



Episode 7: Seeking Asylum in 2019

October 8, 2019

<https://umainecenter.org/podcasts/seeking-asylum-in-2019-007/>

Run Time : 00:28:28

Produced by the University of Maine Graduate and Professional Center, with help from WMPG

Join us for a discussion with the [University of Maine School of Law](#)'s Professor Anna Welch and student attorney Emily Arvizu about the global issues impacting our current immigration system. Our conversation explores the history of detention, how the process of seeking asylum has changed over time, the reasons asylum seekers are fleeing their home countries, as well as the conditions of current detention centers in Laredo, Texas and Strafford, New Hampshire.

[Anna R. Welch](#) is the Sam L. Cohen Refugee and Human Rights Clinical Professor at the University of Maine School of Law. She oversees Maine Law's [Refugee and Human Rights Clinic](#), teaches the Immigration Law seminar and serves as a supervising attorney and advisor to students who are interested in immigration law and human rights. Professor Welch previously served as a fellow at Stanford Law School, where she taught and supervised students within Stanford's Immigrants' Rights Clinic. A Maine native, Professor Welch graduated from the University of Colorado at Boulder and the Washington College of Law at American University. She was a Fulbright Scholar in Peru, an attorney at Verrill Dana in Portland, where she was head of the firm's Immigration and Global Migration Group, a volunteer lawyer for the non-profit [Immigrant Legal Advocacy Project](#) (ILAP) in Portland and she also spent time in Nairobi, Kenya, where she served as a refugee protection officer.

Emily Arvizu is a third year law student at Maine Law. Prior to coming to law school, she went to Boston College where she studied Education and Latin American Studies. After graduating, she moved to Chicago where she lived for ten years. In Chicago, she was the director of a family literacy non-profit for immigrant families. After having gone through an immigration process for a family member, she applied to law school. During her time at

Maine Law, she has been a student attorney in the Refugee and Human Rights Clinic as well as a research assistant for the criminal law professor. She has interviewed women in a detention center in Laredo, Texas, worked as a summer intern in immigration policy in Chicago, and aided in crafting legislation to benefit special immigrant juveniles in Maine. That legislation is now law. At Maine Law, she is the co-chair of the Multicultural Law Society, a member of the Diversity Committee, and a member of Maine Law Review.

This transcript has been lightly edited for clarity.

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### **The Greater Good: Episode 7**

#### **Carrie:**

Welcome to the Greater Good: a podcast devoted to exploring complex and emerging issues in law, business and policy. I'm your host Carrie Wilshusen, Associate Dean for Admissions at the University of Maine School of Law.

#### **Carrie:**

Everywhere we turn we hear stories, information and debates about immigration. Immigration issues are dynamic and complex. Of course there are many topics we could cover on The Greater Good, but today we will focus specifically on the issue of immigrant detention and the process of seeking asylum. It is my great pleasure to be speaking today with Professor Anna Welch and Emily Arvizu, a third year law student at Maine Law. Anna Welch is the Sam L. Cohen refugee and human rights clinical professor at the University of Maine School of Law. She oversees Maine Law's Refugee and Human Rights Clinic, teaches immigration law, and serves as a supervising attorney and advisor to students who are interested in immigration law and human rights. Professor Welch previously served as a fellow at Stanford Law School where she taught and supervised students within Stanford's immigrants rights clinic. Emily Arvizu is a third year law student at Maine Law. After receiving her undergraduate degree at Boston College, Emily moved to Chicago where she was the director of a family literacy nonprofit for immigrant families. During her time at Maine Law, she has been a student attorney in the Refugee and Human Rights Clinic. She has interviewed women in a detention center in Laredo, Texas and aided in crafting legislation to benefit special immigrant juveniles in Maine. That legislation is now law. To begin with, I want to get a sense from each of you. What got you interested in working in the area of immigration law? Professor Welch?

#### **Anna:**

Honestly, initially from my own clinic experience back in the early two thousands. I went to law school down in DC and I enrolled for a whole year in an immigration clinic. In that clinic I worked with a partner handling an asylum claim for a client from [country]. He and his family were targeted for detention and for torture because of their ethnicity and because of their advocacy for equality and human rights for people from their same tribe. I spent the bulk of the first semester developing his legal claim, lots of interviews, lots of counseling, and then preparing him for his final hearing where he was ultimately granted asylum. So we got to know our client incredibly well. And it just turned me on to working with more people like him. It was so rewarding and that it's a nice way to combine my passion for international law with sort of domestic law.

