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Changing Asylum Policies and Practices in the United States

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Abstract

On February 11, 2019, the National Immigrant Justice Center reported that 49,000 people were being detained in American detention facilities. This report highlights the process of Central American families and unaccompanied minors beginning to apply for asylum at the U.S.-Mexico border. In my study, I aim to investigate how child and family detention, past and present asylum policies, and treatment of migrants at the border suggest a shift in immigration policy in the Obama and Trump Administrations. The project was divided into two parts; in the first part, I analyzed scholarly literature to compare immigration policy and practice across the past two U.S. presidential administrations. In the second part, I will explore the handling of immigration cases during the past two U.S. presidential administrations through in-depth interviews with attorneys and immigration officials. My findings thus far suggest that both administrations interpreted asylum policies to deter immigration by detaining families, separating families in detention, detaining people for lengthy periods of time, pressuring judges and lawyers to quickly clear detention cases, enforcing expedited removal, and permitting severe conditions in detention facilities, including illnesses and blocked access to legal representation. All of these practices indicate that seeking asylum is becoming more arduous. Although the detention of immigrants seeking asylum began to rise in 1996, I find that it escalated during the past two presidential administrations, and that conditions for asylum seekers are deteriorating. Through this research, I hope to shed light on the difficulties many asylum seekers face and generate ideas about how to improve the process.

U.S. – Mexico Border

- Thousands of Asylum Seekers
- The Notebook/Metering
- Border Wall
- Zero Tolerance Policy
- Mass Hearings
- Family Separation
- Prosecution anywhere cross border
- Misdemeanor Crime of “Improper Entry” → Deported

Defensive Asylum Process

Entry → Express fear of return → Interview with CBP officer about claim for asylum defense → Reasonable Fear Interview → Detention (ICE) → Negative Appeal → Removal

Figure 1: Artesia Dormitory (Juan Carlos Llorea 2015)

Figure 2: Asylum Seekers in Tijuana (Elliot Spagat 2018).

Figure 3: Guatemala Woman in detention (Juan Carlos Llorea 2015)

Figure 4: Migrant Child in El Paso (Sara Lewkowicz 2019)

Results

- Family Detention
- Family separation in detention
- Lengthy detention periods
- Pressure judges & lawyers to quickly clear detention cases
- Enforced Expedited Removal
- Severe conditions in detention facilities
- Blocked legal representation

References


Timeline 1996 – 2019

- Illegal Immigration Reform and Immigrant Responsibility Act
- Berks County Family Residential Center
- Homeland Security Act
- T. Don Hutto Residential Center
- Obama Administration goals to reduce reliance on detention & improve expedited removal
- Central American Humanitarian
- Pro bono project
- All minors are protected and must be released within 20 days
- Zero Tolerance Policy
- Expansion of detention

- 3 Mar 2001
- 11 Sept. 2001
- 2005
- 2007
- 2012
- 27 June 2014
- December 2014
- 12 July 2017
- 22 Oct. 2018

- Flores v. Meza lawsuit - Flores Agreement
- World Trade Center terrorist attack
- HAC directed DHS to detain more families
- Detention violates rights of minors
- Kansas opens
- Artesia opens
- Artesia closes & Delray opens
- Lawsuit against CBP’s unlawful practice
- Binary Choice

Purpose

I aim to investigate how child and family detention, past and present asylum policies, and treatment of migrants at the border suggest a shift in immigration policy in the Obama and Trump Administrations.

Methods

- Part One  Analyze literature to compare and contrast the asylum policies and practices in the past two U.S. presidential administrations.
- Part Two  Interview immigration attorneys & officials

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