

Deterrence of Hope: US Immigration Policies and the Asylum Process in El Paso, Texas

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Immigration Policy and US-Mexico Border Communities

OVERVIEW

The purpose of this study is to better understand not only the U.S. asylum process and the practices of officials of government agencies, but also the consequences that it brings for migrants seeking asylum. The detailed and changing steps in the asylum process are not explicitly and easily shared with the public by the Department of Homeland Security (DHS). This research focuses on identifying forms of deterrence that asylum seekers face since it can become practically impossible for them to navigate the asylum process without knowing its fundamental intentions and structural dimensions.

METHODOLOGY

The data for this research is from a 10-week Research Experience for Undergraduates (REU) program funded by the National Science Foundation (NSF), conducted in the summer of 2019. Through a Community-Based Participatory Research (CBPR) approach, five members of the project collaborated with HOPE Border Institute in El Paso, Texas. With HOPE we were able to visit immigration court hearings in El Paso and immigrant shelters right across the border in Ciudad Juarez, Mexico.

We used mixed methods consisting of short interviews and critical observations on due process, language barriers, access to legal counsel, Know Your Rights workshops, the documentation of human rights violations, biases of judges and important policies such as “metering” that negatively impact the safety of migrants by returning them to dangerous locations in Mexico.



A protest at the Paso del Norte international bridge on June 27, 2019. REU researchers holding pictures of migrant children that died in U.S. custody. - Photo by Jose Luis Gonzalez Gonzalez from REUTERS

OBJECTIVE

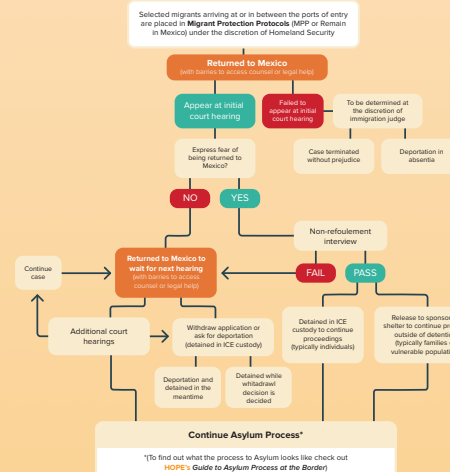
The overall objective is to contribute to current discussions on border politics and the moral obligation of care towards immigrants seeking asylum in the United States of America. To do so, we paid close attention to the policy Migrant Protection Protocols (MPP), known as the Remain in Mexico policy, which requires immigrants to wait in Mexico for the remaining of their asylum process. Almost all of our target group came to El Paso, Texas from various countries in Central America, mainly escaping both explicit and implicit violence.

Driven by HOPE's example of making enough consistent observations to create flow charts for both MPP and the entire asylum process, we intended to create an easy-read pamphlet with information regarding MPP. By providing this pamphlet to asylum seekers waiting in Mexico, these individuals can have a better insight about the U.S. asylum process. In other words, these flow charts and pamphlet are crucial to dissipate ambiguity.

RESULTS

Due Process: Regardless of legal status, it is a constitutional right for any individual in the US to have access to a fair trial.

- Asylum seekers' intentions are not often considered under the U.S. law, especially with the Zero Tolerance policy and its tendency to generalize. This symbolize a lack of commitment to initiate a conversation with asylum seekers who evidently cannot always wait to cross through a port of entry, e.g. the Cuban group who we encountered at the San Juan Apóstol shelter in Ciudad Juarez, Mexico: they were violently forced to cross in-between ports of entry and, therefore, initiated their asylum proceedings as “entering without inspection”.
- When an asylum seeker reports fear of returning to Mexico to an immigration judge, DHS follows up with an interview to evaluate the credibility of the claim. Although 90% of asylum seekers have expressed fear of returning to Mexico while awaiting their cases, they are typically still returned to Mexico. This process also fails to identify and protect members of vulnerable populations, such as pregnant women and individuals with cognitive disabilities, who should be excluded from the program.
- Despite promising the protection of vulnerable populations, DHS continues the enrollment of individuals with cognitive disabilities whose mental competency to stand trial has not been established.
- Despite efforts made to unenroll individuals who belong to vulnerable populations (i.e. families with critical health issues, individuals with cognitive delays), EOIR immigration judges and DHS personnel uphold that it is not their responsibility nor job to do so.
- With no access to attorneys, “Know Your Rights” presentations are the only source of legal information available to migrants. In El Paso, Know Your Rights presentations were eliminated by the immigration court as of July 2019.
- All immigration forms and applications are and must be submitted in English regardless of the migrants' native language. Migrants have expressed concern about access to translation support while in Mexico and are expected to “figure it out on their own.”
- After reporting fear of returning to Mexico, individuals await their non-refoulement interviews in detention cells referred to as ‘hieleras’ (coolers). Many migrants would rather return to Mexico despite expressing fear in order to avoid waiting more time in these cold cells.
- Deportation in absentia have been issued to migrants who have failed to show up to MPP hearings. The government argues it has provided sufficient notice and information to migrants about their court date and, therefore, their absence is considered sufficient grounds to issue a deportation order that results in a ten year ban for any other forms of relief.



