, “The Costs and Returns of Human Migration,” *Journal of Political Economy* 70, no. 5 (October 1962): 80–93.

²¹ Sjaastad, 83.

²² John R. Harris and Michael P. Todaro, “Migration, Unemployment and Development: A Two-Sector Analysis,” *American Economic Review* 60, no. 1 (1970): 126–42.

²³ P. Neal Richey, “Explanations of Migration,” *Annual Review of Sociology* 2 (August 1976): 363–404.

mental endurance as well as capacity to send remittances.²⁴ Although these studies expanded the neoclassical view on migration, they continued to perceive migration as a mostly voluntary decision based on a rational assessment of costs and benefits.²⁵

Despite numerous historical examples of forced migration, the first exploration of the concept of refugees did not occur until the 1920s, when scholars took note of mass movements during World War I.²⁶ Some of these early studies exhibit wide divergence, even in scholars' understanding of the basic terminology. Not until 1951 did a rather strict definition of *refugee* set the perimeters of the field's scope. The 1951 Convention Relating to the Status of Refugees defines a refugee as "someone who is unable or unwilling to return to their country of origin owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion."²⁷ However, scholars continued to argue over terminology. In an essay in the journal *Demography*, Alden Speare interprets forced migration narrowly as the physical, involuntary, coerced transport of people from their origin country to their destination.²⁸ His definition implicitly assumes that there must be an anthropogenic presence of violence and threat of violence. In contrast, Johan Galtung defines forced migration as any violation of human rights to life, liberty, and the basic needs for survival. In this definition, almost every form of migration can fall into the category of "forced."²⁹ Most literature on population movement builds on the underlying assumption that migration is either forced or voluntary. However, Anthony Richmond explains that migration's complexity makes it

²⁴ Oded Stark and David E. Bloom, "The New Economics of Labor Migration," *The American Economic Review* 75, no. 2 (May 1985): 173–78.

²⁵ Striking Women, "Understanding Migration."

²⁶ L. W. Holborn, "The League of Nations and the Refugee Problem," *Annals of the American Academy of Political and Social Science* 203 (1939): 124–35.

²⁷ "The 1951 Refugee Convention," UNHCR, accessed January 10, 2020, <https://www.unhcr.org/en-us/3b66c2aa10>.

²⁸ Alden Speare Jr., "Residential Satisfaction as an Intervening Variable in Residential Mobility," *Demography* 11, no. 2 (May 1974): 173–88.

²⁹ Johan Galtung, "Violence, Peace, and Peace Research," *Journal of Peace Research* 6, no. 3 (1969): 167–91.

almost impossible to delineate between voluntary and forced emigration and argues that most decisions to migrate are complex and determined by a combination of factors.³⁰ The reality defies the human tendency to narrow concepts down to an exact definition.

Research on forced migration dramatically increased in the 1980s, paralleling the phenomenon itself. In many respects, the increased volume and diversification of origin countries and migrants, as well as changes in immigration laws and policies and the introduction of new processes and procedures regarding refugees, became topics for study. Consequently, scholarship shifted to a more historical-structural understanding of the population movement phenomenon.³¹ Many scholars attribute the expanded flow and complexity of migration to globalization, innovation in technology, and better communication. Charlotte Williams and Mekada Graham explain that a significant imbalance of power and wealth in the world, coupled with the reduced cost of transportation, better information regarding destination countries, and more robust migrant networks, fueled this rise.³² John Edward Taylor makes a strong case that social networks available at destination countries are primary pull factors. He gives weight to the draw of familial and social ties, associations, affinity, and the existence of a migrant community.³³ Toward the end of the twentieth century, sociologists like Steven Vertovec developed the theory of transnational spaces to explain the links among individuals, groups, and institutions and how they propel waves of migrations.³⁴ In these ways, scholars pursued different explanations for migration drivers, whether from history, globalization factors, cultural and familial “pull” factors, or others.

³⁰ Anthony H. Richmond, “Sociological Theories of International Migration: The Case of Refugees,” *Current Sociology* 36, no. 2 (June 1988): 7–25.

³¹ Striking Women, “Understanding Migration.”

³² Charlotte Williams and Mekada Graham, “‘A World on the Move’: Migration, Mobilities and Social Work,” *British Journal of Social Work* 44, no. 1 (June 2014): i1–17.

³³ John Edward Taylor, *Differential Migration, Networks, Information and Risk* (Cambridge, MA: Harvard University, 1984).

³⁴ Steven Vertovec, “Conceiving and Researching Transnationalism,” *Ethnic and Racial Studies* 22, no. 2 (1999): 447.

Most destination countries react to migration with tighter control and more restrictions at borders. Henk van Houtum and Ton van Naerssen later identified this practice as “bordering, ordering, and othering.”³⁵ Writing after September 11, 2001, the authors warn of the prevailing negative sentiment toward migration as a national security risk.³⁶ Wilfred Ethier echoes the reasoning of destination countries, explaining that deterrents, including border interdictions and internal enforcement, will reduce risks to the homeland from mass immigration.³⁷ In the 1990s, Douglas Massey observed that migration is an ever-evolving, complicated exchange that alters the social, economic, and cultural landscape of both origin and destination countries. Similar to John Edward Taylor, Massey also argues that the strength of migrant networks can overcome restrictive immigration policies, a weak economy, and other factors that pull a migrant to relocate.³⁸ Williams and Graham, too, posit that this movement of people results in social transformations in both origin and destination countries and generates questions about identity, nationhood, citizenship, and community. They conclude that these transformations challenge established literature and change the conceptualization of migration as “movement,” given the immense possibilities in terms of scale and diversity made available by “communication technologies, transportation, and culture.”³⁹ Despite the impetus to restrict migration, these scholars seem to concur that migration’s ever-evolving nature means that migrants will adapt and innovate to overcome barriers.

Whereas most academics conflate voluntary migration with the choice to seek economic advancement, the push factors of forced migration represent a broad spectrum ranging from combinations of political and social instability, war and violent conflict,

³⁵ Henk van Houtum and Ton van Naerssen, “Bordering, Ordering and Othering,” *Tijdschrift Voor Economische En Sociale Geografie* 93, no. 2 (May 2002): 125–36, <https://doi.org/10.1111/1467-9663.00189>.

³⁶ van Houtum and van Naerssen, 127.

³⁷ Wilfred Ethier, “Illegal Immigration: The Host-Country Problem,” *American Economic Review* 76, no. 1 (March 1986): 56–71.

³⁸ Douglas S. Massey, “The Social and Economic Origins of Immigration,” *Annals of the American Academy of Political and Social Sciences* 510, no. 1 (July 1990): 60–72.

³⁹ Williams and Graham, “A World on the Move,” i1.

persecution, intolerance, violation of rights, poverty, and unemployment. Holly E. Reed, Bernadette Ludwig, and Laura Braslow discuss these crucial factors and how they produced such labels as “refugee,” “displaced,” and “stateless.”⁴⁰ van Houtum and van Naerssen argue that these differences, especially in terms of migrants and refugees, are “arbitrary and abstract” because “it is extremely difficult to trace and categorise the many and different motivations and apparent needs for people to migrate.”⁴¹ Roger Zetter contends that what one assumed as “voluntary” may be structural inequalities and poverty—the insidious effects of years of exclusion and exploitation of minorities group.⁴² He argues that these “muted conditions” force groups to seek better circumstances elsewhere.⁴³ Finally, Zetter postulates that distinguishing between “refugee” and “migrant” is bureaucratic and reflects the institutional need to manage migration flows rather than reality.⁴⁴ In other words, destination countries’ tendency to apply a strict label of “migrant” with its implicit association to individual economic choice serves the need of policies, program design, and implementation for clear distinction and political agents’ desire to stem the flow of asylum seekers. As such, it fails to capture the real-world blurring of boundaries of migration determinants. The stark contrast between bureaucracy and reality is a crux in this research study.

Along with challenges to past narratives that link migration solely to economic decisions, a striking dearth of scholarship addresses Zetter’s “muted conditions” of structural inequalities and other determinants of refugeehood. Scholarship tends to react or respond, and therefore focus on the policies, case studies, and political actors’ agency. Increasingly, migrants appear as perpetual victims, without agency and in need of Western

⁴⁰ Holly E. Reed, Bernadette Ludwig, and Laura Braslow, “Defining Forced Migration: Categories and Boundaries,” in *International Handbook of Migration and Population Distribution*, ed. Michael White and Josh DeWind (New York, NY: Springer, 2016), 606.

⁴¹ van Houtum and van Naerssen, “Bordering, Ordering and Othering,” 129.

⁴² Roger Zetter, “More Labels, Fewer Refugees: Remaking the Refugee Label in an Era of Globalization,” *Journal of Refugee Studies* 20, no. 2 (June 2007): 6–7.

⁴³ Zetter, 7.

⁴⁴ Zetter.

charity. While van Houtum and van Naerssen shine a light on refugees' feelings of displacement and differentiation, scholars have failed to examine the subjectivity and lived experiences of the people who pass through, live at, and work on the border. Their voices are often missing and rarely appear combined. These are the muted voices that, compounded by bureaucracy, make up the border ecosystem explored in this thesis.

B. RESEARCH DESIGN AND METHOD

The mixed qualitative methods employed in this research—fictional perspectives and historical background—complement each other; they support active learning and engagement to address the complex problems at the Southwest border. The fictional perspectives offer homeland security practitioners the opportunity to see the problem from multiple perspectives: the Honduran youth displaced by crime and violence, the border patrol agent he encounters when at the Mexico-U.S. border, and the refugee officer who screens him for credible fear.⁴⁵ These perspectives function as a narrative device that unmutes the voices of the transient border community. The voices offer subjectivity—defined by Bellavita as “individual interpretations and reflections of sense data”—which acts as qualitative baseline data.⁴⁶ The muted voices at the border reconceptualize the casually brutal sociotechnical immigration regime through the human eye. The historical background bolsters the narratives and refines the baseline information with context, datasets, and real-world implications. These efforts beget a holistic and multilayered analysis that can enrich current foundational knowledge on homeland security and help the U.S. government fulfill its humanitarian obligations and safeguard the homeland.

⁴⁵ The work of Center for Homeland Defense and Security (CHDS) graduate Catherine Schroeck Ventura inspired the use of fictional perspectives. In her master's thesis, she uses narratives as a pedagogical tool to communicate the complexity of U.S. humanitarian programs in a comprehensive and detailed manner, and provides a way for readers to understand the “totality of circumstances” that factors into the choices individuals make. Social identity theory, which seeks to understand “the other” through direct, nuanced interactions was an inspiration for Ventura's use of fictional scenarios in her thesis. Catherine Schroeck Ventura, “Flight Plight: An Examination of Contemporary Humanitarian Immigration from Honduras, Cuba, And Syria to the United States with Considerations for National Security” (master's thesis, Naval Postgraduate School, 2016), <https://calhoun.nps.edu/handle/10945/48488>.

⁴⁶ Christopher Bellavita, “How to Learn about Homeland Security,” *Homeland Security Affairs* 15, no. 5 (September 2019): 6, <https://www.hsaj.org/articles/15395>.

1. Muted Voices

This thesis introduces the term *muted voices* to describe the feelings, perceptions, interpretations—the subjectivity—of the people coexisting in a particular ecosystem. In the social sciences, researchers use objective data (e.g., chronology, statistics) to present research and produce results; subjectivity is to be avoided at all costs. However, objectivity is impossible to achieve, as research can never be truly free of the author’s subjectivity. Moreover, the objective approach is restrictive. As Bellavita writes, an objective approach “is less helpful in learning about the complex issues that—in my opinion—constitute the bulk of the dynamic concerns facing homeland security practitioners.”⁴⁷

Fictional narratives tap into the muted voices of the people who live at, work on, and pass through the border. Feelings, aspirations, and ambiguity can be hard to describe without fictionalization, and the muted voices, even fictionalized, offer richness and complexity, delivering a visceral, human account of the dynamic interrelation between the U.S. asylum program’s bureaucratic architecture and the people who pass through it. By combining the subjective (fictional perspectives) and the objective (historical background), this research provides greater clarity and a more complete version of the truth, which can achieve a more significant impact.

2. The Case for Subjectivity

This research incorporates fictional perspectives—“subjectivity”—as sense data to achieve more realistic and nuanced insights into the deterioration of the asylum program at the Southwest border. Perhaps the most pertinent discussion of subjectivity in this context is Bellavita’s essay, “How to Learn about Homeland Security.”⁴⁸ In his discussion of andragogy in the homeland security context, specifically at the Naval Postgraduate School’s Center for Homeland Defense and Security (CHDS), Bellavita contends that the subjective approach is especially relevant in learning and researching chaotic regimes such as immigration. Bellavita further defines the subjective approach as “a process that begins

⁴⁷ Bellavita, 5.

⁴⁸ Bellavita.

with individual interpretations and reflections of sense data and extends through a transformational process of presenting and defending one's observations about homeland security to other people.”⁴⁹ In the context of this thesis, the perspectives in the narratives represent real-life observations and interpretations of USCIS's interactions with the transient border community. The concept of muted voices expands on the intellectual endeavor to centralize the subjects—the people—and their subjectivity in a humane and ethical manner. This treatment can produce a thorough, radical understanding.

Bellavita uses the Cynefin framework to support the benefits of subjectivity in learning about homeland security. The Cynefin framework is a sense-making tool created by David Snowden that categorizes cause-and-effect relationships into five domains: simple, complicated, complex, chaotic, and disorder (see Figure 1).⁵⁰ According to Bellavita, homeland security issues reside in the complex and chaotic domains, where experience comes before understanding; therefore, data is available prior to the application of a framework for interpretation. Subjectivity is the experience and the baseline data for understanding the cause-effect relationship. Bellavita cautions that an objective approach requires order, “but the order is achieved at the risk of constraining too quickly what homeland security could become,” and therefore “would ignore the dynamic strategic, policy and operational reality faced by many CHDS participants.”⁵¹ A subjective approach, however, offers a method for understanding an unordered space.

⁴⁹ Bellavita, 6.

⁵⁰ CognitiveEdge, “The Cynefin Framework,” YouTube, July 11, 2010, <https://www.youtube.com/watch?v=N7oz366X0-8>.

⁵¹ Bellavita, “How to Learn about Homeland Security,” 13.

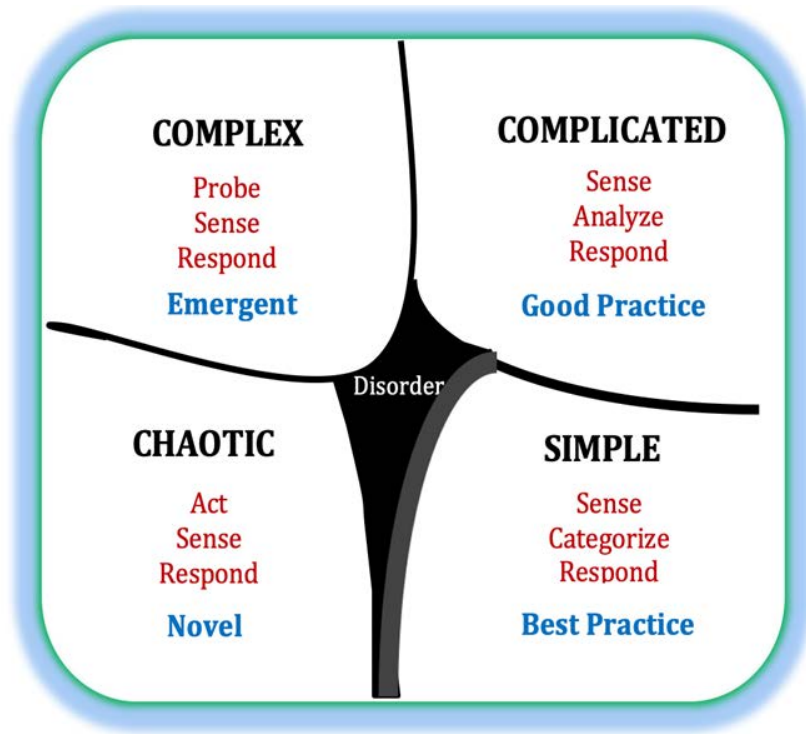


Figure 1. Cynefin Framework⁵²

Studies outside of the homeland security realm also demonstrate that subjectivity or fictional narratives can serve as a sense-making tool for understanding complex situations. In her research on network resources among women in large corporations facing structural changes, Shelley Bird found that narratives provide a means to manage unease or apprehension about a situation with an uncertain outcome.⁵³ D.L. Crumbley, Katherine Smith, and L. Murphy Smith argue that “educational novels” express “[c]omplex textbook material ... illustrated ... through the scenario unfolding in the novel. Information becomes practical as human agents use it to solve problems.”⁵⁴ Meanwhile, Virginia W. Gerde and Spencer Foster found success using graphic novels to “illustrate ethical dilemmas,

⁵² Adapted from CognitiveEdge, “The Cynefin Framework.”

⁵³ Shelly Bird, “Sensemaking and Identity: The Interconnection of Storytelling and Networking in a Women’s Group of a Large Corporation,” *Journal of Business Communication* 44, no. 4 (October 2007): 311–39.

⁵⁴ D. Larry Crumbley, Katherine T. Smith, and L. Murphy Smith, “Educational Novels and Student Role-Playing: A Teaching Note,” *Accounting Education* 7, no. 2 (1998): 184.

cognitive development, ethical reasoning, and the complexity of social issues” to business people.⁵⁵ Bird summarizes, “Stories not only help us make sense of the actions of others, they serve to shape our own identities.”⁵⁶

In her survey studying the use of fictional narratives in the social sciences, Cate Watson declares the legitimacy of fictional narratives, stating that they “provide a potentially distinctive source of data for the social researcher.”⁵⁷ For Watson, fictional narratives are an “ekphrastic device” that can “represent the visual in verbal terms” and thus provide information that cannot be otherwise revealed.⁵⁸ She also underscores the potential for a more significant impact: the ability to gain readers’ interest and engagement through a more creative representation.

Education scholars widely accept the use of fictional narratives as a pedagogical tool. William O’Meara and Daniel Flage believe that fictional narratives communicate complicated problems and can “motivate ... students to make informed decisions through step-by-step analyses” of crime scenes.⁵⁹ Narratives invite students to interpret complex situations by applying the theories and evaluative methods they have learned. Fictional narratives also help students tease out ambiguities, read beyond the obvious for subtext, and distinguish between different types of information.⁶⁰ Janice McDrury and Maxine Alterio posit that narratives are flexible, and can be applied to various pedagogical settings within different cultures to interpret diverse experiences.⁶¹ Kristin Langellier and Eric E.

⁵⁵ Virginia W. Gerde and Spencer Foster, “X-Men Ethics: Using Comic Books to Teach Business Ethics,” *Journal of Business Ethics* 77 (2008): 248.

⁵⁶ Bird, “Sensemaking and Identity,” 316.

⁵⁷ Cate Watson, “Staking a Small Claim for Fictional Narratives in Social and Educational Research,” *Qualitative Research* 11, no. 4 (August 2011): 399.

⁵⁸ Watson, 399.

⁵⁹ “Using Fiction to Enhance Critical Thinking,” *Gifted Child Today* 37, no. 2 (April 2014): 81, <https://search.proquest.com/openview/30ac08b3eec7a3e386a37fccbc3f8106/1?pq-origsite=gscholar&cbl=46372>.

⁶⁰ “Using Fiction.”

⁶¹ Janice McDrury and Maxine Alterio, *Learning through Storytelling in Higher Education: Using Reflection & Experience to Improve Learning* (Sterling, VA: Kogan Page, 2003).

Peterson further explain that, as a method, narratives can be strategic and tactical, allowing the researcher to order events, present information, contrast positions, and infuse meaning.⁶² In these ways, narratives can be especially effective for presenting something new and unfamiliar, such as a foreign culture, an unfamiliar perspective, or a novel concept.

Narratives can also provide realism by expressing convoluted, discipline-based knowledge through practical, everyday situations. Langellier and Peterson argue that narrative is the primary, natural way human beings express their experiences and identities.⁶³ The practice of storytelling, they explain, relays human experiences and identities for others to consume, comprehend, and critique.⁶⁴ Narratives fill a gap; while other methods focus on objective, substantiated data and official documentation, narratives reveal subjectivity by capturing the innermost thoughts, feelings, and aspirations of their subjects.⁶⁵ From the political science perspective, Girma Negash argues that creative work offers unique insights into “political life” that “cannot possibly [be] achieve[d] in other ways.”⁶⁶ For Negash, literary narrative discloses the human reasonings and agency—their complexities, ambiguity, and openness—that traditional research methods cannot.⁶⁷ In the same way, the imagined scenes in this research offer a reconceptualized border ecosystem by merging the creative with theoretical rigor.

⁶² Kristin Langellier and Eric E. Peterson, *Storytelling in Daily Life: Performing Narrative* (Philadelphia, PA: Temple University Press, 2011).

⁶³ Langellier and Peterson, 112.

⁶⁴ Langellier and Peterson, 3.

⁶⁵ D. B. Bromley, *The Case-Study Method in Psychology and Related Disciplines* (New York, NY: Wiley, 1986).

⁶⁶ Girma Negash, “Art Invoked: A Mode of Understanding and Shaping the Political,” *International Political Science Review* 25, no. 2 (April 1, 2004): 187, <https://doi.org/10.1177/0192512104041284>.

⁶⁷ Negash, 193.

3. Limitations

While Watson advocates for the usefulness of fictional narratives, she concedes that they are not a “cure all.”⁶⁸ Indeed, as previously noted, the fictional perspective methodology is unconventional in traditional social sciences, where objectivity is revered. Watson explains, “This reluctance is no doubt the result of a deeply felt need for research to be grounded in an empirical reality of something that *really happened*.”⁶⁹ Thus, researchers often view fictional narratives as make-believe. Although the three narratives in this study are fictionalized, they are the aggregates of primary and secondary sources, including articles, agency memos, whistleblower reports, collegial conversations, and more than a thousand interviews I have conducted as a former asylum officer and a current immigration services officer at USCIS. The perspectives reflect real places, practices, and immigration policies and programs.

Events have been fictionalized only to the extent needed to ensure narrative flow and to allow for personal and professional privacy. As a federal government employee, I am required by law to maintain the confidentiality of all persons I have met within my positions. Any resemblance to actual persons or situations is purely coincidental. Additionally, I must consider national security concerns with respect to information disclosure. Fictional perspectives permit me to present more comprehensive research in light of these constraints.

Ultimately, the point of this research is that subjectivity is a necessary precursor to the application of frameworks and other tools—in this case, historical background—that refines and attempts to order the issue. This research’s specific intent is to unmute the subjective viewpoints of the people who populate the Southwest border, represented by the displaced Honduran, the border patrol agent, and the refugee officer. This study views these voices as an integral part of humanizing the casual cruelty of immigration bureaucracy. As noted, the narratives are aggregates of my lived realities and experiences. My background, career, and experiences on the border uniquely qualify me to engage in this type of

⁶⁸ Watson, “Staking a Small Claim,” 405.

⁶⁹ Watson, 396.

qualitative research and permit me to give voice to those who live, work, and pass through the Southwest border. Likewise, one must acknowledge that objective reality is a fiction. Watson evokes French philosopher Jacques Lacan's understanding of "the Real"—that truth is unattainable—to explain that research is inevitably "tak[ing] a narrative and fashion[ing] another in response."⁷⁰ Because objectivity is itself an illusion, isolating information from the sentient researcher's subjectivity and the individual's perception is nearly impossible.

In her 2009 exploration of empathy, Watson posits that literary devices can steer readers toward a particular opinion or feeling; this poses an ethical challenge.⁷¹ Although manipulation is a legitimate concern, readers are invited to engage, analyze, and interpret the text, which may cause them to reach alternative conclusions or expand on the research. In his study on the ethical use of ethnographic fiction, Andrew Sparkes concludes that "the end result is a powerful story that has the potential to provoke multiple interpretations and responses from readers who differ in their positioning to the story provided."⁷² I have used fictional narratives in this study to illuminate the complexity and ambiguity of the border ecosystem, evoke the emotional toll of bordering, ordering and othering, raise questions about U.S. asylum policies and practices on the border, and engage in dialogues to further the thinking on these issues.

Notably, all three fictional narratives presented here feature perspectives from the Latinx community.⁷³ The intention is three-fold. First, a significant majority of the asylum seekers I met at the Southwest border, and some of the border patrol agents and USCIS

⁷⁰ Watson, 405.

⁷¹ Cate Watson, "The Impossible Vanity: Uses and Abuses of Empathy in Qualitative Inquiry," *Qualitative Research* 9, no. 1 (2009): 105–17.

⁷² Andrew C. Sparkes, "Ethnographic Fiction and Representing the Absent Other," *Sport, Education and Society* 2, no. 1 (1997): 33, <https://doi.org/10.1080/1357332970020102>.

⁷³ I am grateful to my three Latinx reviewers who ensured the accuracy of the language and cultural contexts in the fictional narratives.

officers, are Latinx.⁷⁴ Second, many Latinx individuals and families who have crossed the Mexico-U.S. border are now living and working in the United States and might, themselves, be—or have—U.S. citizen children working in the border security or immigration fields. Finally, this creative decision heightens the characters’ sentience and humanity by expressing the fluidity of their identity and the criticality of their experiences in constructing identity, perception, and narrative—their in- and out-group affiliations.

C. CHAPTER OUTLINE

This thesis has three main chapters, bookended by this introduction and a conclusion. The main chapters contain fictional narratives, each from a different perspective, accompanied by historical background. By interweaving historical context and fictional perspectives based on facts and lived experiences, this thesis adds flesh and bones to the impact of policies and the daily choices individuals make at the border.

The first fictional perspective recounts the events that displaced a Honduran minor, Luis Pedro Gomez Flores, interlaced with background information that contextualizes his experiences and interactions. This chapter unpacks some of the drivers of migration, including crime, corruption, and poverty, that may lead a minor to leave his home and seek protection in the United States. Honduras was chosen as the origin country due to its significance to the Southwest border crisis, geographic proximity, and economic and political ties to the United States. The second and third perspectives situate the readers at the epicenter of the Southwest border crisis. The second perspective describes a day in a border patrol agent’s life at the El Paso, Texas, station, when he encounters Luis at the Mexico-U.S. border. This chapter offers a view of the suppressed emotions border patrol agents harbor and reveals the complexity of the interplay among imagination, emotions, law, and duty driven by U.S. border security policies. In the third and final narrative, the perspective shifts to that of a refugee officer temporarily detailed to screen migrants for credible fear at Cibola County Correctional Center in Milan, New Mexico. The refugee

⁷⁴ An *LA Times* article indicates that 2016 U.S. Border Patrol data shows more than half of its total agents are Latinx. Brittny Mejia, “Many Latinos Answer Call of the Border Patrol in the Age of Trump,” *Los Angeles Times*, April 23, 2018, <https://www.latimes.com/local/lanow/la-me-ln-citizens-academy-20180323-htmlstory.html>.

officer's experiences reflect the day-to-day changes that have taken place due to technical adjustments USCIS made to reduce the asylum backlog, and as a result of executive orders meant to deter migration—an extension of the praxis of bordering, ordering, and othering. More so, however, this narrative taps into the ethical dilemma USCIS officers experience when they witness the effects of these changes and begin to question the bureaucracy's moral ambivalence.

These fictional perspectives and historical background offer data for analysis and recommendations to manage the asylum workflow, deter abuse of the system and of asylum seekers, ensure fair determinations, and address migration drivers. Through the analysis, this thesis aims to improve the U.S. asylum program's administration and safeguard the U.S. homeland.

II. DRIVERS OF MIGRATION: THE STORY OF LUIS PEDRO GOMEZ FLORES

The narratives in this chapter depict the thoughts and recollections of fictional Honduran youth Luis Pedro Gomez Flores, moments before he flees his hometown.⁷⁵ In 2007, when Luis was six years old, his parents left him with his paternal grandmother, Florencia Lourdes Dominguez Rubio, so they could seek work in the United States and escape the poverty that lingered, even years later, from Hurricane Mitch. Luis's circumstances, coupled with more extensive external situations that he encountered in Honduras, compelled him to later flee to the United States as well. His plight sheds light on some of the macro- and micro-level drivers of migration and their complexities. Initially, such determinants as poverty, civil wars, and natural disasters separated Luis and his family; these factors eventually reinforced the conditions that allowed Luis to migrate. Luis's un-muted voice, along with background information, offers a richer understanding of the intricacies of migration as well as the limits of terminological categories: *migrant*, *refugee*, and *displaced*.

People have moved back and forth between Central America and the United States for many reasons, pushed and pulled by various macro and micro circumstances. Macro circumstances are the large, external forces that shape the natural environment and human institutions and infrastructure.⁷⁶ They include such factors as political instability, socioeconomic collapse (e.g., crime, violence, poverty), demographic shifts, and environmental degradation.⁷⁷ Micro circumstances are household or personal factors

⁷⁵ Luis's story is based on my lived reality of interviewing and screening asylum seekers. His plight is consistent with that of numerous Honduran children who flee their country for refuge. See also, for example, Jessica Dineen, "Why Children Are Fleeing Honduras, and What UNICEF Is Doing about It," *Forbes*, May 21, 2019, <https://www.forbes.com/sites/unicefusa/2019/05/21/why-children-are-fleeing-honduras-and-what-unicef-is-doing-about-it/#49e0fbb351a2>.

⁷⁶ Francesco Castelli, "Drivers of Migration: Why Do People Move?" *Journal of Travel Medicine* 25, no. 1 (January 2018), <https://doi.org/10.1093/jtm/tay040>.

