

## The Refugee Caravan: Human Rights First's Observations from the Border

In April 2018 approximately 240 Central Americans who had traveled together in a month-long caravan through Mexico sought asylum at the U.S. port of entry in Tijuana, Mexico. While the caravan this year garnered unprecedented attention following [a Fox News report](#) and subsequent tweets from the president, there is a longstanding tradition of migrant and refugee caravans in Mexico. The organizing network, Pueblo Sin Fronteras, has supported caravans every year since 2008 to raise awareness of the plight of refugees from Central America and provide safety and security to vulnerable refugees fleeing for their lives.

The world is currently facing the largest refugee crisis since World War II. Globally, there are [22.5 million refugees](#) and [65.6 million forcibly displaced individuals](#). On April 29, 2018, attention focused on 240 of these individuals, members of a caravan seeking asylum in the United States.

U.S. law and treaties protect people's legal right to seek protection from persecution in the United States. Yet, in contravention of U.S. law and treaty obligations, President Trump [tweeted](#) that he had "instructed" the Secretary of Homeland Security "not to let" people who had traveled as part of the caravan into the United States. Administration officials threatened criminal prosecutions, detention, and family separation for those seeking asylum, and misrepresented caravan organizers and volunteer lawyers as people trying to cheat the system. Both the president and administration officials mischaracterized these asylum seekers, at least in part, in an attempt to pressure Congress into passing legislative changes that would block refugees from exercising their legal right to seek asylum in the United States.

In response to these publicized threats, Human Rights First sent two researchers to the border to gather information and observe as members of the caravan requested asylum protection at the U.S. port of entry.

While the administration portrayed caravan asylum seekers as a "[stampede](#)" of the border, Human Rights First's researchers witnessed a very different story. The group presented themselves peacefully at the official U.S. port of entry and waited for days for Customs and Border Patrol (CBP) to allow them to enter the port. The agency ultimately processed about 240 caravan asylum seekers over the course of six days. CBP then sent asylum seekers to Immigrations and Customs Enforcement (ICE) detention facilities. In at least one case, CBP and ICE separated children from a parent.

### The Trump Administration's Response

The president began tweeting about the caravan on Easter Sunday. His tweets portrayed the refugees and migrants as "[dangerous](#)." Throughout April, the president, Department of Homeland Security Secretary Nielsen, and Attorney General Sessions issued statements which characterized the caravan and its organizers as people who intended to violate U.S. law or exploit "legal loopholes." Many statements suggested that Congress should enact laws to block Central Americans from seeking asylum at the southern border.

On April 1, 2018, President Trump [tweeted](#), "*Border Patrol Agents are not allowed to properly do their job at the Border because of ridiculous liberal (Democrat) laws like Catch & Release. Getting more dangerous. "Caravans" coming. Republicans must*

*go to Nuclear Option to pass tough laws NOW. NO MORE DACA DEAL!”* The next day, President Trump tweeted “...Congress must immediately pass Border Legislation, use Nuclear Option if necessary, to stop the massive inflow of Drugs and People. Border Patrol Agents (and ICE) are GREAT, but the weak Dem laws don’t allow them to do their job. Act now Congress, our country is being stolen!”

On April 23, as the remaining approximately 240 members of the caravan neared the U.S. border, President Trump [tweeted](#), “Despite the Democrat inspired laws on Sanctuary Cities and the Border being so bad and one sided, I have instructed the Secretary of Homeland Security not to let these large Caravans of people into our Country. It is a disgrace. We are the only Country in the World so naive! WALL.” Secretary Nielsen [stated](#) that the Department of Homeland Security (DHS) “continues to monitor the remnants of the ‘caravan’ of individuals headed to our Southern border with the apparent intention of entering the United States illegally.”

That same day, Attorney General Sessions [blamed](#) caravan members for failing to seek asylum in Mexico first, insinuated that caravan organizers were smugglers, and promised prosecution of “smugglers and traffickers and those who lie or commit fraud.” Days later, on April 25, Secretary Nielsen [stated](#), “If you assist or coach an individual in making a false immigration claim, you have broken the law and will be referred for prosecution.” These statements appeared aimed at volunteer lawyers who were providing legal information to asylum seekers. Many interpreted this statement as an attempt to dissuade volunteer attorneys from participating in “Know Your Rights” legal consultations with caravan members in Tijuana.

