



US IMMIGRATION COURT OBSERVATION MANUAL 2019

Hope Border Institute
US Immigration Court Observation Manual - 2019

Copyright © by the Hope Border Institute. All rights reserved.

For further information about HOPE for this publication, please write to the Hope Border Institute,
499 St. Matthews Street, El Paso, TX 79902
Visit HOPE's website, hopeborder.org.



TABLE OF CONTENTS

Why we Observe	Pg 1
Guide to Border Agencies	Pg 2
Background	Pg 2
Types of Hearing and Relief	Pg 2
Before you Go: What to Expect	Pg 3
Trends to Monitor	Pg 4
Glossary	Pg 7
Appendix A	Pg 9
Appendix B	Pg 11
Appendix C	Pg 12
Appendix D	Pg 14
References	Pg 15
Guide to Asylum	Pg 16



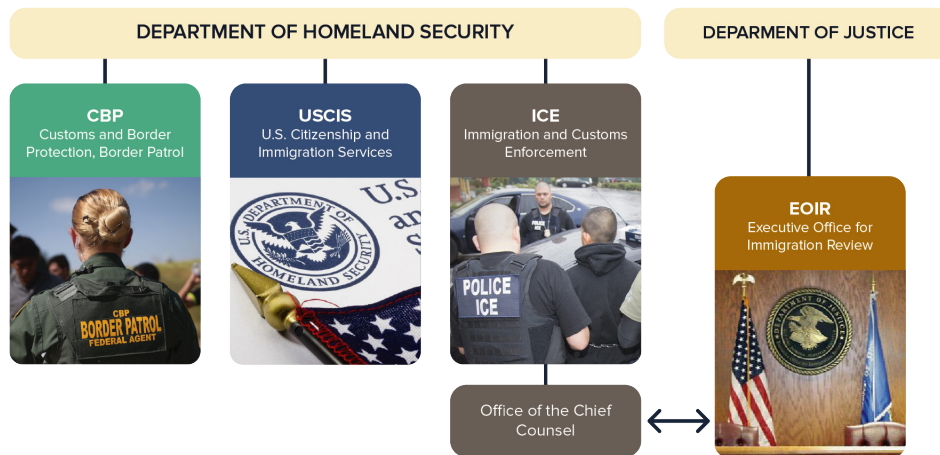
Why We Observe

Public access to judicial proceedings is key to ensuring our democracy's system of checks and balances.

Unlike federal courts which fall under the Judicial Branch as established by Article III of the Constitution, immigration courts are part of the Executive Branch and are managed by the Executive Office of Immigration Review (EOIR), which is a part of the Department of Justice. For this reason, immigration courts lack critical independence from the Executive Branch and the due process rights of migrants can be compromised in unique ways. Backlogs, gross disparities in adjudications and politicized policies are all related to the lack of judicial independence of immigration courts.

We observe immigration courts in order to document obstacles to due process experienced by migrants and violations of their constitutional and human rights. Those who participate in this process of observation can witness first hand the impact this system has on migrants, one of the most marginalized populations in US society.

Guide to Border Agencies



Background

The primary role of judges in immigration courts is to conduct removal proceedings and to adjudicate asylum claims. Removal proceedings determine whether a migrant will be required to stay or leave in the United States as per the Immigration and Nationality Act. Asylum is the legal protection granted to people with fear of returning to their home country.

For more information about the different kinds of relief and the various bars to relief see, Appendix A.

The Department of Homeland Security (DHS) and the Department of Justice (DOJ) play key roles in removal proceedings. DHS oversees US Customs and Border Protection (CBP) and US Immigration and Customs Enforcement (ICE), which also exercise critical roles in removal proceedings. The attorney representing the government is from ICE or DHS.

There are two types of court dockets: the detained docket, in which hearings are held for individuals held in immigration detention, and the non-detained docket, for migrants not in detention. In this manual, we prioritize observations of the detained docket.¹

Migrants may be referred to as respondents during immigration hearings.

While migrants have the right to an attorney or accredited representative in navigating immigration courts, they do not have a right to representation at the government's expense. Therefore, many migrants in immigration proceedings do not have attorneys.

Types of Hearings & Relief

Master Calendar Hearing

A master calendar hearing is usually a respondent's first appearance before an immigration judge. The purpose of a master calendar hearing is to advise respondents of their rights and of resources that could be of use to them. There

ICE refers to cases of individuals in detention as cases in the "detained docket".