⁷⁷ Dan Restrepo, Trevor Sutton, and Joel Martinez, *Getting Migration in the Americas Right: A National Interest-Driven Approach* (Washington, DC: Center for American Progress, 2019), <https://www.americanprogress.org/issues/security/reports/2019/06/24/471322/getting-migration-americas-right/>.

specific to each individual and shared by many in the same locale. These determinants—including education, marital status, occupation, health, personal attitude, household decision-making, and social network—play a vital role in an individual’s decision to migrate.⁷⁸ In this way, the resolve of today’s migrants and displaced people demonstrate the same macro and micro influences.

Given these complexities, the tendency to distinguish migration as either forced or voluntary is problematic. Most scholarship neglects to explore the nuances of migration determinants and the inadequacy of such labels as *migrant*, *displaced*, and *refugee*. Meanwhile, the asylum ecosystem is set up to erase nuances and delineate an individual as either a refugee—a victim, without agency, in need of compassion—or a migrant—a cunning individual who is exploiting the generosity of the United States for financial gains. This chapter examines some of these factors by unmuting the young Honduran asylum seeker Luis’s voice.

The first of this chapter section introduces Luis within the context of his environment: the poverty and political instability that have become norms in Honduras. Luis’s story reveals the complexities of macro- and micro-level determinants at play—how they intertwine, enforce, and compel an individual reaction that reverberates for generations. For instance, Luis’s grandfather was a pioneer, one of the first in his town to migrate. He left Honduras for better economic opportunities, joining the thousands of Salvadorans, Guatemalans, and Nicaraguans fleeing civil wars by emigrating to the United States. Luis’s grandfather’s remittances enabled the family to survive, and his success inspired those with the ability and opportunity to relocate. After Hurricane Mitch devastated Honduras in the 1990s, Luis’s uncles migrated north with the money their father had saved for their trip. Their remittances, in turn, funded the journey north for Luis’s parents.

⁷⁸ Castelli, “Drivers of Migration.”

A. FLEEING HONDURAS: LUIS'S PERSPECTIVE (PART I)

Luis starts shaking at the thought of opening the door. The mareros usually like to get up around noon, after their all-night casa loca barbarity...they are not up at this hour unless they are going after something big. ⁷⁹ *The mareros always have people watching, but Luis knows they would be satisfied to get his grandmother's house, where she had run her baleada business until last year, 2018.* ⁸⁰

Luis understands that he is leaving a home that has belonged to his family for generations. His grandmother, Doña Florencia, often repeats the family's history to her friends, and his father and uncles use some of the money sent by Luis's abuelo to make improvements on the house whenever they can. They have reinforced the foundation, built a new bedroom, and even expanded the kitchen. His grandmother tells others with pride how their home is one of the few in their town that escaped significant damage from the hurricane in 1998, some years before Luis was born. Most of the farms in their town had been destroyed and the families unable to recover. Luis's family avoided starvation because of the money and goods his abuelo steadfastly sent home from the United States every few months.

Those years of hardship, however, convinced Luis's father and his two uncles to join his abuelo in the United States. Once they had saved enough money, each of them left the town of San Pedro Zacapa, one by one, to make the same journey north. In 2007, Luis's parents were the last to leave for the United States—this time with the money that his uncles had painstakingly earned and sent home. In 2019, it is finally Luis's turn to make the journey.

⁷⁹ *Casas locas* (crazy houses) are local gang headquarters where murder and torture take place. See Sarah Ferguson, "Growing Up Surrounded by Violence in Central America," UNICEF USA, October 17, 2018, <https://www.unicefusa.org/stories/growing-surrounded-violence-central-america/34580>.

Mareros are gang members. They belong in a *mara*, a gang. In the Northern Triangle of Central America, *maras* generally refer to either the Mara Salvatrucha (also known as MS-13 or MS) or its rival, the 18th Street Gang (also known as Calle 18, Barrio 18, Mara 18, and La 18).

⁸⁰ *Baleada* is a hearty Honduran snack: a wheat tortilla filled with refried beans and other ingredients, folded over.

It is just a twenty-minute walk to the bus station, and Luis is a fast walker. The world outside of San Pedro Zacapa terrifies him. He has only been to the capital, Tegucigalpa, once, as a child, with his parents. While San Pedro Zacapa is small, Tegucigalpa is huge. He remembers being surrounded by stomping legs, hurried by his parents to follow along. When he was too tired, his dad carried him, and he could see the densely packed, dilapidated shacks juxtaposed against the spikes of distant steel towers. On his journey to America, Luis knows he must stay alert and avoid becoming disoriented like he was in Tegucigalpa. (Figure 2 illustrates the town of San Pedro Zacapa, located in the Department of Santa Barbara—shown by the red marker—and its proximity to Honduras’s capital of Tegucigalpa.)

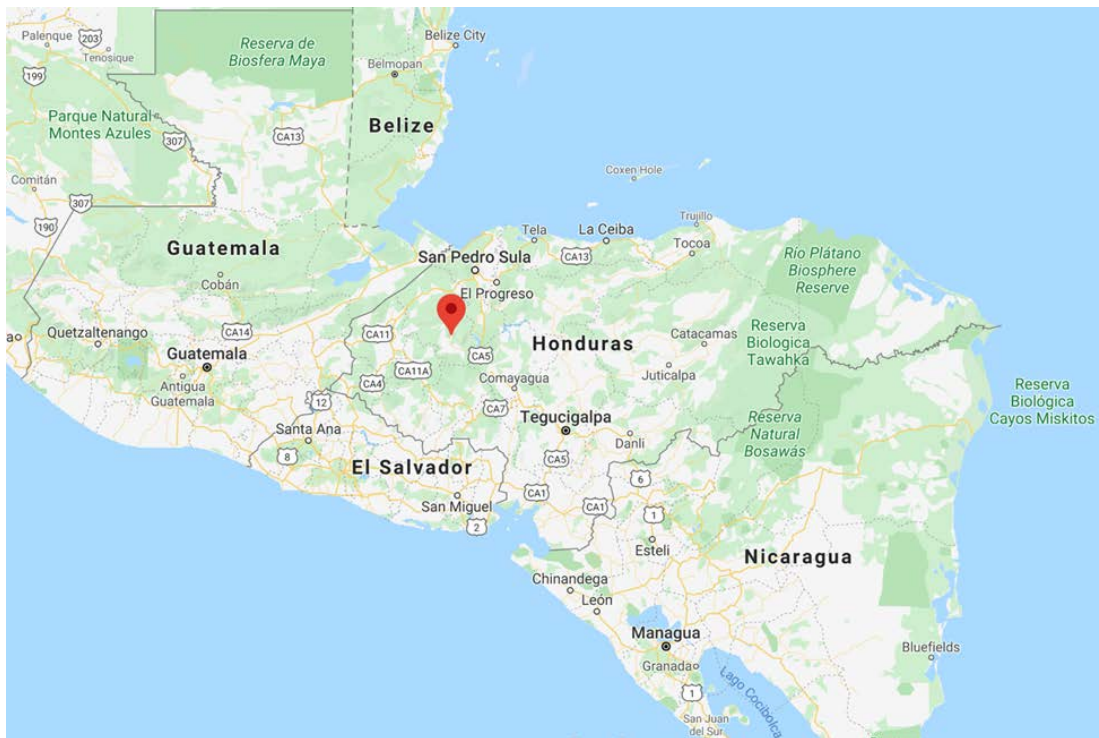


Figure 2. San Pedro Zacapa in Santa Barbara, Honduras⁸¹

⁸¹ Source: “Honduras,” Google Maps, accessed June 24, 2020, <https://www.google.com/maps/place/Honduras/@15.1796059,-90.7063322,6z/data=!3m1!4b1!4m5!3m4!1s0x8f6a751a73b731cf:0x7ed1de82b6fb8264!8m2!3d15.199999!4d-86.241905>.

Luis has been to one other big city before. A year ago, he had traveled with some friends to the departmental capital, Santa Barbara, to join the protest against JOH.⁸² But Luis was too scared to do anything other than watch from the sidelines and shout along with the protesters as they passed. He and his friends ran away at the first sight of the police, who arrived in full military gear to break up the demonstrations. Many protesters ended up getting injured. Afterward the police went around the neighborhoods arresting the protestors, including Miguel's cousin. The family still has not heard from him.

Doña Florencia was livid when Luis returned from Santa Barbara. She threatened to beat him with her cane—though Luis knew she would not have been able to lift it without falling. But her vocal cords were surprisingly strong, and she chastised him for hours. She had seen her friends, neighbors, husband, and sons engaged in peaceful and even violent political protests over the years. It was all useless. When the former president José Manuel Zelaya Rosales, or “Mel,” introduced modest changes to make the system more equitable, the mining corporations and agribusinesses, which really pull the strings, had the military dispose of him. The violent crackdowns against Mel's supporters in 2009 made Doña Florencia fearful of Luis's growing interest in politics.⁸³

Luis takes a deep breath, puts on his backpack, and opens the door into the cool January air.

⁸² Honduras is divided into eighteen administrative or political subdivisions known as departments; Santa Barbara is one of the departments, and its capital is also called Santa Barbara. JOH is the nickname of Juan Orlando Hernandez Alvarado, the president of Honduras when this thesis was written; he has been in power since 2014.

⁸³ Jose Manuel Zelaya Rosales, nicknamed Mel, was the president of Honduras from January 2006 until he was exiled to Chile by the military in what some have labeled a coup. His politics changed from right wing to left while he was in office. He pushed to resolve land disputes, instituted a minimum wage, and created social programs to help families living in extreme poverty. See Nina Lakhani, “Did Hillary Clinton Stand by as Honduras Coup Ushered in Era of Violence?” *Guardian*, August 31, 2016, <https://www.theguardian.com/world/2016/aug/31/hillary-clinton-honduras-violence-manuel-zelaya-berta-caceres>.

B. POVERTY AND POLITICAL INSTABILITY

This section situates Luis's story within the history of Honduras and explains how poverty and political instability have become daily realities. The economic and political ties between Honduras and the closest regional powerhouse, the United States, plays a significant role. The influence of the United States reached a destructive apex when death squads and civil wars in the 1980s led to the first big wave of Central American migration. These events decreased economic opportunities, which pushed Luis's grandfather to join the many Salvadorans, Guatemalans, and Nicaraguans traveling to the United States, where the 1980 Refugee Act established the asylum program. Finally, the rise of the *maras* (gangs) in the vacuum left by political instability and corruption created the current determinants that drove Luis to leave.

Throughout its history, Honduras has been inextricably linked to the United States. At the time of Honduras's birth as a nation, the United States was already the most powerful country in the Americas.⁸⁴ In 1823, when Honduras joined the Federation of Central American States (FCAS), and in 1853 when it became a separate, independent state, formal U.S. recognition was crucial to its legitimacy as a nation.⁸⁵ Once U.S. banana companies, specifically the United Fruit Company and Standard Fruit Company, established plantations in Honduras in the late nineteenth century, the country became not only politically but also economically entangled with the United States.⁸⁶ A literal banana republic, Honduras experienced political instability when plantation workers protested harsh conditions and low wages.⁸⁷ The United States protected its business interests by

⁸⁴ Two years after they declared their independence from Spain, on September 15, 1821, the areas that became Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua became the FCAS under General Manuel Jose Arce. In 1838 the federation began to dissolve as each area became an independent nation. "Honduras," Department of State Office of the Historian, accessed July 22, 2019, <https://history.state.gov/countries/honduras>.

⁸⁵ Department of State.

⁸⁶ Walter LaFeber, *Inevitable Revolutions: The United States in Central America*, 2nd ed. (New York, NY: W.W. Norton, 1993).

⁸⁷ "Honduras, Battalion 316: Torture and Forced Disappearance," Center for Justice and Accountability, accessed July 22, 2019, <https://cja.org/where-we-work/honduras/>.

sending troops to crush rebellions and support the unpopular regimes; the U.S. Army intervened in Honduras on numerous occasions throughout the early twentieth century.⁸⁸ Honduras and the other Central American countries quite literally became America's backyard.

During the Cold War, the main U.S. concern was to prevent Soviet influence and stop the spread of communism. According to historian Walter LaFeber, the United States often intervened in the sovereignty of Central American countries by supplying military and financial aid to authoritarian regimes to fight leftists and nationalist political movements, or by orchestrating covert operations that either supported military coups or directly overthrew leftist regimes.⁸⁹ In his seminal book *Inevitable Revolutions*, LaFeber describes how the United States trained government forces in Guatemala, El Salvador, Nicaragua, and Honduras; these forces subsequently committed atrocities and human rights violations against real and perceived political opponents.⁹⁰ LaFeber's compelling research shows that these repressions led to more civil conflicts and communist revolutions.

The instability of the government, the brutality of conflicts, poor development, and natural disasters drove migration in Central America. According to the Migration Policy Institute, the civil wars between authoritarian regimes and leftist movements in the neighboring countries of El Salvador, Guatemala, and Nicaragua led to the first large-scale northward migration, resulting in a tripling of Central Americans in the United States—from 354,000 in 1980 to 1,134,000 in 1990.⁹¹ Moreover, persistent insecurity, instability, and economic hardship after the conflicts pushed Central Americans to migrate. In 1998, the Category 5 Hurricane Mitch landed on Honduras and the surrounding areas. The ensuing poverty triggered a second large wave of migration as Hondurans made the arduous journey to the U.S. Southwest border.

⁸⁸ LaFeber, *Inevitable Revolutions*.

⁸⁹ LaFeber.

⁹⁰ LaFeber.

⁹¹ Jeanne Batalova, Jessica Bolter, and Allison O'Connor, "Central American Immigrants in the United States," Migration Policy Institute, August 15, 2019, <https://www.migrationpolicy.org/article/central-american-immigrants-united-states>.

Honduras has long been an embattled state with weak democratic institutions. The country has few stable institutions and ranks among the lowest “in terms of per capita income, employment, literacy, health care, life expectancy, and nutrition” since the 1980s.⁹² The people were optimistic about their future when the military returned the power of rule and the country elected its first civilian government in 1982.⁹³ According to Peter J. Meyer of the Congressional Research Service, since then, two ideologically similar political factions, the *Partido Liberal* (PL, or liberal party) and the *Partido Nacional* (PN, or national party), have dominated the government and politics.⁹⁴ Meyer recounts that in 2005, PL member José Manuel Zelaya Rosales defeated his PN rival in the presidential election. Despite the PL party’s center-right stance, President Zelaya welcomed better relations with such leftist countries as Venezuela and joined regional, socialist economic alliances. Some of his policies—for example, increasing the minimum wage by 60 percent, providing free school enrollment, and increasing the salary of educators—were also left-leaning initiatives. Meyer concludes that many among the political and economic elite considered President Zelaya a threat to the status quo. Thus, inevitably, Honduras continued to rank low on the development index.

Honduran politics reached a brink over presidential term limits. On June 28, 2009, the Honduran military and traditional economic and political elites forced the democratically elected President Zelaya into exile in Costa Rica, replacing him with the head of the Honduran Congress, Roberto Micheletti.⁹⁵ According to Hillary Clinton, then U.S. secretary of state, Micheletti and the Honduran Supreme Court claimed they were protecting the democracy of Honduras by preventing Zelaya from extending his term limit

⁹² Roger A. Carvajal, “Violence in Honduras: An Analysis of the Failure in Public Security and the State’s Response to Criminality” (master’s thesis, Naval Postgraduate School, 2009), 112.

⁹³ Peter J. Meyer, *Honduras: Background and U.S. Relations*, CRS Report No. RL34027 (Washington, DC: Congressional Research Service, April 27, 2020), 3, <https://fas.org/sgp/crs/row/RL34027.pdf>.

⁹⁴ Meyer, 3.

⁹⁵ Government Accountability Office, *Honduran Political Crisis 2009* (Washington, DC: Government Accountability Office, 2019), 1, <https://www.gao.gov/assets/590/585824.pdf>.

under the guise of reforming the constitution.⁹⁶ Although this narrative framed the removal as a necessary move to prevent Zelaya from grabbing power, critics pointed out that Zelaya technically could not become president for a second term without being chosen by the people in a free election.⁹⁷ Although seeking limitless power threatened democracy, so did an ouster of a democratically elected leader.

Critics also questioned the role the United States played in Zelaya's exile. The United States, in agreement with most governments around the world, initially labeled the removal a coup and temporarily suspended its financial assistance and other support.⁹⁸ However, the United States did not remove its ambassador; instead, the country called for immediate elections and quickly recognized the new government under Porfirio Lobo after the November 2009 election.⁹⁹ Some accused the United States of being behind the coup to advance its neoliberal agenda.¹⁰⁰ Clinton argued that the United States advocated for new elections to quickly return political stability and U.S. financial aid to Honduras.¹⁰¹ However, Honduras experienced little peace and prosperity in the aftermath.

The party in power seized the opportunity to tighten democratic space. In the months between the June ouster and the new administration under Porfirio Lobo, Micheletti and his supporters voided many of Zelaya's changes.¹⁰² They also imposed strict measures to control any opposition.¹⁰³ They instituted arbitrary curfews and states of emergency,

⁹⁶ Lakhani, "Hillary Clinton"

⁹⁷ Lakhani.

⁹⁸ Government Accountability Office, *Honduran Political Crisis*, 1.

⁹⁹ Government Accountability Office, 6.

¹⁰⁰ Democracy Now, "Ousted Honduran President Zelaya: U.S.-Backed Coup Destabilized My Nation Forcing Migrants to Flee," YouTube, July 5, 2019, 36:02, <https://www.youtube.com/watch?v=Jr4FpbnSH00>.

¹⁰¹ Lakhani, "Hillary Clinton."

¹⁰² Peter J. Meyer, *Honduran-U.S. Relations*, CRS Report No. RL34027 (Washington, DC: Congressional Research Service, 2010), 2.

¹⁰³ Meyer, 3.

controlled the media, and suppressed civil and political rights.¹⁰⁴ Amnesty International reported “widespread human rights violations against civilians by police and military officials, including excessive use of force, unlawful killings, torture and other ill treatment, arbitrary arrest and harassment and intimidation of opponents to the coup” under the interim government.¹⁰⁵ With the PL splintered, the PN, headed by Juan Orlando Hernández (JOH), ascended to top leadership positions and dominated all three government branches.¹⁰⁶ Thus, the government seized the opportunity of instability to increase its power with impunity.

The rapidly deteriorating political situation led directly to increased crime, more corruption, and complete impunity. In 2017, JOH won a heavily contested second term in an election that many considered rigged.¹⁰⁷ Ironically, through its control of the judicial branch, the PN maneuvered a ruling to allow a second term for the presidency—the same proposal that supposedly led to Zelaya’s removal from office.¹⁰⁸ InSight Crime reports that JOH enjoyed close ties with the United States; he collaborated with the United States on drug trafficking and reinstituted the extradition of traffickers.¹⁰⁹ However, in Honduras, he was unpopular and plagued by scandals. Demonstrators took to the streets to protest the results of the election. Sporadic protests continued against the legitimacy of the JOH administration as well as such other grievances as privatization, inequality, and corruption.¹¹⁰ The clashes between dissenters, police, and JOH supporters resulted in

¹⁰⁴ Meyer, 3.

¹⁰⁵ Amnesty International, *Honduras: Recommendations to the New Honduran Government Following the Coup of June 2009*, 28 January 2010 (London, UK: Amnesty International, 2010), 6, <https://www.refworld.org/docid/4b67f3f52.html>.

¹⁰⁶ Meyer, Honduran-U.S. Relations, 3.

¹⁰⁷ Democracy Now, “Ousted Honduran President Zelaya.”

¹⁰⁸ Meyer, *Honduras*, 4.

¹⁰⁹ Seth Robbins, “Will Drug Conspiracy Allegations End U.S. Support for Honduras President?” InSight Crime, August 5, 2019, <https://www.insightcrime.org/news/analysis/will-drug-conspiracy-allegations-end-us-support-for-honduras-president/>.

¹¹⁰ Democracy Now, “Ousted Honduran President Zelaya.”

deaths, arbitrary detention, and irregular prosecution.¹¹¹ These conditions contributed to the current wave of families and unaccompanied alien children migrating north to escape the poor conditions in Honduras.

Although the United States has provided substantial aid to Honduras following the country's transition to civilian rule, with few exceptions, it is tied to U.S. interests. According to Peter Meyer, "aid levels were particularly high during the 1980s and early 1990s, as Honduras served as a base for U.S. operations in Central America."¹¹² In the years that followed, the United States significantly reduced its funding, aside from disaster relief following Hurricane Mitch and a development grant to Honduras associated with the 2005 Millennium Challenge Corporation. The Obama administration launched a strategic plan to tackle the humanitarian crisis at the border in 2014, called the U.S. Strategy for Engagement in Central America. Since FY 2016, Congress has provided Guatemala, Honduras, and El Salvador approximately \$2.6 billion in development aid as a part of this strategy. However, the Trump administration blocked the \$498 million set aside for Honduras until its government signed the Asylum Cooperation Agreement. This agreement effectively prevented displaced individuals from obtaining asylum in the United States without first seeking asylum in transit countries such as Guatemala and Mexico.¹¹³ This example shows that the U.S. strategy in the Northern Triangle continues to rely on a carrot-and-stick approach.

U.S. foreign aid has also been unable to promote democracy, human rights, rules of law, development, and security to mitigate mass migration. Some studies indicate that developmental aid, though it promotes increased income and opportunities, leads to higher

¹¹¹ "Honduras Profile," InSight Crime, March 27, 2017, <https://www.insightcrime.org/honduras-organized-crime-news/honduras/>.

¹¹² Meyer, *Honduras*, 12.

¹¹³ Meyer, 10; Daniel Trotta, "U.S. Restores Aid to Central America after Reaching Migration Deals," Reuters, October 17, 2019, <https://www.reuters.com/article/us-usa-immigration-aid-idUSKBN1WV2T8>.

migration flow since the extra income often facilitates the journey north.¹¹⁴ While, both countries launched deterrence campaigns warning of the perilous journey northward and the complicated process of obtaining asylum, they fell on deaf ears. The United States needs a novel, regionwide response to mass displacement.

C. GANG RECRUITMENT: LUIS'S PERSPECTIVE (PART II)

Luis's story up to this point has centered on the peripheral forces that compelled him to leave Honduras. In this section, he comes face to face with direct violence and threats from the *maras*, specifically Barrio 18. Crime, violence, and corruption are the main drivers of Luis's migration. Given his individual circumstances, specifically his social network and household decision-making, Luis has one avenue for relief: fleeing to the United States. Luis's perspective reveals the interplay of weak state institutions, elites' indifference, impunity, and an ineffectual justice system with such micro-level determinants as the social network and household decision-making at work.

In Luis's case, poverty and political instability contributed to other macro-level circumstances, including the rise of crime and violence, a dearth of civil and economic participation, and the loss of livelihood. These circumstances, coupled with such micro-level factors as the death of his closest relative, financial and logistical support from his family in the United States, memories of travel, and his family's culture of migration, culminates in the option to flee. As Luis starts his journey toward the United States, he is following the footsteps of many youths who traveled through dangerous terrain and situations to seek asylum and reunite with their families. The same drivers, then, produce caravans of similarly situated people with the same intent, traveling together as groups for protection and safety.¹¹⁵

¹¹⁴ Kathleen Newland, *Migration, Development, and Global Governance: From Crisis toward Consolidation* (Washington, DC: Migration Policy Institute, 2019), 5, <https://www.migrationpolicy.org/research/migration-development-global-governance-crisis-consolidation>.

¹¹⁵ Jill H. Wilson et al., *Recent Migration to the United States from Central America: Frequently Asked Questions*, CRS Report No. R45489 (Washington, DC: Congressional Research Service, 2019), 26, <https://fas.org/sgp/crs/row/R45489.pdf>.

The first time Barrio 18 threatened him, Luis was heading home from school, a few weeks after starting tenth grade. It was September 2016. He was only fifteen years old and smaller than most boys his age. Five of the gang members were hanging out at Parque Central, listening to music, drinking, and smoking. Two of them had guns—their outlines were in plain sight, tucked into their pants under their basketball jerseys. Luis usually took a different route if he saw mareros, but he was in a hurry to get home and did not notice them until it was too late.

Luis's classmate, Juan, had started hanging out with Barrio 18 over the summer and became one of their paisas.¹¹⁶ Juan recognized Luis as he walked by, and called out to him. Luis was petrified. He wanted to run in the opposite direction, but he knew that it would make matters worse. He walked over cautiously, and Juan made small talk, asking Luis about some of the other kids at school. Turning toward his Barrio 18 friends to look for approval, Juan also made sexual comments about the female teachers and some of the girls at school. Then Juan asked Luis how much lempira he had on him.¹¹⁷ Luis took out the 250 his grandmother had given him to buy school supplies. Juan took the money and patted Luis twice on his left cheek. "Good. Next time, have more," he said, and turned to laugh with his friends. Luis felt the left side of his face burning. He quickly ran home and felt in his stomach the start of something terrible.

After this incident, Luis started avoiding Parque Central on his way home, but his alternate routes did not prove much safer. One day in November, as he was walking past the Iglesia Católica, he heard someone call his name. Luis pretended not to hear and kept walking. All of a sudden, two guys were on him, beating him to the ground. Juan grabbed him and slammed him hard against the wall of a building, screaming into his face, "Next time, you better stop when I call you!" His one-time classmate menaced him

¹¹⁶ Paisas is the plural of *paisa*, which is short for *paisano*, or countryman. The 18th Street Gang calls their prospective soldiers *paisas*. See InSight Crime and Asociación para una Sociedad más Justa, *Gangs in Honduras* (Washington, DC: USAID, 2016), 16, <https://www.insightcrime.org/images/PDFs/2015/HondurasGangs.pdf>.

¹¹⁷ Lempira is the currency of Honduras. One lempira is worth about 4 cents on the U.S. dollar.

further, “You will do what we tell you. We own you, bandera. Come see us tomorrow. We got something for you to do.”¹¹⁸

A rival gang, the Mara Salvatrucha, had been moving into San Pedro Zacapa. Reputed members seemed to be setting up shop on the other side of the Rio Zacapa. Three nights ago, two motorcycles drove by an 18th Street gang casa loco and shot it up, killing four Barrio 18 mareros. The next afternoon, the residents saw a police patrol in town. The police officer did not interview anyone about the hit. Instead, he stopped only at Barrio 18’s main casa. The neighbors whispered that the police officer came to drop off weapons in exchange for money. The Barrio 18 gang now needed recruits to fight the turf war.

When Luis arrived home, he was not able to hide the beating from Doña Florencia. He told her what had happened, and she quickly packed him a bag and sent him to her friend’s house in Agua Caliente, a twenty-minute drive from San Pedro Zacapa.

Six months later, in May 2017, Doña Florencia called Luis to say that it was safe to return. On top of the renta for her baleada business, she had started paying the Barrio 18 gang extra to not recruit Luis.¹¹⁹ Doña Florencia never even considered telling Luis to go to the police—the corruption was so bad. She would need to pay just to see the police. Even then, the townspeople never saw a patrol car unless the police came to do business with the maras. Doña Florencia, like all the residents, understood that the law would not be around when the maras come to retaliate for reporting them. The maras ruled the cities and towns and the JOH government interacted with the world outside of Honduras.

¹¹⁸ *Bandera* means flag. The 18th Street Gang calls its recruits *banderas*. According to InSight Crime, *banderas* are mostly boys between the ages of six and fourteen, who are not yet members and often recruited under duress, doing odd jobs for the gang. See InSight Crime and Asociación para una Sociedad más Justa, *Gangs in Honduras*, 17.

¹¹⁹ *Renta* means rent. It is a regular payment for protection to gangs. Locals also refer to it as “war tax.”

On November 29, 2018, Doña Florencia died suddenly from a heart attack. She had never told Luis's parents in the United States about the renta for Barrio 18—she just said that she had needed extra money each month to support her and Luis. The first time his parents found out about the maras was when Luis called to tell them that Barrio 18 came to his grandmother's house for the gang's monthly 5,000 lempiras renta, and he had given them the funeral money to avoid getting killed. Juan was there, with his LA Clippers jersey and a new "99" tattoo on his cheek. He now had a gun and touched it as he smirked at Luis and said, "If you run away again, you had better not come back. We will be waiting for you in Doña Florencia's casa."

As the bus drives past the Rio Zacapa, Luis feels the tightening in his chest abate. With his grandmother gone, there is nothing left for him in San Pedro Zacapa. He will catch a bus at Santa Barbara to San Pedro Sula, then make his way into the United States with a caravan of families and children. Luis's parents had told him to join a caravan because he would be safer traveling with them. They told him, too, that if he is caught, he must inform the U.S. government that he is a minor and needs asylum. He memorized the English words. (Figure 3 illustrates Luis's journey out of Honduras.)