Carrie:

Wonderful. And Emily, you're a third year student at Maine Law. Did you come to Maine Law being interested in immigration law?

Emily:

Yes, I come from a long line of people with mixed immigration status within our family. So my grandfather came from Mexico. My grandmother was from the United States. They married, moved back and forth between Mexico and the United States. And so we always kind of joke that someone in my family at any given time is at some step of some immigration process. So initially I became interested in immigration law because because I had to be, I needed to know how to work through paperwork for family members, et cetera. So over time I kind of realized that this really fell in line with some of the things that I'm also just good at. And so I started to realize that all of this knowledge and experience that I had gained over the years could be a real asset to people in the community. So that's how I decided to do it.

Carrie:

And you chose to get a law degree to have more power in that realm?

Emily:

Yeah, I wanted to be able to do things officially and to be able to have a real impact on a larger scale.

Carrie:

So we're all reading and hearing so much news about what's happening at the southern border and all around us in the immigration realm. Can you ground us by sharing some of what you're seeing and how things were evolving and changing from your perspective?

Anna:

So there are a number of critical changes and we don't have time today to talk about all of them. In terms of what's happening within immigration law and policy, certainly important changes that impact asylum seekers, but many others, including even those who are seeking to come to the United States or remain in the United States to work or to study, whether they be doctors or nurses or entrepreneurs looking to [build a] startup in Silicon Valley or what have you.

So the executive branch, our president, cannot make or change law that requires the legislative process. It requires going through Congress, but the president can change how the law is executed and or interpreted. For example, the executive branch recently read into the immigration statute that asylum seekers can be subject to mandatory detention. So individuals coming across our border who are seeking asylum, if they're deemed to be arriving aliens, they can be subject to mandatory detention, meaning they have no right to seek bond or release from detention. This is a change in policy from prior administrations where asylum seekers were generally allowed to seek bond from immigration detention or paroled into the United States.

Carrie:

Can you pause a second and just talk about what that means to seek bond?

Anna:

[It means] to be able to go before an immigration judge or to be able to go to the immigration, to a Customs Border Patrol officer, an Immigration and Customs Enforcement officer and say, "May I please be released from immigrant detention? I am not a risk to society. I've not committed any crimes that would make me look like someone who'd be a risk to society or I'm not a flight risk, meaning I will appear before the judge to all of my scheduled hearings", et cetera. So if you're subject to mandatory detention, you don't have a right to go before a judge or to go before an adjudicator to seek that release from detention. So what that means is asylum seekers are required to fight their case, to defend their case against deportation within immigration detention, what that means is most of them won't have lawyers and most of them will probably lose their cases. So that's a very real change in the interpretation of our detention statutes to say that arriving aliens, those who are coming in seeking asylum, if they're designated again to be arriving aliens, that they're not able to seek release from detention.

Other changes: the administration has interpreted the law to try to limit or to exclude domestic violence survivors from accessing asylum. This has a huge impact on women in particular. Many have now been excluded. This is in litigation, but many are currently being excluded from accessing our asylum system if they are victims of domestic violence. So again, these are just two of many changes that do have very real impact on real people.

Carrie:

So who are these individuals that are seeking to come to the United States and why are they coming here? At our southern border?

Anna:

Primarily these are individuals from the northern triangle of central America. So Honduras, El Salvador and Guatemala, some from Nicaragua and also in Maine there are many individuals coming up from the Southern border who are from Africa or of African descent.

Carrie:

So they came through South America and up across the border?

Anna:

Many came all the way up from Brazil or from Ecuador and made that treacherous journey up from South America. So those who are from central America are fleeing gang related violence. So we heard stories of gangs taking over entire regions of certain countries and gangs who sought to exploit women. So if women refuse to submit to their sexual exploitation or to become property of the gangs, they'd often be murdered or kidnapped and tortured, or their family members threatened. Men, often young men, right in their late teens or early twenties, who were being recruited by the gangs, and if they refused to join the gangs, they would be murdered along with family members. So these gangs are essentially operating within very weak government structures. There's very little infrastructure. So it's sort of [the right conditions] for gangs to come up and become essentially the controlling force within regions of these countries, if not really operating with much more power than even the governments in those countries.

