



KPB Immigration Law Firm

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Article: Who are these asylum seekers at the border?

By: Christopher A. Kerosky

The Trump Administration's recent policy of separating families requesting asylum generated justifiable outrage across the country and across the world. In the face of this opposition, the Administration retreated and at least for now, the federal government is not taking children from their parents at the border.

But there is still an abundance of misinformation coming from the White House about who these immigrants are and why they are coming. I have interviewed hundreds of these refugees who sought asylum at the border – in fact, many live and work in the North Bay. Here, I'd like to refute some of these "alternative facts" about these immigrants and the process they must go through to seek asylum here.

Fleeing violence and persecution.

The vast majority of those seeking asylum at our southern border come from Mexico, Honduras and El Salvador -- all countries plagued by violence at the hands of cartels, gangs or other criminal organizations. Extortion, kidnappings and murder are common in many parts of these countries. Virtually all of the asylum seekers I've interviewed have reported that their families were targets of this violence and were threatened with more violence if they stayed in their communities.

Applying for asylum under our laws.

Despite the Trump Administration's statements to the contrary, many of these refugees are entering the U.S. border legally, seeking asylum through a legal procedure established by Congress in 1980. Furthermore, it is also our obligation as a signatory of the United Nations Human Rights Treaty to allow those fleeing persecution to seek asylum from our government.

The caravans of refugees from Central America -- organized by humanitarian organizations and condemned by Donald Trump himself -- did not cross the border illegally, but rather sought asylum, pursuant to our own laws and procedures.

Many others were also seeking asylum at the border, but did not have this organized assistance and went to the wrong port of entry or crossed the border in desperation when they were turned away at a border station. They were then criminally prosecuted for illegal entry and their children were taken away from them.

What they need to prove.

In order to be admitted to the U.S. as a refugee, the person must prove that he or she has a “well-founded fear of persecution” on the basis of race, religion, membership in a social group, political opinion or national origin.

Asylum applicants have to go through a rigorous interview process to establish they have a credible fear of persecution in their home country before they are ever allowed to leave the custody of the border officials. Those who fail these interviews are deported.

Those who succeed in proving to a DHS official that they have a credible fear of persecution still have to go through a trial before an immigration judge in deportation proceedings. There, they are subject to a higher standard of proof, requiring that they prove have a well-founded fear of persecution based on religion, race, nationality, political opinion or social group; if they fail to prove this to a judge, they are deported.

We’ve been accepting refugees for years – what’s different now?

Our country accepted huge numbers of refugees over the years from repressive governments such as Cuba, Vietnam or the former Soviet Union. In practical terms, the risks to most of those refugees paled in comparison to the daily threats which people face in violence-ravaged Michoacán or Honduras, which has the highest murder rate in the world.

The United States simply has a double-standard with respect to those countries south of our border. We pride ourselves as a refuge for the tired, the poor, the oppressed-- unless, of course, they are from Mexico or Central America. In that case, we’re all about making America great again by building a wall to keep them out and punishing those who make it through – with criminal charges and, recently, by taking away their children.

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About the author:

Christopher A. Kerosky of the law firm of KEROSKY PURVES & BOGUE LLP has practiced law since 1984 and has been recognized as one of the top immigration lawyers in Northern California for the last seven years by San Francisco Magazine “Super Lawyers” edition (2006-2012). He graduated from University of California, Berkeley Law School and was a former counsel for the U.S. Department of Justice in Washington D.C.

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