TIP #1: COURT CHECKLIST

- Government Issued ID
- Notepad, Pencil or Pen
- Sweater or Jacket
- Car Keys
- Drink Water Beforehand

**For detained dockets you will have to leave all other items, including cell phones, wallets, and bags in your car or a locker if the court provides one. Bring a quarter for locker use. You can always call the EOIR court to check phone and bag restrictions before you go.*

www.justice.gov/eoir/eoir-immigration-court-listing

¹ The hearings of those subject to the Remain in Mexico program (Migrant Protection Protocols) are currently heard in non-detained courts. See Appendix D for more information on Remain in Mexico.

will usually be several migrants present in the courtroom at the same time and each will be heard before the judge individually.

Judges will typically grant continuances to migrants during master calendar hearings. These are given to: 1) provide migrants with additional time to identify an attorney; 2) provide migrants who already have an attorney additional time to collect evidence; or 3) provide migrants who represent themselves with time to prepare their case (pro se representation).

Master calendar hearings are open to the public.

Bond Hearing

During a bond hearing, the immigration judge assesses a request from an asylum seeker to be released from detention on bond. The DHS attorney will likely oppose this request and/or request a bond posting much higher than the mandatory minimum of \$1,500. During a bond hearing, the judge generally considers the presence of family members present in the United States, prior immigration history, employment, criminal history and ties to the community.

“Arriving Aliens” (those taken into custody at ports of entry) are not eligible for bond. Other circumstances that would render a respondent ineligible for bond are:

- an aggravated felony;
- one or more convictions of drug possession or charges related to firearms
- convictions that indicate “moral turpitude”.

Bond hearings are open to the public.

Parole Requests

Those who are not eligible for bond can request parole from ICE. Parole allows a migrant otherwise considered inadmissible to remain in the United States temporarily. Parole is considered an extraordinary measure and is not intended as a substitute for normal visa processing procedures and timelines.

Individual Calendar or Merits Hearing

At an individual hearing, commonly referred to as a merits hearing, the respondent is given a chance to present evidence and witnesses as part of an application for relief from removal. Applicants also have the opportunity to prove to the immigration judge that they are eligible for judicial discretion to be exercised in their favor.

Merits hearings are closed to the public to ensure the privacy and safety of migrants.

Before You Go: What’s Expected and What to Expect

Contact information for EOIR courts across the country is available at EOIR’s website (<https://www.justice.gov/eoir>) and the most current changes will be posted via Twitter (@DOJ_EOIR). You can call to inquire about the court’s hours and about the schedule of master calendar and bond hearings. You should also determine whether it is a detained or non-detained docket. Note that observing courts located on the grounds of an ICE detention facility requires additional time in order to go through security.

TIP #2: GET FAMILIAR

If possible, it is a good idea to make a short, preliminary visit to the court building prior to your first time observing. This will give you a chance to meet the guards and the court clerk. The more that court personnel see you and interact with you, the more they’ll get used to your presence and be less inclined to challenge your observation.

TIP #3: DRESS UP

If you will be observing in a detained court (this is likely true for a non-detained court as well), there will be a dress code. Commonly, this includes closed-toed shoes, covered shoulders and pants or an appropriate length dress/skirt. It is always better to err on the side of caution - if you are in violation of the court’s dress code, you may not be let into court, or you may be asked to leave.

When arriving, you will likely be instructed to walk through a metal detector. You may also receive a visitor's badge to wear for the duration of your visit. Once checked in, you can ask to go into the court clerk's office to see the docket list. Remember that while master calendar hearings and bond hearings are open to the public, individual or merits hearings are not.

Depending on your location, court personnel may not be used to the presence of court observers. If you experience hesitation or resistance from court officials or guards, remain calm and courteous while asserting that the public does have access to master calendar and bond hearings. If for some reason you are denied access, document the event with the location, date, time and an account of how you were denied access and by whom.

Once in the courtroom, you will generally find the immigration judge at the front of the room. The DHS attorney representing the government will usually be located at a table in front and to the right of the judge. If the respondent has an attorney, he or she will be called up by the judge and seated across from the DHS attorney. There may also be an interpreter present. You will also notice the presence of a guard as well as a court secretary who assists with scheduling hearings. On occasion, the respondent's family and friends may also be present.

Each judge schedules dockets differently, but in general each one will have morning and afternoon hearings.