Carrie:

So the gangs are the laws in those countries in many respects. And is that new, this gang presence?

Anna:

It's worsening. The gangs that are operating in that region were exported from the United States. MS 13, actually is a gang that originated out of Los Angeles in the 1970s and 80s.

Many individuals in California that were connected to the gang violence were convicted and then deported out of the United States. Those individuals were deported into countries where there were weak governments, very little infrastructure. And so again, very fertile grounds for gang members to operate in terms of the violence from gangs. That is absolutely going up in El Salvador. There were 20,000 people murdered from 2014 to 2017. This is more than in war torn countries such as Libya or Somalia.

Carrie:

So again, gang violence and the threat of gangs is a growing problem in that region. So the danger that these folks are facing is very real and very imminent threats.

Anna:

Yes, I think I would say most people we met with in Laredo, Texas where we're doing some work had fled gang violence or had a great fear of gang violence.

Carrie:

So can you educate us on detention in the immigration world? Is there a specific immigrant population with whom you're working right now?

Anna:

About two years ago we started working in Laredo, Texas and the students would go down for one week increments at a time, I think now over 15 or 16 students of mine have gone down some for a week, some for two weeks. Some have actually returned for an entire semester. We're working out of the Laredo processing center, which is a center run by Core Civic. It's a private company that manages private prisons and detention centers throughout the US. We also have a project right now that we started this summer out of the Strafford County department of corrections where students are going every Friday to meet with immigrants who are detained there. So these are not criminal detainees, these are immigrant detainees who are being held in these different facilities. And these are all folks seeking asylum in the United States. In Laredo, primarily it's asylum seekers, although not all of them. Some of them have, perhaps, been living in the United States for a number of years. Maybe there was a checkpoint that they were stopped at and they got picked up and that way. But the vast majority of our Laredo population are those who've more recently arrived from across our southern border and are seeking asylum.

Our Strafford population, we've seen an uptick actually of people who're new arrivals from the southern border [because] they're out of bed space. So out of detention space down at the southern border. So they are flying or otherwise transporting immigrants to Strafford or

to other facilities around the country where they're detaining them. So some of those folks are asylum seekers, but also there's been an uptake in checkpoints and more policing in the New Hampshire and New England area. So more people who are getting identified and then arrested and detained by ICE and they're being held at Strafford and they may not be asylum seekers. They may have other claims to be able to stay here.

Carrie:

They're mostly from Central America?

Anna:

I would say at Strafford it really depends. So we have certainly a large number of central Americans, but they are from all regions of the world. We've seen several Africans, we've seen some from the middle East and some from central America.

Carrie:

Is there a kind of a historic practice with respect to detention that's shifting now?

Anna:

So immigration detention has been in existence since the 1800s. Recall Ellis Island and then later Angel Island on the West Coast. But back then people were generally screened quickly, so you might stay on one of those islands for a number of hours or days. There certainly weren't facilities around the country for detaining immigrants. Now about 70% of immigrants are detained in privately run prisons. And it's a \$4 billion a year industry. So it is quite an industry. Under the Reagan administration, with the arrival of more Cuban and Haitians into the US, we started to see our more modern day immigrant detention system, but certainly not to the scale that we're seeing today. Back then, even when the Reagan administration proposed the idea of detaining immigrants, there was great concern for whether or not detaining immigrants would create an appearance of concentration camps. And that is an issue that's still debated.

Carrie:

So why has it changed? What is the motivation for detaining these folks? Why are we changing the policy, detaining so many and to not allow them to bond out while they're awaiting their hearing?

Anna:

So it's an interesting question. Some argued that detention serves as an important deterrent, right? That we need to deter those who are seeking to come into the country, to remain in [their] country. The reality is that those people who we're meeting with down at

the southern border are fleeing for their lives. To them, they'd rather be in immigration detention than to be in the situation that they fled. Not only does it not necessarily serve as a deterrent, but it's also unlawful under both international and domestic laws for our government to seek to deter refugees, right? We're not allowed to, under domestic and international laws, deter refugees from coming to the United States to seek asylum. Others argue that it's a huge money maker for communities that are home to these facilities. So it's, as I said, a huge industry and there's a lot of lobbying to have private detention or government run detention centers in certain areas of the country, the more economically depressed areas, certainly those with higher unemployment rates. Many politicians would like to see these detention centers in their own communities, given that they staff a number of individuals and it can really help the local economy.

