

How the Asylum Backlog Affects Torture Survivors and What the Biden Administration Can Do to Fix It

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“I don’t care if they torture me again! I don’t care if they kill me! I’m going back to my country... I need to hug my babies. That’s all that matters. I just need to hug my babies!”

The gathered members of our support group for French-speaking African torture survivors fell silent from the force of the young father’s despair. He was ready to die, or at least to revisit the human rights abuses and trauma he had already endured, just for a short time in the loving embrace of his family. He figured he might be able to live clandestinely in his country “for a week or two,” before being discovered, but that no longer mattered to him. He had reached his breaking point.

After four years of adjusting to life in the United States, he was still waiting for his initial asylum interview. When his young daughters (and his wife) asked when they would see him again, he had no answers. Years of separation, and he was no closer to reuniting with them because of his inability to obtain asylum due to the backlog in the affirmative asylum docket. Hope and possibility had gradually transformed and metastasized into helplessness and frustration.

He is not alone.

One of the most pernicious aspects of the changes to the asylum processes promulgated under the Trump administration is substituting the first-in, first-out (FIFO) policy for the last-in, first-out (LIFO) one. Individuals who had already been waiting for years for an asylum interview have to wait even longer. Until they obtain asylum, individuals cannot petition for visas for their immediate relatives who are often still facing danger. In many ways, this is the “other family separation” crisis, but it remains unseen by most policy makers and the general public.

For many years and many administrations, asylum applicants were processed in the order they came to this country – FIFO. Even if the process moved slowly, there was a logic to it, and asylum seekers had a general sense of what to expect. The Trump administration turned all of that on its head.

As the former administration harbored deep distrust as to the veracity and purpose of asylum claims, they made a cold calculation. They figured that people like the grieving father were already “in the system.” Many have Employment Authorization, Social Security numbers and are therefore difficult to remove summarily. Consequently, they turned their focus to applicants who had arrived recently. They expedited the newly arrived cases, so that these asylum seekers could be easily removed and deported before building viable links to this country.

As such, asylum seekers who have already been waiting for years for their initial interviews are placed to the “back of the line” behind the more recent arrivals. This is LIFO. We have seen so many people who applied for asylum between 2014 – 2018, who are still awaiting their initial interview, while others who have come in since 2019 have an expedited path with little time to build their case or find a lawyer.

This has come at a time when the backlog for Affirmative Asylum Applications has reached historically high levels. According to the USCIS, there were 194,000 people awaiting their initial asylum interview in September 2016. By January 2018, the number was 311,000, and it grew to over 327,000 by March 2019. The last numbers publicized were for April 2020. They were not exact and could only say that the number had gone past 350,000. There have been no exact numbers since COVID-19 hit, but it is clear that things have gotten worse during the pandemic.

More resources – Asylum Officers and Immigration Judges – are necessary to combat the growing backlog, to reduce human rights abuses at the border, and to facilitate an orderly and just asylum process. These resources will help to reduce suffering across the spectrum. Budgetary and fiduciary processes take time and are prone to political pressures, but the Biden administration can address the FIFO/LIFO situation without immediate budgetary increases.

The **Bellevue Program for Survivors of Torture**

<https://www.survivorsoftorture.org/> (PSOT) did a quantitative analysis in February 2020 (right before the COVID-19 pandemic further

delayed these processes) to see the impact the LIFO policy had on our clients with asylum cases pending since before January 1, 2018. We presented these data at the 2020 Research symposium for the **National Consortium of Torture Treatment Programs** <https://www.ncttp.org/> . At that point, 331 PSOT clients still had pending asylum applications. From that group, 262 were directly impacted by the imposition of the LIFO policy, as they had yet to be scheduled for an asylum interview before the changes took place.

Of the 262 affected applicants, only 35 had asylum interviews occur between January 1, 2018 and February 2020, and another 14 had interviews scheduled for later in 2020. So 213 clients out of 262, roughly 82 percent, had absolutely no movement or updated information about their cases in over two years. This lack of clarity and the incumbent stressors served to extend the usual amount of time clients needed supportive behavioral health interventions. It helped to increase our program's clinical service backlog and diminished our ability to take in new cases. It placed incredible stress on the separated families.

It is unfortunate that these hidden family separations have not been widely documented on social media or the evening news, as they lack the vivid, poignant photos that we see coming from the US/Mexico border. The general public does not hear the wailing of the children who feel abandoned. They do not wipe the tears of the parents who feel a deep sense of shame and survivor guilt, as their children ask if they have forgotten about them or if they have found a new family. They do not witness the dissolution of longstanding marriages due to distance and uncertainty. Sadly, these events are happening. Those tears are being shed. At the

PSOT, we endeavor to help explain the inexplicable and to help clients tolerate the intolerable, but people are coming to their limits.

“I just need to hug my babies.”

Soon after the young father shared his pain, other group members supported him. A survivor from Congo, who had recently gained his asylum, encouraged him. He implored him, “You can no longer think about your family as the family you left behind. You must see them as the family that is waiting in front of you. They are the reason you must keep pushing forward.” It was a beautiful and poignant moment. The young father found his courage and decided to keep fighting for his family’s future.

That beautiful moment was almost two years ago, however, and nothing has moved in the young father’s case. What can we say when he reaches the crisis point again? How many times can one sell hope, when hope seems nowhere to be found?

Reinstating the FIFO policy would show consideration to asylum seekers who have put their faith in the United States and waited a long time for protection. Many asylum seekers have been “essential” to our communities during the COVID-19 pandemic. In our moment of need, they contributed as taxi drivers, health attendants, delivery people, farm and meat plant workers, school aides, and so many other ways. Their commitment to the United States is deserving of our esteem and gratitude.

The Biden administration should honor their service with the re-institution of the First-In, First-Out policy. This will afford asylum seekers the opportunity to move forward with their cases and their lives, and it will remove the stigma of the “other” family separation crisis from our national conscience. This might not be enough to address the backlog on its own, but it is a viable first step to address an unfair policy that was created to discourage and curtail the due process of asylum seekers.