On April 30, approximately 24 hours after the first members of the caravan attempted to seek asylum at the U.S. port of entry, and before any had been accepted for processing, President Trump [tweeted](#), “The migrant ‘caravan’ that is openly defying our

*border shows how weak & ineffective U.S. immigration laws are... We need lawmakers who will put America First.”*

On May 2, as asylum seekers peaceably waited outside the official U.S. port of entry, Attorney General Sessions [reiterated](#) that, “We are not going to let this country be overwhelmed... We need legality and integrity in the system. People should wait their turn, ask to apply lawfully before they enter our country.”

## **The Reality on the Ground**

Following the administration’s threats to block or punish asylum seekers in the caravan, and to target those who provided them with legal advice, Human Rights First sent two researchers to the border to conduct legal observations at the San Ysidro, California port of entry. Human Rights First’s researchers interviewed asylum seekers, volunteer attorneys, aid workers, and organizers, and asked questions of Mexican immigration officials and CBP officers. In a separate initiative, Human Rights First also has—as part of its legal representation effort—provided pro bono legal counsel to a few asylum seekers in ICE custody who were members of the caravan. Its researchers in Mexico did not provide legal advice or guidance to asylum seekers.

From its observations and research, Human Rights First learned the following:

**Reasons for Seeking Asylum:** Asylum seekers at the port of entry had left their homes and communities behind and traveled for over a month in difficult conditions to the U.S. border. Once there, they decided that they would stay at the port of entry, regardless of the conditions, until CBP allowed them to enter the port for processing. Among these asylum seekers were:

- “Martha”: As a transgender woman in El Salvador, she was repeatedly threatened because of her gender identity. She made the journey to the U.S. border so that she could

pursue a life true to her identity in relative safety. Martha joined a group of transgender women and found more acceptance from the caravan than she had expected. Food, for example, usually went first to the children, then the nursing mothers, then all women, and lastly the men. The transgender women were usually offered food with the other women and often referred to as “senoritas” by the men.

- ☑ “Emily”: Emily had traveled for several months by herself from overseas to reach the U.S. border. She was not a part of the caravan, but the caravan fed her, gave her blankets, and let her sit with them after CBP said she had to wait. She fled her home country after she was raped and a family member was murdered.
- ☑ “Jose”: Jose is a teenage boy who fled after a gang killed some of his family members and threatened his immediate family. He was learning English on the plaza, and expressed fear of detention, but even greater fear of returning home or staying in Tijuana. His father expressed fear of family separation.

**The Numbers:** While the caravan at its height included 1500 or more refugees and migrants as it traveled northward through Mexico, the number dropped substantially by the time the group reached Tijuana, Mexico. In total, approximately 240 individuals from the caravan sought asylum in the United States during the week of April 29, 2018. The majority of these were women and children who were part of family groups. The asylum seekers also included several unaccompanied children and many transgender individuals. Many fled from Honduras, where recent protests and repression sparked additional displacement.

Instead of presenting at the port of entry in Tijuana, most caravanners decided to stay, at least temporarily, in Mexico.

- ☑ Many decided not to seek asylum in the United States after learning about the legal requirements for asylum.

- ☑ Some decided to seek asylum in Mexico.
- ☑ Others simply needed more time to gather documents from their home countries necessary to prove their asylum claim in the United States.

**Legal Information and Consultations:** While in Tijuana, asylum seeking caravan members received legal information and legal consultations, conducted by U.S. volunteer and non-profit attorneys and law students. The legal information and consultations covered basic “Know Your Rights” information about U.S. asylum law, including what asylum seekers should expect in the credible fear interview and U.S. asylum process. Legal presentations and legal consultations often help people to understand if they do or do not have a claim for asylum. For instance, one asylum seeker reported that, after a legal consultation, he no longer intended to seek asylum in the United States, as he did not believe he met the legal criteria.

**CBP Reports U.S. Port of Entry Is “At Capacity”:** On the afternoon of April 29, caravan members exited Enclave Caracol, a café and organizing space in Tijuana, formed two side-by-side lines, and walked to the plaza outside the U.S. port of entry in Tijuana. Mexican immigration officials met the asylum seekers and requested that a smaller number enter the facility for the initial approach to the U.S. gate. The caravan complied, and approximately 50 asylum seekers, mostly women and children, entered the Mexican side of the facility. Within 30 minutes, they allowed 20 asylum seekers to walk down the ramp towards the U.S. gate. There were approximately ten Customs and Border Protection officers waiting for the asylum seekers at the gate, including the Port Director, Deputy Border Director, and an individual not in uniform. The officer at the gate told the asylum seekers that CBP was at capacity, and they would have to wait.