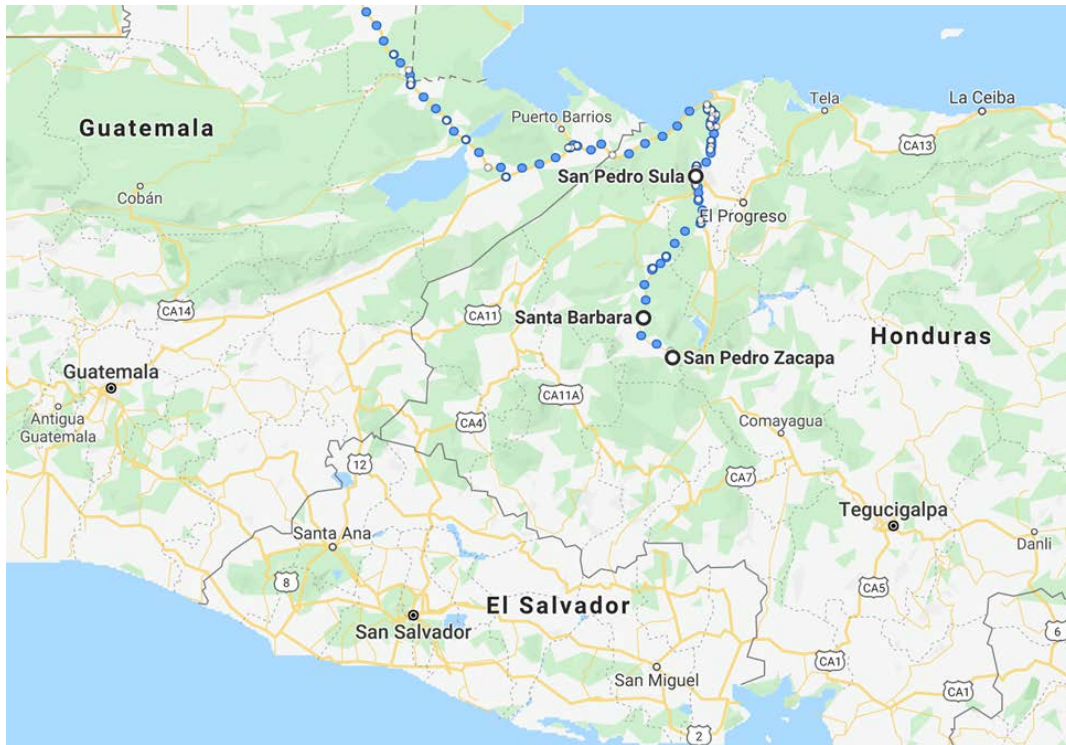


Figure 3. Map of Journey out from Honduras¹²⁰

Luis's heartbeat echoes in the chambers of his chest as he imagines a new life with his parents and his younger sister, Lourdes, who he has never met, in Union City, New Jersey. He will learn English, finish high school, and get a job to help his family. Honduras has no opportunities, just crime and corruption. He will never have to face Juan and the mareros again.

D. CRIME, CORRUPTION, AND IMPUNITY

Crime, corruption, and impunity are everyday macro-level drivers of migration in Honduras. U.S. domestic policies have had significant influences on these migration determinants, specifically the Honduran government's lack of capacity to fight crime and its inadequate response to violence. Background information contextualizes the dynamics between the push and pull determinants of migration in Honduras's history. The country

¹²⁰ Source: "San Pedro Zacapa, Honduras," Google Maps, accessed June 24, 2020, <https://www.google.com/maps/dir/San+Pedro+Zacapa,+Honduras/>.

has struggled with security issues for most of its history due to the reign of brutal military regimes. However, the late 1990s ushered in a different set of security problems: crime and violence. Continued slow development, the lack of economic opportunities, and U.S. domestic policies helped fuel the rise of gangs.

Before the 1990s, gangs in Honduras tended to comprise local delinquents engaged in petty crime.¹²¹ When the United States passed the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), which amended the Immigration and Nationality Act (INA) in response to a rise in undocumented migrants at the Southern border, the spread of gangs was an unintended consequence.¹²² The act strengthened border and interior enforcement, clarified legal and illegal entries, limited appeals, and introduced harsher penalties for violations. IIRIRA significantly increased the number of Central Americans deported back to the Northern Triangle, and many of the deportees grew up in the poor neighborhoods of Los Angeles as members of local U.S. gangs Mara Salvatrucha and Barrio 18.¹²³ The massive U.S. deportation of foreign nationals with criminal convictions, estimated to be approximately 130,000 from 2001 to 2010, resulted in the spread of *maras*, especially to the NTCA countries.¹²⁴ Given the economic, political, and social instability of these countries, and the lack of support systems to assist with reintegration and rehabilitation, the deportees turned to each other and continued their gang activities to survive.¹²⁵ In this way, the United States played a role in the growth of these gangs; in turn, the gangs drove up crime, violence, and a resulting push to migrate.

Honduras and the other Northern Triangle countries were primarily unprepared to deal with this growth. These countries' governments had few tools, little training, and no

¹²¹ InSight Crime and Asociación para una Sociedad más Justa, *Gangs in Honduras*, 3.

¹²² Immigration and Nationality Act, Division C of Pub.L. 104–208, 110 Stat. 3009–546 (1996).

¹²³ Kristin Finklea, *MS-13 in the United States and Federal Law Enforcement Efforts*, CRS Report No. R45292 (Washington, DC: Congressional Research Service, 2018), 1, <https://fas.org/sgp/crs/homesec/R45292.pdf>.

¹²⁴ Finklea, 1.

¹²⁵ Sol Velásquez, “MS13,” InSight Crime, March 27, 2017, <https://www.insightcrime.org/el-salvador-organized-crime-news/mara-salvatrucha-ms-13-profile/>.

warning to deal with the gangs. In his report for the Congressional Research Service Meyers writes that “in July 2007 testimony before the House Subcommittee on the Western Hemisphere, the Honduran Ambassador to the United States asserted that although the United States provides information to countries on the criminal background of deportees, the information does not include whether the repatriated nationals are gang members.”¹²⁶ Local law enforcement was not equipped to handle the sophistication, organization, and weapons of the *maras*; they were quickly overwhelmed.¹²⁷ Most lacked imagination in their response, relying on their familiar strategy of using troops and militarizing the police to repress the *maras*, resulting in more violence.¹²⁸ The government’s response to gangs also stretched the capacity of Honduras’s prison system. Membership increased as gang leaders recruited from within the prisons.¹²⁹ These interrelated factors exacerbated Honduras’s security challenges and struggle to respond.

U.S. demand for illicit drugs is a lucrative business that contributes to crime and violence and the *maras*’ rise in Honduras. Although the *maras* are mostly local, they have ties to transnational criminal organizations.¹³⁰ Pompeyo Bonilla Reyes, former security minister of Honduras under President Lobo, said, “We are between those who consume drugs and those who produce them. Logically we are a corridor traffic.”¹³¹ Along with other NTCA countries, Honduras has remote, isolated areas with little to no government presence that serve as natural transit points for the transfers of cocaine and heroin from South American producers to American consumers.¹³² According to Meyer, these areas became the battlegrounds of “heavily armed and well-financed transnational criminal

¹²⁶ Meyer, Honduran-U.S. Relations, 16.

¹²⁷ Velásquez, “MS13.”

¹²⁸ Velásquez.

¹²⁹ InSight Crime and Asociación para una Sociedad más Justa, *Gangs in Honduras*, 5.

¹³⁰ Steve Dudley, *Honduras Elites and Organized Crime* (Washington, DC: InSight Crime, 2016), 27, https://www.insightcrime.org/images/PDFs/2016/Honduras_Elites_Organized_Crime.pdf.

¹³¹ “Violence in Honduras: The Eye of the Storm,” *Economist*, June 16, 2012, <https://www.economist.com/the-americas/2012/06/16/the-eye-of-the-storm>.

¹³² Meyer, Honduran-U.S. Relations, 16.

organizations ... and local affiliates,” many of whom enjoy “close ties to political and economic elites who rely upon illicit finances to fund their election campaigns and maintain or increase the market share of their businesses.”¹³³ Furthermore, while Honduras and the United States cooperate on counternarcotic operations, data indicates that they have been ineffective and done little to disrupt the drug trafficking trade. Limited bilateral, regional, and international cooperation with the United States, as the historical leader of fighting regional crime, coupled with greater isolationism under the Trump administration, further encourage gang growth.¹³⁴ Insight Crime noted in 2018 that this lack of action would lead to more migration as the *maras* gain influence and power given the insatiable demand for drugs in the United States, increasing drug use in Latin America, and further expansion into human trafficking, mainly due to Venezuelans fleeing their home. U.S. domestic affairs continue to have consequences on the health and wealth of the NTCA.

Corruption permeates Honduras’s political and economic institutions, thanks to the symbiotic relations the *maras* and other criminal organizations enjoy with political and economic elites.¹³⁵ They exchange illicit funds for protection, maintenance of power, exploitation, and impunity. Even leadership at the highest level has links to the *maras*. In November 2018, JOH’s brother, Tony Hernández, was arrested for his decade-long trafficking of cocaine to the United States.¹³⁶ In August 2019, a new filing from the FBI named JOH and former President Lobo as having colluded with drug traffickers to exchange protection for campaign contributions.¹³⁷ Corruption, thus, affects every level of the Honduran government, from local to federal.

¹³³ Meyer, *Honduras*, 9.

¹³⁴ “GameChangers 2018: 5 Reasons LatAm Organized Crime Will Strengthen in 2019,” InSight Crime, January 11, 2019, <https://www.insightcrime.org/news/analysis/reasons-latam-organized-crime-strengthen-2019/>.

¹³⁵ Dudley, *Honduras Elites and Organized Crime*.

¹³⁶ Democracy Now, “‘A Narco State Supported by the United States’: How Crime & Corruption in Honduras Fuel Migration,” YouTube, August 14, 2019, 18:54, https://www.youtube.com/watch?v=C_w-Z4Ed_AM&list=WL&index=25&t=0s.

¹³⁷ Democracy Now.

Impunity goes hand in hand with crime and corruption. In 2014, the United Nations (UN) Office on Drugs and Crime reported that the homicide rate in Honduras was the highest in the world for nations outside of war, at 90.4 per 100,000 inhabitants.¹³⁸ The 2017 Global Impunity Index ranked Honduras twelfth out of sixty-nine countries, above El Salvador, in impunity levels.¹³⁹ InSight Crime reported that a joint investigation by Colombia, Honduras, and the United States found that twenty-eight Honduran government officials had received bribes to delete gang members' records and provide them with fake driver's licenses.¹⁴⁰ They also discovered that, between 2012 and 2016, Honduran police officers had participated in the trafficking of firearms to gangs.¹⁴¹ Furthermore, the U.S. Department of State reported that Honduras has an impunity rate of up to 90 percent in the courts, which discourages victims from seeking justice.¹⁴² The high crime rate, the government's inability to prosecute, and government corruption have exacerbated Hondurans' lack of confidence in and mistrust of authorities.

E. ANALYSIS

The story from Luis's perspective reveals that the decision to flee Honduras and seek asylum in the United States is complicated. Although Luis's most immediate threat was Barrio 18, the country's conditions and his family history shows that a confluence of

¹³⁸ UN Office on Drugs and Crime, *2011 Global Study on Homicide Trends, Context, Data* (New York, NY: United Nations Publications, 2012).

¹³⁹ The Universidad de Las Americas Puebla Jenkins Graduate School Center of Studies on Impunity and Justice defines impunity as "a multidimensional phenomenon that goes beyond the analysis of crimes that could be punished—such as homicide." Impunity is measured "using two main criteria—first, the functionality of the security, and justice systems and the protection of human rights; second, the structural and existing capacity of the countries analyzed in this document." Center of Studies on Impunity and Justice, *Global Impunity Index 2017 (GII-2017)* (Mexico: Universidad de Las Americas Puebla, 2017), 35, https://www.udlap.mx/cesij/files/IGI-2017_eng.pdf.

¹⁴⁰ Tristan Clavel, "New Allegations Highlight Continuing Corruption in Honduras Police," InSight Crime, March 27, 2017, <https://www.insightcrime.org/news/brief/new-allegations-highlight-continuing-corruption-honduras-police/>.

¹⁴¹ Clavel.

¹⁴² Department of State, *2019 Country Reports on Human Rights Practices: Honduras* (Washington, DC: Department of State, 2019), <https://www.state.gov/reports/2019-country-reports-on-human-rights-practices/honduras/>.

macro- and micro-level factors, including social networks, economics, political instability, and impunity, paved the way for his journey north. Luis's subjective experience reveals that reunification with family members is just as compelling a factor as gang threats and violence to propel an individual to leave his or her country. In Luis's case, with his grandmother's death, his closest living relatives were all in the United States, albeit illegally.

Many Hondurans, like Luis, have relatives abroad and survive on remittances from overseas. For two decades starting in the 1990s, the Honduran diaspora rapidly expanded among the immigrants from the NTCA countries; by 2009, for every 1,000 people in Honduras, 63 were living in the United States.¹⁴³ Through remittances and logistical support, social ties in the United States translate to capabilities—in Luis's case, the option to flee.¹⁴⁴ Ostensibly, Luis may even avoid violence or gang recruitment from Barrio 18 by offering to pay higher *renta* through his family's financial assistance. Luis and his grandmother survived on remittances and, notably, the money paid for Luis's journey to the Mexico-U.S. border as well as for his uncles' and his parents' journeys.

A superficial connection between economic advancement and migration is easy to make, but it is misleading. Luis's story unearths the nuances of each trip north. Although Honduras may not have suffered a civil war in the 1980s, it suffered from incredible social, political, and economic unrest and strife. Moreover, Salvadorians and Nicaraguans fleeing civil war paved the way for Luis's grandfather, while his uncles left due to a natural disaster in 1998 that caused severe poverty. One may argue that Luis's parents left for economic advancement. According to the UN Economic Commission for Latin American and the

¹⁴³ Sarah Blanchard et al., "Shifting Trends in Central American Migration: A Demographic Examination of Increasing Honduran-U.S. Immigration and Deportation," *The Latin Americanist* 55, no. 4 (2011): 61–84, <https://doi.org/10.1111/j.1557-203X.2011.01128.x>.

¹⁴⁴ Daniel Reichman, "Honduras: The Perils of Remittance Dependence and Clandestine Migration," Migration Institute Policy, April 11, 2013, <https://www.migrationpolicy.org/article/honduras-perils-remittance-dependence-and-clandestine-migration>.

Caribbean, an estimated 74 percent of Hondurans lived in poverty in 2015.¹⁴⁵ Conversely, Luis's voice shows that while economic advancement plays a significant role in driving many Hondurans to the United States, other micro and macro drivers can set the stage, including the underlying causes of poverty. As Zetter points out, "voluntary" migration may be a product of structural inequalities and poverty from years of discrimination and exploitation.¹⁴⁶

Whether he found a way to refuse or was forced to join the *mara's* turf war, Luis would more likely than not have ended up in harm's way. The people in Luis's town instinctively understood that the state authorities were unwilling and unable to help; they regularly saw evidence of police officers working with the *mareros*. Luis and his grandmother knew that turning to the police for help was not an option. This historical background contextualizes the widespread corruption and political instability and demonstrates that the government cannot, or will not, protect its citizens. In Honduras, government corruption and, at times, collaboration with the *maras* results in impunity and inefficient investigation into crimes.¹⁴⁷ With the state's instability and the *maras* expanding their network beyond NTCA to Belize and Mexico, relocation to the United States was Luis's only viable option.¹⁴⁸ Luis is privileged; his ties in the United States facilitated his travel by providing him with money and connections.

U.S. media, politicians, scholars, and Department of Homeland Security employees, including border patrol agents and USCIS officers, often lump all those traveling toward the border under the label *migrants*. As discussed, the term migrant connotes voluntary migration for economic reasons; this overly restrictive generalization is deliberate and a function of a bureaucracy that requires strict categorization. Although

¹⁴⁵ UN Economic Commission for Latin America and the Caribbean, "Social Panorama of Latin America 2015" (briefing paper, United Nations, 2016), 17–18, https://repositorio.cepal.org/bitstream/handle/11362/39964/5/S1600174_en.pdf.

¹⁴⁶ Zetter, "More Labels, Fewer Refugees."

¹⁴⁷ Radio Progreso, accessed August 24, 2019, <http://radioprogreso.hn.net/>.

¹⁴⁸ "Central America's Violent Northern Triangle," Council on Foreign Relations, accessed July 14, 2019, <https://www.cfr.org/backgrounder/central-americas-violent-northern-triangle>.

readers come to know the total circumstances from Luis's perspective, a young adult like Luis would have difficulty making these connections himself and articulating them in front of a USCIS officer at his credible fear screening. Such interacting factors speak to the complexity of the border ecosystem and the interplay between members of the transient community and the U.S. asylum program's bureaucratic architecture at the border that abides by simple rules.

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III. CONTROL AND CRISIS: THE STORY OF BORDER PATROL AGENT ADRIAN MARTINEZ

On the Mexico-U.S. border, the American government has erected systems and processes to control, differentiate, and manage the flow of goods and people. Henk van Houtum and Ton van Naerssen write, “Borders do not represent a fixed point in space or time, rather they symbolize a social practice of spatial differentiation.”¹⁴⁹ They identify these activities as “bordering, ordering and othering” and state that they intensified significantly after 9/11.¹⁵⁰ The U.S. Border Patrol (BP)—an arm of U.S. Customs and Border Protection (CBP)—enforces the praxis of these activities. I contend that the conflicting roles and expectations involved in this process create distancing and emotional anguish among border enforcers and may place them in an irreconcilable situation. A case in point of the consequences, intended and unintended, of bordering, ordering and othering unfolds in the fictional story of Adrian Martinez, a seasoned border patrol agent.

After failing out of the Denver Police Academy, Adrian Martinez joined the BP as a border patrol agent in 2013, when he was only twenty-three years old. Although his original intent was simply to gain experience before attempting to join the police force again, one year with the Border Patrol turned into six, and within that time he experienced tremendous changes in his role and responsibilities. He used weapons, wore body armor, and mastered the technique of line watching, and he also saw and engaged in activities that left him with psychological wounds. He saw changes that, in his opinion, were causing border management to unravel; border patrol agents were originally seen as mounted watchmen, but they had begun to operate, now, in a highly militarized state. This chapter, through Martinez’s story, highlights one of the unforeseen consequences of bordering, ordering and othering: the mental toll it takes on the people who enforce U.S. border laws and policies.

¹⁴⁹ van Houtum and van Naerssen, “Bordering, Ordering and Othering,” 126.

¹⁵⁰ van Houtum and van Naerssen.

A. BODIES ON THE BORDER: MARTINEZ’S PERSPECTIVE (PART I)

Martinez, sitting in his dusty green and white Jeep Wrangler, finally spots Jonas’s matching Jeep hustling toward him. It’s Friday, and he wonders to himself if the end of the week is worse for the mind. He has worked three sixteen-hour shifts since Monday. They’re strapped for personnel, so overtime is always available. The money is great, but what’s the use when you’re too exhausted to spend it?

Martinez squints across the unforgiving landscape as the matching Jeep closes in—miles of open space dotted with shrubby vegetation and limestone ridges that blend and blur under the heat. The Chihuahuan Desert is endless.

Jonas pulls up next to Martinez, rolls down his window, and hands Martinez his lunch.

“Thanks, buddy,” says Martinez. “Hey, are you and your girl going to the music festival Sunday afternoon?”

Jonas takes off his sunglasses and shakes his head. Looking down, he says in monotone, “Adrian, Ashley and I are heading back to San Diego. She can’t handle this life anymore. It’s either her or the job, she says.”

Martinez eats his lunch inside his Jeep, watching the mobile monitor of the portable radar camera unit. He moves his Grappler and night vision goggle to the side, careful not to get any crumbs or grease on the expensive toys.¹⁵¹ Martinez thinks over his conversation with Jonas and shakes his head. How could Jonas let a woman tell him what to do?

But Jonas had changed recently. Just the other day, Martinez had lost his temper—a typical occurrence for most of the guys on the job—as he lifted a slight Guatemalan man off the ground by the shoulders, shaking and cursing at him. Martinez and Jonas had just dragged the man out of the Rio, and the bastard had casually changed

¹⁵¹ A Grappler is a vehicle immobilization device.

into his dry clothes while his kid, who had nearly drowned, was still shivering uncontrollably in his wet clothes. The kid probably wasn't even his. Often, these border crossers pick up kids for a fee and use them to get asylum.

Suddenly, Jonas became agitated. He shouted, "Stop Adrian, please stop it." Though smaller in stature than Martinez, Jonas forced Martinez to let go of the man. Then, out of nowhere, he turned to face the rocks and began to shake with quiet sobs.

Martinez's anger dissipated. He had to calm Jonas down.

"Look, I wasn't hurting him. He is fine."

They both glanced at the Guatemalan, who nonchalantly fixed his clothes and went about arranging his belongings.

"What has gotten into you? Too much excitement from the little swim?" Martinez asked Jonas. "It's all good. Let's head back to the station with this bastard."

Martinez knew Jonas was still getting settled in El Paso. He had relocated from San Diego and still wasn't used to the desert. When Martinez and his buddies made flippant remarks or joked to each other about the migrants—locker room talk, you know, about having sex with the migrants, referring to them as tonks, joking about their shithole countries—Jonas seemed uncomfortable. But you can't overthink these things. The job is stressful and life here is hard. You have to get through the days.

Martinez decides he has to talk to Jonas. He has seen too many leave the job and get depressed, or worse.

Martinez's thinks about his own journey in the job. After the thing with the police academy, the Border Patrol was the easiest way to rebound, and a quick stint would be easy. But he was still in the desert six years later. Border apprehensions were at a low point when he joined the patrol, but the work intensified each year with more migrants, new tricks, increasing paperwork and meaningless checkboxes, and greater scrutiny. The days became long. When he gets off work now he is too exhausted to look for a new job.

Now twenty-nine years old, Martinez is one of the most senior agents around and one of the few with a college degree. He's the one who shows the new guys the ropes,

dealing with the brunt of the headache when personnel reassign to El Paso from other units within the CBP. Unlike Jonas, who is a border patrol agent, these CBP reassignees are customs officers, immigration inspectors, and agricultural inspectors. They are not accustomed to the heat of the work and the environment. They complain, refuse to learn, and eventually find excuses to leave. Since the beginning of the 2019 fiscal year, about fifty officers had come and gone.

The migrant groups had been getting bigger and were coming more frequently, too. Martinez and his team regularly find one or two hundred illegal border crossers a day, sometimes even three hundred, and they're no longer the single male Mexicans Martinez was used to. Now, these criminals—if not narcos, then domestic abusers—are coming to the border with their women and children. The media has come to expect border patrol agents to be caseworkers and caretakers. But even processing the increasing numbers of migrants is an administrative disaster, lasting into the early mornings. The temperatures drop significantly at night, and people get sick. Martinez and his colleagues end up changing diapers and making burritos instead of protecting the border.

The coyotes, however, have access to sophisticated equipment.¹⁵² Their associates give them instructions about the next move based on satellite imagery, and they even have drones reporting the locations of agents. The coyotes also frequently abandon the migrants. The migrants have no idea where they are going and often end up walking in the desert for days. Many end up dead from the heat and dehydration. Martinez still sees the desiccated bodies in his sleep. He cannot bury the images.

B. BROKEN BORDER: FROM INSPECTORS TO POLICE

CBP's worst year ever, arguably, was 2019. The problems were linked to its largest unit, the U.S. Border Patrol, which had plagued CBP with poor management and personnel misconduct for years. In 2019, the media reported scandals to include the death of at least

¹⁵² Coyote refers to an individual hired to guide an undocumented person over the Mexico-U.S. border.

twelve migrants in CBP's custody, the discovery of a secret BP Facebook group where personnel made racist remarks, overcrowded and substandard detention facilities, staff suicides, and even a serial killer among the ranks of BP agents.¹⁵³ Moreover, the BP appears inefficient and ineffective: despite fewer apprehensions and more agents, the BP is still understaffed, undertrained, and overwhelmed by migrants.¹⁵⁴ The organization has dealt with years of rapid workforce expansion and misalignment between policy and reality without effectively confronting the erosion of agency identity, integrity, and efficacy.¹⁵⁵ The result has been detrimental to the migrants and to the agents who apprehend them.

The BP has undergone significant transformations throughout its history. Initially, informal agents were simply mounted watchmen who sporadically patrolled the Southwest border, looking mainly for immigrants attempting to circumvent the Chinese Exclusion Act of 1882. Congress formally established the U.S. Border Patrol under the Labor Appropriation Act of 1924, and the first border patrol agents patrolled U.S. borders on horseback to prevent illegal crossings and liquor smuggling.¹⁵⁶ In her work on Border Patrol history, Kelly Hernandez suggests that even during those early years, the BP's mission was too expansive; agents found it difficult to enforce the organization's mandate and reduced to "racialization and regionalization."¹⁵⁷ Although the BP began to secure the Canada-U.S. border in the 1920s, its primary focus switched to the 3,200 kilometers of U.S. border with Mexico, and its target became mainly the undocumented border

¹⁵³ Garrett M. Graff, "The Border Patrol Hits a Breaking Point," *POLITICO*, July 15, 2019, <https://politi.co/2JMc3y1>.

¹⁵⁴ "U.S. Border Patrol Total Apprehensions FY1925–FY2019," U.S. Customs and Border Protection, January 2020, <https://www.cbp.gov/sites/default/files/assets/documents/2020-Jan/U.S.%20Border%20Patrol%20Total%20Apprehensions%20%28FY%201925%20-%20FY%202019%29.pdf>; Graff, "Border Patrol Hits a Breaking Point."

¹⁵⁵ Randy Capps et al., "From Control to Crisis: Changing Trends and Policies Reshaping U.S.-Mexico Border Enforcement," Migration Policy Institute, August 2, 2019, <https://www.migrationpolicy.org/research/changing-trends-policies-reshaping-us-mexico-border-enforcement>.

¹⁵⁶ "Border Patrol History," U.S. Customs and Border Protection, accessed May 2, 2020, <https://www.cbp.gov/border-security/along-us-borders/history>.

¹⁵⁷ Kelly Lytle Hernández, *Migra! A History of the U.S. Border Patrol* (Berkeley: University of California Press, 2010), 17.

crossers.¹⁵⁸ These changes, along with external conditions, contributed to the BP's current crisis.

The BP's roles and responsibilities have grown increasingly complex. In the early 1940s, the transfer of the Immigration and Naturalization Service (INS) from the Labor to the Justice Department, and World War II, expanded the BP's role.¹⁵⁹ Its new responsibilities included guarding internment camps and interdicting "Axis saboteurs."¹⁶⁰ In 1952, legislation further empowered the BP, permitting agents to arrest undocumented entrants found anywhere within the United States. This change came in response to the increasing popularity of aircraft as a mode of travel.¹⁶¹ Thus, border patrol agents, or BPAs, became regulars at airports, monitoring people alongside airport security agents.

Legislation continued to expand the BP over the years. The Immigration Reform and Control Act of 1986 (IRCA), the Immigration Act of 1990, and IIRIRA in 1996 significantly enlarged the BP's workforce and technological capacity.¹⁶² From 891,147 apprehensions in 1989 to 1,549,876 in 1996, the United States experienced a 74 percent increase in undocumented migrants entering at the Southwest border.¹⁶³ In response, Congress increased BP's personnel and facilities and overhauled the patrolling process. By the early 2010s, the United States reached a historical apex with over 20,000 BPAs,

¹⁵⁸ Hernández.

¹⁵⁹ Franklin D. Roosevelt, "Message to Congress on Plan II to Implement the Reorganization Act. May 09, 1939," The American Presidency Project, accessed September 30, 2020, <https://www.presidency.ucsb.edu/documents/message-congress-plan-ii-implement-the-reorganization-act>.

¹⁶⁰ *Axis* refers to the Axis powers—the military alliance of Germany, Italy, and Japan during the Second World War. U.S. Customs and Border Protection, "Border Patrol History."

¹⁶¹ U.S. Customs and Border Protection, "Border Patrol History."

¹⁶² Deborah W. Meyers, *U.S. Border Enforcement: From Horseback to High-Tech* (Washington, DC: Migration Policy Institute, 2005), <https://www.migrationpolicy.org/research/us-border-enforcement-horseback-high-tech>.

¹⁶³ U.S. Customs and Border Protection, "U.S. Border Patrol Total Apprehensions."

approximately four times more than in FY 1992 (see Figure 4).¹⁶⁴ The BP’s overall budget in the early 2000s was already more than 500 percent higher than in the 1980s.¹⁶⁵ To go from approximately 5,000 to 20,000 BPAs, when apprehensions decreased during the same period (1996 to 2019) from 1,549,876 to 859,501, is unruly and irresponsible.

