

Everything You Need to Know About Unaccompanied Minors at the Border

A Conversation with Matthew Soerens and Jenny Yang

This week, we're seeing news reports of another "crisis" at the U.S.-Mexico border, particularly related to children, or 'unaccompanied minors.'

What's actually happening? What *should* be happening? And what can followers of Jesus who care about vulnerable children do?

Here, World Relief's President, Scott Arbeiter, sits down with Jenny Yang and Matthew Soerens, World Relief's in-house immigration policy experts and co-authors of [Welcoming the Stranger: Justice, Compassion and Truth in the Immigration Debate](#) to help us understand what's currently happening at the border.

Quick Facts:

Immigration policy can be confusing and hard to keep track if you aren't familiar with the language. Below are a few key terms to keep in mind as you listen and/or read.

TVPPRA: The Trafficking Victims Protection Reauthorization Act. A 2008 law that, among many other elements, governs how unaccompanied children identified at the border are to be treated.

Title 42: A public health law that both the Trump and Biden administrations have cited as a legal justification to turn away asylum seekers because of the COVID-19 pandemic.

Migrant Protection Protocols: A Trump administration policy that required most asylum seekers who arrived at the U.S.-Mexico border to "remain in Mexico" to await their court hearings, rather than being allowed to wait safely in the U.S. for their court proceedings.

PART I

Scott: *Can you tell us about what's happening at the border, and is it the crisis we're hearing about from some news reports?*

JENNY: Recently, the U.S. government released the number of apprehensions along the U.S.-Mexico border that occurred in February, and they're up significantly, rising from between 70,000 and 80,000 apprehensions monthly since October to just over 100,000 apprehensions last month. That's a high number, though it's worth noting that the numbers being reported don't actually mean 100,000 *people* were apprehended, because many of those individuals were apprehended several times. The Border Patrol often simply turns back most adults whom they apprehend, such that many simply try again (and, sometimes, again and again). It's also less than half the number of apprehensions twenty years ago this month, so it's far from unprecedented.

Scott: What is causing the current increase?

MATT: There are several reasons for this increase in numbers. Early in the pandemic last year, President Trump closed the border even to asylum requests under a public health law called [Title 42](#). President Biden has for the most part kept that policy in place for the time being, such that the majority of individuals apprehended are turned away, even if they express a fear of persecution. One dynamic that has changed, however, is that **Title 42 is no longer being used to expel unaccompanied minors. Due to this change, the number of unaccompanied minors apprehended, not surprisingly, has increased significantly over the past month.**

While Title 42 was being applied even to unaccompanied children, they were being sent back to Mexico or their countries of origin, except for during a few weeks when the courts restricted that process. World Relief joined other Christian organizations in [objecting](#) to that policy when it was first implemented and subsequently helped organize an [effort](#) to unite the voices of Christian child protection and anti-trafficking ministries, denominations and more than 25,000 everyday citizens in urging the previous administration to halt the process, which we saw as an emergency for vulnerable children, who were in many cases being returned right into the hands of those who would traffick or abuse them.

Though the number of unaccompanied minors apprehended has now increased significantly we still believe it's a safer situation for children than being simply expelled. And while the numbers of unaccompanied children were very high last month, they were still below peak levels of 2019.

An additional change that's important to note is that, while asylum-seeking families who show up at the border today are generally being turned away under Title 42, **families who arrived a year or more ago, who have been required to wait in Mexico (often in informal camps or church-based shelters) under a program called "Migrant Protection Protocols" (MPP) for their chance to request asylum, are now slowly being allowed into the U.S. to process their claims.**

From the reports we're hearing from partners along the border, that's been a very orderly process that is generally going very smoothly, including COVID testing for all of those being processed to protect everyone's health. Most of those families spend a few days on the U.S. side of the border, then travel to relatives throughout the country to await their court date to determine if they will be granted asylum or some other legal opportunity to stay lawfully in the U.S.

Scott: Can you tell me more about who 'unaccompanied minors' are and why are they arriving at the border alone?

