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Respecting Rights and Securing Solutions

Recommendations for U.S. Leadership of a Comprehensive Initiative to Address the Global Refugee Crisis

August 2016



ON HUMAN RIGHTS, the United States must be a beacon. Activists fighting for freedom around the globe continue to look to us for inspiration and count on us for support. Upholding human rights is not only a moral obligation; it's a vital national interest. America is strongest when our policies and actions match our values.

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We know that it is not enough to expose and protest injustice, so we create the political environment and policy solutions necessary to ensure consistent respect for human rights. Whether we are protecting refugees, combating torture, or defending persecuted minorities, we focus not on making a point, but on making a difference. For over 30 years, we've built bipartisan coalitions and teamed up with frontline activists and lawyers to tackle issues that demand American leadership.

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ACKNOWLEDGEMENTS

We would like to thank The Oak Foundation, the Heising-Simons Foundation, the Herb Block Foundation, and the Libra Foundation, as well as general operating support from the Carnegie Corporation, MacArthur Foundation, and Bloomberg Philanthropies.

COVER PHOTO: REUTERS/Marko Djurica

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Introduction

Two major summits slated for September 2016 present opportunities for the United States to lead, and advance key components of, a comprehensive initiative to address the global refugee crisis and champion the protection of the human rights of refugees and migrants. On the 19th the United Nations will hold a High Level Meeting on Refugees and Migrants, and on the 20th President Obama will convene a Leaders' Summit on Refugees. In addition, the U.N. Secretary General has called on the world's nations to develop two agreements to better address the needs and safeguard the human rights of refugees and migrants: the "Global Compact on Responsibility-Sharing for Refugees" and the "Global Compact for Safe, Regular and Orderly Migration." In the wake of the failure of states to agree to an ambitious outcome document for the September 19 High Level Meeting, it is more important than ever for the United States to ensure that these opportunities are effectively leveraged to reinforce respect for human rights and the securing of solutions.

The number of refugees in the world has risen steeply in recent years and now exceeds 21 million. Nearly one in four has fled Syria; the number of Syrian refugees grew from about 20,000 in February 2012 to 4.8 million in 2016. Seventy-six percent of the global refugee population comes from just ten countries: Syria, Afghanistan, Somalia, South Sudan, Sudan, the Democratic Republic of Congo, Central African Republic, Myanmar, Eritrea, and Colombia. And ten countries—Turkey, Pakistan, Lebanon, Iran, Ethiopia, Jordan, Kenya, Uganda, the Democratic Republic of Congo, and Chad—host 58 percent of refugees. Several of these countries also host large numbers of Palestinian refugees. In many cases displacement has become protracted, the

estimated duration of refugee situations now reaching 25 years on average up from 17 in 2003.¹ For example, many Afghans have been displaced for decades and a third generation of Somali refugees is growing up in camps.

For the United States, resolving this global crisis is both a moral and national security imperative. In a June 2016 Statement of Principles on America's Commitment to Refugees, a bipartisan group of former national security officials stressed that, "Accepting refugees, and encouraging other countries to do so, advances U.S. interests by supporting the stability of our allies struggling to host large numbers on their own." In a December 2015 letter to Congress, a bipartisan group of former national security advisors, CIA directors, secretaries of Defense, Homeland Security, and State, said, "Resettlement initiatives help advance U.S. national security interests," noting that refugees "are vetted more intensively than any other category of traveler."

After World War II the United States helped establish an international system and legal framework grounded in the conviction that people fleeing persecution should never again be turned back to face horror or death. Today 148 nations are party to the U.N. Convention Relating to the Status of Refugees or its Protocol, including the United States, which is a member of the Executive Committee of the U.N. Refugee Agency (UNHCR). The United States is also a party to the International Covenant on Civil and Political Rights (ICCPR), which affirms the right to liberty and freedom from arbitrary detention.

Over the years the United States has often lived up to its ideals and its obligations, providing substantial levels of humanitarian aid and resettling more refugees than another country. Yet in the face of the current crisis, the country has fallen short. It has not launched and led a strong Syrian resettlement initiative to effectively support the frontline states surrounding Syria. Meanwhile

at home, it has implemented a detention-and-deterrence-based approach at its southern border—an approach that violates principles central to the global refugee protection system. During the negotiations on the outcome document for the September 19 High Level Meeting the United States proposed revisions to draft language on the detention of children that ran contrary to global human rights standards recognizing that detention is never in the best interests of children.² When the United States falters in its obligations to refugees, it sends the wrong signal to other nations, encouraging rights-violating policies that exacerbate the global crisis. As U.N. Secretary-General Ban Ki-moon has pointed out, “This is not just a crisis of numbers—it is also a crisis of solidarity.”

The international community should work harder to resolve the conflicts, human rights abuses, and violence that are causing displacement. Tackling the root causes should be a priority for this administration and the next, and for Congress. However, there is much that should be done to help refugees now.

This paper lays out key steps that the United States should take to lead a comprehensive effort to address the global refugee crisis. While the paper does not include every important action that the U.S. government should take to address the plight of refugees and migrants globally, it focuses on areas where U.S. action is vital. Most critically, the United States should champion the human rights of refugees. If basic human rights are not secured—including the rights to protection from return to persecution, the ability to work legally, and freedom from deprivations of liberty and arbitrary detention—refugees will continue to die, suffer, and struggle to rebuild their lives.

To truly lead by example, the United States and other nations should comply with international law. Like efforts to block Syrian refugees from crossing borders and the procedural and physical barriers

erected by European states to impede and deter asylum seekers, the U.S. policy of holding families and others seeking asylum in detention facilities undermines the international refugee protection system and encourages other countries to evade their responsibilities. A strong recommitment to international refugee and human rights law is necessary not only to better help refugees, but also to pursue broader U.S. humanitarian, strategic, and national security goals.

