

Kathryn Barr
HIS 492-01
Final Paper

The Contradictory Actions of the United States Concerning Asylum

People from many different countries seek asylum in the United States every year. Many of these countries are located in Latin America. Many of these asylum seekers are fleeing their countries to avoid violence or persecution, trying to find safety in the United States. Although the United States does accept asylum claims, their foreign policy concerning immigration changes often. Certain policies have been made which favor people from specific countries over others. An example of this is in the 1980s when the United States favored refugees and asylum seekers from Cuba and Nicaragua while essentially ignoring the requests coming from places like El Salvador, Guatemala, and Colombia. While it is obvious that the United States accepts asylum seekers from countries based on politics instead of human rights, there is a question that arises. Is the United States' favoritism towards certain countries contradictory towards their political goals?

Throughout every year thousands of migrants that come from different countries in Latin America to the United States seek asylum. Many of these asylum seekers are fleeing their countries to avoid violence or persecution, trying to find safety in the United States. The Immigration and Nationality Act of 1965 allows people to apply for asylum in the United States. The Immigration and Nationality Act of 1965 replaced an earlier quota system based on national origin with quotas based on the western and eastern hemispheres. This limited how many people could immigrate to the United States from Latin America and other places and limited the number of asylum claims that would be accepted. Many countries in Latin America have political turmoil or there is extreme danger from gang or cartel violence which drive people to

seek asylum or refugee status in the United States. Instead of focusing on places where human rights issues are a large concern, the decisions the United States makes for accepting asylum applicants from different countries are more based on political situations and interests.

The United States has a history of making it easier for people to seek asylum in the country if they are from a place that is considered an enemy of the U.S. The countries that the United States accepted asylum seekers the most were places that were communist. A political goal and strategy of the United States during the Cold War was containment. The U.S. planned to do this by fostering and strengthening anti-communist regimes in Latin America.¹ The United States even passed a policy that favored this goal of containment. “The Refugee Act of 1953 gave emergency admission to victims of racial, religious, or political persecution who fled a communist, or communist-dominated...”² When it comes to countries that the United States has a good relationship with or right-wing regimes that they support in the name of combating communism, then asylum seekers are usually denied. “The burden to attain asylum is especially difficult for those aliens from nations with a favorable relationship with the United States, nations which the U.S. would not want to label as “persecuting.”³ Asylum seekers from Cuba have had the most privilege and easiest time coming to and being accepted into the United States. When Fidel Castro came into power Cuba became considered a Communist country and therefore an enemy of the United States. This was during the Cold War when the United States was fighting against Communism. “For two decades following Castro’s assumption of power in

¹ Peter H. Smith, *Talons of the Eagle: Latin America, the United States, and the World*, 4th ed. (New York, NY: Oxford University Press, 2013), 126.

² Linda Rabben, *Sanctuary and Asylum: A Social and Political History*, A Capell Family Book (Seattle: University of Washington Press, 2016), 126.

³ Alexandra De La Asuncion, “Colombia: The Ignored Humanitarian Crisis,” *The University of Miami Inter-American Law Review* 31, no. 3 (2000), 454.

1959, Cuban emigres in the U.S. enjoyed a privileged position as refugees not subject to the prevailing immigration regulations.”⁴

In 1951 The United States adopted a policy called the Convention Relating to the Status of Refugees. This defined a refugee as “someone who, owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion...”⁵ Despite this policy concerning immigration, the United States let Cubans come into the U.S. much more easily than any other country. During the Cold War in the 1960s, Cubans were allowed to immigrate to the U.S. and it did not matter whether or not they qualified as refugees. Instead, “the United States adopted a temporary solution to allow Cubans legal entry and residence relying on the parole power of the general immigration law.”⁶ This meant that those admitted via the parole process did not have to prove that they had a well-founded fear of persecution based on political, religious, racial, or similar grounds. This was a way to get around the Convention Relating to the Status of Refugees. Through the admission policy of parole, more than 200,000 Cubans arrived in the United States between 1959 and 1962.⁷ The United States may have let in so many Cubans because during this time Castro declared himself as a “Marxist-Leninist” in 1961 and the Cuban Missile Crisis was in 1962. The United States was letting in many Cubans in an effort to fight Communism. However, this seems contradictory to their political goals as allowing in refugees is taking away the opposition to Communism in Cuba, therefore helping Communism in that country grow.

⁴ Michael Dunne, “Asylum,” in *Encyclopedia of American Foreign Policy*, ed. Richard Dean Burns, Alexander DeConde, and Fredrik Logevall, 2nd ed., vol. 1 (New York, NY: Charles Scribner’s Sons, 2002), 117–29.

⁵ Linda Rabben, *Sanctuary and Asylum*, 124.

⁶ Maryellen Fullerton, “Cuban Exceptionalism: Migration and Asylum in Spain and the United States,” *The University of Miami Inter-American Law Review* 35, no. 3 (2004): 549.

⁷ Maryellen Fullerton, “Cuban Exceptionalism,” 551.

In 1965 the United States made an effort to create a more orderly avenue of migration by making an agreement with Cuba which entailed a series of ten weekly flights to the United States.⁸ During this time roughly 4,000 Cubans arrived in the U.S. each month and around 50,000 every year. One year later the Cuban Adjustment Act of 1966 was adopted which meant that Congress allowed all Cubans paroled in the United States to have the opportunity to become permanent residents of the U.S. after spending two years in the U.S. Cubans could now also become citizens after spending five years in the United States. Along with this Cubans also did not need to show family ties, employment skills, or any factor other than being Cuban to be let into the country.⁹ Through this immigration policy, there were around 130,000 Cubans mainly living in Florida and New Jersey that were allowed to become permanent residents.¹⁰ Although there was a large amount of favoritism towards Cuba in an effort to prevent Communism there were policy changes that made it harder for Cubans to seek asylum in the United States.