If you observe the initial hearing for the group of detainees, the immigration judge will spend the first thirty minutes or so giving advisals, typically off the record. The judge is required to advise all those before him/her of:

- Right to counsel
- Free legal services that may be available in the community
- Evidentiary rights
- Appeal rights
- Right to a non-technical interpretation of the Notice to Appear (NTA)
- Right to designate country of removal.

After these advisals are given, the judge addresses each detainee on the record regarding their case.

To read an example of an observation trip to a detained court, see Appendix B.

Trends to Monitor

During a court observation, you will witness the shifting policies of US immigration law. The following are trends to watch for during observations. Many of these trends reflect the zero-tolerance policy issued by the Trump administration in April 2018.

Family Separation

In some cases, parents continue to be separated from their children or detained apart from their children. It is not unheard of for a parent in a removal hearing to inquire about their children, including their whereabouts, and ask when they will be reunited.

Take note of how the judge responds to inquiries from a respondent or the respondent's attorney regarding the whereabouts of the respondent's children, spouse or other relatives. Reactions from judges to these questions can provide

TIP #4: BE POLITE

Be polite and cordial in the courtroom, and don't be afraid to smile or say hello. It is important to remember to stand when the judge enters the room and always address the judge as "Your Honor." Again, you may be the first observer a judge has seen, so being polite and respectful will go a long way.

To establish eligibility for asylum or refugee status, you must prove you are either the victim of past persecution or you have a well-founded fear of future persecution. In the case of past persecution, you must prove that you were persecuted in your home country or last country of residence.

insight into how aligned the judge may be with the administration's policies.

Vulnerable Populations

Pay attention to individuals who may be members of a vulnerable population - physically disabled, mentally disabled, LGBTQ, pregnant women, unaccompanied children, etc.

Asylum (for more information on asylum, see Appendix A)

The changing nature of the current immigration system as a result of various administration and court decisions can be confusing. For example, in a June 2018 order, Attorney General Jeff Sessions ruled that 'membership in a particular social group' as a basis for an asylum petition would generally no longer include those survivors of gang violence or domestic abuse. Later, a federal court reversed this ruling.

If the immigration judge allows you to ask questions while the court is in recess, it may be helpful to ask about any memoranda or court decisions that have been referenced during a proceeding.

Legal Representation

Another likely trend to watch for is the stark ratio between pro se cases (where the respondent does not have a lawyer) versus respondents with legal representation. An individual has a higher chance of obtaining relief with representation. Respondents should receive a list of free or discounted legal services at their initial hearing. Migrants do not have a right to legal representation at the government's expense.

Due Process Concerns

1) Televideo Conferencing

With the increased number of cases on immigration judges' dockets and pressure for a faster turnover with removal decisions, some immigration courts have relied upon televideo conferencing. Essentially, the judge and DHS attorney conduct the hearing from the courtroom while the respondents are located in a detention center at a distance, usually in some sort of mock courtroom. Generally there is a Spanish language interpreter working with the respondent. This method of conducting hearings can lead to connectivity problems impede clear communication. If the respondent has an attorney, they may not be together.

2) Language Barriers

Asylum application forms and instructions are in English which presents a tremendous barrier for migrants without attorneys.

As an observer, you will likely see migrants from a variety of countries. While migrants will often be native Spanish speakers, many immigration courts now have a growing need interpreters of Central American indigenous languages. Guatemala alone has over 25 indigenous languages. The limited numbers of interpreters pose a challenge for migrants and for courts. Judges may rely on interpretation over the phone with translators who have little to no courtroom experience. If the judge cannot locate an interpreter, the hearing may be conducted in a migrant's non-preferred language.

3) Immigration Court Quotas

Trump administration quotas require that each immigration judge complete at least 700 cases per year. Immigration judges are penalized for referring more than 15 percent of their cases to higher courts and for scheduling hearings too

TIP #5: GOT A QUESTION? ASK.

When the court takes a break, the judge may give you the opportunity to ask questions. Don't be afraid to interact with the judge and speak up if there is something you'd like to ask. However, avoid pushing any topics that could put you on the judge's bad side. Not all judges are the same, so use your best judgement.

far apart from one another. These practices compromise due process by creating rushed application times and decisions.

“Self-Deportation”

While not an official type of removal, “self-deportation” is a trend a court observer will likely see during observation in immigration court. This term refers to when the respondent initiates their own deportation. While this decision could be made for a multitude of reasons, many migrants who request their own deportation have spent weeks, months and in some cases years in detention.