The United States, as the single largest global humanitarian donor, is particularly well placed to work with other nations to advance U.S. goals for the Leaders’ Summit with respect to increased humanitarian aid, development investment, support for education, and initiatives to increase the number of refugees granted legal permission to work. The United States should also lead—rather than lag—on the resettlement of Syrian refugees. While the specific U.S. goals for the Leaders’ Summit have been narrowly defined, the United States should seize the opportunity to advance a more ambitious initiative to address the global refugee crisis, one that centers on securing state compliance with human rights and refugee protection legal obligations as well as solutions for all refugees.

In order to effectively lead such an initiative, in connection with President Obama’s September Leaders’ Summit, the U.N. High Level Meeting on Refugees and Migrants, and beyond, the United States should:

1. Champion access to asylum and compliance with international law prohibitions against return or rejection of refugees, including:

- Strongly support adherence to international human rights and refugee law, ensuring that any global compacts or agreements reinforce, not weaken, legal protections with respect to

nonrefoulement, access to asylum, and the use of detention;

- Lead by example at home by ending border policies that block access to asylum, limit the use of expedited removal proceedings, abandon regional initiatives that block access to asylum, and support initiatives in the region that secure access to asylum;
 - Encourage the states neighboring Syria to stop blocking refugees from fleeing their country, better support those states through resettlement and aid, and help Jordan transfer Syrians stranded in a dangerous desert area to safety so they can be screened and afforded access to asylum, resettlement, or protection;
 - Call on the European Union to ensure access to asylum, cease mischaracterizing Turkey as a “safe third country,” and halt deportations under its flawed deal with Turkey;
 - Promote adherence to *refoulement* prohibitions, including with respect to Kenya’s announcements on camp closure as well as the practices of Australia, Cameroon, China, Thailand, Malaysia, Indonesia, Vietnam, and other countries; and
 - Ensure NATO activities comply with human rights and refugee protection law.
- 2. Work with other nations to meet UNHCR’s appeals to provide resettlement or other pathways to protection for 10 percent of the global refugee population, including:**
- Provide leadership through the doubling of the overall U.S. resettlement goal, urge European and other countries to substantially increase their resettlement efforts, and encourage South Korea to launch a resettlement program, Japan to expand its resettlement program, and Gulf nations—including Saudi Arabia and the United Arab Emirates—to allow Syrian refugees working in their countries to extend their stays and to be joined by family;
- Lead by example through a significant increase in the U.S. commitment to resettle Syrian refugees to a level of one hundred thousand (within a larger overall refugee goal), as recommended by a bipartisan group of former government officials, and at least to a level that corresponds to UNHCR’s assessment that 40 percent of refugees in need of resettlement are Syrians;
 - Expand U.S. resettlement initiatives for refugees from the Northern Triangle in Central America, and encourage other countries to do so as well;
 - Launch a private sponsorship resettlement initiative in the United States and encourage European states to create such programs;
 - Encourage that any global compacts or agreements on resettlement set a 10 percent goal consistent with U.N. assessments of resettlement need; and
 - Continue to address staffing and efficiency gaps to reduce processing delays that hamper the effectiveness of U.S. resettlement and SIV initiatives.
- 3. Strengthen respect for the right to work, education, liberty, and free movement, including:**
- Increase access to legal work authorization for all refugees, champion the right to work, and support front-line

states through assistance and development initiatives;

- Increase U.S. support for—and encourage other states to support—access to primary and secondary education as well as scholarships to universities;
 - End U.S. detention policies that violate international law, including those relating to the detention of children and families, and encourage other nations to do so as well;
 - Strengthen respect for the human rights of migrants globally and at home, including by supporting initiatives to improve compliance with applicable human rights law; and
 - Support initiatives to protect refugees and migrants from xenophobic violence, prosecute perpetrators, and encourage the world’s leaders to condemn such incidents.
- 4. Partner with other nations to fully meet humanitarian appeals and lead a global effort** to significantly increase development investment, and support frontline communities that host the overwhelming majority of refugees, working with the World Bank, other donor states, private businesses, and local communities.
- 5. Design and lead a comprehensive plan to address the Syrian refugee crisis.** This plan should include a significant increase in resettlement by the United States and other countries, fully meet humanitarian appeals, promote major development investment to support refugee-hosting communities through a “Marshall Plan”-inspired-initiative, and most critically, protect the right of refugees to cross borders, work, access education and be free

from detention that is inconsistent with human rights standards.

Champion Compliance with International Law Prohibitions on Return or Rejection of Refugees

“Even in time of desperation, we have to stick by our fundamental values, the rights that were drafted to protect people in vulnerable circumstances and conflict. When times are tough, governments sometimes look to cut corners. But that never works in the long term... It’s critically important that governments around the world stay true to the letter and the spirit of the 1951 Refugee Convention and the 1967 Protocol; we need to see that in effect and not just on paper.”

—Bono (Hearing before the U.S. Senate Appropriations Subcommittee on State, Foreign Operations, and Related Programs, April 2016)

Drafted in the wake of World War II and in the context of the many border restrictions that denied refuge to those fleeing Nazi persecution, the 1951 Refugee Convention and its Protocol prohibit states from *refoulement*, or returning people to places where their lives or human rights would be at risk. Even states that are not party to the Refugee Convention and Protocol must comply with this prohibition as it constitutes a tenet of customary international law.

The failure to adhere to these rules has not only left refugees in danger—for example, blocking families in Syria despite the threats of Russian bombs, Syrian government attacks, and ISIS terror—but it also makes clear to refugees that they cannot secure effective protection in the

region surrounding their home country. The negative example of deterrence-driven and rights-violating policies adopted by some wealthier states will, if not remedied, undermine the global protection regime and the solidarity and responsibility-sharing necessary to address the global refugee and displacement crisis.