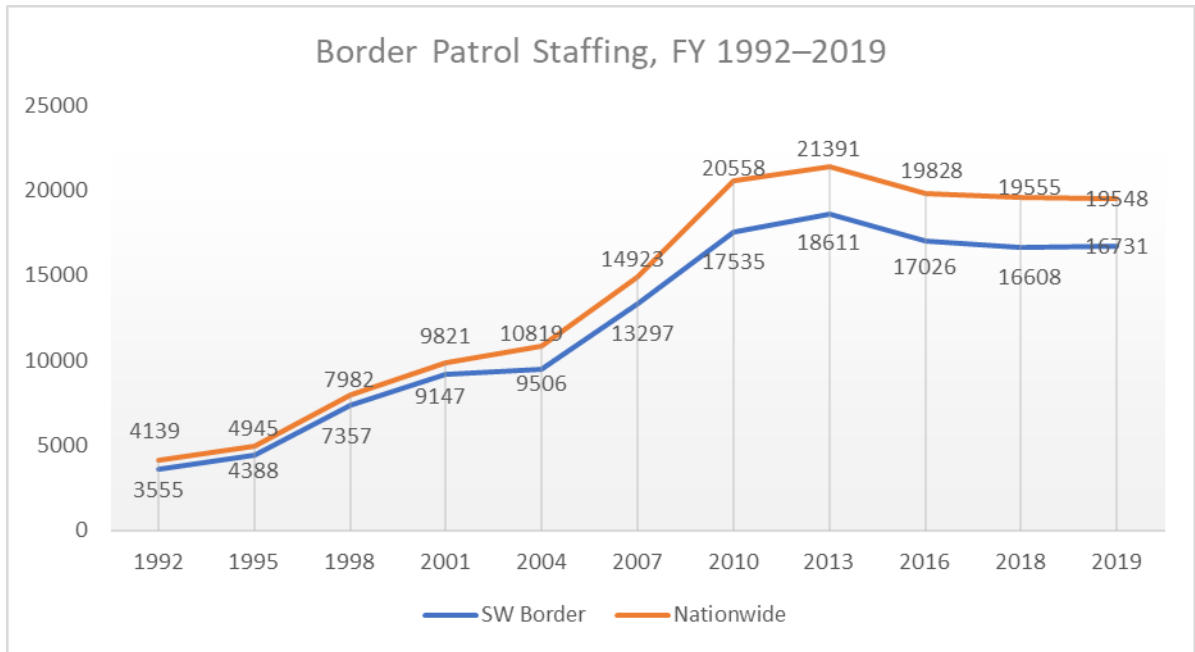


Figure 4. Border Patrol Staffing, FY 1992–2019¹⁶⁶

By upgrading its technological resources, Congress also militarized the BP. In the late 1980s, the BP obtained infrared night-vision scopes, seismic sensors, surveillance systems, drones, and helicopters, among other linear technology—military-style

¹⁶⁴ “United States Border Patrol Border Patrol Agent Nationwide Staffing by Fiscal Year,” U.S. Customs and Border Protection, January 2020, https://www.cbp.gov/sites/default/files/assets/documents/2020-Jan/U.S.%20Border%20Patrol%20Fiscal%20Year%20Staffing%20Statistics%20%28FY%201992%20-%20FY%202019%29_0.pdf.

¹⁶⁵ Meyers, U.S. Border Enforcement, 1.

¹⁶⁶ Adapted from U.S. Customs and Border Protection, “Border Patrol Agent Nationwide Staffing.”

equipment similar to what is used in contemporary wars.¹⁶⁷ BPAs used the same equipment in their efforts to interdict drug cartels and undocumented immigrants. In 1994, the BP explicitly acknowledged its modus operandi as “prevention through deterrence” in its Border Patrol Strategic Plan.¹⁶⁸ According to Deborah W. Meyers of the Migration Policy Institute, these changes, along with the “prevention through deterrence” strategy toward the migrant population, resulted in “qualitative changes to functions of BP.”¹⁶⁹ In other words, the BP’s approach became more militaristic. This made the BP susceptible to the military’s ethos, values, and rules of engagement at the Mexico-U.S. border, which is not a space of warfare. Militarization of BPAs at the border is a slippery slope; the border is already a complicated and chaotic space, and continued militarization speeds the BP’s descent into disorder.

The 9/11 attacks prompted the latest structural changes to the BP. To ensure greater vigilance in combating fraud and terrorism, the United States consolidated several agencies in and around the new Department of Homeland Security (DHS). Specifically, the Homeland Security Act of 2002 fused the BP with the U.S. Customs Services and Immigration Inspection unit of the INS to create CBP.¹⁷⁰ As a component of the newly established DHS, in March 2003 CBP officially became the United States’ primary border security institution and its largest law enforcement agency. On the one hand, its mission is to secure the border against terrorists, criminals, contraband, and inadmissible aliens; on the other hand, CBP facilitates the flow of legitimate trade and travelers.¹⁷¹ Its broad responsibilities range from verifying travel documents to seizing narcotics. The post-9/11 administrative changes did not affect the BP’s role and responsibilities, but it institutionalized a hyper-focus on national security and increased interagency and

¹⁶⁷ Meyers, U.S. Border Enforcement, 3.

¹⁶⁸ U.S. Border Patrol, *Border Patrol Strategic Plan 1994 and Beyond: National Strategy* (Washington, DC: U.S. Border Patrol, 1994), <https://www.hsdl.org/?abstract&did=>.

¹⁶⁹ Meyers, U.S. Border Enforcement, 1.

¹⁷⁰ U.S. Customs and Border Protection, “Border Patrol History.”

¹⁷¹ Meyers, U.S. Border Enforcement, 17.

intergovernmental coordination and collaboration with respect to information-sharing on security issues.¹⁷² Bordering thus became synonymous with protecting the homeland.

Under CBP, the BP continues to struggle with its identity. According to the CBP website, the BP's is largely "detection, apprehension and/or deterrence of terrorists and terrorist weapons."¹⁷³ However, the BP still maintains its role in the U.S. asylum program as the first contact for asylum seekers. The changing demographics of the present wave of migrants, along with increasing numbers of border crossers and people requesting protection, also complicate the BP's operations. Starting in 2007, the United States saw a hike in immigration from the Northern Triangle of Central America (NTCA), while the numbers of Mexican immigrants fell significantly.¹⁷⁴ Since 2014, the majority of migrants from the NTCA have been families and unaccompanied alien children (UACs) requesting asylum at the U.S. Southern border, whereas Mexicans immigrants were typically single men.¹⁷⁵ According to the BP, in FY 2019 more than 71 percent of its total apprehensions were NTCA migrants.¹⁷⁶ Hondurans constituted almost 30 percent of all apprehensions from the same period, second only to Guatemalans at 31 percent; there was an increase of nearly 172 percent in total apprehensions of families and UACs between FY 2018 and FY 2019 (see Figure 5). The BP's former enforcement approach to national security, drug interdiction, and a migrant population no longer works to handle families and children needing protection; this misalignment between policy and reality results in confusion and stress, and has detrimental effects on both the border patrol agents and the migrants they encounter.

¹⁷² Meyers, 13.

¹⁷³ "Along U.S. Borders," U.S. Customs and Border Protection, January 17, 2018, <https://www.cbp.gov/border-security/along-us-borders>.

¹⁷⁴ Peter Iglinski, "Crisis at the Border? Anthropologist Looks at Central American Migration," University of Rochester, April 4, 2019, <https://www.rochester.edu/newscenter/crisis-at-the-border-anthropologist-overview-central-american-migration-372762/>.

¹⁷⁵ Iglinski.

¹⁷⁶ "U.S. Border Patrol Southwest Border Apprehensions by Sector Fiscal Year 2019," U.S. Customs and Border Protection, accessed July 17, 2019, <https://www.cbp.gov/newsroom/stats/sw-border-migration/usbp-sw-border-apprehensions>.

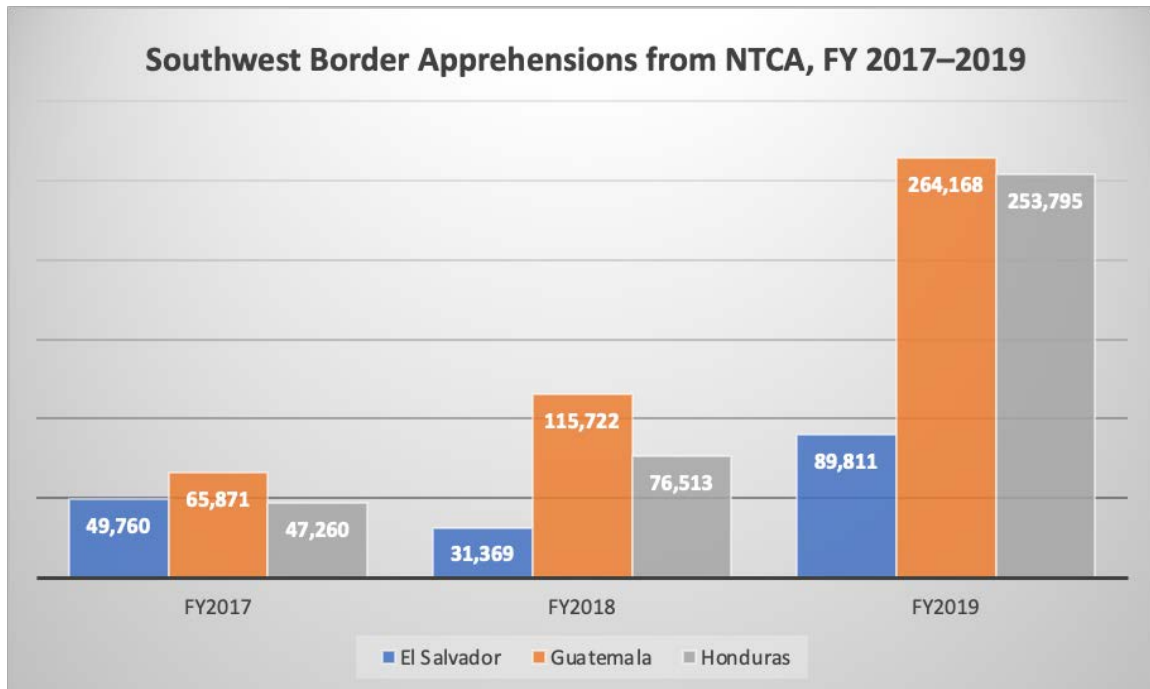


Figure 5. Southwest Border Apprehensions from NTCA, FY 2017–2019¹⁷⁷

Congress funds the BP, and since FY 1992, approximately 85 percent of all BP agents work in the U.S. Southwest border states, as shown in Figure 6.¹⁷⁸ However, CBP secures a total of 328 land, sea, and air ports of entry (POEs) in the United States. Along the 3,200 km long Southwest border, CBP has nine POEs: Big Bend, Del Rio, El Centro, El Paso, Laredo, Rio Grande, San Diego, Tucson, and Yuma.¹⁷⁹ The U.S. Border patrol is only responsible for the areas between POEs.¹⁸⁰ This imbalance of priorities is pronounced considering the number of apprehensions along the Southwest border; despite media reports, border apprehensions are not at a historical high. In FY 2019 apprehensions had decreased by 49 percent from their peak in the mid-1980s (see Figure 7).

¹⁷⁷ Adapted from U.S. Customs and Border Protection

¹⁷⁸ U.S. Customs and Border Protection, “Border Patrol Agent Nationwide Staffing.”

¹⁷⁹ U.S. Customs and Border Protection, “Southwest Border Apprehensions.”

¹⁸⁰ U.S. Customs and Border Protection, “Along U.S. Borders.”



Figure 6. Southwest Border States¹⁸¹

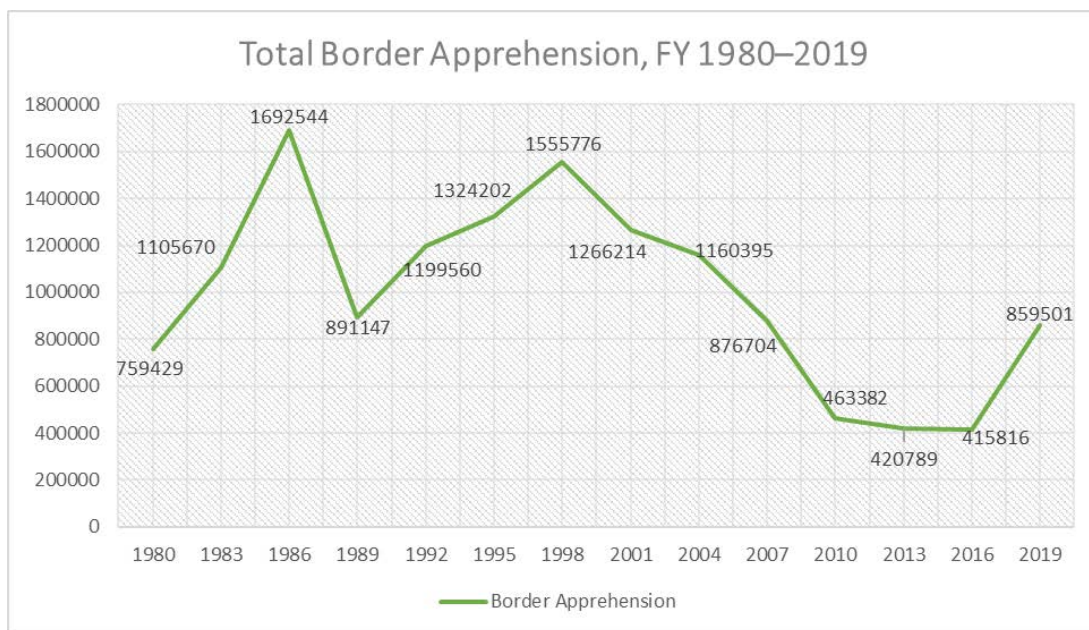


Figure 7. Total Border Apprehension, FY 1980–2019¹⁸²

¹⁸¹ Source: Craig Forster and Tjeerd Schaafsma, *Human Activity-Environment Interaction at the U.S.-Mexico Border* (San Diego, CA: San Diego State University, 2016), 26.

¹⁸² Adapted from U.S. Customs and Border Protection, “U.S. Border Patrol Total Apprehensions.”

There have not been more than a million apprehension since 2004. According to Meyers, “despite over 500 percent growth in the Border Patrol’s budget and over 200 percent growth in its personnel in the two decades since IRCA’s passage, ... an estimated 10.3 million unauthorized persons now live in the United States, with annual inflows averaging well over half a million and perhaps as high as 600,000-700,000 per year.”¹⁸³ The return hardly justifies the investment in resources.

The concentration of BP agents at the Southwest border reflects Congress’s default reaction to enforcement: bordering, ordering, and othering. In addition to creating an imbalance in CBP’s priorities, it is a critical missed point. Meyers concludes that “economic disparities and other fundamental factors underlying illegal migration, drug smuggling, and the threat of terrorism have often been overlooked in favor of an overwhelming focus on border-area interdiction of illegal immigrants and drugs.”¹⁸⁴ Expanding the BP’s staffing—the number of agents nearly doubled between FY 2003 and FY 2019—obtaining the latest technology, and erecting barriers to separate “us” from “them” are also far too simple and linear responses to a complex and chaotic problem like migration.¹⁸⁵ These responses also fail to tackle the immediate concern of the waves of families and children seeking asylum, a trend that requires strategic, tactical, and cultural shifts within CBP. Crossing the border to seek asylum is not illegal, but the BP treats it as a violation of law. Funding would be better served to build the capacity and infrastructure necessary for seamless asylum processing.

CBP has low recruitment and retention rates despite aggressive hiring and high salary offers. Shortly after he moved into the White House in January 2017, President Trump issued an executive order on immigration and border security. One of the provisions of the order was to increase the number of border patrol agents by 5,000.¹⁸⁶ According to

¹⁸³ Meyers, U.S. Border Enforcement, 20.

¹⁸⁴ Meyers, 20.

¹⁸⁵ U.S. Customs and Border Patrol “Border Patrol Agent Nationwide Staffing.”

¹⁸⁶ “Executive Order: Border Security and Immigration Enforcement Improvements,” The White House, accessed May 16, 2020, <https://www.whitehouse.gov/presidential-actions/executive-order-border-security-immigration-enforcement-improvements/>.

a January 2020 PBS Frontline investigation, after an “aggressive hiring campaign” that lasted more than a year and spent \$60 million of its \$297 million contract with the consulting firm, Accenture, CBP only had fifty-one new agents.¹⁸⁷ As a result, CBP resorted to temporary fixes to address staff shortages.¹⁸⁸ These measures included relocating hundreds of CBP officers from around the country to the Southwest border with little notice or recourse and requiring paid overtime and longer shifts.¹⁸⁹ Vincent Salgado, a CBP officer interviewed by Quartz in 2019, revealed that he and almost all of his colleagues have mandatory overtime; he works up to sixteen hours a day, two to three times a week.¹⁹⁰ In addition, dangerous and challenging work conditions mean that CBP has had poor staff retention, especially in remote locations. In his testimony before the House Homeland Security Subcommittee on Border and Maritime Security, Border Patrol Agent and BP Union Vice President Jon Anfinson revealed that the “attrition rate for Border Patrol agents is 6 percent, compared to 3.2 percent across all federal law enforcement agencies.”¹⁹¹ His testimony demonstrates that the management and use of the BP’s crucial resource, staff, are flawed. The overall situation points to pervasive systemic challenges and continued neglect within the agency.

CBP, especially the BP, has struggled with the influx of asylum seekers, the attention to its work, and ultimately compliance with Trump administration deterrence policies. Stress, desensitization, and trauma experienced on the job due to the work volume; changing procedures; the overcrowded, unsanitary, and unhealthy conditions; and unhappy migrants contributes to volatile behavior among agents. The behavior—which I attribute to the praxis of bordering, ordering and othering—manifests in two ways: on one end of the

¹⁸⁷ Zoe Todd and Jodi Wei, “‘Send Help’: Inside CBP’s Multi-year Staffing Struggle,” PBS, January 7, 2020, <https://www.pbs.org/wgbh/frontline/article/border-patrol-staffing-migrant-crisis/>.

¹⁸⁸ Justin Rohrlich and Zoë Schlanger, “‘Bodies and Minds Are Breaking Down’: Inside U.S. Border Agency’s Suicide Crisis,” *Quartz*, July 2, 2019, <https://qz.com/1656790/inside-the-us-border-agencys-suicide-crisis/>.

¹⁸⁹ Todd and Wei, “Send Help.”

¹⁹⁰ Rohrlich and Schlanger, “Bodies and Minds.”

¹⁹¹ “Why More Border Patrol Agents Quit,” AFGE, January 12, 2018, <https://www.afge.org/article/why-more-border-patrol-agents-quit/>.

spectrum, staff members are expressing racist views and mistreating migrants; on the other, they are committing suicide. In July 2019, ProPublica reported that approximately seventy CBP agents belonged to a secret Facebook page where they expressed racist and misogynist views of migrants and political leaders.¹⁹² A ProPublica journalist, Ginger Thompson, questioned whether the page reflects the extreme opinion of a fringe group or the typical culture inside CBP.¹⁹³ Furthermore, the agency acknowledged that between 2007 and 2019, 115 of its staff members committed suicide.¹⁹⁴ These unintended and extreme consequences remain unmitigated—and unexplored.

C. DESERT TO ICEBOX: MARTINEZ’S PERSPECTIVE (PART II)

Martinez spots movement on his remote surveillance system and gets out of his Jeep to investigate. Standing still among the creosote bushes and mesquites, he spots a few broken twigs—telltale signs. He walks around for a few minutes and notices a clear path of broken twigs toward the ridge, where the shrubs are denser. He heads back to his Jeep and radios Jonas to alert him of the sign cutting out by the mesa in Zone 2. He needs backup.

Ten minutes later, Jonas arrives with the new kid, Silva. The three men follow the tracks to a rock formation. (Figure 8 illustrates common rock formations found near the border.)

¹⁹² Ginger Thompson, “Revelations about a Secret Facebook Group Spawn Investigation of 70 Current and Former Border Patrol Employees,” ProPublica, July 15, 2019, <https://www.propublica.org/article/revelations-about-a-secret-facebook-group-spawn-investigation-of-70-current-and-former-border-patrol-employees>.

¹⁹³ Ginger Thompson, “A Border Patrol Agent Reveals What It’s Really Like to Guard Migrant Children,” ProPublica, July 16, 2019, <https://www.propublica.org/article/a-border-patrol-agent-reveals-what-its-really-like-to-guard-migrant-children>.

¹⁹⁴ “CBP Employee Suicide Report: Data from 2007–Present,” U.S. Customs and Border Protection, September 11, 2019, <https://assets.documentcloud.org/documents/6534877/Suicide-Summary-20190911-1.pdf>.



Figure 8. Rock Formations on the Mexico-U.S. Border

Martinez spots the group just a few feet away, huddled behind the limestone rocks. He signals to Jonas and Silva, draws his weapon, and walks around the rocks.

“I am a U.S. Border Patrol officer. Soy un oficial de protección fronteriza. I need you all to come out and put your hands up.”

He counts nine people altogether—three adult men, one woman, two teenage boys, and three children between three and eight years old. They are most likely migrants. No flashy clothes, jewelry, or visible weapons or tattoos. But you can never assume.

When Martinez was a newbie on the job, he was in a situation similar to this one. Martinez and another agent approached a group of five men, one woman, and one child. Martinez immediately put away his gun when he saw the group, assuming that they were a family. But a narco was hiding among them, and he had a weapon. The narco immediately reached for his gun when Martinez holstered his own—and aimed. Martinez’s partner, Bennet, saw it. He yelled and ran to push Martinez out of the way, sustaining a gunshot wound. Two of the migrants and the narco fled in different directions, and the others huddled in fear. Although the bullet only grazed Bennet’s leg, Martinez never forgave himself for his mistake. A few weeks later, he encountered the remains of the two migrants who had fled into the desert.

The one woman in the group covers the two younger kids with her body and whispers to the youngest child, who is whimpering. Martinez moves closer. He doesn't lower his gun. He taps the three men and the two teenagers and tells them to get up. One of the teens is the first to respond, rising to face Martinez with his hands up. He is thin and looks about fourteen. Martinez has learned that most Central Americans look younger than they are, likely due to poverty and childhood malnutrition.

In Spanish, the teen says, "Please, help us ... we've tried going through the bridge. For months. We are afraid to go back."

Jonas and Silva line them up, search for weapons, and zip tie the adults. Jonas gives them each a bit of water, which they eagerly drink. They transport the group to the El Paso station for processing.

At the station, they speak to any migrants over the age of fourteen individually, document their belongings and store them in plastic bags, and fingerprint each of them. The children under fourteen are not fingerprinted. They charge all the migrants with entry without admission or parole.

Martinez observes Silva while he gathers basic biographical information for the first time.

"They will all have the same story," Martinez tells Silva, rolling his eyes. "Oh, the maras are after us. We need asylum." They always need asylum these days.

Silva conducts the initial sworn statements and asks each person age fourteen and over the following questions: Why did you leave your home country or country of last residence? Do you have any fear or concern about being returned to your home country or being removed from the United States? Would you be harmed if you are returned to your home country or country of last residence? Do you have any questions or is there anything else you would like to add?

Three families, including a man with his teenage son, compose the group. The teen who spoke—his name, they find out, is Luis—is traveling alone. They separated from

a larger group, a caravan originating from San Pedro Sula, Honduras. They traveled mostly in the early mornings and evenings to avoid the hot sun and the Border Patrol. But their coyote left them midway, just pointed in the general direction they were supposed to walk. Without their coyote, they got lost and desperate. As expected, they all claim fear of returning to Honduras. (Figure 9 illustrates Luis’s journey from San Pedro Zacapa to El Paso, Texas if he walked the entire way.)

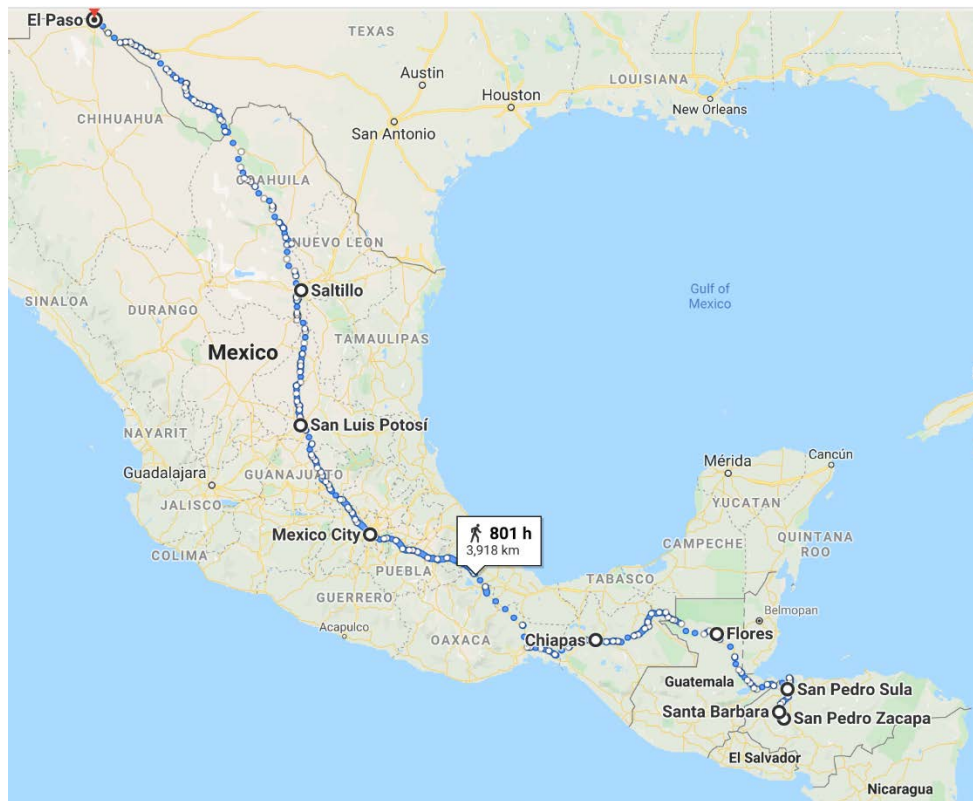


Figure 9. Map of Journey from Honduras to El Paso, Texas¹⁹⁵

When they complete the processing, Martinez separates the male and female for transportation to their respective holding cells. Only children under twelve can stay with

¹⁹⁵ Source: “San Pedro Zacapa, Honduras,” Google Maps, accessed June 24, 2020, <https://www.google.com/maps/dir/San+Pedro+Zacapa,+Honduras/>. The journey of Luis and most displaced people is a combination of walking, bus and train rides, and hitch-hiking, and traveling alone, in small groups, and with caravans.

their mothers in the cells. Teens also have their own cells, separated by sex. Martinez knows the migrants call the holding cells hieleras (which means freezers or iceboxes). The rooms have been crowded for months, but it is a temporary situation. He does not understand why they are complaining and asking to shower and for toiletries. They're not running a hotel, after all. Each migrant receive a Mylar blanket to keep warm. They typically only stay in the hieleras for seventy-two hours or less before being transported to the detention facilities to wait for their credible fear interview.

The families will travel to the South Texas segregated family detention facilities. Martinez feels a flash of concern for the teen who is on his own. Luis had just turned eighteen, and he, alone, will be heading to Cibola County Correctional Center, a county jail, where he will be detained with adult males.

D. DETENTION AND DEPORTATION

In the last three decades, the United States has practiced a policy of prevention through deterrence. Specifically, the BP's National Strategic Plan of 1994 called for the concentration of personnel, infrastructure, and surveillance technology to focus on illegal entrants' apprehension to deter them and their compatriots from future border crossing attempts.¹⁹⁶ Two years later, Congress passed IIRIRA, which enacted sweeping reforms to the INA that impede access to asylum, including expedited removal, the credible and reasonable fear screening process, and mandatory detention. Deterrence as a strategy continued under the Trump administration using different tactics, including policies of metering, zero tolerance, and family separation.

1. Illegal Immigration Reform and Immigrant Responsibility Act of 1996

In 1996, in response to increasing illegal entries at the Southwest border, Congress passed the IIRIRA, which created many of the asylum procedures and barriers in place at the Mexico-U.S. border today, including removal procedures for all undocumented

¹⁹⁶ U.S. Border Patrol, Border Patrol Strategic Plan.

migrants.¹⁹⁷ Specifically, the act authorized immediate deportation of foreign nationals without a hearing “if they have no entry documents or if they used counterfeit, altered, or other fraudulent or improper documents.”¹⁹⁸ In 2004, Congress expanded the authorization to include removal of individuals not admitted or paroled, encountered within 100 miles of the Southwest border, who cannot “demonstrate that they had been present in the country for the 14-day period prior to apprehension.”¹⁹⁹ These stringent technicalities impose significant obstacles that keep asylum seekers from the protection they need.

Expedited removal necessitated the development of another process: initial screening for migrants seeking asylum. Congress created the screening to abide by the principle of *non-refoulement*—that is, the United States cannot return asylum seekers to their country of persecution.²⁰⁰ Individuals in the expedited removal process who indicate an intention to apply for asylum or claim fear of return to their country due to persecution or torture can only access a hearing with an immigration judge if they pass either a credible fear or a reasonable fear screening.²⁰¹ The credible fear screening determines whether an applicant has a basis for establishing asylum eligibility in front of an immigration judge.²⁰² If an asylum officer (AO) finds that the applicant is not eligible, the officer will determine if the applicant merits withholding removal at an immigration hearing based on the Convention against Torture (CAT).²⁰³ If the AO makes a positive determination on either credible fear or CAT, U.S. Immigration and Customs Enforcement (ICE) releases the applicant in the United States to wait for a regular defensive hearing before an immigration

¹⁹⁷ Immigration and Nationality Act, Division C of Pub.L. 104–208, 110 Stat. 3009–546 (1996).

¹⁹⁸ The Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Division C of Pub.L. 104–208, 110 Stat. 3009–546 (1996).

¹⁹⁹ Illegal Immigration Reform and Immigrant Responsibility Act of 1996.

²⁰⁰ For more information, see Eleanor Acer and Olga Byrne, “How the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 Has Undermined U.S. Refugee Protection Obligations and Wasted Government Resources,” *Journal on Migration and Human Security* 5, no. 2 (2017): 360, <http://search.proquest.com/docview/1931569239/abstract/98CA1FC7B7B9412CPQ/18>.

²⁰¹ Acer and Byrne.

²⁰² Immigration and Nationality Act § 235(b)(1)(B)(v).

²⁰³ See Acer and Byrne, “Illegal Immigration Reform,” 360.

judge. If the result is negative and the asylum seeker does not request a judicial review of the determination, ICE will arrange to deport the individual back to his or her country of origin.²⁰⁴ To complicate things, reasonable fear is a different screening.

