

MEXICO ↓

South Pedestrian
HOURS OF
OPERATION
6 AM - 10 PM.

NO AUDIO
VIDEO
RECORDING
GRABAR
WITHOUT
EXPLICIT PERMISSION
DEL EL PERSONAL AUTORIZADO
BY ICA 2018



HEARTS ON FIRE

THE HUMANITARIAN CRISIS AT OUR BORDER

Katie Kavanagh

T

here is a crisis at our southern border, but it is not a matter of national security. It is first and foremost a humanitarian crisis, and one of desperate proportions. A wall is not the answer, nor will the solution come from Washington, D.C., or Mexico City. The answer must come from the actions and voices of everyday people who refuse to turn their backs and hearts on those in need.



Migrants waiting in line to add their names to “La Lista”. All photos by Katie Kavanagh.

Through my work with the California Collaborative for Immigrant Justice (CCIJ), based at the Justice & Diversity Center of the Bar Association of San Francisco, I traveled to Tijuana, Mexico, twice in recent months and witnessed the humanitarian crisis firsthand. While there, I worked with the Border Rights Project of *Al Otro Lado*¹—a bi-national, direct legal services organization serving indigent deportees, migrants, and refugees. What I witnessed in Tijuana broke my heart, but the pieces of my broken heart are on fire.

Volunteering at the border is equal parts exhilarating and infuriating. A typical day begins around 6:45 a.m. at El Chaparral, a plaza just across the border from a sea of outlet stores and currency exchange windows on the US side.

At El Chaparral, an arbitrary and dehumanizing process is on display each morning. Around dawn, two groups of migrants gather and surround a regular composition notebook of remarkable importance—“La Lista” (The

List). It is the key to accessing the United States asylum system, yet both the US and Mexican governments disavow responsibility for its creation or maintenance. While it is true that the list is administered by asylum seekers, it is also locked away each night by Mexican immigration officials and both governments are complicit in its existence and abuse. (It is widely known that some people pay their way to the top of La Lista.) Migrants line up each morning to add their names and nationalities to the thousands of others already in the notebook.

The second group of migrants gathered at El Chaparral before dawn are those already on La Lista, who have been waiting up to several months for their names to be called.

This group is recognizable by their suitcases and bundled-up children. They huddle around the list managers, listening for their names and craning their necks to see the notebook. As a volunteer attorney, I was available to answer their last-



El Chaparral plaza, near the pedestrian crossing to Tijuana, Mexico



Sign announcing the last number from "La Lista" to be called that day

minute questions before crossing and to empower them to assert their rights against family separation. I would also suggest that parents write their names and a relative's phone number on the arms of young children in permanent marker in case they were separated.

Despite President Trump's June 2018 executive order "ending family separation" and diminishing news coverage of the topic, families are continuing to be ripped apart when they cross the border to request asylum. Familial relationships particularly vulnerable to separation include older siblings, aunts/uncles, or grandparents traveling with their non-biological children; US citizen children traveling with non-citizen family members; and couples of any gender(s). Parents with even minor criminal histories may also see their children taken from them. The continued practice of family separation is just one example of the Trump administration's ongoing use of punitive and dehumanizing practices to try to deter migration.

As a volunteer, one of my most difficult tasks was preparing families for the possibility of separation. This conversation often happened at our daily workshop, where we shared information and helped asylum seekers prepare for their "credible fear interview" (the first step in the process of applying for asylum).

At the workshops, I listened as women told me of living under the terror of an abusive partner for years; I met people fleeing gangs they could no longer afford to pay off for safety; I comforted a father who had last seen his wife and son when they were separated at the border over a month ago; I advised young men who had been arrested and tortured for speaking out against their governments, and others who were faced with a choice: join the gang or die; I held the hand of a mother who worried her nursing infant would be taken from her; and I counseled countless families scarred by unspeakable violence and fear.

I HELD THE HAND OF A MOTHER WHO WORRIED HER NURSING INFANT WOULD BE TAKEN FROM HER AND I COUNSELED COUNTLESS FAMILIES SCARRED BY UNSPEAKABLE VIOLENCE AND FEAR.

Although most advice centered around the credible fear interview, countless other issues and questions inevitably came up—from medical concerns to foreign family law inquiries (e.g., can a Guatemalan citizen get married in Mexico? Is a child born in Honduras to two Haitian parents a citizen of Haiti?)—so, as the lead attorney, I was challenged to think creatively and research quickly.

The stories with which I was entrusted revealed that the refugees at our border are as diverse as their reasons for fleeing. In my first week in Tijuana, I worked with migrants from eleven countries: primarily Mexico, Honduras, and El Salvador, but also Afghanistan, Cameroon, Congo, Guatemala, Guinea, Haiti, Nicaragua, and Russia. I counseled single parents, trans women, unaccompanied minors, and multi-generational families. Some were living on the streets, others in shelters or churches, and the lucky ones in hotels. But with a wait of up to several months to simply approach the US border to request asylum, all were growing desperate.