The United States should, among other steps:

- **Emphasize—through both words and actions**—that adherence to and respect for international law protections on *nonrefoulement*, access to asylum, and the safeguarding of the human rights of refugees and migrants is central to achieve the global community’s objectives to better manage the global refugee crisis and migration challenges.
- **Encourage Turkey, Jordan, Lebanon, Iraq, Egypt, and other states in the region surrounding Syria to comply with international law prohibitions against refoulement and stop blocking or preventing Syrians from fleeing their country.** Syria’s neighbors have already taken in large numbers of refugees, but many thousands more have been blocked from crossing to safety and are now trapped within Syria and in dangerous border areas.

In addition to encouraging these nations to comply with international law and allow Syrian refugees to cross their borders, the United States and other donor states should increase their support for frontline states hosting the majority of refugees through humanitarian aid, bilateral assistance, development investment, and resettlement. The countries that border Syria have legitimate security concerns, but these concerns can be addressed through individualized exclusion

assessments conducted in accordance with international legal standards.³ In particular, the United States should help Jordan transfer Syrians stranded in horrendous conditions in the border area known as the “berm” to a safe location where they can be screened for security and protection purposes, and provided access to protection, including asylum or resettlement. In addition to conducting screening in Jordan, the United States should consider the use of other locations. For instance, the United States in the past has brought refugees to Guam and to Fort Dix in order to process their cases in a safe location.

- **Lead by example at home.** The United States should reform its own border policies by limiting the use of expedited removal, employing additional safeguards when that flawed process is used, and ending detention policies that violate U.S. refugee protection and human rights obligations, including the detention of families with children.

The United States should address the displacement of people from the Northern Triangle of Central America as a regional protection crisis, rather than treating the arrival of asylum seekers from that region as a political or border security crisis. It should refrain from employing punitive and harsh tools designed to “send a message” and “stem the flow.”

As UNHCR has urged, the United States should “ensure that all migration policies protect people’s legal right to seek asylum, and refrain from using detention as a deterrent.” Given the U.S. role as a global leader, its failure to champion the protection of refugees at home reverberates across the world,

discouraging other nations from welcoming and respecting the rights of those who seek protection at their borders. Policies of deterrence and detention put refugees at risk of further harm, exacerbate migration management challenges, and often deflect these challenges on to other, less wealthy nations.

■ **Encourage the European Union to also adhere to refugee and human rights law and set a better example to the rest of the world.**

By attempting to block refugees from reaching Europe, European states have not only violated and evaded their own obligations, but have also set a poor example to frontline states that host the vast majority of refugees. President Obama should call on the European Union to immediately implement safeguards and fair procedures to protect refugees from improper return, to reject the notion that Turkey is a “safe country” under refugee protection legal standards, and to cease deportations under the flawed E.U.-Turkey deal. Instead, the European Union should work with Greece and other nations to assure access to asylum, to open official border crossings where asylum seekers can receive security screening and be permitted to enter to apply for asylum, to ensure efficient relocation of asylum seekers to other E.U. member states, while at the same time expanding the resettlement of refugees from Turkey and other countries of first refuge to Europe Union states.

■ **Ensure that any compacts or other agreements on refugees and migrants include as a central component respect for their human rights, including commitments to adhere to**

refoulement prohibitions and to ensure access to asylum—including in connection with migration management, anti-smuggling, and maritime or other rescue or migration enforcement efforts—as well as commitments to provide and support access to the legal right to work, to education, to free movement, and freedom from detention that is inconsistent with human rights and refugee legal standards.

■ **Ensure that NATO actions respect human rights law.** The United States should encourage and support increased search and rescue operations at sea, and also ensure that NATO actions—whether in the Aegean Sea or in the Mediterranean with respect to ships departing Libya or Egypt—do not violate the human rights of refugees and migrants, including the right of refugees to flee persecution and seek asylum.

Germany’s defense minister has said there is a “firm agreement” with Ankara that refugees rescued by NATO ships would “be brought back to Turkey.” UNHCR has cautioned that NATO’s mission in the Aegean Sea—which Secretary Kerry stated is to “close off a key access route” used by refugees and migrants in order to “stem this tide”—should not “undermine the institution of asylum for people in need of international protection.” Human rights experts focused on Europe have urged NATO to, in addition to saving lives at sea, facilitate the right to seek asylum by bringing asylum seekers safely to Greece or Italy.

■ **Safeguard refugees at risk in Kenya.** The United States and the international community should continue to monitor the situation in Kenya, encourage the

government to comply with international refugee protection and human rights law, including to not return Somali and other refugees at risk of persecution and other harm. It should work to increase resettlement of refugees located in Kenya.

In early May, the Kenyan government announced plans to close refugee camps and called on UNHCR to assist in repatriations, noting that “rich” countries were limiting entry of refugees into their own borders. Following meetings with the U.N. Secretary General and the U.N. High Commissioner for Refugee, the Kenyan President said that Kenya would not “shy away from her international obligations” or return people “in a manner that defies their dignity, human rights or endangers their lives.” On June 25, a Tripartite Commission (Kenya, Somalia, and UNHCR) announced its aim to reduce the population at the Dadaab camp by 150,000 by the end of the year, including through voluntary returns, relocation of non-Somali refugees, and a population verification exercise.

- **Promote respect for non-refoulement and access to asylum in the western hemisphere**, including in Mexico, at the U.S. southern border, and in Central America, refraining from policies and funding activities that undermine international law through the support of migration “enforcement” without ensuring effective implementation of measures to safeguard access to asylum or other protection. In particular, the United States should ensure that funding for Mexican migration enforcement activities does not erode the right to seek asylum in Mexico and that any U.S. funding for Mexican

border and immigration enforcement capacity is coupled with enhanced funding to improve and expand Mexico’s capacity to effectively identify, register, and process refugee and other protection claims, and to integrate recognized refugees and beneficiaries of complementary protection. The United States should work with UNHCR to support training and increased capacity for asylum systems in Costa Rica, Panama, Mexico, and other countries in the regions.