At the beginning of 1980, the Mariel Crisis happened. This was when Castro announced that the Mariel port in Cuba was open to all those who wanted to go to the United States. This led to a total of 125,000 Cubans being accepted into the U.S. in 1980. President Jimmy Carter did not apply the legal standard of requiring a well-founded fear of persecution to the Cubans arriving from Mariel. Instead, they were allowed into the United States easily via the Cuban Adjustment Act. However, during Bill Clinton's presidency, the policy towards Cuban immigration became more stringent. In the early 1990s, there were 30,000 Cubans that took to the sea in small boats and rafts for the United States. President Clinton did not let them in and sent them to the U.S. naval base at Guantanamo Bay in Cuba. After that Castro agreed to reinstate Cuban efforts to stop illegal and unsafe departures at sea while the U.S. agreed to allow

⁸ Maryellen Fullerton, "Cuban Exceptionalism," 552.

⁹ Maryellen Fullerton, "Cuban Exceptionalism," 553.

¹⁰ Michael Dunne, "Asylum."

20,000 Cubans to immigrate to the U.S. annually based on processing that would take place in Cuba.¹¹ This was the first time that the U.S. treated Cubans like ordinary immigrants and refused to allow them into the United States. However, after this, the immigration policy concerning Cubans has become strange.

There is now a “wet-foot, dry-foot” phenomenon concerning Cuban immigration into the United States. The “wet-foot” part refers to the fact that Cubans who are intercepted at sea are not allowed into the United States. The “dry-foot” part means that if Cubans reach the United States then they will be given parole and let into the country as long as they have Cuban origin.¹² The United States’ actions of favoring Cuban immigrants and granting them political asylum is contradictory to their goal of combating communism. This is contradictory because letting everyone fleeing from a communist government into the United States is helping to take away all the opposition to communism in the country that they are fleeing from. Taking away the opposition to communism does not help combat it and instead helps communism in that country to grow larger as the people left in the country are not as opposed to it. Although immigration concerning Cuba has become a little more strict it is still far easier for Cubans to immigrate to the United States than it is for someone from any other country. In the 1960s President Lyndon B. Johnson said “I declare this afternoon to the people of Cuba that those who seek refuge here in America will find it. The dedication of America to our tradition as an asylum for the oppressed is going to be upheld.”¹³ This sentiment has remained true for Cubans but not for people from other countries such as El Salvador, Guatemala, and Colombia.

Another country in Latin America that the United States has shown favoritism toward concerning asylum in the name of fighting against communism, is Nicaragua. In Nicaragua, there

¹¹ Maryellen Fullerton, “Cuban Exceptionalism,” 564.

¹² Maryellen Fullerton, “Cuban Exceptionalism,” 567.

¹³ Maryellen Fullerton, “Cuban Exceptionalism,” 553.

was a dictatorship run by the Somoza family from 1936 to 1979. The United States supported this dictatorship by guaranteeing them millions of dollars in loans from the international banking community and by providing training to the Nicaraguan National Guard which helped to keep opposition to the dictatorship weak.¹⁴ It may sound contradictory for a democratic country to support a dictatorship, but the Nicaraguan government shared a political goal with the United States. On many different occasions, Somoza claimed that communism was a great danger to the western hemisphere and once referred to communism in the region as a “cancerous growth which had to be cut away.”¹⁵ The largest opposition to the Nicaraguan dictatorship was the Sandinista rebels which managed to overthrow the government in 1979. The politics of the Sandinistas was socialist and posed a threat to the United States political agenda. The 1980 Republican Party in the United States publicly denounced the Sandinistas’ rise to power by calling it a “Marxist takeover” and that they were committing “Marxist attempts to destabilize El Salvador and Guatemala. They also stated that they would “support the efforts of the Nicaraguan people to establish a free and independent government.”¹⁶ This meant that the republicans in the U.S. were ready to support the efforts of the Nicaraguan dictatorship to overthrow the Sandinistas. After Ronald Reagan became the president of the United States, his administration began to fund a proxy army of Nicaraguan expatriates known as the Contras which were trained and armed by the U.S. military and CIA to fight against the Sandinistas.¹⁷ The CIA was also working behind the scenes in Nicaragua. By the end of 1980, the CIA was funding a variety of anti-Sandinista organizations intending to eliminate the Sandinistas’ popular support.¹⁸ The conflict between the

¹⁴ Maria Cristina Garcia, *Seeking Refuge: Central American Migration to Mexico, the United States, and Canada* (Berkeley, CA: University of California Press, 2006), 20-21.

¹⁵ Peter H. Smith, *Talons of the Eagle*, 186.

¹⁶ Peter H. Smith, *Talons of the Eagle*, 171.

¹⁷ Jennifer H. Lundquist and Douglas S. Massey, “Politics or Economics? International Migration during the Nicaraguan Contra War*,” *Journal of Latin American Studies*; Cambridge 37, no. 1 (February 2005), 31.

¹⁸ Maria Cristina Garcia, *Seeking Refuge*, 23.