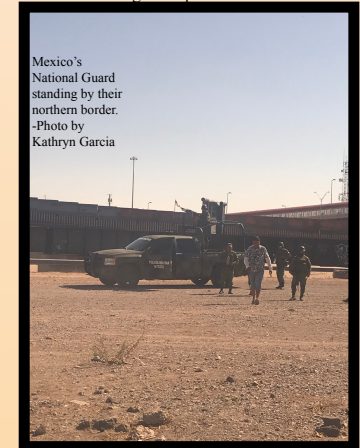
Note: This program is in its early stages. Updated information will be included as it becomes available. This information is based on the El Paso Sector and does not reflect the program border wide.

DISCUSSION

Role of Mexico: Asylum seekers are forced to remain in Mexico on the assumption that Mexico is a safe third country.

- Under a deal struck with Mexico on July 7 to stave off tariffs threatened by Trump, MPP is being expanded to more cities and applied to new nationalities including Cuba.
- Partially due to economic and political pressure on behalf of the Trump administration, Mexico authorized the temporary presence of asylum seekers in the country and originally promised to provide humanitarian aid.
- Allowing MPP's existence comes at the cost of categorizing Mexico as a safe country. This further enables the denial of credible asylum cases from Mexican individuals fleeing their country.
- Centro de Atención Integral al Migrante (CAIM) serves as the center for resources and information for repatriated Mexican migrants, deportees, as well as individuals placed on MPP. CAIM struggles to provide a wide array of legal and socioeconomic services needed by these different populations. For example, they try to make sure that US asylum seekers are assigned a number for chronologically waiting to initiate their asylum process due to the metering policy.
- Confusion at the CAIM also leads to failure for migrants to acquire a working permit. However, those who do acquire working permits state that the permits hold no value, since discrimination keeps them from being hired anyway.
- Andres Manuel Lopez Obrador, Mexico's president, deployed their National Guard to both the southern and northern borders. (See image on the right).
- Almost on a daily basis, CBP usually notifies Mexican authorities how many people are allowed to initiate the asylum process. An average of 20-25 migrants move forward in the waiting list, but there are some days where nobody is allowed to step into US soil. These days usually causes amplified cacophony at CAIM where migrants, especially those who have been waiting months to finally initiate the asylum process “the right way” get hopeless.
- Not all shelters in Mexico can accommodate everyone, which means that there are currently asylum seekers in Mexico sleeping in the streets.
- Waiting in Mexico reduces the possibility for asylum seekers to have U.S. legal counsel. There are some attorneys who manage to reach some asylum seekers, but it is difficult considering the circumstances. Consequently, asylum seekers do not experience a genuinely fair chance to receive asylum.
- In Mexico, migrants are targets for smugglers and robbers due to the remittances they receive from family members in their home countries and/or the United States. There is a large possibility that migrants who have been deported in absentia have been kidnapped or murdered while awaiting their court hearings in Mexico.
- Migrant shelters in Mexico have also become targets for smugglers and thieves. These threats are compounded by shelters being completely full, disabling others from seeking refuge, and oftentimes being overcrowded.

- We argue that the U.S. asylum process can be understood as a “systematic deterrence”. That is, practices tend to deter and dissuade asylum seekers at almost all points of the asylum process, from intimidation and harassment of individuals arriving at ports of entry and agents' failure to screen for credible fear, to the use of prolonged detention and the abuse of asylum seekers while in custody. These practices, intended to break the spirits of asylum seekers, leads to the deportation of people seeking refuge, often to situations of extreme danger.
- An individual or nation who is concerned with protecting itself at all costs will feel tempted to avoid understanding others for who they are and what they want. Instead, others are perceived as a potential threat. Having a fixed perception will limit the possibilities of interpreting their perspectives.
- The lack of precise definitions increases confusion and further deterrence.
- There is an evident desire to not only deter but to do it as fast as possible.
- It is important to reexamine the language, communication, and words that are currently being used within the discourse of border issues and immigration policies.



Mexico's National Guard standing by their northern border. -Photo by Kathryn Garcia

Language: Word choice affects perception and, perhaps, behavior.

- The policy “Migrant Protection Protocols” (MPP) can be interpreted in at least two ways: 1) migrants will be protected as they wait for their asylum process to be completed and 2) the United States will be the one being protected from the migrants and their caravans.
- DHS, using words such as “urgent”, “crisis”, and “exploitation of our generous immigration laws”, can easily encourage the quick militarization of the U.S.-Mexico border, which its ineffectiveness has been documented in terms of economic, social, and cultural discourse. This can include the issue of racial profiling.
- Not defining words such as “vulnerable populations” can cause significant problems.
- A judge presiding over the El Paso Processing Center (EPPC) immigration court was heard to say the following things listed:
 - “The problem with those damn Cubans is they come from a cracked country.”
 - “This little quirky bullshit stuff is why people hate practicing immigration law.”
 - “It's not reasonable to ask for more time and I have some concerns about you. It seems you're more focused on release instead of protection from deportation.” *The judge, after the defendant asked for a continuance on bond application, needed more time to receive evidence from Cuba.*
 - “When the judge asked the defendant if he was ready to respond to questions, defendant responded: “What kind of questions?”. Judge: “I can ask any kind of question I want. I am the judge. It is my job.”
 - “Only 5% get asylum, but it's better than playing the lottery.” *Judge laughed.*
 - “When we have the exotics is when we have fun”. (Referring to defendants that need a translator for a language that is not Spanish or English)
 - There were “no exotics today.” (Meaning all defendants spoke Spanish)

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(More references are available via email on request.)

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