The reasonable fear screening is a determination with a higher standard, for asylum seekers who have a previous removal order from the United States or subject to a final administrative removal order.²⁰⁵ Since they express a fear of returning to their country of origin, an AO affords them a reasonable fear screening. If they meet the higher standard of *reasonable possibility* of returning to their country of origin because of a fear of persecution, they may seek withholding of removal or deferred removal in immigration court, per CAT. If the AO makes an adverse determination—the AO did not find that the applicant has a reasonable possibility of establishing eligibility for asylum or withholding of removal based on CAT in front of an immigration judge—and the asylum seeker does not request a judicial review, then ICE expedites removal to the country of origin.²⁰⁶ These processes are burdensome and laden with bureaucracy. In addition to being convoluted, they introduce inefficiencies and significant deficiencies to the process.

2. Trump Administration’s Policies: Metering, Zero Tolerance, Family Separation, and Border Patrol Agents as Asylum Officers

The Trump administration implemented policy and procedural changes to prevent migrants from accessing asylum. Under U.S. law, displaced individuals can file for asylum at any of the nine POEs along the Mexico-U.S. border.²⁰⁷ However, as the *New York Times* reports, in April 2018 the Trump administration put a metering policy in place that limits the number of undocumented migrants allowed to request asylum at POEs each day. The

²⁰⁴ See Acer and Byrne, 357.

²⁰⁵ Specifically, these two categories of individuals are those who illegally reentered after deportation or voluntary departure and those who were convicted of one or more aggravated felonies after admission to the United States, respectively. Immigration and Nationality Act § 238(b) and 241(a)(5)

²⁰⁶ Acer and Byrne.

²⁰⁷ Jason Kao and Denise Lu, “How Trump’s Policies Are Leaving Thousands of Asylum Seekers Waiting in Mexico,” *New York Times*, August 18, 2019, <https://www.nytimes.com/interactive/2019/08/18/us/mexico-immigration-asylum.html>.

Obama administration first used this tactic in 2016, when Haitian asylum seekers overwhelmed the Tijuana POE. However, the Obama administration immediately lifted the temporary measure once the backlog cleared. Under the Trump administration, all asylum seekers fall under metering limits, even Mexicans.²⁰⁸ Such a broad application of a tactic meant to be temporary and targeted is unreasonable.

Metering requires asylum seekers to put their names on a waiting list if the POE has reached its capacity for the day. By August 2019, the names on the list exceeded 26,000, meaning that, in many cases, asylum seekers would have to wait at the border for months to request protection.²⁰⁹ Since migrants can also request asylum if interdicted by border patrol agents between POEs, many risk this route to avoid the long wait. However, crossing illegally between borders poses a significant danger because of the harsh environment and criminals, among other hazards. For instance, Oscar Alberto Martinez Ramirez and his one-year-old daughter, Valeria, drowned at the Rio Grande when they decided to cross illegally between POEs after being turned away from the Matamoros, Texas, POE.²¹⁰ In addition to creating bottlenecks all along the border, the administration's metering policy forced desperate migrants to take dangerous measures that ultimately cost them their lives.

The few who can request asylum are transported to the closest CBP processing center by Office of Field Management officers and border patrol agents, where they are fingerprinted and processed.²¹¹ In the processing centers, migrants typically enter sex-specific holding cells until they are transported to an ICE detention facility to undergo

²⁰⁸ An average of 34 people are allowed to cross a POE each day. Kao and Lu.

²⁰⁹ Kao and Lu.

²¹⁰ Reis Thebault, Luis Velarde, and Abigail Hauslohner, "The Father and Daughter Who Drowned at the Border Were Desperate for a Better Life, Family Says," *Washington Post*, June 26, 2019, https://www.washingtonpost.com/world/2019/06/26/father-daughter-who-drowned-border-dove-into-riverdeperation/?utm_term=.75c49688ac75.

²¹¹ Michael Garcia Bochenek, *In the Freezer: Abusive Conditions for Women and Children in U.S. Immigration Holding Cells* (New York, NY: Human Rights Watch, 2018), <https://www.hrw.org/report/2018/02/28/freezer/abusive-conditions-women-and-children-us-immigration-holding-cells>.

either a credible or reasonable fear eligibility screening with an asylum officer.²¹² Once screened by an asylum office, those without criminal convictions, flight indications, or safety risks are released from detention facilities into the United States. The entire process typically takes around twenty days. Under the Trump administration's deterrence programs, however, the process has become significantly longer.

Applying a loose interpretation of illegal entry laws, past administrations have not criminally prosecuted undocumented border crossers. Designed for short-term processing, facilities became overwhelmed when a new policy, known as zero tolerance, called for 100-percent criminal prosecution of all asylum seekers who entered the United States, resulting in extended detention.²¹³ DHS announced the zero tolerance policy on April 6, 2018, and the Department of Justice (DOJ) implemented it on May 7, 2018. The program mandates CBP to refer all illegal border crossers for prosecution and rapid deportation without exception, even those with children and those claiming asylum.²¹⁴ The policy, coupled with a record number of Southwest border crossers and limited capacity at existing detention spaces, has resulted in overcrowding and a lack of the resources at detention facilities, which can no longer meet migrants' basic needs. Migrants have reported that CBP has mistreated them and denied them showers, soaps, and other hygiene products, even their warm clothes.²¹⁵ Zero tolerance overwhelmed the U.S. detention system and stretched CBP's ability to perform its roles and responsibilities.

The zero tolerance policy also resulted in the separation of families. Before the policy was implemented, USCIS required the screening process for families with children

²¹² Immigration and Nationality Act § 235(b)(1)(A)(ii).

²¹³ William A. Kandel, *The Trump Administration's "Zero Tolerance" Immigration Enforcement Policy*, CRS Report No. R45266 (Washington, DC: Congressional Research Service, 2019), <https://crsreports.congress.gov/product/details?prodcode=R45266>.

²¹⁴ This policy no longer applies to parents traveling with children. This ended when Trump halted the implementation of the family separation program after massive public protests. Immigration and Nationality Act § 235(b)(1)(A)(ii).

²¹⁵ Bochenek, *In the Freezer*.

and UACs to be conducted within two weeks of detention.²¹⁶ This accelerated schedule ensures that the U.S. government fulfills its obligations under the Flores settlement, an agreement between the government and immigration activists in 1997 that set detention standards for UACs, especially for their care and treatment, the timing and terms of release, and facility conditions. Congress codified sections of the Flores settlement when it passed the Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA).²¹⁷ The TVPRA exempted unaccompanied minors detained at the border from expedited removal.²¹⁸ It affords special protection to UACs, including an AO's initial adjudication in a non-adversarial context, in lieu of a defensive proceeding. If an AO does not grant asylum, UACs can request a de novo asylum hearing before an immigration judge.²¹⁹ These changes stand on the premise that children are a vulnerable population that requires special considerations.

The government went even further to protect children who might be exploited by others in 2015, when the federal district courts expanded the Flores settlement to all minors held in detention, whether accompanied or not. Judge Gee in federal district court in California interpreted “unnecessary delay” as longer than twenty days.²²⁰ This parameter led to the release of migrant families after three weeks or less. Minors whose parents cannot be released along with them are treated as unaccompanied; the care of UACs is the responsibility of the Department of Health and Human Services's Office of Refugee Resettlement (ORR).²²¹ Although the family separation policy was at one time a last resort

²¹⁶ Matthew Sussis, “The History of the Flores Settlement,” Center for Immigration Studies, February 11, 2019, <https://cis.org/Report/History-Flores-Settlement>.

²¹⁷ Sussis.

²¹⁸ Kandel, Trump Administration's “Zero Tolerance” Immigration Enforcement Policy, 5.

²¹⁹ Different rules apply for unaccompanied minors from Mexico and Canada who receive special screening for asylum or trafficking concerns. If none are found, they are subject to voluntary return, which does not carry the penalty of a formal removal.

²²⁰ Kandel, Trump Administration's “Zero Tolerance” Immigration Enforcement Policy, 11.

²²¹ Kandel, 2.

and a rare occurrence, it became routine under the Trump administration’s zero tolerance policy.

The Trump administration saw these humanitarian considerations as loopholes in the asylum system, and made it a priority to circumvent them. Many scholars, like Matt Sussis, also partially attribute the increase of families and UACs at the border to the Flores settlement and the TVPRA provisions. Sussis reports that “only 3.5 percent of UACs were ever removed, according to DHS.”²²² And according to CBP records, credible fear claims jumped from 55,584 to 146,660 between FY 2017 and FY 2019, a 164-percent increase (see Figure 10).²²³

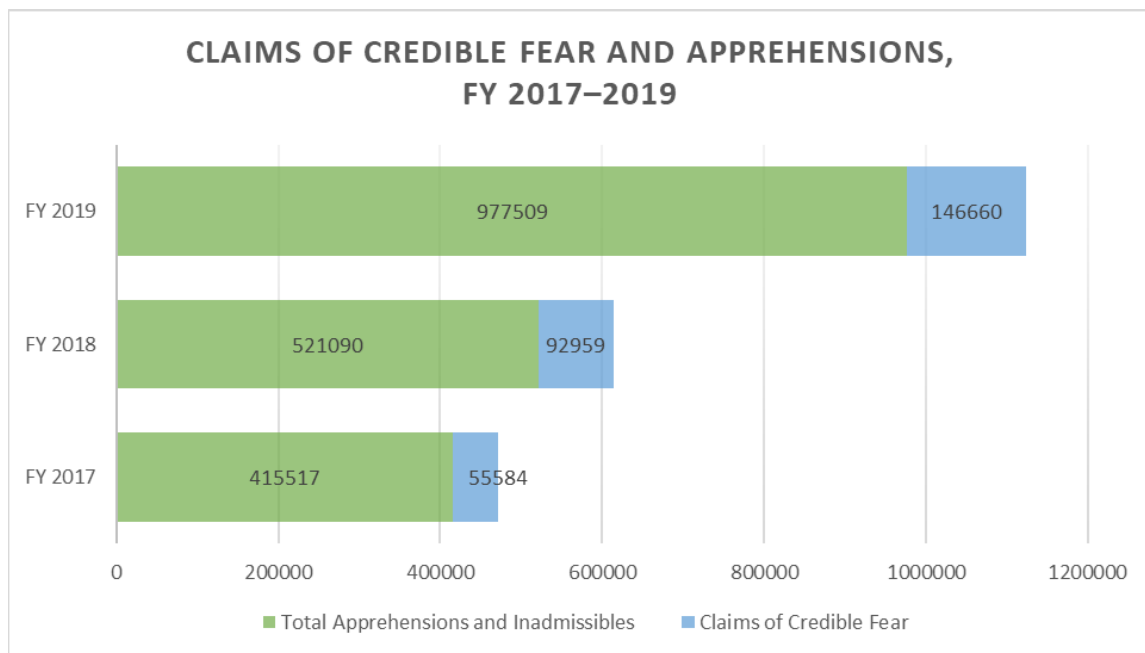


Figure 10. Claims of Credible Fear and Apprehensions, FY 2017–2019²²⁴

²²² Sussis, “The History of the Flores Settlement.”

²²³ “Claims of Fear: CBP Southwest Border and Claims of Credible Fear Total Apprehensions/Inadmissibles (FY2017–FY2019),” U.S. Customs and Border Protection, July 17, 2020, <https://www.cbp.gov/newsroom/stats/sw-border-migration/claims-fear>.

²²⁴ Adapted from U.S. Customs and Border Protection.

In their essay on border enforcement, Daniel Martinez, Josiah Heyman, and Jeremy Slack note that behavioral adjustments, such as border crossers approaching BPAs to request asylum, reflect greater knowledge of asylum rules and regulations.²²⁵ Few would risk the dangerous journey north if they did not need to and if they were not aware of the possibility of relief. The increase in families and UACs at the border was likely the impetus for the Trump administration's family separation policy. Writing for NBC News, Julia Ainsley and Jacob Soboroff report that, according to three former officials, Stephen Miller, President Trump's senior adviser on immigration and one of his longest tenured and most trusted staff, viewed family separation as a "tool to deter more immigration."²²⁶ The surge may be an unintended consequence of humanitarian considerations, but it does not discount the legitimacy of asylum claims. The idea that the families and UACs flee their countries due to persecution appears lost on Trump, Miller, and other cabinet members.

The family separation program did not last long on paper. Attorney General Jeff Sessions first introduced the program on May 7, 2018, and it officially began on June 20, 2018; it continued unofficially until October 2019.²²⁷ Until then, while adult males were segregated and detained apart from their families, mothers and any children under eighteen stayed together in one of three family residential centers, operated by ICE:

- the South Texas Family Residential Center in Dilley, Texas
- the Berks County Residential Center in Leesport, Pennsylvania
- the Karnes County Residential Center in Karnes City, Texas²²⁸

²²⁵ Daniel E. Martinez, Josiah Heyman, and Jeremy Slack, "Border Enforcement Developments since 1993 and How to Change CBP," Center for Immigration Studies, August 24, 2020, <https://cmsny.org/publications/border-enforcement-developments-since-1993-and-how-to-change-cbp/>.

²²⁶ Julia Ainsley and Jacob Soboroff, "Trump Cabinet Officials Voted in 2018 Meeting to Separate Migrant Kids," NBC News, August 20, 2020, <https://www.nbcnews.com/politics/immigration/trump-cabinet-officials-voted-2018-white-house-meeting-separate-migrant-n1237416>.

²²⁷ Kandel, Trump Administration's "Zero Tolerance" Immigration Enforcement Policy.

²²⁸ Kandel, 19.

Under the family separation policy, ICE staff held adult asylum seekers in federal jails, separated from their children, who were placed under the care of the ORR. The administration had no plans in place to reunite the families.²²⁹ Due to massive public protests against the measure, Trump signed an order to end the program in June 2018 and framed it as an unanticipated repercussion of DHS's zero tolerance policy. For-cause separation can still take place for medical, law enforcement, or other purposes.²³⁰ For example, separation occurs if the child is not the biological or legal responsibility of the accompanying adult. Such for-cause separation has been used twice as often by the Trump administration as it was by the Obama administration. The policy considers these children UACs and releases them to ORR for services. Family separation continues to occur at the border.

In 2019, the Trump administration implemented a pilot program that would significantly impact border patrol agents' roles and responsibilities, and the asylum process's integrity. Under the plan, USCIS trained approximately sixty BPAs to conduct credible fear screenings at the Mexico-U.S. border.²³¹ The Trump administration has not made any effort to hide its rationale: according to NBC News, "Trump's senior adviser Stephen Miller in particular has argued that [CBP] agents will be tougher on asylum-seekers and will pass fewer of them on the initial screening."²³² According to research conducted by Heyman, Slack, and Martinez, BPAs have physically and verbally abused migrants, denied them due process, and exhibited racist, nativist, and anti-immigrant

²²⁹ Kandel.

²³⁰ Sarah Pierce and Jessica Bolter, *Dismantling and Reconstructing the U.S. Immigration System: A Catalog of Changes under the Trump Presidency* (Washington, DC: Migration Policy Institute, 2020), 30, <https://www.migrationpolicy.org/research/us-immigration-system-changes-trump-presidency>.

²³¹ Josiah Heyman, Jeremy Slack, and Daniel E. Martinez, "Why Border Patrol Agents and CBP Officers Should Not Serve as Asylum Officers," Center for Migration Studies, June 21, 2019, https://cmsny.org/publications/heyman-slack-martinez-062119/#_ftn1.

²³² Julia Ainsley, Carol E. Lee, and Kristen Welker, "Trump Admin Wants to Make Asylum Harder by Putting CBP Agents in Charge," NBC News, April 9, 2019, <https://www.nbcnews.com/politics/immigration/trump-admin-wants-make-asylum-harder-putting-border-agents-charge-n992436>.

sentiments.²³³ The administration’s plan is to capitalize on the anti-immigrant culture in CBP and its training that equates “unauthorized border crossings as violations of the law.”²³⁴ Heyman, Slack, and Martinez caution, “[T]he proposal to make Border Patrol agents asylum officers could lead to imbalanced and adversarial decision-makers, the opposite of what is called for in law.”²³⁵ According to the authors, the administration, once again, is ignoring the credible fear screening’s intent, which is to assess whether the applicant has a significant possibility of obtaining asylum in a hearing. The hyper-focus on preventing border crossers from accessing asylum also ignores the fact that BPAs and CBP officers are already overburdened; this additional responsibility will divert them from their regular assignments, to a task for which they are severely underqualified.²³⁶ Entrusting CBP staff with the responsibility of credible fear screenings plunges CBP and the asylum program further into chaos.

Although they are depicted as protecting the United States from national security threats, the deterrence programs, instead, have weakened and undermined the U.S. asylum program. DHS and the other agencies involved were already strapped for resources and could not implement zero tolerance and family separation measures in a timely, organized fashion. Detention facilities and ORR housing became overcrowded, and staff felt overburdened and stressed.²³⁷ These measures also diverted resources and human capacity from the agencies’ main missions, which served only to compromise the missions. According to William Kandel of the Congressional Research Service, observers argued that “the policy is counterproductive because it prevents CBP from using risk-based

²³³ Heyman, Slack, and Martinez, “Border Patrol Agents and CBP Officers”; Martinez, Heyman, and Slack, “Border Enforcement Developments.”

²³⁴ Heyman, Slack, and Martinez, “Border Patrol Agents and CBP Officers.”

²³⁵ Heyman, Slack, and Martinez.

²³⁶ On August 29, 2020, U.S. District Judge Richard Leon ruled that CBP officers lack sufficient training “to overcome their adversarial instincts and act as neutral decision-makers” in credible fear determinations. *A.B.-B. et al. v. Mark A. Morgan*, 20-cv-846 (R.J.L.), (District Court of Columbia, 2020), https://ecf.dcd.uscourts.gov/cgi-bin/show_public_doc?2020cv0846-32.

²³⁷ Kandel, Trump Administration’s “Zero Tolerance” Immigration Enforcement Policy, 7–8; Schlanger, “Bodies and Minds.”

strategies to pursue the most egregious crimes, thereby making the Southwest border region less safe and more prone to criminal activity.”²³⁸ Kandel further reports that “[c]hild welfare professionals assert that family separation has the potential to cause lasting psychological harm for adults and especially for children.”²³⁹ They can also leave a moral stain on those who implemented the administration’s ill-conceived policies. Talking to Frontline for the documentary *Targeting El Paso*, Border Patrol Agent Wesley Farris said, “No matter what side you’re on, if it’s horrible, or if you think it’s a necessary evil ... neither of those sides are actually having to do it. I had to separate children from their parents.... That was the most horrible thing I’ve ever done.”²⁴⁰

E. ANALYSIS

Martinez’s perspective demonstrates that the Southwest border, once a more fluid and relaxed ecosystem, is now a space of control and crisis thanks to the accumulation of immigration processes and procedures. Many of the policy changes introduced by the Trump administration—which were often unworkable and counterproductive—have exacerbated the situation, resulting in a breakdown of detention facilities. For instance, CBP implemented zero tolerance without any time to prepare. The short turnaround resulted in chaos within CBP operations. The administration also did not think through the logistics of implementing family separation. Children as young as six months old were separated from their families, with no assurances of sufficient and appropriate staff to care for them, not to mention a plan to mitigate the psychological trauma that separation inflicts on the families. By keeping them in detention facilities past the twenty days stipulated in the Flores agreement, the Trump administration overcrowded the facilities, stretched their resources, and overwhelmed the staff. These bordering, ordering and othering tactics turn the border into a place of harm for displaced individuals fleeing persecution.

²³⁸ Kandel, Trump Administration’s “Zero Tolerance” Immigration Enforcement Policy, 18.

²³⁹ Kandel, 18.

²⁴⁰ Todd and Wei, “Send Help.”

The tactics also wrecked the border ecosystem from within and extracted a hidden toll on U.S. citizens, as shown through Martinez's eyes. The immigration laws of the 1990s and post-9/11 required the U.S. government to institute staffing, structural, and strategic changes that turned U.S. Border Patrol agents into law enforcement officers militarized to interdict illicit drugs and illegal aliens, but also into asylum seekers' first contact with the U. S. government and its people. The hyper-focus on national security and concentration of human capacity and resources at the Southwest border were overkill; it was not migrants coming, it was asylum seekers needing protection. The U.S. response was a default—a predetermined, mechanical action carried out without reflection on the situation and without consideration of international and U.S. norms. These conflicting roles strained agents' abilities to perform their job well; Martinez's voice here is critical to trace the inflections in the emotional landscape.

As the number of families, unaccompanied minors, and other vulnerable people increased, the incongruence of these roles became more apparent, as did the stress on the agents. The stress, desensitization, and trauma from the daily praxis of bordering, ordering and othering resulted in volatile behavior. Martinez exemplifies the culture created and sustained among BPAs through these practices: they express racist, xenophobic, and nativists views. In comparison, for agents like Jonas, the internal conflict of being an enforcer while also being a protector in these scenarios resembles the dilemma faced by soldiers at war. According to David Wood, modern warfare inflicts “moral injury” on troops, a violation of their sense of ethics and values that results in “a trauma as real as a flesh wound.”²⁴¹ Such moral injury may result in post-traumatic stress disorder (PTSD) and suicide. This border ecosystem, an unparalleled banality of cruelty, is what van Houtum and van Naerssen call “exclusionary consequences of securing and governing of the ‘own’ economic welfare and identity.”²⁴² As the fictional perspectives demonstrate, the situation is complex and cannot be resolved simply.

²⁴¹ David Bowne Wood, *What Have We Done: The Moral Injury of Our Longest Wars*, 1st ed. (New York, NY: Little, Brown and Company, 2016), 8.

²⁴² van Houtum and van Naerssen, “Bordering, Ordering and Othering,” 125.

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IV. U.S. ASYLUM PROGRAM AT THE BORDER: THE STORY OF REFUGEE OFFICER CARLA DOMINGUEZ

Donald Trump built his 2016 presidential campaign around border security and immigration issues. In speeches, campaign advertisements, and television appearances, he labeled the situation at the Southwest border a “crisis” and stoked fears of an immigrant “invasion.”²⁴³ When he became the forty-fifth president of the United States, his administration bypassed Congress and made extensive changes to the U.S. immigration system through executive orders, proclamations, Department of Justice rulings, and memorandums.²⁴⁴ Scholars and critics argued that the Trump administration manufactured the migrant “crisis,” and the real crisis is a humanitarian one that started in 2014 and was exacerbated by the Trump administration’s anti-immigrant policies at the Southwest border.²⁴⁵ These coercive policies have funneled down into everyday micro-level changes in the asylum ecosystem that have subverted international and U.S. refugee laws and standards, and have resulted in a loss of integrity and human capacity. USCIS employees have been forced to implement policies and procedures that undermine their training; the conundrums they face are explored in this chapter.

Refugee Officer Carla Dominguez is a case in point. Her story introduces the transient community of USCIS officers who rotate in and out of the Southwest border area on a more or less voluntary basis. Carla served in two intervals, both three months long, at the Southwest border, specifically at the Cibola County Correctional Center (CCCC) in Milan, New Mexico. The detention facility is a medium-security prison run by a private company, CoreCivic, that contracts with Cibola County, the United States Marshals

²⁴³ “Trump Says There’s a ‘Crisis’ at the Border. Here’s What the Data Says,” PBS, January 8, 2019, <https://www.pbs.org/newshour/politics/trump-says-theres-a-crisis-at-the-border-heres-what-the-data-says>.

²⁴⁴ White House, “Executive Order”; The White House, “Presidential Proclamation 9822 of November 9, 2018: Addressing Mass Migration through the Southern Border of the United States,” *Federal Register* 83, no. 221 (November 15, 2018): 57661–64; Matter of A-B-, Respondent, 27 I&N Dec. 316 (2018), www.justice.gov/eoir/page/file/1070866/download; “Migrant Protection Protocols,” Department of Homeland Security, January 24, 2019, <https://www.dhs.gov/news/2019/01/24/migrant-protection-protocols>.

²⁴⁵ PBS, “Trump Says There’s a ‘Crisis.’”

Service, and ICE.²⁴⁶ Carla's story captures a moment amid the Trump administration's strong-arm tactics at the border and describes the changes she experienced while working at CCCC, including ad hoc USCIS measures that were implemented to triage the increasing asylum claims, the assaults on the integrity of the U.S. asylum program, and her feelings of complicity. Her subjectivity reveals an asylum program pushed to the edge of complexity and chaos.

A. THE BADLANDS: CARLA'S PERSPECTIVE (PART I)

Wade is late again. Carla fights the urge to text him as she fixes her eyes on the elevator doors in the hotel lobby. They still have time. From where they are—in Grants, New Mexico—it is only a ten-minute drive to CCCC in Milan. At CCCC, the U.S. government detains undocumented immigrants (whose only crime is crossing the border) in the same facility as local criminals and fugitives caught by Marshals. CCCC also houses the sole transgender unit for ICE detainees, one of the main reasons Carla chose the site as her detail location. While Carla believes that transgender migrants need extra protections and access to specialized physical and mental healthcare, the creation of the unit in 2017 also singled the community out for systemic discrimination and sexual abuse.

She checks her watch and silently curses Wade. Wade is an immigration services officer from the Nebraska Service Center. Other than Carla, he is the only USCIS staff member staying in Grants, a town of about 9,000. There are two other officers assigned to CCCC, but they wisely chose to stay in Albuquerque, an hour away by car. When RAO requested former asylum officers from other USCIS directorates to expand the Asylum Division's capacity at the Mexico-U.S. border for fiscal year 2019, Wade quickly volunteered.²⁴⁷ After barely a week's refresher at headquarters in Washington, DC, RAO sent him to CCCC to join Carla.

²⁴⁶ "What We Do, What We Don't Do," CoreCivic, accessed May 14, 2020, <https://www.corecivic.com/what-we-do-what-we-dont-do>.

²⁴⁷ RAO stands for Refugee, Asylum and International Operations, a division of USCIS.

Their like-minded choice to work with CCCC was just about the only thing like-minded about Carla and Wade. Wade served as an asylum officer, AO for short, more than twelve years ago, but the work has significantly changed since then. Shortly after he started his six-week detail, he told Carla that the transgender applicants made him uncomfortable. Over the years, as transgender individuals had become more comfortable coming out, they had also been more heavily persecuted. While Carla's gut reaction was to tell Wade to pack up and go back to the Nebraska Service Center, she swallowed her words and told him, instead, that she would be pleased to switch any cases with him. She provided him with readings and additional training material from RAIO about working with such populations, but she suspected he threw them into the first trash bin he found.

An older, Caucasian, cis male, Wade is ideologically similar to Carla's father—an immigrant from Mexico who insists on speaking only Spanish.²⁴⁸ Although Carla speaks Spanish, she and her father find it difficult to communicate for other reasons. Her father has never been exposed to different viewpoints about politics, gender, or race, and so he never understands Carla's opinions on these topics. Even when they do agree, their words and their contexts are so different. They always end up arguing.

Carla and Wade have had many disagreements, too, since they began working together at CCCC in April 2019. Like she has with her father, Carla has learned to avoid discussing politics, gender, and race with Wade. Knowing that she has only two weeks left in her three-month detail helps her cope with being in the middle of nowhere with Wade.

Carla takes a deep breath, closes her eyes, and comforts herself with the thought of her time in New Mexico coming to an end. When she opens her eyes, Wade is strolling into the hotel dining room to enjoy his breakfast.

²⁴⁸ *Cis male* is short for cisgender male. It refers to a person who was assigned the male sex at birth and whose gender identity is male. Cisgender is the opposite of the term transgender.

Although volunteer opportunities with the Asylum Division became available for USCIS staff with prior asylum experience in late 2018, Carla and the rest of the Refugee Corps have been on loan to the Asylum Division since 2017. She had joined RAIO's Refugee Corps as an officer in January 2017, the same month that President Trump moved into the White House. To fulfill the promises made during his campaign, the president signed executive orders that significantly diminished the number of refugee interviews scheduled. The administration also lowered the refugee ceiling, increased vetting procedures, and banned refugees from specific countries from even entering the United States. Not surprisingly, the number of refugees dwindled. Instead of the job she had signed up for—conducting in-person refugee interviews abroad—RAIO assigned her and her colleagues to the Asylum Division for random tasks.

Many of her colleagues went on details at one of the eight asylum offices or two sub-offices around the country. Depending on the specific location, their assignments ranged from clerical work to registering applicants for their interviews to conducting credible and reasonable fear screenings. On rare occasions, a lucky few would conduct affirmation asylum interviews, depending on their training, experience, and connections.

In Washington, DC, Carla had served as an affirmative pre-screening officer, or APSO, at the Arlington Asylum Office (ZAR), where she conducted credible and reasonable fear screenings by telephone. From her work, she knew that the media and politicians' portrayal of asylum seekers as economic migrants exploiting loopholes in the asylum system was far from the truth. While there exists cases of outright fraud and many instances of embellishment, each of the applicants she screened for credible fear had a legitimate reason for seeking protection. Most provided detailed information about domestic abuse, gang extortions and threats, and even murder of family members. Reasonable fear screenings have a higher standard of proof and take longer. Many of the applicants have some criminal history and require close scrutiny and flagging of possible bars to asylum.

