

# ASYLUM SEEKERS

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Hope and Disappointment on the Border

Patricia Sutton



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## CHAPTER THREE

### At the Border

For many, arriving at the border seems like the end of the quest. Historically, when asylum seekers reached the United States, CBP would detain them, process their identification documents, and run security checks. An asylum officer would conduct a credible fear interview. If the asylum seeker established that he or she had been persecuted, or there was a significant possibility they would be harmed if deported, the officer would issue a notice to appear. This document granted the person a hearing before an immigration judge, where asylum could be granted or denied. While waiting for this to occur, asylum seekers could be placed on parole, which allowed the individual to be temporarily released in the United States. Family members or sponsors would take asylum seekers in while waiting for the immigration process to move forward.

However, ever-shifting immigration policies have complicated the process and contributed to delays, detentions, and denials. Inadequate documentation can derail the process. Language barriers and lack of legal representation contribute to the misunderstanding of rights. In March 2020, a public health order known as Title 42 allowed for the quick expulsion of asylum seekers in response to the COVID-19 pandemic. Out of concern over the virus, these people never had the chance to apply for asylum. With the threat of deportation looming over the new arrivals, their next steps in the asylum process presented a continuation of their difficult journey.

## Asylum Seekers Processed

Many asylum seekers cross the border at ports of entry to lawfully enter the United States. Others choose to cross illegally. Travelers who cross this way can still seek asylum by turning themselves over to the US Border Patrol agents.

Emilia is one asylum seeker who went the latter route. Around 2019, she and her daughter, Lauda, fled violence in Honduras and made the choice to enter the United States illegally, with a group of about two dozen other travelers. But there were no patrols around when they arrived. With nearly 2,000 miles (3,219 km) of border, it is difficult to monitor all of the crossings. With water and provisions gone, the group wondered how long they would wait. Border Patrol agents finally arrived. After checking identification cards and birth certificates, they loaded the migrants into buses headed for a Border Patrol processing facility.

Once they arrived at the center, workers passed out sandwiches, juice, and cookies; employees checked identification and paperwork again. Next came fingerprinting and examining any other data from previous border crossings. This security check prevents any asylum seeker with a criminal record from being considered.

While Emilia and her daughter waited for clearance, personnel moved them to a small, very cold room. Many refer to these holding cells as *las hieleras*, which is Spanish for “ice boxes.” The typical holding room contains a single toilet and a drinking fountain. Some cells have thin mats for sleeping, but often, nothing cushions detainees from the cold, hard concrete floor. Emilia received a flimsy aluminum “blanket,” meant to keep body heat in and cold out. As the day wore on, more people squeezed in, at times so tightly that only some could lie on the floor to sleep. Others sat nearby waiting for their turns to stretch out and rest.

Emilia and the other detainees could not tell whether it was day or night. There were no windows, and lights remained on twenty-four hours a day. Breakfast was the only indication that a new day had dawned. For three days, Emilia and Lauda waited.



*Migrants from Colombia stand in front of a wall that marks the border between Mexico and the United States. This group is waiting to be processed after turning themselves over to authorities on May 12, 2021, in Yuma, Arizona.*



Next, Emilia was put through what is known as the credible fear interview. During this meeting, Emilia shared her story with the official. She told of violence that included an attack on her neighbor by local gang members. They beat him and threw rocks at his head, leaving him bleeding in the street, because he had no money to pay for protection. Emilia feared for her life because she had witnessed the attack. “It was horrible that I couldn’t do anything about it. Fortunately, he lived—but the truth is if you try to stop something like this, they’ll just do the same to you,” she explained. “All you can do in Honduras is shut your mouth, because nobody is safe there.”<sup>24</sup>

Upon passing the interview, Emilia and Lauda were transported to a shelter run by the International Rescue Committee in Phoenix. The staff

**“The truth is if you try to stop something like this, they’ll just do the same to you. All you can do in Honduras is shut your mouth, because nobody is safe there.”<sup>24</sup>**

—Emilia, asylum seeker

## Affirmative vs. Defensive Asylum

There are two paths to claiming asylum: the affirmative asylum process and the defensive asylum process. Those seeking asylum who have proper identification, enter at a port of entry, and pass a credible fear interview qualify for the affirmative asylum process. Even those who enter the country illegally, with proper identification and evidence of persecution, may meet the criteria. Those migrants who have prior immigration violations, lack identification, or are ordered to be deported but pass a credible fear interview may still apply for asylum through the defensive asylum process. Both types of asylum seekers must complete and submit paperwork within one year of entry. Cases are decided in front of one of the five hundred immigration judges who currently serve in this position. In 2021, US Citizenship and Immigration Services had a backlog of over 1.3 million immigration cases. Nearly 400,000 of them are affirmative asylum cases.

welcomed them with hugs and cheers. Emilia and her daughter both cried. The shelter provided a doctor and good food. There was soap and feminine supplies, along with diapers, clothes, and toys. “We could feel the love and concern,”<sup>25</sup> says Emilia.