“Self-deportation” reflects in part the inhumane conditions and extended lengths of stay endemic to immigrant detention. NGOs and the government have long documented alarming conditions in immigrant detention centers, including health and safety issues as well as harsh and inappropriate treatment. Detention centers are commonly located in remote locations, making them difficult for visitors, lawyers and NGOs to access.

Delayed Hearings

Another trend you may note is the busy schedule of the immigration court. As every undocumented person is now liable for potential removal under the Trump administration, immigration courts around the United States have been overwhelmed with caseload increases. Hearings may be scheduled months in the future, meaning a lengthier stay in detention for many.

Deterrence & Demeanor

The different cogs in the US immigration system -- courts, enforcement agencies and administrative policies -- have increasingly been weaponized against migrants as part of an overall strategy of deterrence. This may also extend to the judge’s manner of proceeding during hearings. Pay attention to how the judge phrases questions to the asylum seeker and to his or her tone, eye contact and mannerisms.

Arbitrarily High Bonds/Bond Denials

An immigration bond is the amount paid by a non-citizen released by ICE under parole or an Alternatives to Detention (ATD) program during removal proceedings. Eligible migrants include those charged with “entering without inspection” (EWI). Bond hearings are increasingly treated by many judges as mini-asylum hearings, and if significant evidence and documentation of the asylum claim is not presented, judges may deny bond. However, the full merits of an asylum claim are unrelated to whether an individual in detention represents a flight or security risk. Furthermore, asylum seekers have the highest court appearance rates in the immigration system. Forcing asylum seekers to argue their cases while detained presents serious burdens. Bond amounts can be exorbitant, often totaling more than \$10,000 and even as much as \$30,000.

The Trump administration family separation policy is an aspect of US President Donald Trump’s immigration policy. The policy was presented to the public as a “zero tolerance” approach intended to deter illegal immigration and to encourage tougher legislation.

A NOTE ABOUT SELF-CARE

Court observations can be quite emotionally draining. For this reason, among others, it is usually better to observe with a partner rather than going by yourself. It also may be helpful to debrief the experience with others after your trips.

It is likely that you will see things that upset you, or at the very least, things that make you uncomfortable. Practices such as writing field notes after your trip, or journaling about how the experience made you feel, can help you process things that may have been hard to comprehend in the moment.

Self-care is important because it can help keep you from burning out. If you are upset by what you see and do not address it, you will not feel as comfortable returning to court to observe again. Don’t forget to consider yourself and your health!

Abbreviations

CBP: US Customs and Border Protection

DHS: US Department of Homeland Security

DOJ: US Department of Justice

EOIR: Executive Office for Immigration Review

ICE: US Immigration and Customs Enforcement

INA: Immigration and Nationality Act

LPR: Lawful permanent resident

NTA: Notice to Appear

USCIS: US Citizenship and Immigration Services

Glossary

Alien: Legal term for a person who is not a citizen or national of the United States

“A Number”: “Alien registration number” assigned to migrants by DHS, usually a nine-digit number used to track cases by the immigration courts

Board of Immigration Appeals (BIA): Division of EOIR that reviews decisions of immigration judges (as a result of appeals) and some decisions of DHS officers

Bond: Amount paid by a non-citizen released by ICE under parole or an Alternatives to Detention (ATD) program

Certificate of Translation: Formal statement from a translator that demonstrates the accurate translation of a document into English

Convention Against Torture (CAT): Abbreviation for the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Credible Fear Interview (CFI): Conducted by an asylum officer to determine whether an asylum seeker has a “credible fear” of persecution or torture if the person were to be returned to his/her country of origin

Deportation Proceedings: Process through which noncitizens are removed from the United States

Executive Office for Immigration Review: The division of the Department of Justice (DOJ) that is responsible for the Immigration Courts and the Board of Immigration Appeals

Individual Calendar Hearing: Hearing scheduled by the court for the presentation of testimony and evidence; also referred to as a “merit hearing” or “individual hearing”

Master Calendar Hearing: Hearings held for pleadings, scheduling and similar concerns. Respondents first appear for removal proceedings before an immigration judge at a master calendar hearing

Merits Hearing: Term sometimes used to refer to an individual calendar hearing.

