

PETITION FOR PROTECTION AND LEGAL RELIEF FOR MEXICAN NATIONALS AFFECTED BY AND FLEEING THE VIOLENCE IN MEXICO

For hundreds of years, the defining characteristic of the El Paso/Ciudad Juárez border region has been its role as host to countless immigrants who have navigated the passage to *el Norte*. In recent history, it has largely been immigrants venturing from Mexico, Central America, and beyond who have passed through this border's thresholds on their journeys to freedom and a better livelihood in the United States. While the reasons for this historical migration are multiple, of particular concern for human rights organizations has been the reality and response to refugees fleeing persecution, political repression, uncontrolled violence, and law enforcement entities that are either ineffective in their ability to protect the population or complicit in the violence directed at that population.

Responding to this reality, human rights organizations and legal advocates all along the US/Mexican border have, for decades, sought to assist individuals and families who have been the victims of violence and persecution or who possess a credible fear of becoming so. More recently, the attention and focus has been dominated by Mexico's war on drugs, the resulting breakdown in social security, and the dramatic escalation of violence that, since its initiation in 2006, has claimed the lives of at least 22,700 people and continues to threaten the livelihood of hundreds of thousands more. The pages of newspapers on both sides of the border are filled with reports of kidnappings, extortion demands, business and medical clinic closures, massacres at treatment centers and youth gatherings, and complaints of human rights violations by military and security forces.

With little confidence in the ability of the Mexican government, the Mexican military, or other local or federal law enforcement agencies to provide for their protection, tens of thousands of Mexican nationals have escaped to the United States in search of sanctuary from this violence. El Paso chief of police, Greg Allen, has estimated that during the past two years over 30,000 Mexican nationals fleeing the violence in Ciudad Juárez have settled into El Paso alone. Others place this estimate much higher.

The United Nations Convention Relating to the Status of Refugees established that individuals with a well-founded fear of persecution or violence have, as recourse, the ability to petition for political asylum in another country. As a signatory to that Convention, the United States has committed itself to providing political asylum to individuals with a credible fear of violence or persecution. Since the outbreak of drug-related violence in 2006, however, the Executive Office for Immigration Review reports that it has received 12,110 applications from Mexican nationals seeking political asylum in the United States, yet has granted political asylum to only 232 individuals - less than 2% of all Mexican applicants. By comparison, the United States received 5,879 asylum claims from Colombian nationals during this same time period and granted political asylum to 2,351 individuals - nearly 40% of all Colombian applicants.

The disparity of these figures raises grave concerns that the political asylum process is once again being politicized so as to deny credible asylum consideration to Mexican nationals fleeing the violence in Mexico. The circumstances and statistics are eerily reminiscent of the 1980s, when refugees from Guatemala and El Salvador were being denied asylum on a wholesale basis, a reality that resulted in the *American Baptist Churches v. Thornburgh* landmark federal judicial decision that mandated the Department of Justice and the INS to completely restructure the political asylum process so as to specifically root out political bias.

Given the above figures, the vast majority of Mexican refugees are electing to forego the asylum process for fear of being detained, denied, and sent back to Mexico. Without any other means of legal relief presently being utilized to protect those fleeing the violence in Mexico, these refugees are instead forced to live in hiding and continued fear. Without employment authorization, and thus no means of legal sustenance, contemporary Mexican refugees possess little to no financial resources and the ever-present risk of being “discovered” and deported back into the very nightmare they originally fled.

In light of this reality, this Petition for Protection is being issued and the demands made that the Obama Administration, the Department of Homeland Security, and the Department of Justice:

- Authorize an independent investigation (e.g. the Government Accountability Office) of the political asylum application process vis-à-vis Mexican nationals fleeing the violence in Mexico.
- Restore integrity and credibility to the political asylum application process to ensure that political asylum applicants fleeing the violence in Mexico receive an unbiased and credible review of their claims of well-founded fear of persecution. And ensure that the adjudication of every asylum seeker’s case be conducted on an individualized and nondiscriminatory basis in a manner consistent with existing law.
- Ensure that credible fear interviews with qualified asylum officers be conducted in a timely manner for Mexican nationals presenting as asylum seekers at ports of entry, and upon issuance of a determination of credible fear, that the new ICE Asylum Parole Policy be applied to those detained individuals in a just and fair manner. Mexican nationality must not be taken into consideration as a reason to continue detention and deny parole.
- For Mexican nationals deemed not to have met the criteria for political asylum, grant relief and protection through the use of existing avenues available in law and regulation, including, but not limited to, Temporary Protected Status, withholding of removal, delayed enforced departure, humanitarian paroles, stays of removal, and deferred adjudication.
- Recognize that the United States’ and Mexico’s decision to place their respective efforts to combat drug trafficking within the context of a *war on drugs* has had serious violent and destabilizing consequences for many parts of Mexico, especially along border regions, and, as is true in all wars, that the violence and ensuing destabilization

