



# The Obama Administration is Denying Asylum to Central American Families Fleeing Violence

In response to the surge in Central Americans fleeing to U.S. borders, the Obama Administration has resorted to the mass detention and rapid deportation of mothers and their children most of whom are seeking asylum based on domestic violence, sexual assault, gang violence and religious persecution. Under U.S. and international law, asylum seekers are entitled to request protection, but the Department of Homeland Security (DHS) is deporting them so quickly that they have no meaningful way to seek asylum. DHS must stop deporting families back to life-threatening danger.

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## Who is eligible for asylum?

A person is eligible for asylum if he or she already has been persecuted or has a well-founded fear of future persecution in her own country on account of race, religion, nationality, political opinion, or membership in a particular social group. For example, a woman repeatedly beaten by her husband may qualify as a victim of domestic violence (See Heidi's case, below). The Board of Immigration Appeals recently issued a landmark decision further strengthening the law on domestic violence as a ground for asylum, *Matter of A-R-C-G*. A woman threatened and forced to be the "girlfriend" of a gang member may also qualify.

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## These detained mothers and children are fleeing unspeakable violence that continues to escalate.

The Northern Triangle of Central America (Guatemala, Honduras, and El Salvador) is one of the most violent regions in the world. The 2014 U.N. Office on Drugs and Crime's Global Study on Homicide concluded that Honduras is the murder capital of the world, with El Salvador and Guatemala ranked 4<sup>th</sup> and 5<sup>th</sup>. A U.N. Special Rapporteur reported in July that violence against women in Honduras is "widespread and systematic" and that 95% of violent crimes against women go unpunished by the police or other law enforcement.

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## DHS is deporting women and children in violation of U.S. and international law

Mothers and their children, seeking protection from violence and persecution, are being deported without the opportunity to tell their story (See Juana's story, below). These asylum seekers have mere days to figure out the complexities of the U.S. asylum process while detained and isolated. DHS deported several plane-loads of mothers and children from Artesia and Karnes detention centers before the first legal orientation providers were allowed in.

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## Families encounter numerous obstacles at every step to requesting asylum.

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| <i>At the border</i>            | Women and children who flee to the United States without proper immigration documents are subject to "expedited removal" and must first show they have a "credible fear" of persecution before they can apply for asylum before a judge. Border Patrol agents are supposed to ask each person about a fear of return, but agents frequently fail to do so. The lack of privacy and presence of armed agents intimidates families and prevents them from telling their story.  |
| <i>Credible Fear Interviews</i> | Within less than 3 days of detention, families are being interviewed by immigration officers and must demonstrate they have a credible fear. This gives them little or no time to prepare themselves to recount what are often traumatic, horrific experiences of violence. Some women and children are interviewed before they receive any legal orientation about asylum protections. Furthermore, immigration officers are asking complex legal questions to individuals that are inappropriate given the preliminary nature of the credible fear process. Asylum officers are under extreme pressure to decide cases quickly and are doing so on average in less than a week. |
| <i>Detention</i>                | The Obama Administration has adopted an across-the-board policy of detaining family asylum seekers in jail-like facilities even when bond and other alternatives to detention are available. DHS uniformly denies bond to families who have already demonstrated a credible fear. Detention compounds the trauma these mothers and children have experienced, rushes their asylum cases, and severely limits their access to legal counsel making it nearly impossible for asylum seekers to obtain protection.   |

## Case Examples

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### Case Example #1: Heidy

Heidy is a 23-year old from Honduras. For 6 years, she endured mental and physical abuse from her husband, a drug-trafficker from a powerful family. She was a prisoner in her own home, unable to leave without her husband's permission. Even when her husband was in prison for taking part in a murder, she couldn't escape as his friends and family were watching her. She tried filing for divorce, but government officials wouldn't take the case. She and her two children's lives were threatened at gunpoint. She fled to the United States on the advice of Honduran police who told her that they couldn't protect her. With the help of AILA pro bono attorneys, she was granted asylum in what the judge called a "textbook case."

### Case Example #2: Juana

Juana fled to the United States from Honduras after years of fleeing drug traffickers and during which her husband was killed in front of their eight-year-old son and her two brothers were killed—their deaths were never investigated. She feared for her and her two children's lives. She moved from place to place hiding from them until she could get enough money to flee. When Juana and her children crossed the U.S. border, she approached a Border Patrol agent and told him that her family needed protection. The agent told her firmly, "Don't tell me, tell the judge." In mid-July, she and her children were transferred to Artesia after days in the border patrol stations. She waited for a chance to go before a judge, guarding the secret that could kill her or her son. But on July 18, only days after being transferred to Artesia, Juana found herself on a plane with mothers and babies to be deported back to Honduras. "All I felt was panic and despair. They told me I would be able to tell my story to a judge." Juana and her boys were deported to San Pedro Sula where they are now living in hiding.

### Case Example #3: Amy

Amy, her teenage brother and her 7-year-old daughter fled El Salvador to seek protection from sexual assault, kidnapping, and repeated physical violence by M18 gang members. Six years ago, she refused the advances of a M18 gang member—in retaliation they beat and gang-raped her repeatedly over several months. She fled to the United States and after attending several hearings over 4 years, she voluntarily returned to El Salvador, thinking she was safer. Within two weeks of returning, she was gang-raped. The next month, her daughter was kidnapped for ransom following a threat by the same M18 gang member that he would get her "where it hurt the most." She sold everything to get her daughter back. A few months later, her teenage brother was targeted and attacked so brutally he ended up in the emergency room. In Artesia, an asylum officer determined that Amy did not have a credible fear of returning to El Salvador. The immigration judge disagreed and found that she did have credible fear. She now has the opportunity to present her asylum case in full, but DHS opposes her release and she remains in detention waiting to request bond from a judge.

### Case Example #4: David, Mary, and John

David, Mary, and their son John came to the United States fleeing religious persecution. David is a leader of a 7<sup>th</sup> Day Adventist church and has experienced physical threats to his life by gangs as a result. He was shot 4 times after his church group was attacked one night during a group meeting at his home; they shot Mary once. At the border, the three were separated by Border Patrol with David being sent to Port Isabel detention center, and Mary and John to Artesia. At Artesia, the asylum officer determined that Mary did not have a credible fear of return. An immigration judge upon review vacated the asylum officer's decision, and allowed Mary to go forward with an asylum claim. David was also not found to have a credible fear by an asylum officer at Port Isabel, but without an attorney's help, found himself on a plane to be deported. Only through the intervention of Mary's attorneys was David pulled off the plane at the last minute. Mary and John have been given a bond by an immigration judge and are preparing for their asylum case. David is still sitting in detention waiting for Immigration and Customs Enforcement to give him a custody redetermination. He is included in Mary and John's claim for asylum.

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