Carrie:

Now they're being asked to not even come to the border and not even get to the detention facilities. Right?

Anna:

Right.

Carrie:

So they're being held or stopped in Mexico. Can you talk a little bit about what the situation is there?

Anna:

So the "remain in Mexico" policy is a new policy that's been rolling out I think over the last year or so. In Laredo, Texas, it just launched about five or six weeks ago. So what does that mean, the remain in Mexico policy? It means those who are as coming to the United States to seek asylum who are not from Mexico, but from these countries I mentioned are required to if they present themselves at the border, rather than admit them, or allow them, not even admit and in order to allow them to come into the country, normally they would either be detained or maybe paroled, but now we're telling them that we're not going to detain them, we're not going to let them in at all. That they need to fight their asylum case from outside of the United States. So in Laredo, Texas for example, over the last six weeks, about 6,000 people have attempted to come into the country to seek asylum and they've been sent back. Laredo, Texas borders Nuevo Laredo in Mexico and they're sent there where there are zero resources. So there's no shelters, there is no food, there's no security for them. It's run by a cartel. It's incredibly dangerous. It's one of the most



dangerous cities in Mexico. And they're sent back there to fight for their cases. So they are given what's called a notice to appear, which is the charging document that says you need to come back to Laredo at a set date and they're required to then come back. The problem now that we're seeing is that it's too dangerous for people to be doing these back [and forths], this movement is too dangerous. And so many of them are unable to get back. We've learned of many who've already been kidnapped or extorted for money. Some have been bused to different cities in Mexico and are required to travel yet again for their hearings in the United States. So it's a pretty horrific kind of chaotic situation right now.

Carrie:

So what are some of the impacts of these policy changes?

Anna:

So I think certainly for the people who are forced to return to Mexico, who are being held in immigrant detention, the impacts are very real, right? They're living that day in and day out. But I think it has an incredible impact on the psyche of immigrants around the country, whether or not they're people who've been here for a number of years as lawful permanent residents or even naturalized citizens. I think it's creating so much fear among our immigrant community and even those, again, who are citizens who might have naturalized to become U.S. citizens. And so I think that creating this culture of fear also has created people not desiring to necessarily come to the United States. Maybe these are entrepreneurs or doctors or nurses or other people. Some are opting to go to Canada, some are opting to go to other countries that are perhaps more welcoming. Emily, do you have some thoughts?

Emily:

Yes, I think, as Anna mentioned, I think the thing that I've seen most prominently is just how these constant changes in policy really breed fear in communities. So regardless of what somebody's immigration status might be, with each roll out of each policy change, you're constantly running through your head, how does this impact me? How does this impact my family? How does this impact people in my community? So just that constant having to run through possibilities and evaluate each policy change and it's prospective impact on the people around you is incredibly exhausting. You combine that with the fact that this creates an intense level of stress. And so, you have a whole community of people who are operating at very high levels of stress at any given moment. And those impacts are deep and long lasting. They pass on generationally. So regardless of whether ultimately that

policy change impacts that specific person, just the constant fear, the constant sense of chaos, the constant having to evaluate everything, is exhausting for communities and for individual families.

Carrie:

So where are these facilities in, in the United States?

Anna:

So the private facilities are primarily in the South, so southern US and in the West. But immigrants are held in government contracted facilities throughout the country. So here in our own backyard in Stratford, New Hampshire. Again, many of these facilities are in rural, economically depressed areas where there's very little support. Very few lawyers, so many of [the asylum seekers] go unrepresented. I think the latest count was there are more than 250 immigration detention centers that operate throughout the US.

Carrie:

And how many are being held in those facilities?

Anna:

On any given day, there's more than 30,000 individuals who are held in immigrant detentions around the country. That's about, on average, about \$200 a day per person.

Carrie:

And specifically who is being held in those facilities?

Anna:

Immigrants. So those who are not U.S. citizens, even if you've been a long-term, lawful permanent resident, if you've been deemed to have abandoned your lawful permanent residence or suspected of committing a crime, you could be held in an immigrant detention center. Maybe people have overstayed their visa so maybe they entered lawfully, they could be held, really anybody who is not a naturalized U.S. citizen could be held in immigrant detention.

Carrie:

You've both been in these detention facilities. Emily, who have you seen in these facilities?