Volunteers provided guidance to the young mother and her daughter to prepare for the next steps in the asylum process. Having passed the credible fear interview, Emilia received a notice to appear. Those at the shelter also helped her make travel arrangements to meet up with family in Texas, as she waited to appear before the immigration judge.

## Asylum Seekers Separated

Another mother from Central America had a much more traumatic experience. Andrea and her three-year-old son, José, escaped a gang who beat her and threatened to kill her. She and José spent weeks on the road riding buses, walking, and taking a boat before reaching the US border in Rio Grande City, Texas. Andrea had done everything the “right” way. She crossed at a legal port

of entry. She provided identification documents. She had a family sponsor in New Jersey who offered to shelter them. Things should have gone smoothly, but they did not.

For three days, the two spent time at a processing center in Texas. She told her story to the agents, but she still needed to pass the credible fear interview. In the meantime, she and her son needed to remain in detention, but that would happen at another facility.

Andrea thought they would go together. Instead, the immigration official ordered her to place José in the back of a truck. That is when she realized she would not be joining him. This was because in 2018, under President Trump, it became common practice to separate children from their parents at the border as a way to deter immigrants from coming to the United States. “He cried and scrambled to get back to [me] as the vehicle drove away,”<sup>26</sup> recalls Andrea.

For six weeks, she endured crowded conditions at the new detention center. Packed fifty to a room, she and the other women slept in bunk beds and lived like prisoners. There was no privacy, not even to shower. All the while she worried about José and where he was.

Andrea’s attorney explained that they likely transported him to a tender-age shelter out east. *Tender age* refers to children under the age of five. With her lawyer’s help, Andrea tracked him down. The mother and son talked by phone, but José often cried while they talked. Both José and Andrea suffered from depression, headaches, fear, helplessness, crying, trouble eating, and difficulty sleeping.

After forty-one days, authorities released Andrea, giving her permission to stay and work in the United States while she waited for the backlog of asylum cases to clear the courts. She flew immediately to New York to be reunited with her son. “I was very happy to see him. But for José, it was very hard for him. He didn’t want to be near me. He wouldn’t listen to me,”<sup>27</sup> she says. Her son blamed her for their separation.

# SOURCE NOTES

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# ORGANIZATIONS AND WEBSITES

## **Amnesty International**

[www.amnesty.org](http://www.amnesty.org)

Amnesty International is an international nonprofit nongovernmental organization focused on human rights. It is committed to holding governments responsible for their treatment of asylum seekers, refugees, and other displaced people.

## **International Rescue Committee (IRC)**

[www.rescue.org](http://www.rescue.org)

The IRC helps people affected by humanitarian crises to survive, recover, and rebuild their lives. The IRC assists asylum seekers on both sides of the US southern border, offering meals, clothing, transitional shelter, and travel coordination to recently released detainees.

## **Project Amplify**

[www.project-amplify.org](http://www.project-amplify.org)

Project Amplify is a nonprofit created to provide legal protections for child migrants in government care. It works to share children's stories about their experiences in detention and amplifies those voices through the arts. In addition, it works with policy makers to ensure that the human rights of these children are upheld.

## **Refugee and Immigrant Center for Education and Legal Services (RAICES)**

[www.raicestexas.org](http://www.raicestexas.org)

RAICES provides free and low-cost legal representation to underserved immigrant children, families, and refugees. It provides bond money for the release of detainees, help preparing for credible fear interviews, and assistance with resettlement and navigating the asylum process.

## **Southern Border Community Coalition (SBCC)**

[www.southernborder.org](http://www.southernborder.org)

The SBCC is a group of more than sixty organizations along the US southern border whose purpose is to ensure that border policies are fair and humane, to improve the quality of life in the affected communities, and to support rational and humane immigration reform. Its website offers data and a variety of graphics related to the asylum process at the border.

# FOR FURTHER RESEARCH

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