Contras and the Sandinistas came to be known as the Contra War. The United States' efforts in the Contra War was yet another attempt at trying to contain the spread of communism. In 1981, Congress accepted the evidence provided by the Reagan administration that Nicaragua had become "a base for exporting communism in the region" and allowed more funding to continue the United States' goal of containment.¹⁹ The Contra War in Nicaragua was violent, lasted from 1979 to 1990, and had a high price in terms of Nicaraguan lives. By the end of the war, there were 30,000 Nicaraguans dead, 50,000 wounded, and over 300,000 that were left homeless.²⁰

During the Contra War, many people that left Nicaragua to seek asylum in different countries, the United States being the most popular. By the end of the Contra War, over half a million Nicaraguans remained outside of the country with a majority of them located in the United States.²¹ The Contra War was violent and both sides of opposition and the war did major damage to the citizens in Nicaragua. The United States showed favoritism towards those seeking political asylum from Nicaragua as they had done with Cuba. During most of the Contra War, migrants from Nicaragua were granted refugee or political asylum status based on a "clear probability of persecution."²² Compared to other Central Americans such as Salvadorans and Colombians, Nicaraguans that applied for political asylum enjoyed relatively higher success through the late 1980s.²³ In 1984, 20 percent of asylum applicants to the United States were accepted with 12.6 percent from Nicaragua, 2.45 percent from El Salvador, and only 0.39 percent from Guatemala.²⁴ During the peak of intensity of the Contra War from 1985 to 1988, there was also a peak in legal immigration from Nicaragua.²⁵ Those that were denied asylum

¹⁹ Maria Cristina Garcia, *Seeking Refuge*, 23.

²⁰ Maria Cristina Garcia, *Seeking Refuge*, 25.

²¹ Maria Cristina Garcia, *Seeking Refuge*, 25.

²² Jennifer H. Lundquist and Douglas S. Massey, "Politics or Economics?" 32.

²³ Fernando Riosmena, "Policy Shocks: On the Legal Auspices of Latin American Migration to the United States," *The Annals of the American Academy of Political and Social Science* 630, no. 1 (2010), 5.

²⁴ Linda Rabben, *Sanctuary and Asylum*, 131.

²⁵ Jennifer H. Lundquist and Douglas S. Massey, "Politics or Economics?" 35, 37.

were still given special treatment that people denied from other Latin American countries did not receive. Nicaraguans that were denied were able to have an extra level of review for their asylum claim through the Nicaraguan Review Program.²⁶

Like in Cuba, the United States' favoritism towards asylum seekers from Nicaragua did not help their goal of fighting against communism and instead was a contradiction to it. The United States let in more Nicaraguans for asylum than people from other countries in Latin America because they wanted the perception of the public to show that civilians were fleeing from a communist government. Showing favoritism and accepting many asylum seekers only takes away opposition to communism. However, the situation with Nicaragua was worse than the one with Cuba. At least in Cuba, the United States was only accepting large amounts of asylum seekers. In Nicaragua, the United States was supporting and funding a long and violent war that resulted in the death and displacement of thousands of Nicaraguans all in the name of containment. The United States provided training to the Nicaraguan National Guard which increased its surveillance of the population and used a campaign of imprisonment, torture, and assassination to combat the Somoza dictatorship's opponents.²⁷ The United States' political goal of containing and fighting against communism in Nicaragua did not do any good as they were supporting a dictatorship and helped perpetuate violence and turmoil in the region. "Critics argued that the U.S. policy only served to increase poverty and homelessness in Nicaragua, destabilizing neighboring countries and producing large-scale regional migration."²⁸

Although favoritism for asylum seekers was shown to both Cuba and Nicaragua by the United States, the same can not be said for other countries in Latin America. One of these countries is El Salvador. There was a civil war in El Salvador between a violent, right-wing

²⁶ Fernando Riosmena, "Policy Shocks," 5.

²⁷ Maria Cristina Garcia, *Seeking Refuge*, 21.

²⁸ Maria Cristina Garcia, *Seeking Refuge*, 24.

government and opposing guerrilla groups that lasted for twelve years. After the fraudulent elections in 1972, many protests demanded social justice and there were also several guerrilla armies that emerged.²⁹ The civilians in El Salvador remained upset with the government as protests continued even seven years later in 1979 when a new military-civilian junta overthrew the government of General Carlos Humberto Romero.³⁰ To combat these protests there was a centralized intelligence agency known as the ANSESAL, which was a network of government informants and paramilitary groups. Protesters were arrested and beaten, expelled from the country, or murdered by this agency.³¹ Along with this agency, there was also a more violent group of privately funded paramilitary groups which were referred to as “death squads.” The death squads tortured, raped, and killed anyone who was believed to have ties to insurgent guerrilla groups or who challenged the established order in any way. This could be anything from labor organizing, sermons, and public speaking, publications, and journalism, to something as simple as classroom instruction.³² These death squads were relentless and unforgiving as they killed thousands of Salvadoran civilians. Killings by these groups continued at an astonishing rate of nearly 1,000 per month.³³ The death squad did not even bother trying to hide the fact that they were murdering thousands of civilians as they left the bodies of those they killed out in the open in the streets. This was also done so that the bodies of the people they brutally murdered would serve as a message to the opposition of the government. There were so many people killed and reported missing that it was hard to keep track. 1980 was a particularly violent year as 8,000 civilians were killed and no one was arrested for the murders.³⁴

²⁹ Maria Cristina Garcia, *Seeking Refuge*, 25-26.

³⁰ Maria Cristina Garcia, *Seeking Refuge*, 26.