Emily:

The majority of people that I've seen in the time that I've spent in Laredo, well first of all, the Laredo facility in my experience is only housing women. So I have only seen women there. And then the majority of them are recent arrivals though I've definitely, I saw a woman once interviewed a woman who had been in the U.S. for decades and had gotten

caught up in one of these checkpoints. But the majority that I've spoken with are recent arrivals. I think one of the ones that really stuck out to me is a young woman who turned 18 while in detention. So we're talking young, young people. I've also seen older women as well. And then most of them were people who were seeking asylum. So as Anna mentioned, a lot of these women told us stories about how they came from small towns in their country or they came from some of the larger cities and those places had been relatively peaceful for the majority of their lives until a gang came in or drug cartel came in and wrecked havoc. And so they came fleeing that. I've also had a number of women who were in same sex relationships and were heavily persecuted by their community because of that fact. And then the last time I was there, we had a few women who were fleeing because they had worked in opposition of the government. And so there were wanted posters throughout their city with their faces on it. And so obviously they fled for their lives.

Carrie:

So why are they being held and is this a change in policy?

Anna:

So there's various times in the immigration process where someone may be detained. They may be detained pending their immigration court proceedings. They may be detained during their immigration court proceedings. They may be detained once they have a final order of removal as we're seeking to deport them in terms of the law dictating who and when and how. There's what's called discretionary detention: we may detain individuals if through the discretion of an immigration judge or an immigration officer, if we determine that the person is a risk to society or they won't show up for their immigration court proceedings. But others are subject to, again, what I was mentioning earlier, which is mandatory detention, meaning that they can't go before a judge and seek release from detention and that they have to fight against deportation from within the detention center. Again, these are people who the change in policy most recently is requiring essentially that the vast majority of those who are seeking asylum to be subject to this mandatory detention where they can't seek release.

Carrie:

And how long are they being held?

Anna:

Many weeks, months, in some [cases] even years.

Carrie

You both have been in these detention facilities. Can you give us a sense of what the conditions are like in some of these detention facilities that you've been in?

Anna:

Yeah, so these, for all intents and purposes are jails or jail-like conditions. In both Strafford and in Laredo and in certainly this is the case for the vast majority of them, they're wearing the prison jumpsuits. They're in slip cells, sleeping in bunk beds, many lack a much, if any access to outdoor space. There are a significant number of reports of sexual assault and other violence even by the guards, even against some of the children that had been detained, and inadequate food and medical care. The Strafford facility, I would say were quite impressed by the conditions there in terms of access to medicine and to food. But it is for all intents and purposes, jail-like. When I was there last week, I was meeting with one of the individuals behind one of the glass window panes over a phone. There's no contact and it's just like the images you see on television or what have you. Many we've met with down in Laredo and actually even up at Strafford, have been detained initially down at the southern border in what are called iceboxes or *hieleras*, or *peleras*, which is dog cages. And so you've probably seen the images on the news of people being held in those chain link boxes. It used to be that they may be held there just for a number of hours, but we've talked to individuals who've been held, some of them even upwards of 40 plus days.

Emily:

For me, I had never been in a jail prior to this and so I don't know that I was fully prepared for my first experience in Laredo. As Anna said, it feels very jail-like to access the women that we were interviewing. We had to pass through four sets of locked doors and we were always accompanied by guards. We had to go through metal detectors, we couldn't bring anything in with us. And then when we would interview the women, most often we would interview them in a very small attorney room. But also sometimes when those were taken, we would interview them in a visitation room. So the visitation room is locked at all times, which meant that when we interviewed women in that room, we were also locked in there with them. So this was especially difficult when you put it in the context of the work that we're doing there. So while we're interviewing women, we're trying to find out if they may have a viable asylum claim, which means that we need to run through the history of why they came to the United States. So one of the women that we interviewed in this locked room, she had told us her story, which involved her being basically imprisoned in her own home. Her husband would keep her locked up in her house for days at a time, raping her

repeatedly throughout the day. And so at the end of this interview and pulling out all of this information from her, we had to stand at the door and knock on it for about five minutes before any of the guards came to open the door. So you can imagine, that was a difficult experience for me, but to have been imprisoned in your own home and to have just spent two hours reliving that experience and then to have to wait as somebody pounds on a door to be let out, it's incredibly triggering. It's retraumatizing. It's really awful.

Carrie:

Join us next time as we continue our conversation with Professor Anna Welch and Emily Arvizu.

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