- **Encourage adherence to the Refugee Convention, Protocol, and international law prohibitions on refoulement** by all nations including Australia, Cameroon, China, Thailand, Vietnam, Malaysia, and Indonesia. The United States should prioritize in its advocacy with these and other nations engagement, advocacy, and support aimed at ensuring adherence to international legal protections against refoulement.

Meet Global Resettlement Appeals and Provide Other Orderly Routes to Protection

With over 21 million refugees globally, including over 4.8 million Syrian refugees, resettlement needs are acute. The United Nations has called on countries to commit to providing resettlement spaces or other legal pathways for admission to at least 10 percent of the global refugee population annually. UNHCR has estimated the global resettlement need for calendar year 2017 to be 1,190,000. In particular, given the significant needs and impact of the Syrian crisis on the

region surrounding Syria, UNHCR says 40 percent of the 1.2 million resettlement need for 2017 are for Syrian refugees. This is the highest level of resettlement need for Syrian refugees since the outbreak of conflict in the country in early 2011.

With respect to Syrian refugees alone, Oxfam calculated in its 2016 Syria Crisis Fair Share Analysis that the world's richest governments had only pledged 129,966 resettlement or other humanitarian admission spots—still 350,034 below the overall Syrian resettlement need level of 480,000.⁴ The United States, long the global leader in resettlement, admitted only 105 Syrian refugees in fiscal year 2014 through resettlement, only 1,682 in fiscal year 2015, and as of July 31, 2016, has admitted 7,551, about 75 percent of its commitment to resettle ten thousand Syrian refugees in fiscal year 2016.

U.S. national security experts have repeatedly emphasized⁵—in various bipartisan letters, statements, and op-eds—that responsibility-sharing through resettlement and other orderly admissions helps to relieve some of the pressures on frontline states that often host the overwhelming majority of refugees. In addition, as the U.N. Secretary General noted, “These alternative pathways provide viable alternatives to irregular and often dangerous journeys.”

The lack of effective resettlement or other orderly routes to protection also have significant negative consequences. As detailed in Human Rights First's February 2016 report, based on research in Jordan, Lebanon, and Turkey, the lack of effective regional protection, exacerbated by the lack of assistance and insufficient orderly resettlement or visa routes for refugees, has driven many Syrian refugees to embark on dangerous trips to Europe. In Turkey primarily, and also in Jordan and Lebanon, Human Rights First researchers heard reports that refugees who had been struggling to survive for years in exile lost hope in waiting for

potential resettlement and decided to instead take the dangerous trip to Europe.⁶

At its September 2016 Leaders' Summit on Refugees, the United States has indicated that it will seek firm and explicit commitments from governments to provide additional resettlement or other pathways for refugees in need of international protection and will seek to double the number of resettlement or other admission spots made available globally for refugees.

The United States should, among other steps:

- **Encourage nations to work collectively to meet the global ten percent refugee resettlement and other pathways goal and provide leadership through doubling of the overall U.S.**

resettlement goal. The United States should work with other nations to, collectively, meet the ten percent target and should call for this goal to be central to any compact on responsibility-sharing, along with a framework for dividing up responsibility among states. The United States, long the global leader in refugee resettlement, is particularly well placed to encourage other nations to initiate resettlement programs or to increase the size of their resettlement initiatives as well as other orderly admissions commitments such as labor visas, family unity, educational scholarships, labor visas, medical evacuations, and other humanitarian pathways. To provide strong leadership, the United States should double its own resettlement goal for fiscal 2017, from one hundred thousand to two hundred thousand, and encourage other nations to double or more substantially increase their resettlement initiatives.

The United States should encourage European nations to significantly increase

their resettlement initiatives. In addition, the United States should encourage South Korea to launch a resettlement program, encourage Japan to dramatically increase its resettlement program, and encourage Gulf nations—including Saudi Arabia and the United Arab Emirates—to allow Syrian refugees working in their countries to extend their stays and to be joined by their families.

- **Lead by example and substantially increase the U.S. commitment to resettle Syrian refugees.** A bipartisan group of former U.S. government officials, including ones with national security and humanitarian expertise, have called on the United States to resettle one hundred thousand Syrian refugees, over and above the worldwide U.S. refugee goal.⁷ Such a commitment would, they said, “send a powerful signal to governments in Europe and the Middle East about their obligations to do more.” The Bipartisan U.S. Commission on International Religious Freedom, explaining that “[t]he United States must continue to live up to our nation’s core values,” has similarly recommended that the United States resettle one hundred thousand Syrian refugees.

For fiscal year 2017, the U.S. government should, in addition to resettling roughly one hundred thousand refugees from other countries, aim to resettle one hundred thousand Syrian refugees, a commitment more commensurate with both the American tradition of leadership and U.S. national security interests. This commitment level would be modest compared to Jordan, Lebanon, and Turkey, and would amount to just over two percent of the overall Syrian

population hosted by these and other states in the region—and only about 21 percent of the overall Syrian resettlement need. This commitment would still fall far short of the U.S. “fair share” level of 170,779 Syrian resettlements. At the very least, the United States should allocate 40 percent of its resettlement slots to Syrian refugees given UNHCR’s assessment that 40 percent of global resettlement needs are for Syrians.