³¹ Maria Cristina Garcia, *Seeking Refuge*, 26.

³² Maria Cristina Garcia, *Seeking Refuge*, 26.

³³ Peter H. Smith, *Talons of the Eagle*, 169.

³⁴ Maria Cristina Garcia, *Seeking Refuge*, 27.

While all of these senseless killing and human rights violations were taking place, the United States was supporting the violent Salvadoran government. While the Carter administration had withdrawn aid from El Salvador for their human rights violations, the Reagan administration did the opposite. When Reagan came into office, his administration “devoted unequivocal support to the Salvadoran government and its fight against the rebels.”³⁵ The Reagan administration continued to provide millions of dollars to the Salvadoran government despite the human rights atrocities that they were committing. The United States government was providing this violent government so much aid because they were once again, trying to push the political agenda of containing communism. The goal of combating communism was more important to the administration than trying to prevent human rights violations. In 1981, the State Department released a paper to offer evidence that there was “military support given by the Soviet Union, Cuba, and their communist allies to Marxist-Leninist guerrillas now fighting to overthrow the established government of El Salvador.”³⁶ In order to keep providing aid to the Salvadoran government, there had to be proof that El Salvador was making progress on human rights issues. Since this was not the case, the administration even went as far as denying that it was happening so that they could continue to provide aid to them. For example, in 1981 the massacre at El Mozote was committed by the Salvadoran army’s most elite group of soldiers, which was trained by the United States.³⁷ Although about 800 Salvadoran civilians were ruthlessly murdered, with many of them being children, the United States continued to deny that it had ever happened. Although the story of the massacre was told in U.S. newspapers, Reagan still sent the certification to Congress that El Salvador was making an effort to comply with human rights

³⁵ Peter H. Smith, *Talons of the Eagle*, 169.

³⁶ Peter H. Smith, *Talons of the Eagle*, 170.

³⁷ Maria Cristina Garcia, *Seeking Refuge*, 27.

only one day after the news broke.³⁸ There were also members of the Reagan administration that either denied or downplayed news reports of civilian casualties, claiming that anyone that was killed was only leftist guerrillas who were caught in the crossfire.³⁹ Despite the many human rights abuses, the United States provided so much aid to El Salvador that throughout the 1980s, El Salvador remained on the list of top five nations to receive aid from the U.S. with six billion dollars in economic and military aid.⁴⁰

Although the United States supporting a right-wing regime in El Salvador is similar to Cuba and Nicaragua, they took a different approach to asylum seekers. Although Salvadoran migration increased after 1979 when the death squads intensified opposition against the government, the United States did not let many Salvadorans in.⁴¹ In Cuba and Nicaragua, the United States was supporting right-wing opposition to communist governments. What was different in El Salvador is that the United States was supporting a right-wing government against communist opposition. The United States did not want to let in asylum seekers from El Salvador because they did not want there to be a perception that there was enough violence in the country to create migrants. “The Reagan administration’s support for El Salvador’s government caused a resistance to grant political asylum to Salvadorans who faced persecution by their government.”⁴² The United States did not want to accept political asylum seekers so that they would be able to justify their billions of dollars of aid to the Salvadoran government and to justify their political goal of containment. This did not help their political interest as support for a violent government that committed countless human rights violations only makes the United States look bad.

³⁸ Mark Danner, *The Massacre at El Mozote*, First (New York: Vintage Books, 1994), 102.

³⁹ Maria Cristina Garcia, *Seeking Refuge*, 28.

⁴⁰ Maria Cristina Garcia, *Seeking Refuge*, 29.

⁴¹ Maria Cristina Garcia, *Seeking Refuge*, 35.

⁴² Alexandra De La Asuncion, “Colombia,” 455.

Another country that has not been afforded the same favoritism for political asylum by the United States that Cuba and Nicaragua have, is Guatemala. In 1954, a state of war began in Guatemala when a CIA-sponsored military coup overthrew the democratically elected government of Jacobo Arbenz Guzman which thwarted the country's campaign for agrarian reform.⁴³ Beginning in the 1960s, the government's army moved into the highlands to kidnap and kill anyone who was suspected of trying to form unions, agricultural cooperatives, or political groups. Between the years 1966 and 1976 there were 50,000 people murdered by soldiers in the army.⁴⁴ During this time there were a few different guerrilla groups that arose to challenge the dictatorship in Guatemala. Since there was now a large opposition to the dictatorship in power, there was an increase in violence perpetrated by the army between 1981 and 1984. The army began to burn fields and kill livestock in an effort to destroy the guerrilla's food supplies. Any individuals that were even remotely suspected of assisting the guerrillas, no matter how young they were, were viciously tortured and killed by the army.⁴⁵ Since the army was out to kill anyone that was suspected of supporting the guerrillas, this means that many innocent civilians were murdered. Even if the civilians did support the guerrillas, there is no reason to kill people to get rid of the opposition. The fight against the opposition to the dictatorship was so violent that between 1978 and 1984, there were about 100,000 Guatemalans that were killed, 40,000 that were missing, 440 villages destroyed, 750,000 that were internally displaced, and over a quarter-million people fled the country.⁴⁶ Similar to El Salvador, the Guatemalan dictatorship was one of violence which resorted to torture and murder to try and control opposition to their regimes.

⁴³ Maria Cristina Garcia, *Seeking Refuge*, 29.

⁴⁴ Maria Cristina Garcia, *Seeking Refuge*, 29.

⁴⁵ Maria Cristina Garcia, *Seeking Refuge*, 30.