Notice to Appear: Charging document (Form I-862) used by DHS to begin removal proceedings

Pro Se: Term used to refer to an individual who represents him or herself during removal proceedings without an attorney

Proof of Service: Formal document in which a party shows proof that a document has been provided to another party

Removal Proceedings: Court proceedings to determine whether a person should be admitted to the United States or removed from the United States

Stay: An order by an Immigration judge or enforcement agency that stops DHS from removing a non US citizen

Appendix A: Relief from Removal

Adapted from a chart originally produced by Bryan Lonagan, Immigration Law Unit of the Legal Aid Society of New York. Revisions provided by Paromita Shah of the National Immigration Project and the New York State Defenders Association Immigrant Defense Project.

Listed below are eight ways that detainees can apply to receive relief from removal (i.e.: a deportation order). The first three are the most common. One of these, voluntary departure, does not mean that a detainee can remain in the United States, but it gives them the opportunity to leave on their own without being subject to a deportation order that could remain on their record.

1. Form I-589

Application for Asylum, CAT and Withholding; applicant has to prove the following criteria:

- I. "Well-Founded Fear"
- II. Of "Persecution"
- III. Perpetrated by the government or an entity the government cannot or will not control
- IV. And "on account of" (must be at least one of the following)
 - Race
 - Religion
 - Nationality
 - Political opinion
 - Membership in a particular social group
- V. Generally, it is required that a person seeking asylum apply within one year of arrival to the United States
- VI. Some asylum seekers may be barred from receiving asylum as a result of the following categories:
 - Missed the one-year filing deadline
 - Firm resettlement
 - Persecutor
 - Terrorist
 - Particularly serious crime
 - Convicted of aggravated felonies
 - Serious non-political crimes outside US
 - Danger to the security of US

Even if an asylum seeker is ineligible to be granted asylum, there are two other relief options within the same application:

Protection under the Convention Against Torture

Protection under the Convention Against Torture is granted by a judge if an applicant would:

- Suffer severe pain and suffering
- Intentionally inflicted
- For an illicit purpose
- By or at the instigation of or with the acquiescence of a public official who has custody and control of the person
- Not arising from lawful sanction

Withholding of Removal

Withholding of removal is an order granted by a judge that prevents respondents from being deported back to a specific country where they fear persecution. The criteria are the same as for asylum.

WHAT BARS RELIEF?

Note: This is not a comprehensive list, and each form of relief may have different criteria

1. Aggravated felonies

2. A particularly serious crime or PSC, i.e.: drug trafficking

3. Seeking asylum or relief at a port of entry

4. A prior removal order renders one ineligible for voluntary departure

2. Voluntary Departure (no form required)

Voluntary Departure allows eligible respondents who would otherwise be deported to leave without a deportation order. To be eligible, a respondent must have a passport and enough money to pay for a plane ticket to their home country (except Mexicans, who are repatriated at the border). If granted, a respondent has 120 days to leave.

3. Form EOIR-42B²

For a non-LPR (lawful permanent resident) to be eligible for cancellation of removal, the respondent:

- Has been present in the US for at least 10 years
- Demonstrates “good moral character” for 10 years
- Has not been convicted of certain crimes
- Demonstrates that departure would cause “exceptional and extremely unusual hardship” to a US citizen or LPR spouse, parent or child and that the respondents are deserving of a favorable exercise of the judge’s discretion

4. Form I-485

If admitted, paroled, and has an approved petition, a respondent can adjust status if:

- The respondent is eligible for an immigrant visa
- The respondent is admissible into the United States
- An immigrant visa is immediately available

5. Form I-914

Under the “Trafficking Victims Prevention Act” of 2000 (TVPA), a special visa can be issued to persons who:

- Have been subject to “severe trafficking”
- Agree to assist law enforcement OR are under 18 years of age
- Would suffer “extreme hardship involving unusual and severe harm upon removal”

6. Form I-360

A child is eligible for Special Immigrant Juvenile Status (SIJS) if:

- The child is deemed to require long term foster care (under age 18 and a juvenile court has determined that family reunification is no longer a viable option) or the child was committed to the custody of a state agency or department due to neglect, abuse or abandonment
- The applicant is under 21 years of age and unmarried
- The applicant establishes:
 - I. Date and place of birth
 - II. Date and manner of entry into the US
 - III. Current immigration status
 - IV. Whereabouts and status of the parents
 - V. Evidence of abuse/neglect/abandonment and reasons why it would not be in the child’s best interest to return to his/her native country

² US Department of Justice Executive Office for Immigration Review. “Form EOIR-42B: Application for Cancellation of Removal and Adjustment of Status for Certain Nonpermanent Residents.” Last modified July 2015. <https://www.justice.gov/sites/default/files/pages/attachments/2015/07/24/eoir42b.pdf>

Appendix B: Narrative Example

A Morning of Observation at the El Paso Processing Center EOIR Court

On October 18, 2018, I had the opportunity to attend four court hearings at the El Paso Processing Center.