RAIO eventually reassigned the majority of Carla's colleagues to conduct screenings and tackle the so-called migrant crisis at the border. When she was offered the option of a detail at a border detention facility in 2018—initially only available to

AOs with APSO training—she was eager to see the places that sheltered asylum seekers and screen them face to face. Carla had a fantastic rapport with her first team at CCCC. They all started a three-month detail at the same time and stayed in the same hotel in Grants. Lauryn and Vishal were colleagues from the Refugee Corps; like Carla, they were doing their first three-month detail at the Southwest border. Melanie was the only AO, and she was from the Houston Asylum Office (ZHN)—one of the two hubs, along with ZAR, of the credible and reasonable fear program. Melanie knew the program inside out and was the acting supervisor. She was thoughtful and thorough, taking the time to point out places in Carla’s interview notes where additional questions may flesh out a potential nexus to persecution.

They had all experienced the rigorous three-week training program at the Federal Law Enforcement Training Center (FLETC) in Georgia. At FLETC, they learned about refugee laws and definitions, the principle of non-refoulement, standards of proof, the non-adversarial interview style, and other vital elements of their roles as adjudicators. The training also cultivated in-group solidarity and devotion to the mission. Carla felt immense pride standing next to her fellow civil servants at graduation, taking their oath of office to fulfill RAIO’s goals and objectives.

Carla, Lauryn, Vishal, and Melanie became a cohesive team at CCCC and developed strong bonds with each other and even with detention officers, such as an officer named Carver. They discussed the cases, shared equipment, sought advice, and learned from each other. They took trips to Gallup, Albuquerque, and the surrounding areas on the weekends. At the end of most day, they took walks to watch the sunset over the volcanic rocks of El Malpais—the badlands. The walks were a way to feel liberated after an entire day within the detention facility’s walls. (Figure 11 depicts an evening near the El Malpais National Conservation Area.)



Figure 11. Sunset near the El Malpais National Conservation Area in New Mexico

The Cibola County Correction Center is a dismal place—a prison, not a shelter. It is mentally challenging to go to work each morning. Carla and her colleagues must drive through multiple perimeter security fences ringed with barbed wire. The buildings are big, boxy, and beige, blending into the dirt and rocks. Inside them, Carla and her colleagues endure the strong, musty smell of persistent mildew, and elaborate security procedures. USCIS staff are at the detention facility on the aegis of ICE and considered outsiders. CoreCivic security waves through its own staff, but the USCIS team is submitted to extra scrutiny.

Inside the buildings, the immigrants are detained in group pods, separated from the convicted criminals, but CCCC treats them the same. They wear prison jumpsuits and chains and must ask permission to do anything, even to use the toilet. They are allowed an hour each day in the yard for recreation.

Even back then, the detail assignment was difficult for Carla and her colleagues. Asylum policies, procedures, and practices change from month to month. For instance, on April 6, 2018, about a week after Carla started her detail, the Trump administration

introduced its zero tolerance policy to deter migrants from entering the United States.²⁴⁹ The policy directed the DOJ to prosecute every adult who crossed between ports of entry without authorization. Although the statute has always existed, the U.S. government generally made an exception for families with children. It only prosecuted recidivists—those who reentered after deportation and had prior convictions. The zero tolerance policy focused on families who entered illegally, even if it was their first attempt. In the chaos and collapse of cognitive decision-making that ensued, whether it was real or deliberate, CBP began to separate children from their parents, claiming that it was a necessary consequence: under the Flores settlement agreement and other laws, children cannot be held in federal criminal facilities. Carla and her colleagues were flabbergasted at the illogic. It was unconscionable to use child protection laws to legitimize separating children from their families.

It was also a logistical nightmare. The first time she screened an applicant separated from his children, Carla was caught off guard. There was no heads up from headquarters, no warning from the detention officers. The man entered the United States with his wife and two daughters. Typically, ICE would place his wife and children together in a family residential center, and the applicant in a separate, all-male facility. Under the family separation policy, however, CBP separates the adults from each other and their children. The man cried inconsolably, repeatedly asked about his wife and children's whereabouts, and begged to be reunited.

Carla had dealt with male applicants separated from their families before, but they were never in such a state of distress. In the past, Carla could usually track down their family members' locations in their internal systems and assure them that they would be reunited. However, this time, although the man provided her with all the necessary information, she could not locate his family. All she could do was tell him that she would talk to her supervisor and put a note in his file with the identifying information of his wife and daughters.

²⁴⁹ Memorandum from Jeff Sessions, U.S. Attorney General, to federal prosecutors along the southwest border, Zero-Tolerance for Offenses under 8 U.S.C. § 1325(a), April 6, 2018, www.justice.gov/opa/press-release/file/1049751/download.

The entire screening took twice as long. In his distress, the applicant was unable to focus on questions about his asylum case. Carla gave him time to calm down, repeated her questions, and had to frequently draw his attention away from the trauma of his family separation to talk about the reasons he fled his country. The applicant also shared harrowing stories of his poor treatment at the CBP processing center and in ICE detention, including being told that the U.S. government had put his daughters up for adoption. Carla included these details in her notes and reported them to her supervisor immediately after the screening. In subsequent screenings, many of the applicants recounted the same experience.²⁵⁰ During those few weeks, Carla could barely sleep. When she did, she had nightmares of inexplicable violence and powerlessness.

Wade saunters over to Carla. “Sorry I’m late. My wife called when I was getting ready.” He chuckles. “Last night the boys were fighting over who’s the man of the house now, with me being here.”

B. CRISIS AND RESPONSE

The migrant crisis that the Trump administration railed against was not, in fact, “the crisis” as framed. Critics called the White House’s characterization of the Southwest border situation a “manufactured crisis,” used to justify the Trump administration’s rally cry of restricting U.S. humanitarian programs.²⁵¹ Indeed, the narrative of a migrant menace is contested by government records. For instance, the Trump administration claimed that cartels use undocumented migrants to transport drugs into the United States in between ports of entry. However, according to the 2018 National Drug Threats Assessment, traffickers typically transport drugs into the United States through ports of entry (POEs),

²⁵⁰ “Handwritten Letters from Previously Separated Moms Detained in Dilley,” Immigration Justice Campaign, accessed July 13, 2020, <https://immigrationjustice.us/advocacy/advocacy-issues/prolonged-detention/dilley-letters/>.

²⁵¹ PBS, “Trump Says There’s a ‘Crisis.’”

and no significant changes have altered narcotrafficking patterns.²⁵² Drug smugglers prefer such entries because the appearance of legality means less scrutiny from CBP and a lower probability of detection. In contrast, a migrant caught crossing between POEs will always be heavily scrutinized. This evidence refutes the White House's haphazard, dangerous assertion.

Another widespread claim is that terrorists hide among asylum seekers to exploit the vulnerabilities at the Mexico-U.S. border. Former Secretary of DHS Kirsten Nielson told Democrats that CBP had apprehended approximately 3,000 special interest aliens (SIAs).²⁵³ However, according to DHS, “an SIA is a non-U.S. person who, based on an analysis of travel patterns, potentially poses a national security risk to the United States or its interests.”²⁵⁴ The agency further explained that “this didn’t mean that SIA’s are necessarily terrorists, but that their travel behaviors warranted further investigation.”²⁵⁵ Some critics argue the United States failed to find terrorists because its counterterrorism programs are flawed. For instance, after studying data on the SIA smuggling network and its functions found in court proceedings, Todd Bensman concluded that DHS’s current counter-SIA response is weak and ineffective.²⁵⁶ No matter the state of current counter-SIA operations, a terrorist is still unlikely to prefer asylum, which requires extensive fraud and national security vetting, over other means of entering the United States. For example, most of the 9/11 hijackers entered the United States legally. Plus, putting aside the Trump administration’s exaggerations, the reasonable fear numbers do indicate that some border

²⁵² U.S. Department of Drug Enforcement, *2018 National Drug Threat Assessment* (Washington, DC: Department of Justice, 2018), <https://www.dea.gov/sites/default/files/2018-11/DIR-032-18%202018%20NDTA%20final%20low%20resolution.pdf>.

²⁵³ PBS, “Trump Says There’s a ‘Crisis.’”

²⁵⁴ “MYTH/FACT: Known and Suspected Terrorists/Special Interest Aliens,” Department of Homeland Security, January 7, 2019, <https://www.dhs.gov/news/2019/01/07/mythfact-known-and-suspected-terroristsspecial-interest-aliens>.

²⁵⁵ PBS, “Trump Says There’s a ‘Crisis.’”

²⁵⁶ Bensman used NVivo qualitative analysis software to obtain his results. Todd Bensman, “The Ultra-Marathoners of Human Smuggling: Defending Forward against Dark Networks That Can Transport Terrorists across American Land Borders” (master’s thesis, Naval Postgraduate School, 2016), <http://hdl.handle.net/10945/47231>.

crossers—not terrorists—have some illegal activity in their background. Although public safety is a consideration, recidivists are clearly not the majority of border crossers, and the criminal activities tend to be minor and nonviolent offenses.

As noted in the previous chapter, a comparative study of border apprehensions suggests there is no true migrant crisis. Total BP apprehensions are down significantly from their apex in the 1980s and '90s. According to CBP, when Trump took over the White House in FY 2017, totally border apprehension was 310,531—a decrease of over 445 percent since 1986.²⁵⁷ In FY 2019, the number jumped to 859,501; however, when compared to FY 1986, this number is still a 97 percent decrease. Indeed, the characterization of an invasion and a crisis at the border does not appear valid.

However, overwhelming evidence does support the existence of a raging humanitarian crisis. According to the United Nations High Commissioner for Refugees (UNHCR), the world experienced unprecedented levels of people forcibly displaced by protracted conflicts in the last several years. UNHCR reports that as of December 2019, there were 79.5 million persons displaced by conflict and violence in the world; of these, 26 million were refugees and 4.2 million were individuals seeking asylum.²⁵⁸ Under the 1951 UN Convention Relating to the Status of Refugees and the 1967 Protocol Relating to the Status of Refugees, the United States has a legal obligation to provide international protection of refugees and other displaced people globally.²⁵⁹ The legal obligation tasks the United States with a dual role: on the one hand, the United States agrees to provide humanitarian protection; on the other, the government must ensure that it appropriately secures its borders from homeland security threats.

A surge at the Mexico-U.S. border typically triggers the U.S. government to restrict humanitarian benefits to asylum seekers. As noted in the previous chapter, the United States experienced an increase in the number of Central American families and children

²⁵⁷ U.S. Customs and Border Protection, “U.S. Border Patrol Total Apprehensions.”

²⁵⁸ “Figures at a Glance,” UNHCR, accessed August 27, 2020, <https://www.unhcr.org/figures-at-a-glance.html>.

²⁵⁹ UNHCR, “The 1951 Refugee Convention.”

attempting to enter the Southwest border starting in 2014. The findings indicate that this trend of forced displacement of families and children mirrors the prolonged periods of violence, political instability, and corruption that riddle the NTCA. From FY 2010 to FY 2017, the credible fear backlog increased more than 777 percent, from 9,000 to 79,000.²⁶⁰ In FY 2018, CBP apprehended and found inadmissible 521,090 individuals at the Southwest border; of these, 108,780 claimed to have a fear of returning to their countries of origin (see Figure 12).

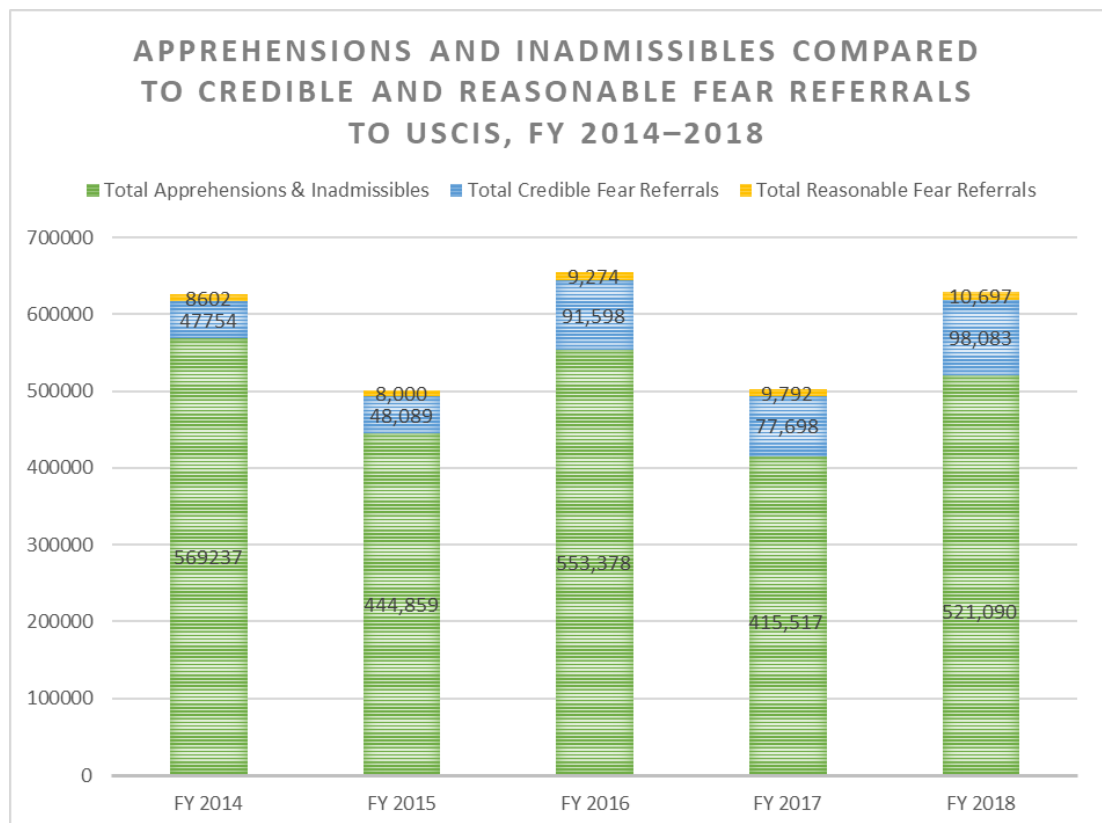


Figure 12. Apprehensions and Inadmissibles Compared to Credible and Reasonable Fear Referrals to USCIS, FY 2014–2018²⁶¹

²⁶⁰ Meissner, Hipsman, and Aleinikoff, *The U.S. Asylum System in Crisis*, 2.

²⁶¹ Adapted from Rebecca Gambler, *Immigration: Actions Needed to Strengthen USCIS's Oversight and Data Quality of Credible and Reasonable Fear Screenings*, GAO-20-250 (Washington, DC: Government Accountability Office, 2020), 13, <https://www.gao.gov/assets/710/704732.pdf>; U.S. Customs and Border Protection, "U.S. Border Patrol Total Apprehensions."

Although the number of total apprehensions and inadmissibles has fluctuated, the percentage of credible and reasonable fear claims has more than doubled, from 10 percent in FY 2014 to 21 percent in FY 2018. This increase marks a sustained growth in the number of fear referrals. John Agnew contends:

The only crisis, to which the U.S. panic was a response, has been a human rights crisis. Families and children seeking asylum from horrendous civil-rights conditions in their countries of origin were criminalized and denied their right to asylum hearings.²⁶²

Agnew attributes these extreme measures to the politicization of immigration in the United States and misunderstandings over the differences among migrants, asylum seekers, refugees, and other types of immigrants. Indeed, the tendency to reduce all people at the Mexico-U.S. border to *migrants* fleeing as a rational economic choice is misleading.

Although overall humanitarian benefits requests, including affirmative asylum cases, have dramatically increased, USCIS's focus has been on tackling the screening backlog at the border. USCIS's immediate tactic has been to continue expanding the RAIO Asylum Division's capacity to conduct border screenings. According to the Migration Policy Institute, the Asylum Division has approximately doubled the number of AOs, from 272 in FY 2013 to 520 by August 2018.²⁶³ The same report shows that the asylum division assigned roughly 40 percent of its officers to screen asylum applicants for credible and reasonable fear. AOs either conduct fear screenings over the phone, from their office, or face to face at the Southwest border. With the nation's attention on the border in the Trump era, this capacity was insufficient.

The White House's immigration policies lend USCIS another avenue of temporary human capacity and resources. Starting in 2017, the Trump administration imposed

The term inadmissibles refer to persons who are not eligible by U.S. immigration law to enter or remain in the United States; in other words, they entered without a visa or legal status in the United States. "Southwest Border Migration FY 2019," U.S. Customs and Border Protection, accessed July 15, 2019, <https://www.cbp.gov/newsroom/stats/sw-border-migration>.

²⁶² John Agnew, "The Asymmetric Border: The United States' Place in the World and the Refugee Panic of 2018," *Geographical Review* 109, no. 4 (2019): 507–26, <https://doi.org/10.1111/gere.12333>.

²⁶³ Meissner, Hipsman, and Aleinikoff, *The U.S. Asylum System in Crisis*.

changes to the U.S. refugee program that successfully slashed the number of qualifying refugees admitted to the United States and interview-ready refugees. According to the Migration Policy Institute, the White House called for a 120-day moratorium on refugee admissions, to ostensibly review refugee-vetting procedures.²⁶⁴ However, it followed the moratorium with orders to increase security vetting and issued a travel ban on refugees from Iran, Iraq, Libya, Somalia, Sudan, Syria, and Yemen—Muslim-majority countries. Finally, it dramatically reduced the number of refugees admitted to the United States year by year. From a ceiling of 85,000 in FY 2016, the Trump administration brought the number to a historic low of 18,000 in FY 2020 (see Figure 13).²⁶⁵ These measures left refugee officers with little work, given the reduced number of overseas interview opportunities; they also allowed USCIS to put a temporary Band-Aid on two problems.

²⁶⁴ Sarah Pierce, “Immigration-Related Policy Changes in the First Two Years of the Trump administration,” Migration Policy Institute, May 6, 2019, <https://www.migrationpolicy.org/research/immigration-policy-changes-two-years-trump-administration>.

²⁶⁵ “U.S. Annual Refugee Resettlement Ceilings and Number of Refugees Admitted, 1980–Present,” Migration Policy Institute, August 13, 2013, <https://www.migrationpolicy.org/programs/data-hub/charts/us-annual-refugee-resettlement-ceilings-and-number-refugees-admitted-united>.

WRAPS data is available from the State Department Bureau of Population, Refugees, and Migration, www.wrapsnet.org/admissions-and-arrivals/.

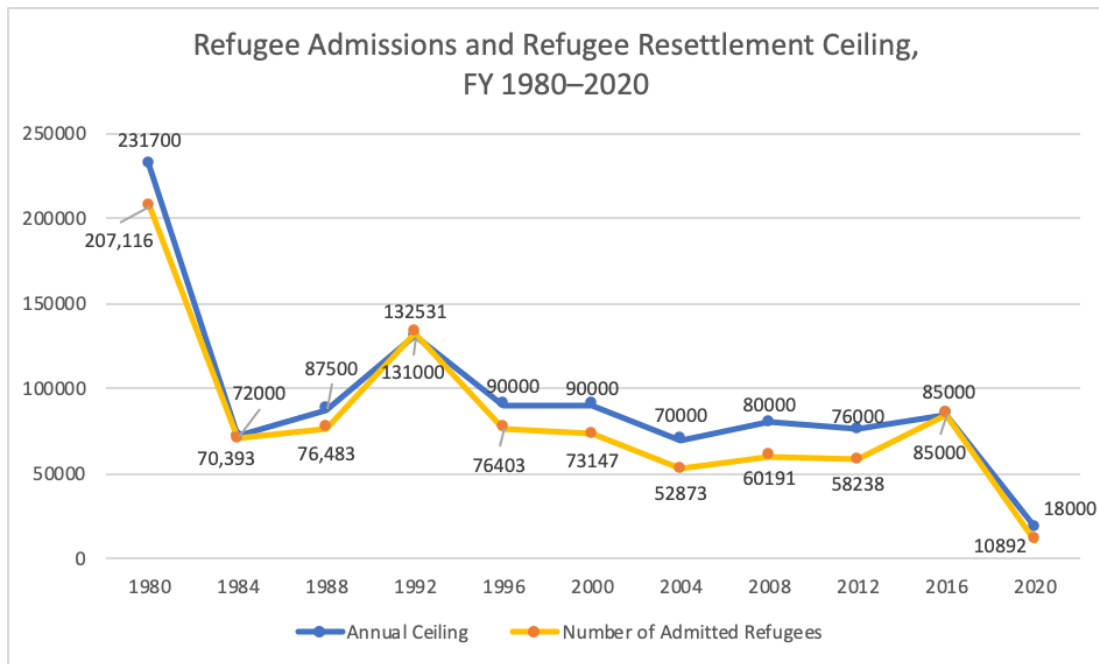


Figure 13. Refugee Admissions and Resettlement Ceiling, FY 1980–2020²⁶⁶

USCIS diverted a significant percentage of the Refugee Corps to serve in its Asylum Division. In FY 2018, more than a hundred refugee officers took temporary detail assignments with the Asylum Division to conduct border screenings and other tasks.²⁶⁷ According to the Migration Policy Institute, this change was not a significant reach. When Congress signed the Refugee Act of 1980 into law, it created the asylum and refugee programs. When the Homeland Security Act of 2002 restructured the INA, both entities remained under the RAIO directorate’s umbrella. The main difference between the two programs is that asylum adjudicates applications filed by persons inside the United States. In contrast, the refugee corps determines the refugee status of applicants outside the United States. AOs and refugee officers receive the same basic RAIO training on core concepts, immigration law and history, and interviewing skills. Additionally, refugee officers all receive additional APSO training before conducting their first credible or reasonable fear

²⁶⁶ Migration Policy Institute.

²⁶⁷ Meissner, Hipsman, and Aleinikoff, *The U.S. Asylum System in Crisis*.

interviews. The similarity of work between refugee and asylum officers suggests that the transition was reasonably smooth.

At the beginning of 2018, USCIS began offering six-week border details to employees with former asylum certification. RAIO received responses from employees with a wide range of experience and length of time away from adjudicating asylum cases. Many of these USCIS officers faced a significant learning curve. Once approved for a detail, those who left the Asylum Division more than a year prior receive a one-week training in Washington, DC, before embarking on their details. RAIO headquarters provided the same overview to these officers—from the ones who conducted asylum interview over a year ago to those who conducted asylum interview over ten years ago. Besides dealing with new procedures, different interpretations of standards of proof, and new forms and requirements, the former asylum officers had to face a new population of asylum seekers with unfamiliar claims of persecution, at times under vastly different country conditions than they encountered years ago.

C. SHATTERED DREAMS: CARLA’S PERSPECTIVE (PART II)

As they wait for the last metal gate to open, Wade turns to Carla.

“What are your cases like today?” he asks.

“I have a Honduran applicant...probably gang-related. From my experience, all Central Americans have some gang-related issues. The rest are two Cubans and a Guatemalan. One of the Cubans is under quarantine for the flu. I’m not looking forward to coordinating that interview. What are your cases like?”

“I haven’t looked. I still need to do the security checks.”

Walking down the hallway, Carla pokes her head into the detention officers’ section. “Good morning, Officer Carver. How are you? Sorry, we’re a bit late.”

“Good morning, Ms. Dominguez. Mr. Davis,” says Detention Officer Carver, nodding at them.

“Officer Carver, I am ready for my first interview,” Carla replies. “When you have a chance, could you please bring Gomez-Flores to my office?”

“Yes, I’ll get him.”

Carver knocks on Carla’s door a minute later and brings in her first applicant of the day—a thin, short, nervous-looking kid with big brown eyes and dark hair. Like the other detainees, he is wearing an orange prison jumpsuit and has chains around his ankles and wrists. The chains are heavy on him. Carla notices that he has to pick them up to move more comfortably. Carla sees from the file that the boy, Luis, turned eighteen a month ago, but he looks younger. She sighs. He should not be processed as an adult solely because of his age—there should be a case-by-case assessment of maturity level.

She starts the interview by making sure that Luis understands her Spanish and knows he can interrupt her at any point if he has a question or needs a break. She explains the interview’s purpose and confirms that Luis has no health or other issues that may affect his capacity to continue with the screening. She verifies his biographical data and asks about his treatment in U.S. custody and his journey to the United States. Finally, she starts collecting details regarding the harm he claims to have experienced in Honduras.

As she listens to Luis’s testimony, Carla’s heart sinks. He does not qualify as having persecution under the definition of a refugee.²⁶⁸ His harm is typical of many stories of gang recruitment: some beatings, threats, and demands for money. When she asks if there was anything different about him that made the 18th Street gang single him out, he can’t provide a specific reason. He explains to Carla that the gang members go after most teenagers. The courts have determined that youths targeted by gangs for recruitment are not immutable, sufficiently particular, and socially distinct to be considered a particular social group, one of the protected characteristics for a claim of asylum according to the law.

²⁶⁸ According to USCIS, a refugee is “a person outside his or her country of nationality who is unable or unwilling to return to his or her country of nationality because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion.” See “Refugees & Asylum,” USCIS, November 12, 2015, <https://www.uscis.gov/humanitarian/refugees-asylum>.

Carla proceeds to ask all of her nexus questions.²⁶⁹ She rephrases each time to ensure Luis fully understands. Toward the end of the questioning, Luis tells her that the 18th Street gang also wanted his grandmother's house because it was a good location. Carla seizes on this information and asks Luis a string of follow-up questions.

"What do you mean that it is a good location?"

"The gang members think it is good. They want to be there."

"OK, but why do the gang members want to be at your grandmother's house?"

"I don't know their reasons." Luis looks confused.

"Do other people consider it a good location?"

"Yes."

"Why do other people consider it a good location?"

"I don't know. We are higher up on a hill and surrounded by trees."

"Any other reasons?"

"I don't know. I liked living there for those reasons. Also, it's our house. It has belonged to my family for generations."

"Do you know of other places that the 18th Street gang wants?"

"No."

"Do you know of other homes, businesses, or places that the 18th Street gang has taken over?"

"Yes. The gang members have made several places their property."

"Do you know why they have taken over those places?"

"No. Many are the homes of the members. Other places they take over, I think, because the owners were unable to pay the war tax."

²⁶⁹ In an asylum case, applicants must demonstrate a "nexus" between the harm they have undergone and one of the five grounds of persecution: race, religion, nationality, membership in a particular social group, or political opinion.

“Any other reasons? Anything similar about the places they have taken over?”

“No. I don’t know. I try not to think about the 18th Street gang. Everyone tries to avoid them when we see them. We try not to hear anything about them because the more we know, the worse it is for us.”

Carla looks at the clock. She has spent way too long on this portion of the interview. There might be something there, but it is clear Luis cannot explain. If the 18th Street gang was targeting all the people with homes in that location for some reason, then there might be a nexus to particular persecuted characteristic. This case would be different if Luis were older or had counsel. In all her interviews at CCCC, not a single applicant has had an attorney, though the applicants tell her they have spoken to representatives from pro bono law firms.

She proceeds to the next section to determine if Luis’s case could fall under CAT protection. This section is also tricky. Luis and his grandmother did not go to the police to report the 18th Street gang. Although he is unable to put in words the reason they did not report the crime, Luis reveals some critical information: the police rarely came to their town, and when they did, the rumor was that they were visiting the gang. In his lifetime, Luis has never seen the police arrest any of the mareros.

When Carla asks why the police have never arrested them despite their crimes and violence against the community, Luis responds that he does not know. He has heard rumors that the police are corrupt and sell weapons to the mareros. But Luis never saw with his own eyes any evidence, nor does he know anyone who saw what happened. Carla asks Luis if he knows of anyone who reported the mareros to the police that the gang members later harmed. Luis says no and repeats that he does not know what the police, city hall, or other municipal government representatives would do if they saw the mareros hurting him. He tells her that they are afraid of the mareros, too.

Although Luis cannot fully articulate the Honduran government’s inability and unwillingness to protect him, Carla writes the summary as a possible CAT. She assesses that there is a significant possibility that Luis would be able to obtain withholding of removal in front of an immigration judge. She adds some country of origin information

on Honduras to support her finding that the Honduran government is corrupt, some police officers work with gang members, and that the gangs, not the municipal government, run the towns. Carla has gone significantly over her time for the interview. She is just grateful, for Luis's sake, that the Migrant Protection Protocols program has not arrived at CCCC.

Carla quickly writes up her assessment and submits it for Melanie's review. Her friend has been promoted to senior asylum officer at ZHN and is now the acting supervisor remotely assisting the USCIS officers detailed to CCCC. To recuperate after each workday, Carla still takes walks to watch the sunset over El Malpais—but now without the friends from her first detail.

Carla hangs up the phone after finishing her last interview with the Cuban applicant under quarantine and starts completing the paperwork. She sees a Skype message from Melanie (see Figure 14).