⁴⁶ Maria Cristina Garcia, *Seeking Refuge*, 31.

Despite the violence of the Guatemalan dictatorship, the United States chose to support the government to fit their political interest. Although military aid to Guatemala was suspended by the Carter administration, the United States continued to support the dictatorship by providing training to officers in the Guatemalan armed forces, facilitate corporate investments, and provide humanitarian and development assistance to those in power.⁴⁷ A similar pattern to situations in other countries is the stance that the Reagan administration has taken when it comes to right-wing regimes. In 1982, the Reagan administration decided to continue providing aid to the Guatemalan dictatorship. This continued support of the government in Guatemala was an effort to fulfill the United States' political goals of the containment of communism. Guatemalan migration increased during the years between 1982 and 1984 when the government escalated their counterinsurgency campaigns against the guerrilla groups who opposed it.⁴⁸ Despite this, the United States turned away most of the people seeking political asylum because they did not want to make it seem as though the country they were providing federal aid and military training to, had a government that was persecuting its citizens. Like El Salvador, the actions of the United States government did not help their political goal of containment. Instead, their actions contributed to the violence and terror that was perpetrated by the Guatemalan army on many innocent civilians.

Colombia is yet another country that has basically been ignored by the United States in terms of accepting political asylum claims. In Colombia, there has been an ongoing civil war that started in 1964 that is referred to as the Colombian Conflict. This conflict consists of conflict between the Colombian armed forces aligned with right-wing paramilitary groups and left-wing Marxist guerrilla groups.⁴⁹ Both sides of this war inflict violence on many civilians in Colombia.

⁴⁷ Maria Cristina Garcia, *Seeking Refuge*, 31.

⁴⁸ Maria Cristina Garcia, *Seeking Refuge*, 35.

⁴⁹ Alexandra De La Asuncion, "Colombia," 446.

Three distinct guerrilla armies that control at least 40 percent of Colombia's territory and use violent methods such as extra-judicial killings, kidnapping, torture, and targeting of civilian populations through forced recruitment.⁵⁰ On the other hand, there is the Colombian army and the paramilitary groups. These groups align with each other because they have a common enemy in the guerrilla armies. The Colombian army commits severe human rights violations with the paramilitary groups. They use strategies of systematic terror, violence, and intimidation of the civilian population in areas of guerrilla presence.⁵¹ The civilians in Colombia are caught in the middle of a violent and political war where they are pressured by both sides to join their cause or they will be killed. Unfortunately, civilians were not allowed to remain neutral during the war and were forced to pick a side or die. Many acts of violence during the conflict are instances where both the paramilitary groups and the guerrilla armies have directed their attacks against areas of the civilian population that were believed to support rival armed groups.⁵² This large amount of violence drove many Colombians to the United States for political asylum.

The United States' political goals and policy towards Colombia are different from the rest of the Latin American countries that are mentioned previously. The United States tries to portray the conflict in Colombia as a drug war instead of a political one. This is to support the United States' policy of the war on drugs. The State Department of the United States has recognized and stated that the Colombian army commits human rights violations but continued to give a 1.8 billion dollar aid package to Colombia, with the majority of the money going to the same army they denounced.⁵³ This is because the U.S. refuses to acknowledge that the war is about politics and insists that it is about drugs. The United States rarely lets in political asylum seekers from

⁵⁰ Alexandra De La Asuncion, "Colombia," 448.

⁵¹ Alexandra De La Asuncion, "Colombia," 450.

⁵² Alexandra De La Asuncion, "Colombia," 454.

⁵³ Alexandra De La Asuncion, "Colombia," 456.

Colombia because they do not want to label the country as persecuting so that they do not undermine their policy of a war on drugs and to try and justify the aid that they have given to the country. This stance that the United States has taken on the conflict that is ongoing in Colombia adversely affects the people that are suffering from the violence in the country.

Through the Refugee Act of 1980, the definition of a refugee is “a person who is unwilling or unable to return to their country of nationality based on a well-founded fear of persecution on account of one of five factors: race, religion, nationality, membership in a particular group, or political opinion.”⁵⁴ The majority of people fleeing from the violent conflict in Colombia are people that are trying to claim political asylum. Their reasoning is that they have a neutral political opinion which puts their lives in danger if they were to stay in Colombia. It is true that having a neutral opinion in Colombia is dangerous. As mentioned before, if someone chooses to remain neutral but has either side of the opposition in the Colombian Conflict trying to recruit them, they are likely to be murdered for remaining neutral and refusing to join either side. Despite this fact, political opinion in the United States is not defined by statute, and for neutrality to constitute as a political opinion, “an alien must show that their wish to remain neutral would cause persecution by offering proof of threats.”⁵⁵ Since this would be extremely hard to prove, the Supreme Court in the United States refuses to recognize neutrality as a viable option of political opinion for the purpose of claiming asylum.⁵⁶

Since the United States’ policy and political goals towards Colombia are about fighting a war on drugs, the civilians in Colombia are not able to seek asylum in the United States on the basis of political opinion. Labeling Colombia as “persecuting” would undermine their claim that Colombia is undergoing a drug war. This would most likely prevent the United States’ ability to

⁵⁴ Alexandra De La Asuncion, “Colombia,” 441.

⁵⁵ Alexandra De La Asuncion, “Colombia,” 445.