One evening, I was asked to escort three unaccompanied minors to the border, where we planned to present them

to US officials to request asylum. A few months prior, such crossings were very dangerous for the youth involved. Even with a lawyer, minors were routinely turned away by US officers and scooped up by Mexican officials who would ultimately deport them. However, in the weeks leading up to my time in Tijuana, accompanying minors to the border had become routinely smooth. Unfortunately, things took a turn when the three teenage boys (13, 14, and 15 years old), my fellow volunteers, and I approached the US border on the evening of March 21.

We were told by US border officials that we would have to wait on the Mexican side until a supervisor arrived. As we waited, a Mexican security guard approached our group and began harassing us, threatening to call the police or Mexican immigration if we didn't move. Two more security guards joined the threats and harassment, while we desperately begged the US officials to let the boys cross or bring the promised supervisor. Ultimately, the head of the Border Rights Project—with whom I was frantically texting during the ordeal—decided we should abandon our attempt due to the escalating danger to the children. I was crushed, but more tragically, so were the boys who had waited months for their chance to cross the border. Our experience was chronicled in an article published in *The San Diego Tribune*³ in late March. When I returned to Tijuana several weeks later, I learned that one of the boys had finally been allowed to cross and request asylum that same day. Unfortunately, the other two boys had grown frustrated and hopeless and had made the decision to “jump the fence.” We have no idea what happened to them after that. This is just one example of the arbitrary nature of what can take place at the border.

Though the frustration and desperation are palpable in Tijuana, the majority of migrants there will not “jump the fence” like those teenage boys, but rather will wait the months it takes to be called off “La Lista” one early morning at El Chaparral. Upon presenting themselves at the US border and requesting asylum, they will be detained for days in “la hielera” (Spanish for icebox, dubbed so for the uncomfortably cold temperatures inside); they might be separated from partners and children; they'll be transferred

to detention centers for months or years; and they will ultimately fight for asylum (essentially a death penalty trial for many) in a court system stacked against them, probably without a lawyer.

In counseling migrants, I explained the disgraceful treatment that awaits them in the United States—a place where many dreamed they would finally be safe. I praised their strength and fortitude and apologized for what still lay ahead. Later, in private or in the arms of my fellow volunteers, I cried. I cried because I am furious at my country for turning away those three boys. I am furious at my country for separating families. I am furious at my country for trying to freeze migrants into signing their own deportation orders.

If you are furious too, please know that your voice, resources, and heart are needed in this fight. Contact your representative to advocate for more humane immigration policies. Donate frequent flier miles to Miles4Migrants⁴, which helps reunite families like the father I wrote about above. Volunteer on the ground or remotely with organizations like Al Otro Lado (you do not have to be an immigration lawyer, or even speak Spanish).

Challenge and resist rhetoric that dehumanizes our neighbors who have suffered the most. Because a wall is

not going to solve the humanitarian crisis at our southern border. We are.

Katie Kavanagh is a rapid response attorney with the California Collaborative for Immigrant Justice (CCIJ), based at the Justice & Diversity Center of the Bar Association of San Francisco. She provides emergency legal assistance to individuals who are detained by ICE and supports unrepresented detainees subject to deportation proceedings. Prior to joining CCIJ, Katie was a staff attorney and Immigrant Justice Corps Fellow at The Legal Aid Society in New York City. She attended NYU School of Law as a Root-Tilden-Kern Public Interest Scholar, where she participated in the Immigrant Rights Clinic for two years and received the Eric Dean Bender Graduation Prize for her commitment to public service. She also completed immigration-focused internships at The Bronx Defenders, Immigrant Legal Resource Center, and The Door.

Notes:

1. See the website for Al Otro Lado at alotrolado.org.
2. Miriam Jordan and Caitlin Dickerson, “U.S. Continues to Separate Migrant Families Despite Rollback of Policy,” *New York Times*, March 9, 2019.
3. Kate Morrissey, “Unaccompanied children stuck in Tijuana, hoping to reach U.S.,” *The San Diego Union-Tribune*, March 31, 2019.
4. See the website for Miles 4 Migrants at www.miles4migrants.org

manatt

Smarter Partnerships

The most important and challenging questions you face require more than just legal answers. Our integrated legal, business consulting, policy and economic perspectives open doors to new possibilities and far-reaching solutions. Learn more about how we can work together at manatt.com.

Manatt, Phelps & Phillips, LLP

The advertisement features a light blue background with a 3D geometric shape composed of translucent cubes and triangles. The Manatt logo is in a yellow box at the top left.

SEYFARTH SHAW

The difference is clear

Thoughtful, strategic, practical legal counsel

With more than 850 attorneys around the globe, Seyfarth Shaw LLP offers a national platform and an international gateway to serve legal needs in real estate, employment, corporate, immigration, litigation, and employee benefits.

www.seyfarth.com

The advertisement features a dark blue background with a large, colorful geometric shape made of triangles in shades of blue, green, and yellow. The Seyfarth Shaw logo is at the top left.