A group of former national security advisors, CIA directors, secretaries of state, and Department of Homeland Security secretaries, who served under both Democratic and Republican administrations, pointed out that “resettlement initiatives help advance U.S. national security interests by supporting the stability of our allies and partners that are struggling to host large numbers of refugees,” and also stressed that that refugees “are vetted more intensively than any other category of traveler.”⁸

- **Launch resettlement for refugees from the Northern Triangle.** The United States should encourage and support resettlement initiatives for refugees from the Northern Triangle of Central America, building on its July 2016 announcement on the launch of a U.S. resettlement effort from the region. The United States should encourage Mexico and other refugee-hosting states in the region to work with UNHCR to launch resettlement initiatives, lead in accepting resettled refugees through such initiatives, and encourage Canada and countries in Latin America to accept Northern Triangle refugees through such initiatives.

The United States should also improve its program for resettlement of Central

American children by improving the interview and review process for the existing Central American Minors (CAM) program and by expanding the types of relationships that can serve as qualifying relationships, such as opening the program to children with adult relatives who are lawfully present in the United States, not just those with lawfully present parents.

The United States should expand its capacity to conduct emergency evacuations for refugees, including children, at risk of immediate harm and should adjudicate their claims for refugee status and/or parole as quickly as possible. The United States should launch its own resettlement initiative for refugees from the Northern Triangle, and this initiative should be commensurate with the regional resettlement needs. (Any and all resettlement efforts should make clear, including to U.S. asylum adjudicators, that resettlement is not a substitute for asylum.)

- **Affirm that resettlement and other orderly admission routes are not a substitute for access to asylum** and compliance with international law. Any and all compacts, agreements, or plans to increase resettlement must make clear that resettlement and other orderly admission routes are not a substitute for access to asylum and adherence to *non-refoulement* legal obligations.
- **Continue to address staffing and efficiency gaps to reduce backlogs and bottlenecks in the U.S. resettlement and SIV processing.** The Department of Homeland Security, Department of State, and other agencies should continue efforts to increase staffing, efficiency,

prioritization, and resources to address the backlogs, delays, and efficiency gaps that are hampering the U.S. resettlement process. The president and Congress should encourage and support increases in staff and resources.

These backlogs undermine the reputation of these programs and the nation's ability to meet its commitments to U.S. allies, other refugee-hosting countries, and vulnerable refugees, including those facing grave risks due to their work with the United States. Addressing delays, backlogs, and efficiency gaps would *not* undermine security; rather it would strengthen the effectiveness of U.S. processing. It is certainly not in the security interest of the United States to have delays in security vetting, which would potentially put off the identification of a person who might actually pose a security threat.

- **Launch private sponsorship initiatives.** The United States should enhance its resettlement capacity through a private sponsorship initiative that would allow family members and other U.S. groups, corporations, charities, and individuals to support with private funds the resettlement of additional refugees to the United States, above and beyond the U.S. government's yearly goals.

It should launch a pilot program immediately that builds upon the existing resettlement framework and expertise and provides an opportunity for citizens to directly engage and to fund private resettlement to bring additional refugees. The Canadian government has successfully operated a privately sponsored resettlement initiative for many years, and the United States operated a

private sponsorship program under the Reagan Administration. The United States should also encourage European states to launch private sponsorship programs. These initiatives should supplement—not substitute for—robust state funded resettlement initiatives.

Strengthen Respect for Rights to Work, Education, Liberty and Free Movement

Under international law, refugees are entitled to key human rights protections, including the right to work, to education, and to liberty and free movement. The deprivation of these rights often leaves refugees with little choice but to seek protection in other countries.

For instance, in research conducted in Jordan, Lebanon, and Turkey earlier this year, Human Rights First researchers heard—again and again—that refugee-hosting states had denied refugees the ability to work legally, that refugee children faced tremendous barriers to education, and that refugees were facing increasing risks of exploitation, detention, and deportation in the face of increasingly harsh government policies and registration requirements.

Without protection of their basic rights—including protection from return to persecution, the ability to work legally, effective access to education, and freedom from arbitrary detention—many refugees believed they could not safely remain and rebuild their lives in the region. And many made the difficult choice to embark on dangerous journeys to seek protection in Europe. Alternatively, by assuring adherence and access to these rights the global community can advance its broader goals.

Using detention against asylum seekers and migrants is a growing global human rights abuse. Numerous human rights and other reports have documented the abusive detention policies used by various nations including Australia, Canada, Greece, Israel, Thailand, South Africa, and the United States.⁹

In addition, the United States and several other countries hold children with their families in immigration detention, contrary to international law prohibitions and restrictions on the detention of children.¹⁰ The United States, which has 3,028 beds in detention facilities for families, has detained babies and their nursing mothers as well as young children and their families.

The United States should, among other steps:

- **Champion self-reliance and the right to work.** Any compact or agreements generated in connection with or after the September U.N. High Level Meeting and U.S. Leaders' Summit should recognize existing rights to work, commit states to complying with these rights requirements, and commit donor states and others to supporting access to those rights including through investment initiatives.

The United States should encourage Turkey, Jordan, Lebanon, Egypt, and other countries to allow refugees to work to support themselves. The United States has set as its goal for the Leaders' Summit to increase by one million in the number of refugees globally granted the legal right to work. The United States should expand this goal going forward. As outlined below, the United States should also take steps to increase jobs for refugees and host-communities, enlisting business leaders, financial institutions, and governmental and private donors and should encourage the European Union,

Gulf States, World Bank, and business leaders to support work initiatives.

■ **Increase funding for, and access to, primary and secondary education as well as scholarships to universities.**

The United States has set as its goal for the Leaders' Summit to increase the number of refugees in school by one million. The United States should encourage donor states and private donors to expand support for initiatives that increase opportunities for refugees to access education while also supporting refugee hosting communities through university scholarships for refugees. An initiative that offered 70 university scholarships for Syrian refugees in Turkey prompted five thousand applications. The United States should encourage and fund the creation of similar programs, and urge other nations to do so as well.