⁵⁶ Alexandra De La Asuncion, “Colombia,” 446.

provide the Colombian government with large amounts of aid as most of it goes to the Colombian army. If the United States did label Colombia as “persecuting” then they would have to admit that the conflict ongoing in Colombia is not about drugs and that the government there is perpetrating mass amounts of violence towards its citizens. Consequently, the United States decisions on political asylum concerning Colombians do not adequately reflect the political violence in Colombia, which keeps civilians there in danger who are trying to use political opinion as their reason for an asylum claim.⁵⁷ The United States tries to claim that there is a drug war in Colombia because sides of the opposition have recently started to benefit economically from drug money. Despite this, the two sides are fighting a political battle. The United States’ actions concerning asylum and their decision to give billions of dollars of aid to Colombia is contradictory to their political goals and does not help anyone. The only thing this does is help fund the Colombian army which is a large perpetrator of violence in the country. The money that the United States is giving Colombia to fight a “drug war” is not even being used for that purpose. The United States’ decision to deny asylum claims from Colombia only keeps the civilians there in danger and leaves them to be forced into either side of the conflict to contribute to it. As long as the United States continues to ignore the political nature of the conflict in Colombia and continues to call it a drug war, they are depriving thousands of Colombians of political asylum and safety, as the victims of the conflict are just categorized as collateral victims to the drug war.⁵⁸

Despite all the complications of claiming asylum and the discrimination shown to certain countries because of the United States’ political goals and interests, once someone does make it to the United States for political asylum, the reality of it is not as it seems. The promise of safety

⁵⁷ Alexandra De La Asuncion, “Colombia,” 457.

⁵⁸ Alexandra De La Asuncion, “Colombia,” 458, 461.

from persecution through political asylum is a false reality for many migrants. While asylum claimants wait for their claim to be reviewed they are denied social welfare benefits, the right to work in the United States legally, and the right to participate freely in their adopted society.⁵⁹ This means that once they reach the United States, asylum seekers are essentially left in limbo with no way to provide for themselves or assimilate into society. Asylum or sanctuary seekers are also subjected to something called “a culture of disbelief.”⁶⁰ This means that officials that review asylum claims “tend to assume that asylum claimants are all liars who present fraudulent documents and deliberately misrepresent their reasons for seeking refuge.”⁶¹ Asylum seekers are not even given legal representation to help them with their case.

Once migrants reach the United States they are mostly treated horribly by the Immigration and Customs Enforcement, otherwise known as ICE. Despite pressure from human rights organizations over the years, ICE still mistreats thousands of asylum seekers and other immigrant detainees.⁶² Many asylum seekers are detained when they come to the United States despite not having committed any crimes. They are often treated worse than criminals and detained without any indication of when they will be released or why they were detained in the first place.⁶³ There have been many reports by advocacy organizations that tell stories of asylum seekers, including children, torture survivors, elderly, and disabled people, have been housed with convicted felons or in overcrowded places, denied emergency medical treatment, abused psychologically and physically abused by guards, placed in isolation for prolonged periods, punished for calling attention to abuses, transferred to another facility without notice, and even incarcerated after they have been granted asylum.⁶⁴ On top of this, asylum seekers lack legal

⁵⁹ Linda Rabben, *Sanctuary and Asylum*, 9.

⁶⁰ Linda Rabben, *Sanctuary and Asylum*, 25.

⁶¹ Linda Rabben, *Sanctuary and Asylum*, 25.

⁶² Linda Rabben, *Sanctuary and Asylum*, 2.

⁶³ Linda Rabben, *Sanctuary and Asylum*, 25.

⁶⁴ Linda Rabben, *Sanctuary and Asylum*, 202.

representation, are not informed of their rights, have no access to legal materials, and their personal communications are routinely confiscated.⁶⁵ An example of the cruelty of ICE and the detention of asylum seekers is the story of a man from Mexico who arrived in the United States to claim asylum. For security reasons, he is referred to as Enrique. When he arrived in the U.S. he was detained for eight months in the La Palma Correctional Center in Arizona which was under contract with ICE. While he was there he endured verbal abuse from racist guards, was given insufficient and spoiled food and eventually became infected with Covid-19 along with other detainees.⁶⁶ When Enrique began to exhibit symptoms of the virus he was denied the right to be tested and was left to become worse until eventually, he needed to be rushed to the hospital because he had become so sick. Asylum seekers are far too often “detained, punished, humiliated, and shackled” for seeking a better life.⁶⁷ This treatment is horrible and I would consider it a human rights violation as the asylum seekers are left with lasting trauma from not only the treatment they are given but also the separation from their families that they have recently been going through. Throughout the years it has become increasingly hard for asylum seekers to gain release from detention as the United States is using detention as a tactic to deter people from seeking asylum in the U.S. This is also done to get asylum seekers to abandon their claims and return to their country of origin.⁶⁸

While it was hard for many people from Latin American countries to seek asylum in the United States in the past, it remains difficult today, if not more difficult. From 2010 to 2015, the number of requests for political asylum increased five times with most of these claims coming from citizens in El Salvador, Guatemala, and Honduras, the countries known as the Northern

⁶⁵ Linda Rabben, *Sanctuary and Asylum*, 131.

⁶⁶ Francisco Cantu, “The Lie of American Asylum,” *The New York Review*, November 5, 2020, 33.

⁶⁷ Francisco Cantu, “The Lie of American Asylum,” 34.

⁶⁸ Linda Rabben, *Sanctuary and Asylum*, 200.

