

IN THE PUBLIC INTEREST

REFUGEE *Protection*



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Fighting A High Stakes Battle

In the current climate in which refugees are treated with increasing hostility and scrutiny, pro bono lawyers are needed now more than ever to represent this vulnerable population.

Under the Refugee Convention of 1951 and the 1967 Protocols, signatory countries, including the United States, must provide asylum to those who can demonstrate past persecution or a "well-founded fear" of future persecution in their home country. The persecution must be on account of one of five protected grounds: race, religion, nationality, political opinion or membership in a particular social group.

One challenging aspect of asylum proceedings is that the refugee must be on U.S. soil in order to claim asylum. Facing desperate circumstances at home, many asylum seekers do not have the ability to secure a visa

to lawfully enter the United States before they flee. This leads them to make the difficult decision to enter the United States without inspection and face the almost certain likelihood of detention by Immigration and Customs Enforcement.

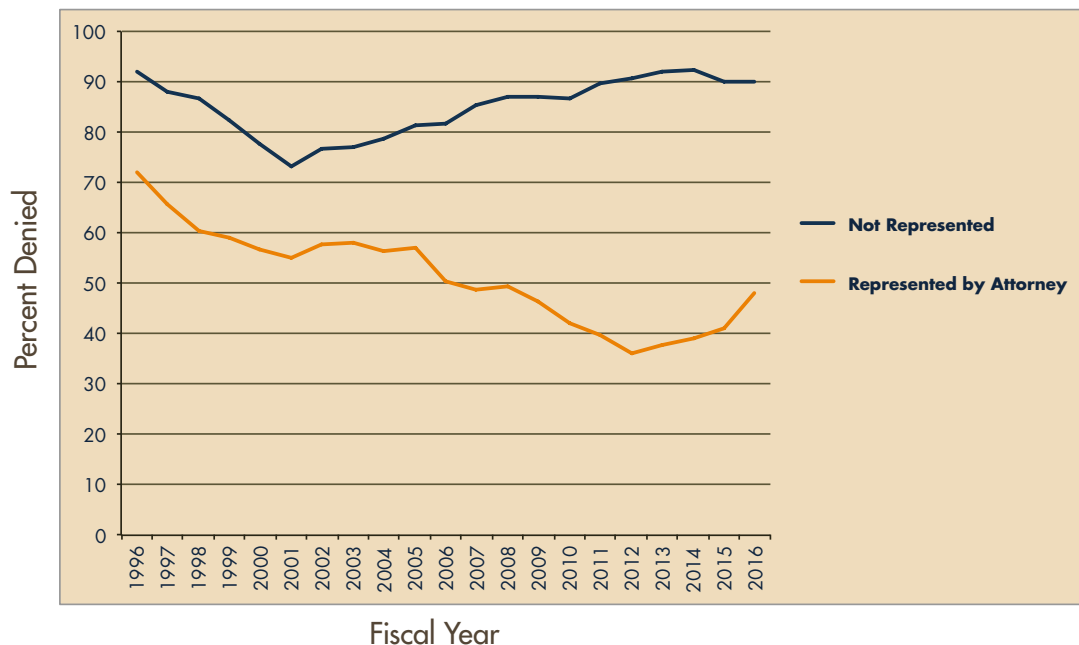
For these asylum seekers in particular, intervention by lawyers at an early stage is crucial. Once apprehended, these refugees are put into expedited removal proceedings. In order to avoid deportation, they must convince an Asylum Officer that they have a "credible fear" of returning to their home country. Refugees who are able to receive counsel from lawyers in connection with this credible fear interview are much more likely to secure a positive credible fear finding. This allows them to pursue their asylum claims, known as defensive asylum cases, in immigration court. Representation by lawyers in

"defensive" asylum cases significantly increases the chances that a refugee will be granted asylum by an immigration judge. (See graph below).

For those asylum seekers who are able to enter the United States lawfully and pursue an "affirmative" case for asylum through the Asylum Office, representation by lawyers in this process is just as critical. As with defensive asylum proceedings, lawyers play a pivotal role in drafting documentation, assembling evidence in support of the claim and navigating the asylum seeker through the proceedings.

If granted asylum, asylees are put on the path to citizenship, giving them the possibility to remain permanently and build a life in the United States. Given the high stakes of these cases, the work of a pro bono lawyer may truly save a refugee's life.

Represented vs. Unrepresented: Showing Attorney Impact on Asylum Denial Rates



This graph shows the trends in asylum denials for represented vs. unrepresented asylum seekers. Consistently, those represented in Immigration Court have a better chance of getting a grant of asylum. Disparities between represented and unrepresented asylum seekers have greatly widened. In particular, from 2001 to 2011, unrepresented asylum seekers saw an increase in their denial rate from 73% to 90%. This high denial rate has held steady since then.