- **End and limit the use of migration detention that is inconsistent with human rights and/or refugee law, including with respect to asylum seekers and children.** Any compacts or agreements relating to refugees or migrants must affirm adherence to international human rights and refugee law limits on the use of migration detention. The United States should encourage Australia, Canada, Greece, Israel, South Africa, Thailand, and other nations to end migration detention policies that violate international human rights and/or refugee law. The United States should use and encourage alternative measures (such as community based case management programs) rather than detention when additional support is needed in an individual case to ensure court appearance. Detaining asylum

seekers is generally impermissible under the Refugee Convention, Protocol, and human rights law, and is particularly problematic when it exceeds a few days.

■ **Reform U.S. policies to safeguard children, asylum seekers and other immigrants from detention that violates international human rights and/or refugee law.**

The United States should lead by example, and in particular should end its failed policy of holding families seeking asylum in immigration detention, eliminate “mandatory” detention policies, provide prompt court review of detention for “arriving” asylum seekers and other immigration detainees, and use alternatives to detention (such as community-based case management programs) when additional measures are needed to ensure that an individual appears for immigration appointments.

- **Reform U.S. policies to assure access to work and education.** The United States must also address the substantial staffing gaps that are delaying its ability to adjudicate asylum cases (both before the USCIS asylum division and the immigration courts), and in turn delaying access to family unity, stable work opportunities, and some education opportunities. The United States should also provide earlier access to work authorization for asylum seekers.

- **Strengthen respect for the human rights of migrants.** The United States should support, and call on other nations to support, the development of tools and mechanisms to improve compliance with international human rights law applicable to migrants. These include guiding principles and other measures outlining the many existing provisions of

international law and conventions that apply to migrants. The United States should also support initiatives to bring national laws and practices into compliance with human rights law.

In addition, the United States should urge that any compacts or agreements among states relating to migration must be grounded in, and affirm compliance with, existing human rights law applicable to migrants; and that, as the International Organization for Migration (IOM) is integrated into the United Nations, it be given an official human rights protection function and such function should be reflected in its Constitution.

- **Support initiatives to protect refugees and migrants from xenophobic violence.** U.S. law enforcement authorities must closely monitor xenophobic incidents and prosecute bias-motivate crimes. U.S. political leaders must speak out strongly against any such incidents as well as against xenophobic statements.

The United States should also support initiatives in Europe, Africa, and elsewhere that are aimed at protecting refugees and migrants from xenophobic violence, share law enforcement experience and training, fund initiatives that assist refugee and migrant communities to report such violence to the authorities, and encourage leaders in refugee-hosting countries to speak out against attacks on refugees and migrants. The United States should work with the Organization for Security and Co-operation in Europe (OSCE), UNHCR, and other donor and refugee-hosting nations to galvanize and secure support for these initiatives.

Fully Meet Humanitarian Appeals and Significantly Increase Development Investment and Support for Frontline Communities, Working with the World Bank, Other Donor States, Private Business, and Local Communities

“Our foreign assistance strategy and programs must place greater emphasis on catalyzing and supporting economic growth and opportunity ... [I]n this new era of human development, entrepreneurs, investors, and innovators are as fundamental to geopolitical stability as politicians, generals, and diplomats; and trade and investment agreements are as instrumental to world order as defense pacts.”

—General James Jones, retired

While the United States has been a strong leader in providing humanitarian aid, the gaps between need and resources are growing. The \$10.2 billion funding gap for 2015 was the largest on record, with only 49 percent of U.N. humanitarian appeals met. The gaps in UNHCR funding last year—at about 50 percent of its budget needs—led to cost cutting measures throughout the year, forcing the agency to “make very difficult choices, some a matter of life and death.”¹¹

Just under 50 percent of UNHCR’s appeals for the Syria crisis went unfunded as well. By the middle of 2015, financial shortages had forced the World Food Programme to reduce its assistance to 1.6 million Syrian refugees in five countries.

The food assistance cuts—as one aid worker in Jordan told Human Rights First researchers—had a “domino effect” on refugee families, impacting not only their ability to eat but their ability to pay rent. Some felt they had no choice but to withdraw children from school so that the children could work to help support their families. Others felt they had little choice but to head to Europe in order to secure their survival.

As of April 2016, only 19 percent of the U.N. Coordinated Appeals for 2016 have been met. Only 23 percent of the Syria Humanitarian Response Plan and only 37 percent of the Syria Regional Refugee and Resilience Plan for 2016 have been met as of July. UNHCR reported in April that its programs in Africa were at a breaking point, with only about 35 percent of the needs met. A major donor conference for the Syria crisis, held in London on February 4, 2016, led to over ten billion dollars in humanitarian and development “pledges” of assistance for the crisis. But most of this pledged assistance has not yet been delivered.¹²

In his May 2016 report, the U.N. Secretary General stressed that the international community must, in addition to addressing humanitarian needs, also “expand development funding from the outset of displacement to address refugee needs and reinforce the national institutions, services and communities that support them.” He explained:

It is imperative that humanitarian and development actors work together with receiving States and identify common outcomes that both can support, including the reduction of dependency on international humanitarian aid over time in favor of more sustainable solutions [G]iven the average long length of displacement, the response will be more sustainable if it builds on national and local systems and incorporates a

development approach, even in the early stages of an emergency.

The president of the World Bank, Jim Yong Kim, has stressed that the world’s powers need to pay greater attention to boosting economic growth and creating jobs in fragile countries to avoid even greater refugee crises in the coming years. In an April 2016 speech he called for major shifts in the way the World Bank works, including “investing and supporting middle-income countries that face the challenge of fragility, especially when the spillover effects from fragility can threaten both its neighbors and countries on the other side of the earth. If we leave these problems unresolved, the risk of growing conflict and extremism in these contexts will become very real as we have seen in the Middle East, North Africa and Latin America.”