Triangle.⁶⁹ The Northern Triangle of Central America is known as one of the most dangerous and violent regions in the world with collectively 13,400 murders in 2015 alone.⁷⁰ These citizens are coming to the United States searching for safety. They are fleeing from their countries to escape threats to their lives and safety from gang violence, organized crime, and violence from police and military agents. Some of these threats include death threats for witnessing a crime or refusing to sell land to criminal organizations, children being recruited by gangs, daughters being raped and or made into sex slaves by gang leaders.⁷¹ Many of the people fleeing from these countries because of violence are denied asylum by the United States. They are denied because the threats that are facing them are not covered by the definition of a refugee in the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol.⁷² For asylum seekers to be accepted into the United States they need to have well-founded fear of persecution. However, this has not been clearly defined enough and many people coming from violent countries are turned away. In 1984, there was a Supreme Court decision that refused to define “a well-founded fear of persecution.”⁷³ This was done so that the language surrounding immigration policy for asylum could remain ambiguous. This allows the United States to continue to deny people the right to asylum when they are fleeing from violence in different Latin American countries.

Since Donald Trump has come into office, the chances of people being accepted into the country for asylum have severely decreased. Trump and his administration has taken on a policy of anti-immigration and has made it much harder for people to come into the United States with a particular focus on Mexicans. Trump has spoken racist rhetoric against Mexicans claiming that they are criminals and rapists to try and sway public opinion towards the direction of

⁶⁹ Celia Medrano, “Securing Protection for De Facto Refugees: The Case of Central America’s Northern Triangle,” *Ethics & International Affairs* 31, no. 2 (2017).

⁷⁰ Celia Medrano, “Securing Protection for De Facto Refugees.”

⁷¹ Celia Medrano, “Securing Protection for De Facto Refugees.”

⁷² Celia Medrano, “Securing Protection for De Facto Refugees.”

⁷³ Linda Rabben, *Sanctuary and Asylum*, 38.

anti-immigration. There has been a history of the United States deporting immigrants as in 1983, the Supreme Court concluded that deportation was not a punishment but merely a “method of enforcing the return” of foreigners to their country of origin.⁷⁴ There was also the Illegal Immigration Reform and Immigration Responsibility Act of 1996 which made it more difficult to gain asylum in the United States. It states that “Congress barred asylum for most persons who did not apply for it within a year of entering the United States.” It created a new system of expedited removal which allowed ICE to deport people, who entered the United States without valid passports or visas, without a hearing.⁷⁵ The Immigration Responsibility Act also enhanced the authorities’ power to deport, added to the list of offenses that could lead to deportation while diminishing immigrant’s right to due process, and imposed mandatory detention in many cases.⁷⁶ However, under Trump’s administration, the deportation of immigrants has become more far-reaching, arbitrary, and cruel.⁷⁷

“Trump’s administration has waged an assault on the entire immigration system, shutting down access to asylum, pressuring the immigration courts to churn out removal orders, and adopting rules that narrowed the avenues to legal immigration and crippled United States citizenship and immigration services, which administers it.”⁷⁸

This policy on immigration is only contributing to the deaths of many innocent people in Latin America due to the violence in their countries that they otherwise could have escaped from if they were allowed to come into the United States by political asylum. Many refugees seeking asylum in the United States from violent countries are being deported only to be killed when they

⁷⁴ Julia Preston, “Deportation Nation,” *The New York Review*, 2020.

⁷⁵ Linda Rabben, *Sanctuary and Asylum*, 198.

⁷⁶ Julia Preston, “Deportation Nation.”

⁷⁷ Julia Preston, “Deportation Nation.”

⁷⁸ Julia Preston, “Deportation Nation.”

return to their country of origin. In 83 cases since 2014, someone that has been deported from the U.S. was killed within only a few months of their return to Central America.⁷⁹ Since Trump's administration has come into office there have been cases of ICE arresting immigrants at home and work, sometimes as "collateral" when they were searching for someone else.⁸⁰ ICE also works with local police departments to hand in local residents for ICE to deport, often in the middle of the night.⁸¹ Immigrants continue to be deported by ICE without any serious criminal record more and more every year. Something that has also been put in place is the "Remain in Mexico" regulations, otherwise known as "Migrant Protection Protocols." These protocols require asylum seekers to wait for their asylum claim to be heard on the Mexican side of the border. This leaves them vulnerable to violence, exploitation, and overcrowding.⁸² If immigrants were let into the country, the Trump administration had families separated at the border. Between October 1, 2017, and May 31, 2018, at least 2,700 children have been split from their parents.⁸³ Many of these families remained separated for months, causing lasting trauma to those that had this happen to them, specifically the many children that suffered through this. This is just another effort made by the United States to try and deter migrants from coming to the United States.

There needs to be a change made when it comes to how the United States treats and defines political asylum in the country. People that flee from their country due to violence that is not perpetrated by the government but their safety would be at risk if they returned to their country of origin are referred to as "de facto refugees." Although this type of situation is recognized and there has been a name given to it, there is no international protection mechanism

⁷⁹ Celia Medrano, "Securing Protection for De Facto Refugees."

⁸⁰ Julia Preston, "Deportation Nation."

⁸¹ Julia Preston, "Deportation Nation."

⁸² Francisco Cantu, "The Lie of American Asylum," 34.