JENNY: An unaccompanied minor is simply anyone under 18 — some are small children, but most are adolescents — who for one reason or another crosses the border without a parent or legal guardian. The reasons they would make this trip are varied, but often these kids are making the trip because of threats of violence, particularly from gangs that prey on young people, and/or seeking to be reunited to parents or other family members already in the U.S. **About 40% of these children have a parent residing in the U.S. with whom they're aiming to be reunited.**

As you can imagine, a child traveling without a parent across various countries is *incredibly vulnerable*. Tragically, many are exploited and abused along the way. That so many make this trip even knowing these risks speaks to the desperation of their situations in their countries of origin, which are mostly the Central American countries of Honduras, El Salvador and Guatemala.

In recognition of this unique vulnerability, U.S. law, appropriately in our view, treats unaccompanied children differently than it does an adult. Back in 2008, with broad bipartisan support in Congress after a lot of lobbying from Christian anti-trafficking advocates, President Bush signed the Trafficking Victims Protection Reauthorization Act (TVPRA), which includes important provisions governing how unaccompanied children should be treated.

Specifically, under the TVPRA, unaccompanied children from non-contiguous countries (i.e., not Mexicans or Canadians) should be transferred from the custody of the Border Patrol (which is not equipped for or primarily focused on caring for children) to the Department of Health and Human Services' Office of Refugee Resettlement (ORR) within 72 hours. From there, ORR works with a network of care providers, many of them faith-based organizations, to provide child-appropriate care while they identify a sponsor within the U.S., which is almost always a parent or another relative. In a few cases, children are placed in licensed foster homes. And then, eventually, they go to immigration court, where a judge will determine if they either qualify to stay lawfully in the U.S. or not. **The aim of the law is to protect vulnerable kids and ensure they receive due process and are not returned to violence, persecution or traffickers when they may qualify under U.S. law to stay and be protected here.**

Scott: I can see how the distinctions between unaccompanied children, families and single adults are really important from a legal perspective. Can you explain how each of these different groups is currently being treated by the U.S. government?

MATT: Yes. It's helpful to talk about people arriving at the border in four distinct categories: Unaccompanied Children, Single Adults, Families who arrive a year or more ago and have been waiting in Mexico, and Families who arrive *today* seeking asylum. A lot of media coverage of the border dynamics has blurred these distinctions, but they dramatically impact how individuals are processed (or not processed) right now:

- **Unaccompanied children** are currently being processed (mostly) in line with the Trafficking Victims Protection Reauthorization Act — with the troubling caveat that, in many cases, children are being backed up in Border Patrol facilities for longer than 72 hours, as the administration seeks to rapidly increase capacity within the network of shelters and organizations equipped to care for children. They're using larger and, in some cases, less-regulated surge shelters; those are certainly not ideal, but they're better than children being backed up in Border Patrol holding facilities, which are *not* appropriate for children.
- **But, again, it's very positive that these kids are not simply being expelled, as was the case throughout most of 2020.**

- **Single adults**, who accounted for more than 70% of Border Patrol apprehensions in February, are currently being returned under the authority of Title 42, even if they profess a credible fear of persecution and would like to request asylum. **For these individuals, the border simply remains closed.**
- **Families** (one or more child accompanied by one or both of their parents or legal guardians) who arrived a year or more ago, who have been waiting their turn in Mexico in the MPP process are being tested for COVID and then allowed in groups to enter the U.S. through a few different ports of entry. From there, churches and other non-profits on the U.S. side of the border are helping to provide a warm meal, a change of clothes, a place to sleep for a night or two and then help coordinating transportation to interim destinations throughout the U.S., where **the vast majority of these families have extended family ready to host them. World Relief offices in many of these communities are also able to help, in partnership with local churches, while these families await their court hearings to determine if they qualify for asylum or not.**
- **Families who arrive today** to request asylum (not those who arrived months or even years ago) are still being turned away under Title 42, just like single adults, except in very limited circumstances where the Mexican government has indicated it cannot take back families with very small children or very limited other cases. **One concern with this continued invocation of Title 42 to expel asylum-seeking families — beyond the obvious concern that our country could be sending families back to genuine situations of persecution — is that some families who are sufficiently desperate, who hear that unaccompanied children are being processed while those with their parents are not, may be sending their children alone across the border, contributing to increase in the number of unaccompanied children, who obviously require a lot more care and resources to process than would a child with her or his parent(s).**

Scott: What is happening in Central America, in particular, that has led so many people to want to leave?