The Middle East Investment Initiative has similarly warned, “The impact of the refugee crisis means that additional strain has been placed on already weak economic institutions and ignoring these economic and labor market challenges will have severe global security and political ramifications.”

A number of voices have called for a “Marshall Plan” approach to development investment in refugee-hosting states. Some of these proposals are focused globally, and others more specifically on the Middle East.¹³ U.S. non-governmental organizations have urged the United States to work with its allies and with the United Nations to lead in developing and funding a “comprehensive recovery and support plan” for Syria and its neighbors, “mirroring the scale and commitment of the Marshall Plan instituted to repair war-torn Europe, to meet the urgent needs of refugees in the region and foster their resilience.” These organizations urged that the plan “move beyond humanitarian emergency relief to include sustainable development projects, education, livelihood programs, and reconstruction.”¹⁴ Senator Lindsey Graham, after a visit to the Middle East in April 2016 also called for a new

“Marshall Plan” to provide billions of dollars to the region, potentially through an emergency appropriation.

In calling for a “Middle East Recovery Plan,” the Middle East Investment Initiative explains:

The Middle East in 2015 is not Europe in 1948, but the general principles of assistance to accomplish a joint recovery program based on self-help and mutual cooperation still apply. There is a tendency to shy away from any reference to the Marshall Plan due to its cost (an estimated US \$160 billion in today’s US dollars). But the original Marshall Plan was not entirely based on financial aid. It also strengthened institutions and focused on private sector economic growth. In the Middle East, aid is needed to deal with the immediate crisis, but so, too, are measures to promote long-term investment in the economy and security of the region. The establishment of strong economic institutions and dynamic public-private partnerships, key components of the original Marshall Plan, will be critical to long-term sustainable development in the Middle East as well.¹⁵

As part of a comprehensive plan to address the global refugee crisis, the United States should:

- **Work with other donor states to fully meet humanitarian appeals and significantly increase U.S. humanitarian aid and development investments in frontline refugee hosting states, initiating development investment much earlier.** In particular, with Congress’s support, this administration and the next administration should substantially increase both U.S. humanitarian assistance for Syrian refugees and displaced persons and U.S. development aid for refugee-hosting communities. The United States should

leverage this leadership to push other states to increase their contributions as well so that global aid appeals are fully met.

The U.S. goal of securing a 30 percent increase in aid through the Leaders’ Summit in September is a step in the right direction, but additional action is needed. In particular, the United States and other donors should expand and replicate initiatives that increase opportunities for refugees to work and access education, while also supporting refugee-hosting communities. The U.N. Secretary General has urged that “local and civil society partners and NGOs must be supported by donors and international organizations to play a greater role in humanitarian responses.”

In April 2016, a group of former Senators, both Democrats and Republicans, urged that the United States keep pace with growing global challenges, including the historic refugee crisis in the Middle East, rather than cutting the International Affairs budget. They pointed out, “Strategic investments in development and diplomacy are crucial to advancing our national security and economic interests while ensuring a more secure and stable world,” and that “these programs are cost-effective investments that enable the United States to support allies like Israel and Jordan, respond to humanitarian crises, and promote U.S. interests abroad.”¹⁶

- **Encourage development agencies to prioritize refugee and displacement situations.** The United States and other nations should encourage their development agencies to prioritize or further prioritize initiatives aimed at

addressing refugee and displacement situations. Such initiatives should not be limited to funds traditionally allocated to “refugee” situations, but should be integrated and prioritized throughout such agencies.

- **Prioritize development support for key public infrastructures.** Donor states and financial institutions should also prioritize development investments that improve public infrastructures impacted by hosting refugees, and increase the overall housing stock, health and education services, and income-earning opportunities that can best benefit both host communities and refugee populations.
- **Continue to encourage greater engagement and investment by private donors, investors, and businesses to better support refugees.** The United States should continue its efforts to encourage private donors, investors, and businesses to contribute to humanitarian appeals and to strategically invest in refugee-hosting states in ways that support both refugees and refugee-hosting communities. The United States should also encourage incentives to promote such investments.
- **Encourage continued focus by the World Bank and other institutions on refugees and displacement.** The United States should encourage the World Bank’s continued focus on the global refugee and displacement crisis, including through innovative financing instruments, concessional loans to countries hosting refugees, and the development of Special Economic Zones.

For instance, the World Bank decided to offer Jordan, a middle-income country, the rates that had previously been reserved for the poorest countries, because of Jordan’s role in hosting Syrian refugees. The bank provided a one hundred million dollar loan at low concessional rates and plans to provide an additional two to four hundred million dollars in concessional financing in order to build special economic enterprise zones, which will aim to create thousands of jobs for both Syrian refugees and Jordanians over the next five years. The World Bank’s president has urged that this new approach “must now be taken to scale and implemented in other countries as well.”¹⁷

- **Lead a “Marshall Plan”-inspired global strategy to spur economic growth in countries hosting refugees,** in particular with respect to the Syrian refugee crisis as described under recommendation five below.

Develop and Lead a Comprehensive Plan to Address the Syrian Refugee Crisis

The United States and the global community must focus greater attention on addressing the Syrian refugee crisis. Nearly one-fourth of the world’s 20 million refugees are from Syria. As a bipartisan group of prominent U.S. former national security officials recently stressed, “Accepting refugees, and encouraging other countries to do so, advances U.S. interests by supporting the stability of our allies struggling to host large numbers on their own.”¹⁸

Moreover, as noted earlier in this paper, the international community's failure to adequately support refugees and frontline countries hosting Syrian refugees drove many to embark on dangerous journeys to seek protection in Europe.