The officers that guided me to the courtroom were nice and helpful. Once I got to the front desk there were a few officers who explained what to do as far as our cell phones, then we waited to be called.

The people working there were confused about why we wanted to observe the court. We were finally allowed to observe a bond hearing with Judge Tuckman in Court Room 4.

The first case we observed was the bond hearing of a young woman, "Rosa." Rosa was denied bond because, according to Judge Tuckman, "negative factors outweigh the positive ones." Rosa had stated when she was apprehended that she did not have any relatives in the US but then later said that her stepfather and mother live in the US. Rosa acknowledged and apologized for stating the wrong information but also explained that she made those statements because she was scared and in a lot of pain due to a broken ankle. Based on that information, Judge Tuckman made the decision to deny bond. Rosa seemed devastated.

Appendix C: Sample Court Observation Template

Data ID (Date.Court.Judge.Case.Observer Initials)	Date
Name of respondent:	A#:
Is the respondent present? <i>Yes / No</i>	Respondent appeared (circle one): In person / Teleconference
Type of Hearing (circle one): <i>Master Calendar / Bond / Merits</i>	Start time in front of Judge:
Circle stage of hearing: <i>Initial / Check-in or Continuance / Submission of application</i>	Start time on the record:
Relief Requested (Circle all that apply): <i>Asylum / CAT / Withholding / T Visa / Special Juvenile Visa / Other special visa / Voluntary Departure</i>	End time in front of IJ:
Respondent's Region (circle one): <i>Africa (N/W/E/SS) / Asia / SE Asia / Caribbean / Central America / Mexico / Europe / NA</i>	Gender: Female/ Male/ Transgender
Country of origin:	Color of uniform: Blue/Orange/Red/Other:
Legal Representation (circle one): <i>Pro Se / Attorney</i>	ICE Attorney:
Attorney: <i>(present/phone/other) (Local/Out of town) (Pro-Bono/Private)</i>	Attorney name:
Point of Entry: <i>(Arriving Alien/EWI):</i>	Date NTA signed:
Date of detainment/length of detention:	Number of previous continuances:
Language interpreted in court (circle one): <i>Spanish / Portuguese / French / Punjabi / Indigenous Other, specify:</i>	Preferred Language:
Interpreter (circle one): <i>in person / by phone</i>	Name of interpreter:
Does respondent express fear of return to country of origin? <i>Yes / No</i>	CFI/RFI Results:
Eligible for Bond? <i>Yes / No</i>	
Bond Decision & Amount:	Reasons given by judge:
Family in US (circle all that apply): <i>Immediate / other relatives / friend</i>	Location:
Level of comprehension of legal options: <i>NA / none / basic / moderate / other</i>	Explain:
Did Judge discuss other types of relief respondent may be eligible for? <i>Yes / No</i>	If so, what?
Was there any +/- bias by the judge? <i>Yes / No</i>	Explain:
Does the judge use their own instruction sheet or standing order?	If so, what?
Did respondent mention discrimination in detention? <i>Yes / No</i>	If so, what?
Court's Ruling:	Next Court Date:
Reserved right to appeal? <i>Yes / No</i>	



Appendix D: Remain in Mexico

What is the Remain in Mexico policy?

On January 24th, 2019 the Department of Homeland Security (DHS) announced it would begin forcing some asylum seekers arriving at our southern border to remain in Mexico while they apply for asylum, a policy known as the Migrant Protection Protocols (MPP) or “Remain in Mexico.”

Remain in Mexico was rolled out in the Tijuana/San Diego area, expanding to Mexicali/Calexico and then to Ciudad Juárez/El Paso by mid-March. It has since been expanded to Arizona and other parts of Texas.

DHS’s lack of transparency around Remain in Mexico has made it difficult to obtain a complete picture of the policy.