JENNY: There's no one factor, which is part of why asylum requests are often complicated. **It's often a combination of extreme poverty, threats of violence, governmental corruption and natural disasters.** For example, Honduras has one of the highest rates of poverty in the Western Hemisphere, with most Hondurans surviving on less than \$5.50 per day, a dynamic that has been exacerbated by the shutdowns of the Honduran economy intended to halt the COVID-19 pandemic. The country also has among the highest homicide rates in the world, nearly ten times the rate in the United States, much of which is fueled by gang violence and lucrative drug trafficking and targeted, in particular, at young people. Furthermore, two devastating hurricanes hit the country in late 2020, leaving many homeless.

El Salvador and Guatemala have similar, albeit slightly different dynamics, all of which **were further exacerbated by the U.S. government’s decision in 2019 to cut almost all foreign assistance to these three countries, a decision World Relief and other Christian organizations warned at the time was not only harmful to the vulnerable but also counter-effective to the goal of reducing the number of migrants to the U.S.** Those funds, which largely went to non-governmental organizations including many faith-based organizations, were effectively helping to address these root causes of poverty, corruption and violence that made people so desperate they would make a dangerous journey to the U.S.

Scott: You’ve mentioned asylum — can you remind us what asylum is and who qualifies?

MATT: The basic idea of asylum, codified in international treaties to which the U.S. is a party as well as in the Refugee Act passed by Congress in 1980, is that **our country (like many other nations) has committed to not send an individual who reaches our nation back to a situation where they face a credible fear of persecution on account of their race, religion, political opinion, national origin or social group.** To request asylum, you must either be *within* the United States (such as those who came on a tourist visa) or be at the border of the United States. U.S. law explicitly allows you to request asylum even if you did not enter the country lawfully. One challenge in recent years has been that, as the U.S. has required those who walk up to the port of entry (i.e., the bridge from Mexico to the U.S.) to submit a lawful asylum request to wait for long periods of time, more and more have decided to cross the border unlawfully. These individuals are usually not trying to evade the Border Patrol, but are actually looking for them, with the intention of requesting asylum.

Once someone who arrives at the border indicates they want to request asylum, whether at a port of entry or crossing between ports of entry, our government conducts a “credible fear interview” to determine if they have a plausible case. If they do not, they are usually deported, but if they pass that preliminary test, they can proceed with their case. In some cases, those individuals or families are held in detention facilities while they wait for their immigration court hearings, but in other cases (particularly when there is no reason to think they pose any threat to public safety and they have relatives or friends ready to host them), they are allowed to wait for their court hearing within the U.S., often with a GPS-equipped ankle bracelet to assure they show up for immigration court when it is their turn. Department of Justice records indicate that more than 80% of asylum-seeking families (and more than 99% of those with legal representation) do indeed show up for their court dates.

It’s important to acknowledge that there’s no single story that encompasses the hundreds of thousands of asylum seekers who have requested protection from the United States in recent years. Some have very clear cases; some, even though they may have very sympathetic situations of fleeing extreme poverty, do not really qualify for asylum, which is reserved for those with a credible fear of persecution. Some are very likely genuinely fearful of violence, but may have trouble documenting the credibility of their fear — they may only have their own testimony, or a situation that was documented by newspapers or academic researchers — while others

credibly fear violence but cannot demonstrate it is related to their race, religion or one of the other reasons outlined under U.S. law. Furthermore, asylum decisions are very subjective, which is one reason that some immigration judges approve less than 5% of cases they hear while others approve more than 95%. **Historically, roughly half of asylum requests have ultimately been approved by immigration judges, but that share declined to less than 30% in Fiscal Year 2020, as eligibility has been more narrowly defined and as asylum seekers required to wait in Mexico were far less likely to be able to access legal representation.**

Scott: There's so much to unpack here. Thank you both for this conversation and the wealth of information you've provided to us today. Of course, the next question for many of us is what can we do? But for that, we'll have to wait for part 2 of this conversation which will be released on our blog next week. In the meantime, I'd encourage anyone listening to learn more about our work in the US on our website, and consider joining us as we work toward creating communities of love and welcome for our immigrant neighbor. Until next time.