The critical components of a comprehensive plan to address the Syrian refugee crises should include increased resettlement, stepped-up humanitarian aid and development investment, as well as advocacy, diplomacy, and engagement focused on securing the rights of refugees to cross borders to access protection, to work, to access education, and to be free from detention that violates international refugee or human rights law.

As part of such a comprehensive plan, the United States should:

- **Champion the rights of refugees, including their right to cross borders, to work and to access education.** The United States should encourage Turkey, Jordan, Lebanon, Iraq, Egypt, and other states in the region surrounding Syria to comply with international law prohibitions against *refoulement* and stop blocking or preventing Syrians from fleeing their country, as outlined in recommendation section one above.

The United States should encourage Turkey, Jordan, Lebanon, Egypt, and other countries to allow refugees to work to support themselves. For instance, Turkey—which hosts 2.8 million Syrian refugees—should adjust its new work authorization rule for refugees, including to allow other refugees to access work authorization (in addition to Syrian refugees), and to eliminate the ten percent limitation on the number of Syrians in any given workplace. The CATO Institute has recommended that

the Turkish government increase or entirely remove its ten percent cap on Syrian employment. The United States should also increase funding for, and access to, primary and secondary education as well as scholarships to universities.

- **Work with other donor states to fully meet humanitarian appeals and significantly increase U.S. humanitarian aid and development investments in frontline refugee hosting states,** as outlined in recommendation four above.
- **Lead a “Marshall Plan”-inspired global strategy to spur economic growth in countries hosting Syrian refugees.** The United States should lead the international community—including Europe, the Gulf Cooperation Council, other G20 countries, international organizations, and the private sector—to create a sustainable global economic strategy that commits resources and technical assistance to spur economic growth in the countries hosting Syrian refugees.

The Middle East Investment Initiative recommends that a Middle East Recovery Plan (MERP) focus on strengthening economic and financial institutions that will help expand economic opportunity in the private sector in Turkey, Jordan, and Lebanon. It urges that, to be sustainable, this effort should build economic vitality from the bottom up, allowing entrepreneurs to flourish and small and medium-sized enterprises in the region to grow. It will require partnerships and alliances with international and local governments, the private sector, and civil

society—including Syrian refugees and organizations.

The Middle East Investment Initiative notes that this growth will require capacity building and investments in local governments, financial institutions, and the private sector. Its recommendations detailed in its April 2016 proposal include: alternative financing instruments that can support and promote private sector engagement strategies involving local as well as international private sector partnerships; technical assistance and direct financing to micro and small-medium enterprises; and providing direct financing and technical assistance to local organizations and entrepreneurs delivering essential services to refugee communities.¹⁹

The organization also notes that a coordinated international proposal for a Middle East Recovery Plan is sustainable only if existing laws and barriers to legal employment and work permits for refugees are addressed.

- **Substantially increase the U.S. commitment to resettle Syrian refugees and encourage other states to step up their resettlement and admission of Syrian refugees.** As outlined earlier in these recommendations, the United States should aim to resettle or provide other admission routes for one hundred thousand Syrian refugees over the next fiscal year, a commitment level that is more commensurate with both the American tradition of leadership and U.S. national security interests. This commitment level would be quite modest compared to that of Jordan, Lebanon, and Turkey, and would amount to just over

two percent of the overall Syrian population hosted by these and other states in the region, and only about 21 percent of the overall resettlement need. This commitment would still fall far short of the U.S. “fair share” level of 170,779 Syrian resettlements. At the very least the United States should allocate 40 percent of its resettlement slots to Syrian refugees given the UNHCR assessment that 40 percent of global resettlement needs are for Syrian refugees.

The United States should also encourage European states to significantly increase their resettlement of Syrian and other refugees, and should encourage Gulf nations—including Saudi Arabia and the United Arab Emirates—to allow Syrian refugees working in their countries to extend their stays and to be joined by family.

A group of former national security advisors, CIA directors, secretaries of state, and Department of Homeland Security secretaries, who served under both Democratic and Republican administrations, has pointed out that “resettlement initiatives help advance U.S. national security interests by supporting the stability of our allies and partners that are struggling to host large numbers of refugees,” and also stressed that that refugees “are vetted more intensively than any other category of traveler.”

- **Don’t use “safe zones” to block escape and deny refugees the right to flee.** If any “safe zone,” “no fly zone,” or similar proposals move ahead with respect to Syria, the United States should strongly advocate that states surrounding Syria do not use the existence of any such zones as an excuse to deny access

to, or push back, refugees in violation of international law prohibitions on *refoulement*. “Safe zones” in war-torn regions are notoriously unsafe for civilians. The United States should continue to press for access to international protection and respect for the prohibition against *refoulement*. Any proposals to protect civilians inside Syria should also respect these essential rights.■

Endnotes

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- ⁷ Bipartisan September 2015 Letter to President Barack Obama. Available at: <https://assets.documentcloud.org/documents/2426925/letter-regarding-syrian-refugees.pdf>.
- ⁸ The United States government obtains significant amounts of information about, and rigorously vets, Syrian refugees resettled to the United States, who come primarily from Jordan and Turkey where they have been struggling to survive for years. This vetting is the most rigorous of any travelers to the United States. It entails multiple interviews and involves numerous U.S. and international intelligence and law enforcement agencies, including the National Counterterrorism Center, the Department of Defense, and Interpol, which have extensive databases on foreign fighters, suspected terrorists, and stolen, false, and blank passports from Syria, Iraq, and elsewhere. This vetting includes access to information provided by many other countries, including those in the region surrounding Syria. See endnote 5, *supra*, and Human Rights First, "Refugee Resettlement Security Screening Information." Available at: <http://www.humanrightsfirst.org/resource/refugee-resettlement-security-screening-information>.
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