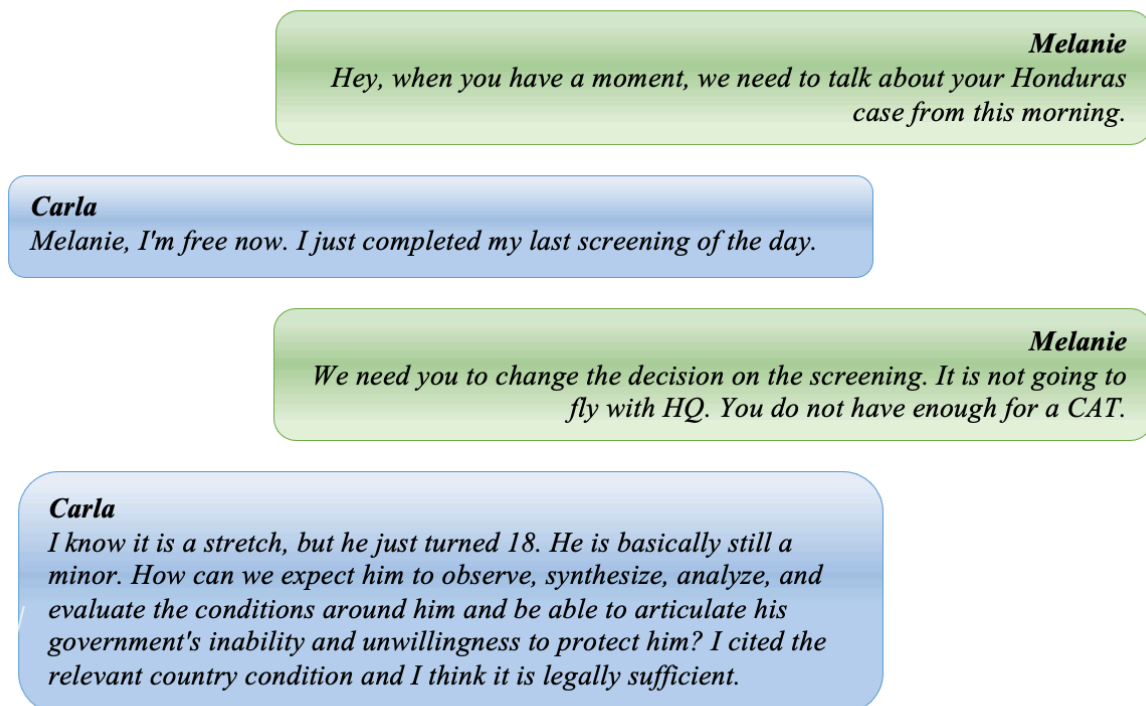


Figure 14. Skype Conversation between Carla and ZHN Supervisor Melanie

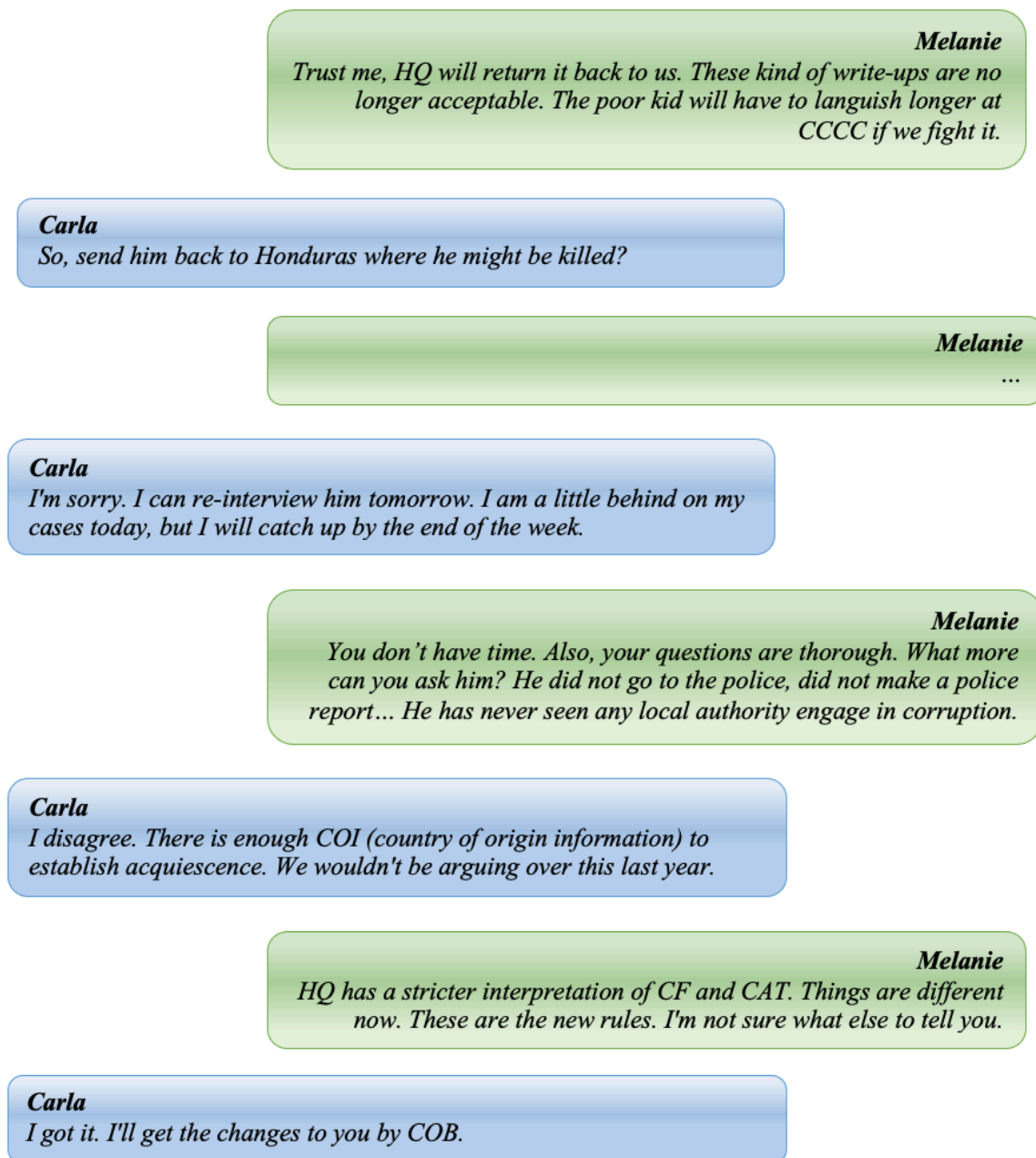


Figure 14. (con't) Skype Conversation between Carla and ZHN Supervisor Melanie

Carla stops by Wade's office at the end of the day. "Hey, are you ready to leave?"

"Yeah, give me a second. I need to send this negative to Houston."

"A negative? May I see it?"

"Yeah, it's a Guatemalan. He's got nothing—just some gang-related stuff."

"But did you notice his name? It's an indigenous name. I see you asked about his race and nationality. But from the notes, I get the sense he doesn't understand what that means. You need to ask him if he has ever been harmed on account of his features, skin color, clothes, traditions, customs. Guatemala has a horrible history of human rights abuses, even a genocide against its indigenous population. We have COI to indicate that a renewal of repression is taking place."

"Oh well...too late. The write-up was due yesterday."

"Wade...I don't..." Carla starts to say that Melanie would care more that he gets the assessment right than that he meets the deadline. But she decides to leave his office instead. "I'll wait for you outside." If she stays, she will end up in another futile argument with Wade—and she would be wrong.

Carla steps into the oppressive heat and feels her lungs struggle to take in air. She knows it is a losing battle. Wade's negative would never have gotten through a supervisor a couple of months ago. Just like her positive would never have been questioned. Now it is a different story.

Carla's friend Matteo, an asylum officer at ZAR, quit last week. He had volunteered for a detail at San Ysidro, California, where USCIS was using the Migrant Protection Protocols (MPP) program to require asylum seekers to wait in Mexico for their hearing with an immigration judge. At San Ysidro, the applicants have even less of a chance to see an immigration judge. The MPP program comes with a more likely than not standard, which is higher than reasonable possibility, and the harm must be on a protected ground. This restriction means officers cannot even consider the possibility of relief for the applicant under CAT. In the beginning, Matteo fought every case and

alerted his supervisor whenever he found program rules and procedures in violation of domestic and international asylum laws. After a few weeks, USCIS management's unrelenting stance wore him out. He eventually stopped objecting and conducted the cases the way management wanted. Matteo started getting welts on his back and suffered from insomnia. Even after he came back from the detail, he had trouble sleeping. Matteo told Carla that he feels complicit in sending asylum seekers back to places of harm.

Glancing across the yard, she sees some detainees in orange jumpsuits walking around the perimeters of their metal fence. She thinks of Luis, the Honduran applicant. CBP will deport him to Honduras if he does not request a judicial review. From there, maybe he can go to his grandmother's friend in Agua Caliente—or perhaps not. Carla does not want to think about what will happen to him.

She will tell her colleagues that the program has changed, that Melanie has changed. Melanie will blame headquarters; she already does. Carla notices that she, too, has been pacing around a metal fence.

Carla's muted voice demonstrates many of the ramifications of the Trump administration's deterrence measures, the compromises on the day-to-day administration of asylum, and the existential threat they pose to the U.S. asylum program—precisely, subversion of international and U.S. refugee laws and standards, and loss of integrity and human capacity. Her story also leads to questions about the moral ambiguity and compromise of those staff implementing the administration's tactics. In the next section, the White House's specific measures are placed in context to show they represent a systemic effort to undermine the U.S. asylum program and prevent asylum seekers from legally claiming protection.

D. TRUMP ADMINISTRATION'S STRATEGIES AND TACTICS

The legality of the White House's actions on immigration is questionable. Since President Trump took office in January 2017, his administration has enacted more than 400

changes to immigration policies and regulations.²⁷⁰ The White House implemented most of these measures by circumventing Congress via executive order and regulatory change. In other words, these changes were unlikely to get the majority needed to pass Congress. Although many of these changes remain contested in court, the White House has actuated them, with devastating effects on the asylum seekers, the people who implement asylum policies, and the U.S. asylum program. This section focuses on the following tactics:

- increasing the standard of proof
- narrowing the grounds for asylum
- implementing the MPP or Remain in Mexico program
- forcing out career civil servants at DHS and USCIS and replacing them with a team in acting capacity eager to carry out the White House's demands

The Trump administration aims to reduce the number of applicants entitled to an immigration hearing or further review of their asylum case. Since 2016, the administration has made several attempts to raise the standard of proof, or degree of certainty, for credible fear screenings.²⁷¹ Before 2017, the standard of proof for credible fear was *significant possibility*, one of the lowest standards. It typically requires a less than 10 percent chance that the applicant can demonstrate eligibility for asylum in immigration court.²⁷² The reason for the low standard is that Congress intended the credible fear process to weed out the most frivolous claims from the potentially meritorious ones. As a quick screening, the lower standard also accommodates the difficulty that asylum seekers typically face with obtaining documentation to verify their claim between their flights and detentions. As mentioned, the low screening threshold is a safeguard against refoulement—refugees' return to their country of harm.

²⁷⁰ Pierce and Bolter, *Dismantling and Reconstructing the U.S. Immigration System*, 1.

²⁷¹ Pierce and Bolter, 73.

²⁷² Pierce and Bolter, 18.

The Trump administration successfully pressured USCIS to raise the credible fear standard and increase the barriers for asylum seekers to overcome the threshold circumstantially. In February 2017, USCIS announced that it had a revised training lesson plan on the credible fear process.²⁷³ In the new version, the language on the standard made it more akin to reasonable possibility—the higher standard used in reasonable fear screenings. Meanwhile, USCIS raised the standard of proof for identity verification from *a reasonable degree of certainty* to *a preponderance of the evidence*; it also introduced a credibility section in the assessment worksheet requiring asylum officers to conduct a full analysis of credibility.²⁷⁴ Given the circumstances in which asylum seekers leave their homes—often rushed and in secret—and their arduous journeys to the United States, expecting them to have their identity documents or the evidence to support their claims of persecution when they arrive in the United States is unrealistic.

In April 2019, USCIS revised the lesson plan again to eliminate two paragraphs. The first removed paragraph asked asylum officers to consider trauma and cultural background when assessing credibility. The second asked them to recognize that applicants may need time to assemble the necessary evidence to prove their claims.²⁷⁵ In June 2020, DHS and DOJ proposed raising the standard for fear screenings across the board to reasonable possibility, including credible fear screenings and withholding and deferral of removal under the CAT regulations.²⁷⁶ Ostensibly made to streamline federal statutes and regulations, these changes are antithetical to the intent of the credible fear screening, instituted by Congress: to ensure that the United States adheres to *non-refoulement*.

²⁷³ “Updated Credible Fear Lesson Plans Comparison Chart,” AILA, accessed July 20, 2020, <https://www.aila.org/infonet/updated-credible-fear-lesson-plans-comparison>.

²⁷⁴ AILA.

²⁷⁵ AILA. On October 31, 2020, a federal judge in the U.S. District Court for the District of Columbia vacated the entire credible fear lesson plan after ruling that several of its provisions unlawfully undermined the credible fear process as intended by Congress. *Maria M. Kiakombua et al. v. Chad F. Wolf*, 19-cv-1872 (KBJ), (District Court of Columbia, 2020), <https://refugeerights.org/wp-content/uploads/2020/11/84-Mem.-Op-Granting-Pls.-MSJ.pdf>.

²⁷⁶ “Procedures for Asylum and Withholding of Removal; Credible Fear and Reasonable Fear Review,” Federal Register, June 15, 2020, <https://www.federalregister.gov/documents/2020/06/15/2020-12575/procedures-for-asylum-and-withholding-of-removal-credible-fear-and-reasonable-fear-review>.

The DOJ plays a crucial role in furthering the administration’s plan to restrict asylum eligibility. In June 2018, then Attorney General Jeff Sessions narrowed the grounds for asylum through *Matter of A-B*-.²⁷⁷ His decision vacated the Board of Immigration Appeal’s ruling on the case and overruled a related case, *Matter of A-R-C-G*-.²⁷⁸ The decision states that the definition of persecution of a particular social group precludes “private violence” like domestic or gang-related incidents.²⁷⁹ Sessions writes, “An alien may suffer threats and violence in a foreign country for any number of reasons relating to her social, economic, family or other personal circumstances. Yet the asylum statute does not provide redress for all misfortune.”²⁸⁰ It expressly states that “violence by nongovernmental actors will not qualify for asylum,” and that an application may be denied if the applicant can safely relocate to another part of the country.²⁸¹ Given that most of the asylum claims made by Central Americans reference gender- or gang-related violence, this decision decreased the number of positive screenings. In other words, youths like Luis who flee gang recruitment, and domestic abuse victims, do not qualify for asylum.

Under pressure from the White House, DHS conceived the Migrant Protection Protocols (MPP)—or Remain in Mexico—program to respond to the border crisis. On January 24, 2019, then Homeland Security Secretary Nielsen announced “an unprecedented action.”²⁸² The MPP program applies to all non-Mexican inadmissible aliens placed in removal proceedings who would not likely face persecution or torture in Mexico.²⁸³ Unaccompanied children and some individuals from vulnerable populations may be exempted on a case-by-case review. Under MPP, USCIS sends these individuals to Mexico to wait for their immigration proceedings and only allows them temporary entry

²⁷⁷ *Matter of A-B*-, 27 I&N Dec. 316 (A.G. 2018)

²⁷⁸ *Matter of ARCG*-, 26 I&N Dec. 388 (BIA 2014)

²⁷⁹ Meissner, Hipsman, and Aleinikoff, *The U.S. Asylum System in Crisis*.

²⁸⁰ *Matter of A-B*-, Respondent.

²⁸¹ *Matter of A-B*-.

²⁸² Department of Homeland Security, “Migrant Protection Protocols.”

²⁸³ Pierce and Bolter, *Dismantling and Reconstructing the U.S. Immigration System*.

to attend court hearings. DHS claims that MPP intends to restore a safe and orderly immigration process, prevents immigrants from exploiting the immigration system by disappearing before the court's final decision, and reduces false claims.²⁸⁴ Experience shows, however, that the program adversely harms asylum seekers, asylum officers, and the U.S. asylum program.

Most asylum seekers cannot overcome the MPP threshold of being more likely than not to face persecution or torture in Mexico.²⁸⁵ According to DHS, applicants must affirmatively state that they fear persecution or torture in Mexico in their fear screenings with an AO; then, the AO must find that it is more likely than not that the applicant will face persecution or torture if returned to Mexico.²⁸⁶ Moreover, unlike the typical due process asylum seekers receive in detention facilities, these immigrants generally have not had an opportunity to learn about the asylum proceedings, to hear from or speak with a pro bono representative, or know that they can appeal the decision.²⁸⁷ According to USCIS whistleblowers from USCIS, when AOs positively determine that an asylum seeker has a legitimate fear of waiting in Mexico, their decisions are reviewed and reversed by "political supervisors."²⁸⁸ Therefore, very few asylum seekers receive affirmative determinations to avoid the MPP process.

The Remain in Mexico program has not resolved the government's concern over applicants missing their immigration hearings. According to the Transactional Records Access Clearinghouse (TRAC) at Syracuse University, as of June 2020, 65,499 asylum seekers have been sent to wait in Mexico for their hearings since the beginning of the MPP

²⁸⁴ Department of Homeland Security, "Migrant Protection Protocols."

²⁸⁵ *More likely than not* is a standard of proof used in asylum adjudications. The notion is that a particular fact is more than 50 percent likely to be true than not true.

²⁸⁶ Department of Homeland Security, "Migrant Protection Protocols."

²⁸⁷ Maria Sacchetti, "U.S. Asylum Officers Say Trump's 'Remain in Mexico' Policy Is Threatening Migrants' Lives, Ask Federal Court to End It.," *Washington Post*, June 27, 2019, https://www.washingtonpost.com/immigration/u-s-asylum-officers-say-trumps-remain-in-mexico-policy-is-threatening-migrants-lives-ask-federal-court-to-end-it/2019/06/26/863e9e9e-9852-11e9-8d0a-5edd7e2025b1_story.html.

²⁸⁸ Office of U.S. Senator Jeff Merkley, "Shattered Refuge," 44.

program.²⁸⁹ Of this number, over half (31,949) did not appear for their immigration court hearing, and 7,718 are still awaiting their initial hearing. TRAC notes that their absence might be due to poor court records and systems, and immigrants' location outside the United States. Numerous reports suggest that asylum seekers face harm while waiting in Mexico.²⁹⁰ Kennji Kizuka, senior researcher and policy analyst for Human Rights First, spent months documenting the lives of asylum seekers involved in the MPP program; he found that "636 reported cases of kidnapping, torture and other violent attacks on asylum seekers ... include[ing] 138 cases of kidnapping or attempted kidnapping of children."²⁹¹ Decisions made in absentia are almost always adverse, as the absence is considered abandonment. The MPP program increases the risk to asylum seekers and adds to bureaucracy and the asylum denial rate.

Under these new rules, asylum officers are more prone to burnout and low morale. Due to the scrutiny of the process and the additional procedures, credible screenings take much longer. This development subverts the legislative intent of the screening—a quick assessment of whether the applicant has merits to obtain asylum in immigration courts.²⁹² Many asylum officers also feel legally and ethically compromised; they feel forced to implement the administration's programs. In a report to Senator Jeff Merkley's office, one whistleblower wrote of the MPP program, "Implementation of a program for which there is no legal authority violates my oath to office."²⁹³ Furthermore, the burnout from working

²⁸⁹ TRAC analyzes data from court records obtained from the Executive Office for Immigration Review (EOIR) using the Freedom of Information Act (FOIA). "Details on MPP (Remain in Mexico) Deportation Proceedings," TRAC, accessed July 19, 2020, <https://trac.syr.edu/phptools/immigration/mpp/>.

²⁹⁰ "Remain in Mexico Has a 0.1 Percent Asylum Grant Rate," *San Diego Union-Tribune*, December 15, 2019, <https://www.sandiegouniontribune.com/news/border-baja-california/story/2019-12-15/remain-in-mexico-has-a-0-01-percent-asylum-grant-rate>.

²⁹¹ *San Diego Union-Tribune*; TRAC, "Details on MPP."

²⁹² U.S. Senate, "Retirement of Senator Alan Simpson," *Congressional Record* 142, no. 13 (September 27, 199), <https://www.congress.gov/congressionalrecord/1996/9/27/senate-section/article/S11533-1>.

²⁹³ Office of U.S. Senator Jeff Merkley, *Shattered Refuge*, 6.

long hours to put a dent in the backlog has resulted in high turnover.²⁹⁴ Eric Katz writes: “Poor morale has been exacerbated by the current administration, which has sought to limit legal immigration and forced employees to comply with policies they say violate federal and international laws.”²⁹⁵ High turnover and loss of human capacity compromise the health of the asylum program.

Forced resignations and reassignments of top DHS and USCIS leadership have also been demoralizing and worrisome for staff. The Trump administration has been quick to jettison leadership, particularly well-established officials, in every immigration-related agency that disagrees with the administration’s immigration plans.²⁹⁶ In April 2019, Trump forced Kirstjen Nielsen out of her role as DHS secretary because he did not feel she was tough enough on immigration.²⁹⁷ Claire Grady, the acting deputy secretary and undersecretary for management, departed a few days later. By the last week in April 2019, at least twelve top positions were vacant, held by officials in an acting capacity.²⁹⁸ Francis L. Cissena left his role as director of USCIS in May 2019, adding to the vacancies. In August 2020, the Government Accountability Office, an independent investigative arm of Congress, concluded that USCIS inaccurately applied the line of succession after the

²⁹⁴ “Homeland Security Says it Will Dramatically Increase Asylum Workforce by Year’s End,” Government Executive, accessed October 2019, <https://www.govexec.com/workforce/2019/10/homeland-security-says-it-will-dramatically-increase-asylum-workforce-years-end/160828/>.

²⁹⁵ Government Executive.

²⁹⁶ Andy Sullivan and Roberta Rampton, “More Trump Firings of Senior U.S. Immigration Officials Seen Likely,” Reuters, April 9, 2019, <https://www.reuters.com/article/us-usa-immigration-homeland-idUSKCN1RL29B>.

²⁹⁷ Nielson is the protégé of former White House Chief of Staff General John Kelly, who the Trump administration forced out in December 2018. David Smith, “Trump ‘Abused’ and ‘Harassed’ Kirstjen Nielsen Over Border, New Book Reveals,” *Guardian*, January 15, 2020, <https://www.theguardian.com/us-news/2020/jan/15/donald-trump-kirstjen-nielsen-border-a-very-stable-genius>; Ainsley and Soboroff, “Trump Cabinet Officials.”

²⁹⁸ “DHS Leadership Changes May Be Unsettling Publicly, but Impact on Workforce Is Limited,” Federal News Network, April 23, 2019, <https://federalnewsnetwork.com/workforce/2019/04/dhs-leadership-changes-maybe-unsettling-publicly-but-impact-on-workforce-is-limited/>.

Nielsen's resignation.²⁹⁹ The Government Accountability Office indicated that Acting Homeland Security Secretary Chad Wolf and Acting Deputy Secretary Ken Cuccinelli should not have been eligible. A vacuum of experienced leadership and illegitimate leadership destabilizes, weakens, and calls into question the agency's actions. These changes bring mayhem to the implementation of the chaotic changes the Trump administration seeks to make.

For the rank and file in the asylum program, perhaps the most significant ousting was former head of the USCIS Asylum Division, John J. Lafferty, a highly regarded career civil servant. According to the whistleblowers, Acting Director Cuccinelli, who replaced Nielsen, fired Lafferty shortly after an August 2018 town hall meeting. Lafferty was known for evoking late Senator John McCain's patriotism in respecting all human beings regardless of race, ethnicity, and other differences.³⁰⁰ Such a sentiment runs counter to the Trump administration's nativist and anti-immigrant "America-first" immigration approach.³⁰¹ According to whistleblowers, "Rank-and-file officers drew their own obvious conclusion: that Lafferty was fired for applying asylum law as written rather than skewing it to meet the administration's political goals."³⁰² This signal is dangerous; civil servants serve the legal and institutional authority and not the personal or political whims of the administration—or they risk diluting the integrity of the agency.

E. ANALYSIS

Carla's perspective offers a glimpse into the day-to-day complexity and chaos of the asylum program under the Trump administration. The United States, like most

²⁹⁹ Kyle Cheney, "GAO Finds Chad Wolf, Ken Cuccinelli Are Ineligible to Serve in Their Top DHS Roles," *POLITICO*, August 14, 2020, <https://www.politico.com/news/2020/08/14/gao-chad-wolf-ken-cuccinelli-ineligible-dhs-395222>.

³⁰⁰ Office of U.S. Senator Jeff Merkley, *Shattered Refuge*, 41.

³⁰¹ "President Donald J. Trump's Humanitarian and Responsible Approach on Refugees Protects the Welfare of American Citizens," The White House, accessed May 22, 2020, <https://www.whitehouse.gov/briefings-statements/president-donald-j-trumps-humanitarian-responsible-approach-refugees-protects-welfare-american-citizens/>.

³⁰² Lafferty's colleagues rallied to prevent the firing and negotiated his reassignment as the deputy director of the Potomac Service Center.

countries, tends to respond with deterrence programs and restrictions to immigration during periods of national security crisis and uncertainty. In the 1990s, when the number of undocumented migrants at the Mexico-U.S. border soared, Congress passed IIRIRA to strengthen border and interior enforcement, impose barriers to asylum, and provide harsher penalties for violations.³⁰³ The focus on border control and security following the events of 9/11 continued the trend of stricter immigration policies and more xenophobic and nativist beliefs. When the United States experienced another surge of migrants at the Mexico-U.S. border beginning in 2014, Washington reacted with policies and procedural changes to deter asylum seekers from entering and obtaining protection. This time, however, the country—to say nothing of the nation—has far more at risk, and the biggest threat is coming from inside its borders.

As seen through Carla’s eyes, the measures implemented by the Trump administration and his team of acting senior immigration reveals new meanings. As one USCIS staff member described, the White House’s policies constitute “mismanagement and operational chaos as a strategy to produce horrific conditions for asylum seekers at the border.”³⁰⁴ Metering, zero tolerance, family separation, the higher standard of proof, the narrowing of asylum grounds, and MPP has increased case processing time, reduced the program’s quality and integrity, and brought some services to a near halt. While the staff member’s characterization above is apt, it leaves out two critical parts. Doug Rand and Lindsay Milliken, writing about the 2020 USCIS budget crisis, explain:

Since 2017, USCIS has burdened its users—and its employees—with time-consuming new hurdles, based more on ideological conviction than evidence of need. Thus, the whole organization became less able to handle backlogs or to process applications in a reasonable amount of time, which led to hiring more people just to tread water.³⁰⁵

³⁰³ Immigration and Nationality Act, Division C of Pub.L. 104–208, 110 Stat. 3009–546 (1996).

³⁰⁴ Office of U.S. Senator Jeff Merkley, *Shattered Refuge*, 51.

³⁰⁵ Doug Rand and Lindsay Milliken, “The Case of the Insolvent Federal Agency: A Forensic Analysis of Public Data on U.S. Citizenship & Immigration Services,” *N.Y.U. Journal of Legislation & Public Policy*, June 15, 2020, <https://nyujlpp.org/quorum/the-case-of-the-insolvent-federal-agency-a-forensic-analysis-of-public-data-on-u-s-citizenship-immigration-services/>.

Carrying out the administration's tactics has inflicted permanent damage to the U.S. immigration system and shattered the morale of those who work in the immigration system, not to mention the dreams of those who seek refuge.

The facts and the narratives, together, point to a situation that has alarming implications for homeland security. In their exploration of homeland security as a framework for analysis, Barry Buzan, Ole Wæver, and Jaap de Wilde conclude, "National security should not be idealized. It works to silence opposition and has given power holders many opportunities to exploit 'threats' for domestic purposes, to claim a right to handle something with less democratic control and constraint."³⁰⁶ The authors point out that political actors tend to exploit a crisis and corrode democratic processes and institutions to advance political agendas under the banner of national security. However, at a basic level, the authors warn that the response can be far more dangerous than the crisis itself and that the bigger threat may be internal.

Although it is difficult for many to accept, the evidence is in the wreckage. In June 2020, USCIS announced that it would furlough approximately 70 percent of its workforce without a \$1.2 billion bailout from Congress.³⁰⁷ Despite an uptick in revenue making the furlough unnecessary, the Trump administration pushed forward, delaying the furlough until August 30, 2020; although the administration canceled the furlough at the last minute, they threatened potential furloughs in the future. According to the Migration Policy Institute, "the budget crisis points to policy decisions and fiscal choices that have set USCIS up for failure—now and over the longer term. The inevitable outcome, already underway, is significantly reduced levels of legal immigration."³⁰⁸ Immigration is a primary function of a democracy. A weak immigration system makes a nation unable to

³⁰⁶ Barry Buzan, Ole Wæver, and Jaap de Wilde, *Security: A New Framework for Analysis* (London, UK: Lynne Rienner Publishers, 1997), <https://www.chds.us/nextcloud/index.php/s/XoZgtRYsGYgAZtM>.

³⁰⁷ Eric Katz, "Homeland Security Moves forward with 13,000 Furloughs Despite its Improving Financial Situation," Government Executive, July 21, 2020, <https://www.govexec.com/workforce/2020/07/homeland-security-moves-forward-13000-furloughs-despite-its-improving-financial-situation/167081/>.

³⁰⁸ Sarah Pierce and Doris Meissner, "USCIS Budget Implosion Owes to Far More than the Pandemic," Migration Policy Institute, June 15, 2020, <https://www.migrationpolicy.org/news/uscis-severe-budget-shortfall>.

manage mobility, security, and global interconnectedness. Ultimately, a crippled U.S. immigration system undermines the U.S. national identity, values, and way of life—in other words, the very foundations of U.S. democracy.

V. CONCLUSION

The U.S. asylum system reflects the promise of American values—freedom, equality, and justice. Its transformation under the Trump administration represents a historically drastic rollback of the U.S. protection of vulnerable individuals. In July 2020, the Canadian court ruled that the United States is no longer a “safe” destination for refugees because of its detention and cruel treatment of asylum seekers.³⁰⁹ The changes have hurt the United States’ reputation abroad and have led to critical, structural cracks in the asylum program.³¹⁰ The fictionalized yet realistic narratives showing Martinez’s dehumanization and Carla’s frustrations demonstrate how the program has lost efficacy and integrity. Through regulatory changes, policies, and procedures that have encumbered asylum at the Southwest border, the Trump administration has prevented displaced people, like Luis, from accessing protection, and overburdened government civil servants, some of whom are already morally conflicted. The administration’s tactics have crippled U.S. humanitarian programs and are dangerously eroding democratic values and civil liberties.