The twenty asylum seekers decided to sleep on the ground outside the gate overnight. Not until about 6:40 pm the following evening, April 30, after waiting more than 24 hours, did CBP allow the first eight

asylum seekers to enter the port of entry for processing.

During five days of observations at the gate, Human Rights First observed CBP officers using nearly identical language when asylum seekers approached the gate. They told them that they could not come in because they were at capacity, and that they would have to wait. They did not, during Human Rights First's observations at the gate, tell any asylum seekers that they could not come in at all.

One supervisory CBP officer told an organizer that the asylum seekers may have to wait "forever" because he did not have enough room to "store" them. When a Human Rights First researcher asked a follow up question, the officer stated that he had "300 or so bodies" in the processing facility. On another occasion, another supervisory CBP officer said that he thought it was unlikely that processing would happen overnight, which allowed the asylum seekers at the gate to prepare to spend at least the full night outside the gate. This contrasted with another instance, in which CBP would not tell a woman seeking asylum—who was not with the caravan—how long she and her small child might have to wait, leaving her scared and confused as to whether she should try to find a shelter in Tijuana late that night.

CBP officers told Human Rights First researchers and others that the capacity issue was space, as opposed to staffing, in the San Ysidro facility. CBP officers and supervisory officers did not answer questions at the gate regarding whether CBP was transferring people from the processing center to ICE detention centers at its usual pace.

Human Rights First interviewed one of the first caravanners CBP processed and learned that there were many people in the processing facility where he was held, even though CBP appeared to have taken in few, if any, asylum seekers in the preceding days. It remains unclear whether CBP conducted processing interviews at its usual rate, why the processing center was holding so many individuals

when the caravan asylum seekers requested protection, and whether CBP was transferring individuals to ICE detention facilities at the normal speed.

**Effects of Processing Delays:** As they waited for days for CBP to process their cases, asylum seekers slept on the concrete outside the U.S. gate, and on the plaza in Tijuana outside of the facility, for up to six days. In the first 24 hours, few had shelter or blankets. Asylum seekers used plastic bottles to go to the bathroom, contended with lice and red ants, and slept exposed to the rain and cold. Several women reported developing urinary tract infections and dehydration because of lack of access to a bathroom. Transgender women had to travel a longer distance to access bathrooms they felt were safe enough to use. Volunteers brought food, tarps, tents, and blankets, which somewhat improved conditions.

### Current Efforts to Punish and Deter Asylum Seekers

Despite the president's pronouncements that he would block the caravan, CBP ultimately did allow asylum seekers into the port of entry for processing as required by U.S. law. Making it through the gate, however, is only the first step in seeking asylum in the United States. Administration officials also threatened asylum seekers—including those who had traveled with the caravan—with criminal prosecutions, extended detention, and family separation, likely in an attempt to deter future asylum seekers from seeking this country's protection.

☑ **Criminal Prosecutions:** Attorney General Sessions and DHS Secretary Nielsen issued several statements announcing a "zero tolerance" criminal prosecutions policy, making clear that their agencies would subject asylum seekers, including caravan members, to criminal prosecutions if they crossed the border between ports of entry. As Human Rights First has [explained](#), and the DHS Office of Inspector

General has flagged, the prosecution of asylum seekers for illegal entry and reentry raises concerns about U.S. compliance with Article 31 of the Refugee Convention, which prohibits the penalization of refugees for illegal entry or presence. Despite threats of criminal prosecution, almost all asylum seekers affiliated with the caravan have thus far presented at ports of entry, rather than crossed between them. Administration claims of caravanners stampeding the border contrast starkly with the reality of asylum seekers peaceably and patiently waiting outside the U.S. port of entry for CBP to allow them in for processing. Only eleven individuals, at least several of whom had minimal contact with the caravan before it reached Tijuana, were reported to have attempted—on their own, and not with the caravan—to cross the border between ports of entry.