Source: <http://trac.syr.edu/immigration/reports/448/>

Protecting Refugee Families

By Lauren Connell, Pro Bono Counsel

From September through December 2014, I worked fulltime at the Karnes City Detention Center and was tasked with establishing a legal program for detained refugee women and children from Central America who were seeking asylum. Generally, our clients were from the Northern Triangle—El Salvador, Guatemala and Honduras—and they were fleeing systemic gang violence and/or domestic violence. As a result of their experiences at home, these women and children were incredibly traumatized and being detained only served to traumatize them further.

Making matters worse, at that time, the U.S. government had taken a hard line stance against this vulnerable population, labeling these women and children a threat to the national security. To deter further migration from these countries, the Department of Homeland Security proclaimed a “no bond” policy, meaning that any women and children from the Northern Triangle who together entered the United States would be categorically denied bond and remain detained until they could secure a bond from an Immigration Judge. Practically, this meant that each family’s bond case had to be separately litigated before

an immigration judge in San Antonio Immigration Court. And, in turn, this meant that we needed lawyers—and lots of them—to represent these women and children.

This is where I came in. When I arrived at Karnes, the detention facility had only been designated to house women and children about a month prior, and the government had moved quickly to populate the facility to maximum capacity. Suddenly, there were 500 women and children who needed lawyers and needed them quickly. The swiftness of the transition had left a vacuum when it came to legal resources for these refugees. I remember feeling incredibly overwhelmed and under pressure to deliver results for these women and children. Not only did the families need representation in bond proceedings, but they also needed help preparing for what is known as the credible fear interview or “CFI,” which is an interview with an asylum officer that determines whether or not a family will be able to pursue an asylum claim here in the United States.

My methods at Karnes may not have been perfect, but slowly, with the help of our project partners and volunteers,

we were able build a system to interview new arrivals, prioritize the cases and assign the cases to pro bono attorneys. As part of the effort, I prepared countless women for CFIs and represented several families in bond proceedings as well. From my time at Karnes, Akin Gump took on approximately 30 pro bono asylum cases, some of which are still ongoing today.

When I left Karnes, we transitioned the program to RAICES, one of our pro bono partner organizations. RAICES continues to run the legal services program at Karnes today. A lot has changed at Karnes since 2014 – the “no bond” policy is gone, and, as a result, families tend to be detained for much shorter periods of time. However, the population at Karnes has grown and the need remains great. Currently, many of our attorneys have partnered with RAICES to do off-site research assignments and others have volunteered to go to Karnes and work directly with refugee families. I am proud of this commitment to the families of Karnes, and, through our ongoing partnership with RAICES, we will work to ensure that the women and children of Karnes get the justice that they deserve.

CLIENT SNAPSHOT

Defending Women’s Rights

By Melissa Chastang, Associate

Luz* crossed the Texas border into the United States after enduring a desperate and dangerous journey from El Salvador. She carried only her six-year old daughter Alma*, her infant daughter Rocío*, who had been born just five months earlier, and their birth certificates. Luz surrendered to border patrol and stated that she was seeking asylum, but she and the girls were apprehended and detained at the Karnes immigration detention facility. There, an officer welcomed Luz to the United States by telling her that only a terrible mother would come here with no money and no way to provide for her daughters.

What this officer did not know was that Luz fled her home to escape her abusive partner – the father of her youngest daughter. Luz’s tormentor controlled her every movement and

regularly insulted and beat her. These beatings continued during Luz’s pregnancy and became so bad that Luz feared she would lose the baby. Although the love she felt for him turned to dread, Luz’s abusive partner used his friendships with gang members to subdue Luz into a constant state of fear in order to prevent her from leaving. Luz knew the only way to protect her daughters was to escape El Salvador and the reach of her partner and his gang-affiliated friends.

After fighting for and securing bond, Luz was released from Karnes, and Akin Gump handled Luz’s representation as she filed – and waited – for relief. Two years after Luz left behind her life in El Salvador, a Baltimore immigration judge granted Luz asylum on the grounds that she was a member

of the particular social group of women unable to leave an abusive, domestic relationship. In a testament to the clear merit of Luz’s claim, the Department of Homeland Security agreed to stipulate to her eligibility for relief on the written submissions alone – sparing Luz the trauma of presenting her difficult history to a courtroom of strangers.

Today, with Akin Gump’s help, Luz has secured a Social Security Card, her own apartment, and a job. She is also eligible and applying for permanent residency in the United States. Through her courageous acts, Luz continues to seek ways to improve her life and is well on her way to proving DHS wrong by making sure that her daughters enjoy all of the opportunities that they deserve.

*Name has been changed to protect the client’s identity.

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 Human Rights First www.humanrightsfirst.org	 Public Counsel www.publiccounsel.org
 Human Rights Initiative www.hrionline.org	 Scholar Rescue Fund www.scholarrescuefund.org
 Immigration Equality www.immigrationequality.org	 Tahirih Justice Center www.tahirih.org
 New York Legal Assistance Group www.nylag.org	 Whitman-Walker Health www.whitman-walker.org
 Refugee and Immigrant Center for Education and Legal Services (RAICES) www.raicestexas.org	

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