The research presented in this thesis elucidates the value of accessing and analyzing subjective data, vis-à-vis the Cynefin framework, to understand complex and chaotic homeland security issues. Highlighting the otherwise muted voices of the transient border community offers new knowledge about the factors that have precipitated the humanitarian crisis at the border and that are crippling of the U.S. asylum program. The subjectivity of the displaced youth, the border patrol agent, and the refugee officer challenges mainstream media’s portrayal of a national security “migrant crisis” and unearths the actual crisis

³⁰⁹ Matthew S. Schwartz, “U.S.-Canada Asylum Treaty Unconstitutional, Judge Finds, Citing ‘Cruel’ U.S. Behavior,” NPR, July 23, 2020, <https://www.npr.org/2020/07/23/894859694/u-s-canada-asylum-treaty-unconstitutional-judge-finds-citing-cruel-u-s-behavior>.

³¹⁰ Amanda Holpuch, “Amnesty Leaders Condemn US’s Remain in Mexico Policy as ‘Disgrace,’” *Guardian*, October 25, 2019, <https://www.theguardian.com/world/2019/oct/25/amnesty-international-us-immigration-mexico-international-disgrace>; “UNHCR Deeply Concerned about New U.S. Asylum Restrictions,” UNHCR, July 15, 2019, <https://www.unhcr.org/news/press/2019/7/5d2cdf114/unhcr-deeply-concerned-new-asylum-restrictions.html>; “UN Rights Chief ‘Appalled’ by U.S. Border Detention Conditions, Says Holding Migrant Children May Violate International Law,” UN, July 8, 2019, <https://news.un.org/en/story/2019/07/1041991>.

brewing underneath: the influx of families and children seeking protection, the government interventions that exacerbate and create border enforcement tensions, and the intentional dismantling and reshaping of the asylum program to reduce humanitarian benefits.

The three muted voices also unearth the cause-effect relationships of the complex issues in the asylum ecosystem. Luis's story exemplifies the struggles displaced individuals face in their own countries and the possibility of a better future in the United States. Luis faces deportation from the United States, however, because he lacks access to resources and the capability to articulate a technical point required by the asylum system—the nexus to his persecution. Luis's livelihood hangs precariously on labels in an obdurate bureaucracy employed to manage migration flow rather than reflect reality. Martinez and his friend Jonas demonstrate unpredictable, emotional outcomes to the praxis of bordering, ordering and othering. Unrecognized and unmitigated, the volatile behavior causes irreparable harm to migrants and to agents who work at the border. Martinez's xenophobia and exhaustion is likely to culminate in another scandal for the U.S. Border Patrol and another violent act on the borderlands. Finally, Carla will follow her friend Matteo and many others who left their RAIO service disillusioned. On one hand she senses the bureaucratic system's inadequacy in unearthing potential "muted conditions" of persecution; on the other, she experiences increased layering of technicalities, processes, and procedures that dial up the inefficiencies in the U.S. asylum system.³¹¹ These complex, chaotic, interrelated issues define the flux of the border ecosystem.

With these new realities, decision-makers must rethink, retool, and reimagine solutions. U.S. homeland security leaders must seek out both short- and long-term innovative responses to heal and strengthen the U.S. asylum program while addressing threats, especially those from within. An immigration overhaul in the United States is long overdue; with significant programs in disarray, Congress has an opportunity to seek out emergent and novel methods. Doing so will require a delicate balance between national security and humanitarianism, efficiency and integrity, and strength and humility—and it will depend heavily on a skilled, dedicated staff unencumbered by political gambits.

³¹¹ Zetter, "More Labels, Fewer Refugees," 7.

A. RECOMMENDATIONS

The crisis at the border has no single, easy solution. However, the United States has opportunities to prevent the asylum program from falling into disorder and to restore it to an efficient, effective, fair, and humane state. The following eight recommendations are a mix of novel approaches and concrete steps that provide a roadmap for mending the asylum program at the border. Such actions would allow USCIS to control the flow of migrants and ensure the United States operates judiciously within national and international laws. Finally, these recommendations would remove the conditions that created many of the challenges that Luis, Martinez, and Carla faced.

1. Practice Radical Subjectivity to Counter Irrational Populism

As previously noted, the concept of muted voices expands on the subjective approach to amplify its humane and ethical potentials. It is radical subjectivity; as Bellavita clarifies, “‘radical’ in a dictionary—not a political—sense, to mean ‘root.’”³¹² Radical subjectivity can challenge irrational populist notions and the mainstream media’s portrayal of immigrants. In the plethora of migrant and refugee stories in the media, the people are depicted as either deviant invaders or passive victims reliant on first-world generosity and benevolence. And there are few stories from members of the border communities themselves, such as border patrol agents and USCIS officers.³¹³ Although these voices occupy the same ecosystem, they are rarely heard together to paint a panorama of the asylum system. Sharing their stories alongside each other highlights the human aspects and breaks down the notion of the other. These narratives help people from different circumstances and perspectives learn about and empathize with migrants and refugees; the asylum system; the global interconnections; the processes of colonization, conflict, and displacement; and the evolving nature of homeland security as a social enterprise.

³¹² Bellavita, “How to Learn about Homeland Security,” 5.

³¹³ Francisco Cantú’s 2019 book, *The Line Becomes a River: Dispatches from the Border*, published by Riverhead Books, is one of the few exceptions.

Hearing muted voices requires three main components, shown in Figure 14. First, researchers and practitioners must identify members of the ecosystem with sense data that cannot otherwise be attained. These are often the end users and frontline workers who have lived and experienced a particular system's reality, not those on the periphery such as agency heads, budget specialists, and managers. Second, researchers and practitioners must access their unfiltered subjectivity. They must immerse themselves in the world of the muted voices and gain their trust by spending substantial time engaging with them. Lastly, researchers and practitioners must have emotional and social intelligence. As the world becomes increasingly automated and screens separate human beings, these skills become critical points of intervention. A hyper-focus on collaboration, community, and humanness becomes, even more, a necessity to achieve real innovation in research.

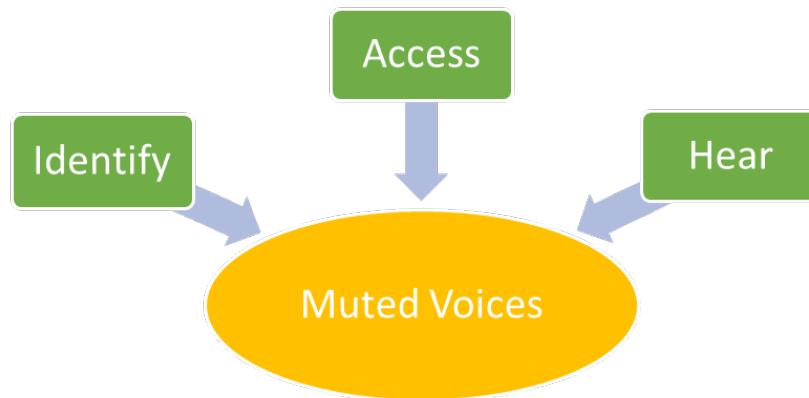


Figure 15. The Three Components of Muted Voices Research

2. Develop Novel Efforts to Confront Migration Drivers

Migration is a global reality. As such, it needs a multilateral, international response. U.S. leaders must look beyond beefing up the U.S. border and deterrence; these simple solutions have not worked and have caused greater tension.³¹⁴ Policymakers must prioritize resource allocation to Mexico and Northern Triangle countries. Development aid,

³¹⁴ Tom Wong, *Do Family Separation and Detention Deter Immigration?* (Washington, DC: Center for American Progress, 2018); Acer and Byrne, "Illegal Immigration Reform."

not necessarily financial aid, must be targeted to counteract the most significant migration drivers. According to Kathleen Newman of the Migration Policy Institute, many understand that “migration and development are inextricably linked” and often immediately conflate any solutions with cost to the United States.³¹⁵ Studies indicate, however, that development aid that increases income and opportunities leads to increased migration, since extra income often facilitates the journey north.³¹⁶ Thus, the United States must consider comprehensive, coordinated, innovative solutions outside its usual development toolkit. Past approaches to Central American aid have been top-down, directed by U.S. neoliberal priorities, and have ended up lining the pockets of the political and economic elite. Instead, the United States government must invest in civil society and strengthen democratic values and rules of law if it hopes to aid development and security in Central America.

To achieve this, the United States must not use its influence to force other countries into its preferred solution; the country must work in a truly collaborative fashion with UNHCR, the NTCA, and Mexico. For instance, in December 2018, the UN adopted a 2030 agenda for negotiating a cooperation framework for migration. The agreement lists 23 objectives and 187 actions to help countries with the implementation.³¹⁷ The United States should be a part of such discussions. It must empower UNHCR and partner with the NTCA countries to get to the roots of displacement and migration. Failure to understand how migration functions, its evolving nature and changing patterns, its drivers, and how it builds on the past will lead the United States to misidentify intervention points and miss opportunities. Through collaborative research and an understanding of the migration drivers (e.g., violence and insecurity, corruption and impunity, poverty and poor economic opportunities, social networks and family ties), the United States and its partners can find the most appropriate points of intervention to benefit of the entire region.

³¹⁵ Newland, *Migration, Development, and Global Governance*, 4.

³¹⁶ Newland, 5.

³¹⁷ Newland, 2–3.

Some may argue that it is not Washington's responsibility to mitigate the root causes of displacement and strengthen democracy, human rights, rules of law, development, and security in Central America. However, U.S. national security would benefit from addressing the problems in Central America. The United States will always be inextricably linked to Central America due to geographic proximity, globalization, and economic and historical interconnectedness. A stable and economically viable Central America is in the best interest of the United States. Writing in the 1990s about the role the United States played in the violence of Central America, Walter LaFeber concluded:

Unable to deal with the products of its own system, reconcile the contradiction between its professed ideals and its century-old foreign policy, or work with other nations to resolve these dilemmas, the United States, from Eisenhower to Bush, has resorted to force. The result has been more revolution. If the future is to be different, the past must be confronted.³¹⁸

The research herein shows that the United States shares responsibility for creating many bleak conditions that fuel migration from Honduras and neighboring countries. In the past two decades, U.S. policies on and in Central America have changed very little.³¹⁹ From Clinton to Trump, each administration has blatantly and covertly force NTCA countries to bend to its will without understanding the implications. Moreover, the United States is the most influential country in the region and the leading consumer of the drugs that sustain the *maras*. To deal realistically with the uptick of displacement from the NTCA, the United States must confront its past interventions and the unintended consequences of its domestic and foreign policies—a regional truth and reconciliation, if you will. By acknowledging its geopolitical-historical role in the humanitarian crisis, the United States can conceive novel measures and policies that may stem the flow of migrants and displaced people and can work toward a different future for the region.

³¹⁸ LaFeber, *Inevitable Revolutions*, 368.

³¹⁹ "U.S. Strategy for Central America," Department of State, accessed August 18, 2020, <https://www.state.gov/u-s-strategy-for-central-america/>.

3. Create a Bipartisan Commission to Overhaul the Immigration System

Immigration has been a hot topic in almost every election over the last two decades. Although it is often used as a tool for political maneuvering, legitimate problems and undeniable trends permeate the U.S. immigration system, including case backlogs, shifting migration patterns, a burgeoning undocumented population, and outdated legal immigration pathways. The United States would benefit from a real effort to overhaul the system, but Congress has been unable to agree on legislation to reform immigration; this failure indicates the complexity of the immigration problem in the United States.

Congress should form an independent commission of Democrats, Republicans, subject matter experts, and other stakeholders to study how to retool and update the U.S. immigration system. The commission would conduct research, including comparisons with similarly situated nations, to thoroughly understand the problems and come up with a set of data-driven recommendations to reform the U.S. immigration system. The reforms must have the consensus of Congress, and be within the boundaries of the U.S. Constitution.³²⁰ While attempts to overhaul the immigration system have failed in the past, the United States is at the cusp of transition.³²¹ With a global pandemic, civil unrest, economic recession, a USCIS budget implosion, and calls to dismantle homeland security, there is a real opportunity for change in 2020 and beyond. Congress must take hold of its responsibilities and make the overhaul a reality.

³²⁰ . Under the 1951 UN Convention Relating to the Status of Refugees and the 1967 Protocol Relating to the Status of Refugees, the United States has a legal obligation to provide international protection for refugees and other displaced people around the world. “Refugees & Asylum,” USCIS, November 12, 2015, <https://www.uscis.gov/humanitarian/refugees-asylum>

³²¹ The events of 9/11 nixed any potential initiatives on immigration reform. In December 2005 and March/April 2006, Congress failed to develop an immigration reform plan despite mass protests in support of the plan. Different versions of the Comprehensive Immigration Reform Act, a bipartisan bill spearheaded by Senators John McCain and Ted Kennedy, failed to pass in Congress in 2006 and 2007. In 2012, President Obama executed the Deferred Action for Childhood Arrivals (DACA) as a temporary solution for “dreamers”—undocumented youths brought to the United States—to stay in the country without fear of deportation until Congress could overhaul the U.S. immigration system. However, calls for and attempts at immigration reforms in 2012 and 2013 did not materialize into any concrete actions. “Historical Overview of Immigration Policy,” Center for Immigration Studies, accessed August 19, 2020, <https://cis.org/Historical-Overview-Immigration-Policy>.

4. Reverse Unreasonable Barriers to Asylum

The U.S. immigration process at the border must honor the United States' dual role of providing humanitarian protection to those eligible and maintaining national security.³²² The first step is to reverse the unreasonable and often cruel barriers imposed by the Trump administration that prevent asylum seekers from obtaining protection.³²³ The legality of many of the Trump administration's 400 policy and procedural changes—made through executive orders and regulatory changes—is questionable.³²⁴ The tactic of bypassing Congress shows that the administration knew the Senate and House of Representatives likely would not have likely approved the measures. Furthermore, many of the measures were deemed unconstitutional and struck down by federal courts, deemed logistically impractical due to resources and other constraints, withdrawn due to public outcry, or resisted by local and state governments.³²⁵ Such reactions call the legitimacy and long-term efficacy of the administration's immigration actions into question. These changes have also led to low morale and high turnover in the U.S. Border Patrol and the Asylum Division, and instability within U.S. homeland security institutions.³²⁶ The departure of public career officials and experienced rank and file civil servants represents a loss of institutional capacity and credibility. The measures have affected, also, DHS's ability to uphold its mission of providing immigration benefits to eligible applicants, securing and managing the U.S. borders, and preventing terrorism and fraud. Overall, the administration's actions have made the United States more vulnerable to external and internal national security threats.

³²² Under the 1951 UN Convention Relating to the Status of Refugees and the 1967 Protocol Relating to the Status of Refugees, the United States has a legal obligation to provide international protection for refugees and other displaced people around the world. USCIS, "Refugees & Asylum."

³²³ It is argued that presidents have unilaterally changed the immigration system. Adam B. Cox and Cristina M. Rodríguez, *The President and Immigration Law* (New York, NY: Oxford University Press, 2020).

³²⁴ Pierce and Bolter, *Dismantling and Reconstructing the U.S. Immigration System*, 1.

³²⁵ Meissner, Hipsman, and Aleinikoff, *The U.S. Asylum System in Crisis*, 1.

³²⁶ Sullivan and Rampton, "More Trump Firings."

5. Restore the Credible Fear Process

Created during the crafting of IIRIRA, Congress intended for the credible fear screening process to identify asylum seekers among those in the expedited removal process. The standard of proof is deliberately low because Congress conceived credible fear as a quick screening, not a full interview for asylum. The process aims to weed out frivolous or fraudulent claims and to ensure that those with meritorious claims have a full hearing with an immigration judge. However, since 2014, and especially during the Trump administration, the credible fear screening was shaped into a deterrence measure. The layering upon layering of bureaucratic procedures and technicalities—such as checklists, mandatory questions, a complicated credibility section, and an MPP component—made the process time-consuming and complex, essentially a full-blown affirmative asylum interview. This contradicts Congress’s intent.

These tactics are shortsighted. Overlooking the root causes of migration, they do not prevent asylum seekers from heading north to the Mexico-U.S. border and have not reduced the backlog of cases. Instead, they cause delays and confusion, and waste staff’s time and effort in an asylum program that continues to be overwhelmed. Credible fear must be a “low screening standard for admission into the usual full asylum process.”³²⁷ Such a reversal will reduce the turnaround required to complete the screening process and move cases on to the next stage of the process in court. Thus, the recommendation is for the United States to restore credible fear back to its original intent as a quick intake for asylum process admission.

Doris Meissner of the Migration Policy Institute suggests that asylum officers should be responsible for adjudicating positive credible fear asylum determinations.³²⁸ This change would mean that asylum seekers with credible fear would traverse through the same process as those who entered the United States by flight and overstayed, making the pathways to protection more equitable. Meissner reasons that since asylum officers already conduct credible fear screenings and can build an affirmative case using the records they

³²⁷ U.S. Senate, “Retirement of Senator Alan Simpson.”

³²⁸ Meissner, Hipsman, and Aleinikoff, *The U.S. Asylum System in Crisis*, 25–26.

have already established, the extra work would not be a significant burden.³²⁹ Moreover, she argues that there is already logistical precedence for this change; under TVPRA provisions, UACs encountered at the border were referred to the asylum offices for affirmative interviews. Instead of a defensive hearing with an immigration judge at immigration court, border asylum seekers can access a private, non-adversarial interview at the asylum office. Non-adversarial interviews are considered more effective in building trust, and they require fewer resources than a full hearing in immigration court.³³⁰ Additionally, this change would free up immigration judges' time to focus on their backlog of cases, motions, and appeals. These benefits outweigh the additional burden on the Asylum Division.

Certain conditions are necessary for this change to take place. First, eligible applicants—those without criminal convictions, flight indications, or safety risk—must be released from detention facilities to prepare for their asylum interviews. Releasing migrants is not a new practice; it violates U.S. law to detain migrants for more than twenty days without cause.³³¹ Releasing eligible applicants would free up resources in detention facilities. The Trump administration has made the argument that immigrants disappear and do not show up for their asylum hearings. However, the U.S. government can require regular check-ins and use ankle bracelets to prevent migrants from disappearing before their asylum interviews. Migrants must also have access to pro bono attorneys, and information about their rights and the U.S. immigration system, and case management. Many community organizations that once provided resettlement and integration services to refugees have already shifted their focus, given the low refugee admissions ceiling, to fill this gap in asylee services.³³² This change would also necessitate close collaboration and communication among the USCIS Asylum Division, CBP, and ICE, which is already in place.

³²⁹ Meissner, Hipsman, and Aleinikoff, 25.

³³⁰ Meissner, Hipsman, and Aleinikoff, 25.

³³¹ See *Reno v. Flores*, 507 U.S. 292, 306 (1993).

³³² Refugee Council USA blog, accessed September 8, 2019, <http://www.rcusa.org/blog>.

In terms of cost, legal reform, interagency cooperation, additional training requirements, and other factors, there are few barriers to these changes. They would reduce waste and overly burdensome bureaucracy, would simplify the U.S. asylum system, and make it easier for those involved to navigate the process. The United States would cut out a time-consuming, counterproductive measure that does little to make the country more secure, ethical, or efficient. By restoring the credible fear screening to its original form and changing legislation to allow asylum officers to adjudicate positive credible fear cases, the United States will restore the asylum program's integrity and reduce the backlog of cases on the immigration court docket.

6. Allow In-country Parole Processing for UACs with U.S. Ties

The United States can immediately reestablish the Central American Minors (CAM) program for children with families stateside. Eliminated by the Trump administration in August 2017, CAM was an Obama-era response to the unprecedented number of NTCA UACs making the dangerous journey to escape harm and reunite with their legal-resident families in America.³³³ CAM was an “in-country” processing program that allowed at-risk children of parents lawfully present in the United States to obtain refugee or parolee status while waiting for their applications to be processed.³³⁴ Although the program had some issues, a genuine effort to revive this pathway is crucial; it would provide a safe and legal alternative for UACs and reduce the stress on resources at the Southwest border.

Many of the elements needed to launch this program are already in place. The United States funds a resettlement support center in Latin America that can take on the responsibility of processing CAM cases.³³⁵ Many U.S. resettlement agencies have a presence in Latin American countries and can provide case management, information

³³³ Department of Homeland Security, *Recommendation on the Central American Minors (CAM) Refugee/Parolee Program* (Washington, DC: Department of Homeland Security, 2016), <https://www.dhs.gov/sites/default/files/publications/CIS%20Ombudsman%20Recommendation%20on%20the%20CAM%20Refugee-Parole%20Program.pdf>.

³³⁴ Department of Homeland Security.

³³⁵ Department of Homeland Security, 6.

dissemination, and other services to advance the program. The United States can work with the governments of El Salvador, Guatemala, Honduras, and Mexico to vet security risks, process the cases, and ensure the program's sustainability. Best practices and lessons learned from the previous version of this program can ensure that this iteration succeeds. For instance, USCIS can adjust staffing to address complaints of a lengthy processing time given the particular vulnerability of the population involved.³³⁶ Many of the adjustments are low-hanging and easily implementable: developing plain-language brochures, providing regular updates on processing time, and giving UACs access to legal counsel. Investing in this program is in the best interest of the children as well as the United States. Ultimately, the reduced number of asylum seekers at the Mexico-U.S. border will relieve the burden and stress on the Border Patrol and the U.S. asylum system.

7. Develop Agile and Smart Prioritization of Cases

The United States should consider developing an agile, smart system that vets, and ultimately prioritizes, asylum cases. The system would scan the application for compelling signs of frivolous, fraudulent, or otherwise unmeritorious claims, for example, lack of details, inconsistencies, or altered or falsified documents. It would fast track those cases that are especially frivolous or meritorious to asylum officers for quick adjudication. More experienced asylum officers can review cases that are more difficult or complex. The drawback is the research, market comparison, and development needed for such a system. The system must be regularly tested to ensure that machine learning is free from the agency's biases. Developers must also ensure that technology does not replace human judgment. Cases would require randomized checks to ensure equity and quality of vetting and prioritization. Finally, USCIS would need to ensure that it has the funding and technical expertise to implement such a system. With many different needs, old and new, vying for funding, USCIS would have to consider this option judicially and strategically. Technology adaptation is a significant investment of time and resources that can have potentially unpredictable results. Cost-benefit considerations, long-term advantages, user experience, and cybersecurity implications would need to be analyzed before adoption.

³³⁶ Department of Homeland Security.

8. Reform Customs and Border Protection

The CBP must rein in its border enforcement praxis of bordering, ordering and othering and realign its strategy and tactics to achieve a culture of professionalism, honor, and integrity. Martinez, Heyman, and Slack suggest that the CBP should revise its training program to include different topics that advance more nuanced and informed—and less aggressive—engagement with migrants.³³⁷ Moreover, border patrol agents and CBP officers must be held accountable for their xenophobic and abusive behavior in the field, at facilities, and on Facebook and other platforms. To this end, the CBP can revive the 2010 Anti-Border Corruption Act, which was scaled back to achieve Trump’s executive order request for new hires.³³⁸ The act, a remedy for substantial corruption that occurred after a doubling in recruitment after 9/11, required a polygraph test before hiring and periodic random polygraph examinations.³³⁹ These actions would hold agents accountable for corruption, misuse of force, or other misconduct, and would help to change CBP’s toxic organizational culture.

Conflicting, incongruous roles, especially among BPAs, must be eliminated. CBP can clarify roles by trimming inappropriate duties, such as those that should be reserved for the military, police, caseworkers, and USCIS adjudicators. Like their European Union counterpart in Frontex, CBP officers’ and agents’ interaction with migrants should be limited to encountering, debriefing, identifying, and fingerprinting.³⁴⁰ The Mexico-U.S. border is not a combat zone and does not require heavily armed forces to defend the nation’s sovereignty. Although CBP is a law enforcement entity and will work with local police as appropriate, its duty is to control the border, not the surrounding towns, cities,

³³⁷ Martinez, Heyman, and Slack, “Border Enforcement Developments.”

³³⁸ Victoriya Levina, “A Border Patrol Surge Will Lead to a Border Corruption Surge,” *The Global Anticorruption Blog*, June 18, 2018, <https://globalanticorruptionblog.com/2018/06/18/a-border-patrol-surge-will-lead-to-a-border-corruption-surge/>.

³³⁹ Homeland Security Advisory Council, *Final Report of the CBP Integrity Advisory Panel* (Washington, DC: Department of Homeland Security, 2016); Anti-Border Corruption Act of 2010, Public Law 111-376, (2011), <https://www.govinfo.gov/app/details/PLAW-111publ376>.

³⁴⁰ “Roles & Responsibilities,” Frontex, accessed August 31, 2020, <https://frontex.europa.eu/operations/roles-responsibilities/>.

and counties. Finally, CBP staff should have no role in asylum adjudications. As Heyman, Slack, and Martinez point out, BPAs and CBP officers are enforcers and cannot legally act as a judge by adjudicating credible fear screenings.³⁴¹ This paring down would clarify CBP's roles and responsibilities, relieve overworked and overburdened staff, and redirect resources appropriately.

Finally, the CBP must acknowledge that most of its staff suffer from trauma, or even moral wounds, as a result of their service to the United States. But PTSD and moral wounds are not the same. Wood asserts that healing a moral injury requires different treatment, including the active “participation” of veterans, who must “find their own paths to cleansing and healing.”³⁴² It is much the same concerning BPAs: there must first be an acknowledgment of the difference between PTSD and moral wounds. Treating a moral injury as PTSD does glosses over the nuances and also the very core of the malaise—the weight of a guilty conscience. The CBP should ensure that employment assistance programs have specialists who understand the difference between trauma and moral injuries and can provide substantive resources to BP employees and their families.

B. FINAL THOUGHTS

More is at stake than just the U.S. humanitarian programs. The crippling of the asylum program is at once a prelude to the immigration meta-hazard in the United States and to something more sinister—the erosion of democratic values and norms.³⁴³ For more than four decades, the asylum program exemplified the nation's strength and values, carried out with pride by civil servants. Today, the program is facing unprecedented

³⁴¹ Heyman, Slack, and Martinez, “Border Patrol Agents and CBP Officers.”

³⁴² Wood, *What Have We Done*, 262–63.

³⁴³ In his article for the CHDS magazine *Watermark*, Dan O'Connor writes, “Meta hazards imply some dangerous condition that may take a generation or decades to reveal themselves. These hazards, unbeknownst to us, have a self-organized criticality about them and seemingly, without notice or awareness, become present.” Dan O'Connor, “Homeland Security 2.0; It's Not What You Think,” *Watermark* 10, no. 2 (Fall 2019): 24–25, https://www.chds.us/c/resources/uploads/2019/11/chds_watermark_Fall2019.pdf.

challenges. The gutting of the asylum program is inhumane to refugees, detrimental to humanity, and ultimately harmful to U.S. interests.

The United States is drifting from its democratic ideals, and the world is witnessing the fall of an empire. According to Freedom House, an independent democracy watchdog organization based in the United States, “in recent years [U.S.] democratic institutions have suffered erosion, as reflected in partisan manipulation of the electoral process, bias and dysfunction in the criminal justice system, flawed new policies on immigration and asylum seekers, and growing disparities in wealth, economic opportunity, and political influence.” The coronavirus pandemic highlights America’s decline in military and economic supremacy, as well as in education, health, and well-being rankings.³⁴⁴ America's fixation on external threats has distracted its people from seeing the threat festering within its borders.

Since the days following September 11, 2001, the United States has focused, some might argue obsessively, on homeland security and border enforcement. Much has been lost in the process. UN Special Rapporteur Richard Falk contends that many U.S. homeland security strategies and policies violate the human rights principles the United States claims to champion.³⁴⁵ The United States must restore the health of its asylum program and, by extension, realign its government based on checks and balances and the rule of law. It must commit itself to a holistic understanding of the border ecosystem’s complexities, and achieve meaningful actions based on thorough research and accurate analysis.

Ruth Padel writes: “The more we study ways in which different biological entities organize their oddly similar journeys—whether macro or micro, cellular, ornithological, or human—the more insight we have into the restlessness of all life: how life needs, perpetually, not only to move but to change.”³⁴⁶ It is vital to recognize that change also

³⁴⁴ Wood, *What Have We Done*, 262–63.

³⁴⁵ Richard Falk, “The Power of Rights and the Rights of Power: What Future for Human Rights?” *Ethics & Global Politics* 1, no. 1–2 (2008): 81–96.

³⁴⁶ Ruth Padel, “Migration: Micro and Macro,” *The Scientist Magazine*, May 31, 2012, <https://www.the-scientist.com/reading-frames/migration-micro-and-macro-40919>.

paves the way for learning and evolution. This thesis recreated the dynamics at the border between displaced individuals, the Border Patrol, and USCIS officers. It is a creative and critical dive into the geopolitical, historical, and economic conditions that create and sustain migration and its interventions. But this work is simply a beginning. Readers are encouraged to use the concept of muted voices and its expansion of subjectivity to explore homeland security and other inquiries. As Noam Chomsky explains, it is the researcher's responsibility to seek and speak the truth as best as possible.³⁴⁷

³⁴⁷ Noam Chomsky, *Powers and Prospects: Reflections on Human Nature and the Social Order* (Boston, MA: South End Press, 1996).

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