Remain in Mexico Violates Human Rights

- Remain in Mexico has created a vulnerable population in northern Mexican border communities that is subject to potentially serious abuses within an already delicate border ecosystem. Asylum cases can last a year or longer and Mexican border communities do not have the infrastructure to provide shelter and services to a burgeoning population of refugees.
- Many asylum seekers have already experienced traumatic situations both in their home countries and on their journey to the border; Remain in Mexico exacerbates these lived realities with a host of new injustices, including fear for one’s safety and well-being, hyper-vigilance and additional trauma.

Remain in Mexico Limits Access to Legal Asylum

- Access to counsel is severely limited for migrants waiting in Mexico. The government is not obligated to provide counsel for migrants in immigration proceedings; it is up to individuals to secure and pay for legal representation, which is compounded by being forced to remain in Mexico.
- Attorneys in San Diego and El Paso have been targeted and intimidated by the US government upon returning to the United States.

Remain in Mexico Threatens the Lives and Well-Being of Migrants

- On account of predictable capacity issues, many migrants are no longer able to access space in shelters in Mexico
- Migrants continue to express fear of being returned to Mexico, due to precarious conditions, violence and harassment.
- Migrants who express fear of returning to Mexico are given a refoulement interview, which has an incredibly high burden of proof, to determine if they can remain in the US through their asylum proceedings. Migrants are made to wait in the hieleras while they wait for these interviews, only to be returned to Mexico if they fail this arbitrarily high burden of proof.

References

- Borderland Immigration Council. "Discretion to Deny". <https://www.hopeborder.org/discretion-to-deny-1>.
- Ethnologue: Languages of the World. "Guatemala Country Report." Accessed August 15, 2018. <https://www.ethnologue.com/country/GT>.
- HOPE Border Institute. "Sealing the Border," 2018, <https://www.hopeborder.org/sealing-the-border>.
- HOPE Border Institute. "Border Observatory 2019: Hope and Resistance at the Border." <https://www.hopeborder.org/hope-and-resistance-report>.
- Lonegan, Brian. "Forms of Relief to Prevent Removal." The Legal Aid Society of New York. Last modified by Paromita Shah of the National Immigration Project and the New York State Defenders' Association Immigrant Defense Project. Accessed August 7, 2018. <http://66.109.34.102/docs/PDFs/CIDP/Relief%20from%20Removal%20Quick.pdf>
- The Office of the Chief Immigration Judge. "Immigration Court Practice Manual." The US Department of Justice Executive Office for Immigration Review. Last modified August 2, 2018. Accessed August 3, 2018. <https://www.justice.gov/eoir/office-chief-immigration-judge-0>
- The Office of the Inspector General. "Concerns about ICE Detainee Treatment and Care at Detention Centers." Last modified December 11, 2017. Accessed August 8, 2018. <https://www.oig.dhs.gov/sites/default/files/assets/2017-12/OIG-18-32-Dec17.pdf>.
- TRAC Immigration. "Asylum Representation Rates Have Fallen Amid Rising Denial Rates." November, 2017. Accessed August, 2018. <http://trac.syr.edu/immigration/reports/491/>.
- USCIS. Immigration and Nationality Act. 1965. <https://www.uscis.gov/legal-resources/immigration-and-nationality-act>
- US Department of Justice Executive Office for Immigration Review. "Form EOIR-42B: Application for Cancellation of Removal and Adjustment of Status for Certain Nonpermanent Residents." Last modified July 2015. <https://www.justice.gov/sites/default/files/pages/attachments/2015/07/24/eoir42b.pdf>
- US Immigration Bonds. "Determining if you are eligible for an Immigration Bond." Accessed August 15, 2018. <https://www.usimmigrationbonds.com/immigration-help-bail-bonds-resources/determining-if-you-are-eligible-for-an-immigration-bond/>.



GUIDE TO ASYLUM AT THE BORDER

by HOPE BORDER INSTITUTE



In 2018, approximately 65% of the asylum cases in the US were denied. In the El Paso sector, the denial rate is over 96%.



US Immigration Court Observation Manual - 2019
by Hope Border Institute



HOPE
BORDER INSTITUTE
INSTITUTO FRONTERIZO ESPERANZA
CIUDAD JUÁREZ | EL PASO | LAS CRUCES



www.HopeBorder.org



[/HopeBorderInstitute](https://www.facebook.com/HopeBorderInstitute)



[@HopeBorder](https://twitter.com/HopeBorder)



[@HopeBorderInstitute](https://www.instagram.com/HopeBorderInstitute)