- ☑ **Detention:** On April 6, 2018, the president issued a presidential memorandum, [“Ending ‘Catch and Release’ at the Border of the United States and Directing Other Enhancements to Immigration Enforcement.”](#) to increase immigration detention and limit the possibility of release. Yet ICE already routinely detains asylum seekers for months or even years without parole.
- ☑ **Family Separation:** While the government [denies](#) that it has an official policy of family separation for those arriving at U.S. ports of entry, CBP and ICE have already [separated hundreds of parents and children since October 2017](#), including some caravan members. In family separation cases, children are taken from their parents and put into the custody of the Office of Refugee Resettlement, while their parents are taken into ICE custody and sent to detention facilities. Parents often do not know where their children are, and there is no system for ensuring continued communication between

parents and children, or timely resolution of any identity or custody concerns and reunification.

One asylum seeker who was part of the caravan and who is currently separated from her children, said:

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*“It hurts so much but there are times when the situation makes me despair. I get so depressed not having my children with me and there isn’t a second of peace for me while I don’t have my children by my side. Not a night goes by without me crying, thinking that they aren’t with me and that they need me...If you could feel the pain I feel as a mother maybe you would understand that it isn’t necessary to separate children from their parents because we come fleeing from our countries.”*

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- ☑ **Credible Fear Interview Questions:** Many of the caravan members reported that asylum officers asked them during their credible fear interviews about their association with the caravan. Questions included why they joined the caravan, whether they were “coached,” and whether they paid organizers. When one attorney objected to this line of questioning, the asylum officer explained that the questions were based on directives from above. The questions raise concerns that DHS is targeting non-profit and volunteer lawyers who provide information and consultations on U.S. asylum law in Mexico.
- ☑ **Mexico as a Safe Third Country:** In response to the arrival of these asylum seekers at the border, the administration is pressuring Mexico to agree to a “safe third country” arrangement. This arrangement would prevent some asylum seekers who pass through Mexico from seeking protection in the United States. The administration is also urging Congress to change U.S. law to allow the Secretary of Homeland Security to unilaterally declare Mexico a “safe” country.

Mexico, however, does not meet the U.S. and international legal standards for a safe third country. A safe third country, under [U.S. law](#), can only be a country where “the alien's life or freedom would not be threatened on account of race, religion, nationality, membership in a particular social group, or political opinion, and where the alien would have access to a full and fair procedure for determining a claim to asylum or equivalent temporary protection...”

As Human Rights First documented in [Dangerous Territory](#), Mexico falls far short of meeting safe country standards. In Mexico, refugees and migrants face acute risks of kidnapping, disappearance, sexual assault, trafficking, and other grave harms. Mexican migration officers deport many Central Americans who have expressed fear of return despite the country's human rights obligations. In addition, deficiencies in the Mexican asylum system leave many refugees unprotected. The Trump Administration itself has repeatedly acknowledged the dangers migrants face in Mexico, and the State Department has issued travel warnings for U.S. citizens.

## Recommendations for Congress

Congress should:

- Uphold U.S. law and treaty obligations, and resist administration pressure to pass legislation that would block access to U.S. refugee protection.** Congress should press the administration to address the processing of asylum claims from Honduras and elsewhere in the Northern Triangle of Central America in ways that are consistent with U.S. refugee protection and human rights treaties. Not only would this approach set a strong example for other countries who face much larger refugee and displacement crises, it would more effectively safeguard this country's Constitution, values, and national interests.
- Press President Trump and his administration to cease threats to “not let in” asylum seekers or to punish those who seek U.S. refugee protection through indefinite detention, criminal prosecutions, and family separation.** Penalizing asylum seekers through criminal prosecutions, detention, and the separation of children from their parents violates the Refugee Convention. The Trump Administration should instead use the civil asylum and immigration removal proceedings systems, which Congress created to handle asylum requests. Congress should not support the overuse of detention, but rather support tested and effective community-based appearance programs.
- Refrain from supporting the administration's attempt to unilaterally declare Mexico a safe country for refugees and call on the administration to stop pursuing a safe third country agreement.** Mexico does not meet the U.S. and international legal requirements for a safe third country. Instead, the U.S. government should continue to support the development of effective asylum systems in Mexico and other countries in Central America, so that those who wish to seek asylum in these countries may safely do so.
- Provide oversight and monitor administration efforts to thwart or discourage legal representation for asylum seekers.** The administration's threats aimed at attorneys assisting asylum seekers who traveled with the caravan raise serious concerns that this administration is seeking to block asylum seekers and immigrants from legal information and legal counsel. Congress should not allow the administration to strip away life-saving legal information from refugees.