

How the United States Should Address Refugee Protection at its Border

As men, women and children flee violence in El Salvador, Guatemala and Honduras, the Trump Administration has launched a barrage of punitive and threatening actions aimed at those seeking protection along the U.S. southern border: family separations, family incarceration, military might, blockades at ports of entry, and threats to ban refugees from asylum if they cross the border between ports. These policies hurt children, trample on American ideals, violate U.S. laws, and are ineffective.

Instead, the Trump Administration and Congress should focus on effective solutions that safeguard both American ideals and interests—including:

- 1. Address the Actual Causes of Displacement.** Instead of threats to cut aid to programs in Central America, the United States should increase targeted support for effective programs that decrease gang and other violence in these countries, promote the rule of law, and build accountability for human rights abuses. A task force co-chaired by former Department of Homeland Security (DHS) Secretary Tom Ridge and former USAID Administrator Gayle Smith warned that cuts to foreign assistance “risk creating greater problems and greater flows of people later,” ultimately “weakening our security.” They recommended the United States increase development aid to address root causes, encourage other countries, institutions, and the private sector to invest in fragile states, and focus foreign assistance on governance and other reforms that enable private sector growth.
- 2. Strengthen Refugee Protection in Other Countries in the Region.** As the UN Refugee Agency has reported, Central American refugees are seeking asylum in Mexico, Costa Rica, Panama, and Belize, as well as the United States. The United States should increase support for the UN Refugee Agency and the development of strong refugee protection systems in Mexico and other countries. These asylum systems must actually grant protection to refugees, conduct fair and timely adjudications, and eliminate barriers that block refugees from asylum. In Mexico for instance, many are blocked from asylum by a counterproductive filing deadline, low recognition rates, lack of effective appeal procedures, and migration officers who deport asylum seekers rather than refer them for asylum processing. In addition to encouraging Mexico and other countries to uphold human rights standards by providing protection to refugees, the United States should provide a strong example by upholding its own refugee protection obligations. If Mexico and other countries build strong and rights-respecting systems, more refugees will be able to choose to seek protection in those countries.
- 3. Follow U.S. and International Law at Borders.** The Trump Administration and Customs and Border Protection (CBP) must stop blocking, turning away, or threatening to bar from asylum people seeking refuge at U.S. border posts or after crossing the U.S. border. Instead, the Trump Administration and U.S. agencies must uphold U.S. law, end the orchestrated blockade and slow-down on processing at ports of entry, and ensure timely CBP processing of asylum seekers. Refugees turned away from U.S. ports face deadly dangers from traffickers, smugglers, and other criminals in Mexico, and the country is far from meeting the legal standards for a safe third country. By blocking or turning away people seeking

protection, U.S. officials are violating and attempting to evade both U.S. laws and treaty obligations. Given its historic role as a global leader, the United States' failure to protect refugees at home reverberates around the world, discouraging other nations from providing refuge at their borders. This practice is also counterproductive from a border protection perspective. DHS's own Office of the Inspector General recently reported evidence that CBP's practice of turning away and limiting entry of asylum seekers at official border posts "leads some aliens who would otherwise seek legal entry into the United States to cross the border illegally." A supervisor confirmed that the agency "sees an increase in illegal entries when aliens are metered at ports of entry."

4. **Receive and Manage Refugee Arrivals While Upholding American Ideals.** The United States must stop responding to the increase in refugee protection requests with punitive and threatening actions like family separation, family detention, bans on asylum, criminal prosecutions, and military deployments. These actions conflict with American ideals (confirmed by recent polling), violate U.S. law, and harm children—as the American Academy of Pediatrics has repeatedly warned. They also don't address the real problem. As former DHS Secretary Jeh Johnson explained in 2018, "[i]t is basic human instinct to save yourself and your family by fleeing a burning building." He concluded that attempts to deter people from fleeing have ultimately proven ineffective because the "push" factors of violence and poverty persist in Guatemala, Honduras, and El Salvador. In addition to taking the steps outlined above to address root causes, the United States should launch effective, humane, and fiscally prudent strategies for receiving and managing people seeking U.S. protection—including:
 - **A Comprehensive Case Management Program.** Instead of wasting more money on immigration jails and trying to overturn safeguards on detaining children, ICE should launch a community-based case management program using specially trained case managers to oversee asylum seeker cases. The Family Case Management Program operated by Immigration and Customs Enforcement (ICE) resulted in 99% attendance for ICE check-ins and appointments, and 100% attendance at court. DHS's own advisory committee recommended expansion of community-based programs rather than detention. This approach is cost effective and enjoys strong support from Americans according to 2018 polling.
 - **Support Access and Funding for Legal Representation.** Congress should support increased funding for legal information and funds for legal counsel. Statistical studies have repeatedly confirmed that asylum seekers represented by counsel overwhelmingly appear for their hearings, making legal representation a more fiscally prudent expenditure than detention.
 - **Assure Fair, Timely, and Adequately Staffed Asylum Adjudications.** Congress and the administration must ensure necessary staff levels to reduce backlogs and ensure fairness of asylum and immigration court adjudications. Reforms should include: rolling back use of expedited removal for high protection populations, a fast-track process for urgent humanitarian cases delayed by USCIS's use of the "last in first out" approach, and removal of "cancellation" cases from the asylum system by creating a process for such applications. Critically, political appointees leading agencies conducting these adjudications must stop painting asylum claims as false or lacking in merit and altogether halt the politicization of immigration judge hiring.