⁸³ Dara Lind, "The Trump Administration's Separation of Families at the Border, Explained," Vox, June 11, 2018.

for them.⁸⁴ Migrants that are considered de facto refugees do not qualify for asylum as they do not fit the current definition of a refugee. However, there have been temporary situations afforded to some people that were seeking asylum but did not qualify for it. As part of the Immigration Act of 1990, Congress created the Temporary Protective Status which could be given to migrants fleeing certain dangerous conditions in their country of origin.⁸⁵ This status would let migrants stay in the United States only until conditions in their country improve. An Attorney General would be able to grant this status to migrants if they find the following conditions, if the migrants country is experiencing civil strife, environmental disaster, or other extraordinary conditions if the migrant were to return to their country their safety would be in danger, and if granting this status would not be contrary to the United States' national interest.⁸⁶ Although Temporary Protective Status sounds like it would be a good idea, there is a provision in it that still denies someone of this status if it would go against the political interest of the United States. Despite this, Temporary Protective Status is meant to give migrants protection without placing judgment on countries that the United States is considered friendly with.⁸⁷ Even though there are some temporary solutions for people that do not qualify for political asylum, it is still dependent on the United States' political interest at the time. Instead of focusing on the United States' political agenda when it comes to granting migrants political asylum, the U.S. should focus on whether or not people are going to be in danger if they go back to their country. It should be based on whether or not a migrant's country of origin is committing human rights violations instead of protecting the United States' political interest. The definition of what

⁸⁴ Celia Medrano, "Securing Protection for De Facto Refugees."

⁸⁵ Alexandra De La Asuncion, "Colombia," 458.

⁸⁶ Alexandra De La Asuncion, "Colombia," 458-459.

⁸⁷ Alexandra De La Asuncion, "Colombia," 460.

qualifies someone for political asylum should be expanded for people that are fleeing from violence in their country such as, gang or cartel violence.

When thinking about how the United States has handled and continues to handle cases of political asylum, there is a specific question that comes about. Does the United States' favoritism towards certain countries concerning political asylum contradict their political goals and interests? The answer to this question is yes. There are many ways in which the United States' actions towards political asylum are contradictory to their own political interests. The United States has shown favoritism towards Cuba and Nicaragua concerning political asylum to help them with their goal of containing communism. However, this was contradictory because allowing so many people to come to the United States through asylum was taking away most of the opposition to the communist governments that were running those countries. In the case of Nicaragua, supporting their government through the Contra War only helped to contribute to the death and devastation of many Nicaraguans. The countries that the United States basically ignored when it came to asylum were El Salvador, Guatemala, and Colombia. In El Salvador and Guatemala, the United States was supporting right-wing regimes and dictatorships that were running the country in another effort to defeat communism. However, this time they ignored asylum seekers from these countries so that it would not look like the governments that they were supporting and giving millions of dollars of aid to were persecuting their own citizens. These actions did not help their political goals and instead contributed to more human rights violations. In Colombia, the United States tried to push a political agenda of a war on drugs, and falsely identified the conflict ongoing in Colombia as one. The U.S. ignored migrants seeking asylum from Colombia because they did not want to acknowledge that the conflict going on there was a political one and not one about drugs. This also did not help the United States' goal

as most of the aid that they gave to Colombia was used towards the Colombian army which was participating in large-scale violence against the citizens there. The United States needs to reevaluate their actions and how they treat people seeking asylum from other countries. The U.S. should put their political goals aside and start caring more about the pain and suffering that people are experiencing. They need to care more about human rights violations and providing protection to the people seeking safety from the violence in their countries of origin.

Works Cited

- Cantu, Francisco. "The Lie of American Asylum." *The New York Review*, November 5, 2020.
- Danner, Mark. *The Massacre at El Mozote*. First. New York: Vintage Books, 1994.
- Cantu, Francisco. "The Lie of American Asylum." *The New York Review*, November 5, 2020.
- De La Asuncion, Alexandra. "Colombia: The Ignored Humanitarian Crisis." *The University of Miami Inter-American Law Review* 31, no. 3 (2000): 439–62.
- Dunne, Michael. "Asylum." In *Encyclopedia of American Foreign Policy*, edited by Richard Dean Burns, Alexander DeConde, and Fredrik Logevall, 2nd ed., 1:117–29. New York, NY: Charles Scribner's Sons, 2002.
- Fernando Riosmena. "Policy Shocks: On the Legal Auspices of Latin American Migration to the United States." *The Annals of the American Academy of Political and Social Science* 630, no. 1 (2010): 270–293.
- Fullerton, Maryellen. "Cuban Exceptionalism: Migration and Asylum in Spain and the United States." *The University of Miami Inter-American Law Review* 35, no. 3 (2004): 527–75.
- Garcia, Maria Cristina. *Seeking Refuge: Central American Migration to Mexico, the United States, and Canada*. Berkeley, CA: University of California Press, 2006.
- Smith, Peter H. *Talons of the Eagle: Latin America, the United States, and the World*. 4th ed. New York, NY: Oxford University Press, 2013.
- Rabben, Linda. *Sanctuary and Asylum: A Social and Political History*. A Capell Family Book. Seattle: University of Washington Press, 2016.
- Lind, Dara. "The Trump Administration's Separation of Families at the Border, Explained." *Vox*, June 11, 2018.

Lundquist, Jennifer H., and Douglas S. Massey. "Politics or Economics? International Migration during the Nicaraguan Contra War*." *Journal of Latin American Studies; Cambridge* 37, no. 1 (February 2005): 29–53.

Medrano, Celia. "Securing Protection for De Facto Refugees: The Case of Central America's Northern Triangle." *Ethics & International Affairs* 31, no. 2 (2017): 129–142.

Preston, Julia. "Deportation Nation." *The New York Review*, 2020.