

Protecting Refugees and Restoring Order

Real Solutions to the Humanitarian Crisis

Families and children from Honduras, Guatemala, and El Salvador—fleeing human rights abuses, deadly violence, climate displacement and economic deprivations—continue to seek refuge in the United States and other countries. This is a regional humanitarian crisis—a manageable one that should be addressed using proven strategies, as are humanitarian challenges around the world. Yet instead of taking the steps necessary to address the crisis, the Trump Administration is making things worse, threatening cuts to effective programs that could reduce the problems forcing people to flee, sending refugees back to danger, canceling rather than expanding case management, and cutting orderly processing at ports of entry, increasing crossings between ports of entry. The Trump Administration's actions appear designed to generate chaos.

The regional crisis requires real solutions in several key areas: tackling the rights abuses and deprivations pushing people to flee, enhancing the capacity of Mexico and other countries to provide asylum and host refugees, and managing U.S. refugee protection requests in fair, effective and orderly ways—ways that uphold America's refugee laws and treaty commitments.

Most immediately, the United States must end the dysfunction at the border by launching a public-private humanitarian initiative and a long overdue case management system, which would keep asylum seekers informed and ensure they appear for their hearings. At the same time, the U.S. government should fix the asylum and immigration court adjudication systems to provide fair, non-politicized, and timely decisions. To effectively

manage border and adjudication systems, the United States must upgrade to manage new realities, instead of pushing mass detention and other outdated, inadequate and ineffective responses that are also costly, cruel, and inhumane.

As part of this strategy, the United States should launch a major initiative, with other countries, to expand regional protection so that Mexico and others, which are already hosting growing numbers, have the ability to continue accepting refugees. Critically, the United States and other donors should increase support for efforts to build the capacity of these countries to provide asylum, host, protect, and integrate refugees. In addition, the United States should work with other resettlement countries to launch a robust regional initiative that provides orderly routes to protection in the United States and other third countries.

The United States must also advance a targeted strategy—leveraging both diplomacy and aid - to address the actual root causes of migration and displacement in the Northern Triangle. This should focus on programs that reduce violence, combat corruption, strengthen rule of law, decrease femicide and other gender-based harms, address gang violence, protect vulnerable populations, and promote sustainable economic development. By helping to build real protections for women, children, LGBTQ, indigenous, and other at-risk people in Honduras, Guatemala, and El Salvador, while expanding protection of refugees in Mexico and

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other countries, this strategy will ultimately reduce the numbers fleeing to the United States.

The measures outlined below would restore order to the region and the U.S. border while upholding U.S. legal and humanitarian commitments. Congress—and over the longer term, the next administration—must push real solutions.

Address the actual causes of forced displacement in Honduras, Guatemala, and El Salvador

The United States should launch a targeted long-term regional initiative, partnering with committed governments and civil society actors, to leverage principled diplomacy and effective aid to safeguard human rights, reduce violence, combat corruption, improve governance, promote economic opportunities and facilitate climate change adaptation. Revising prior strategies for engagement with Central America along the lines outlined below, this initiative should strengthen protections for women, children, LGBTQ people, and other persons now forced to flee the region in search of protection.

The United States should:

- **Strengthen U.S. diplomacy to counter corruption, human rights abuses and other factors that contribute to displacement from Guatemala, Honduras, and El Salvador** including:
 - Press for steps to strengthen the rule of law, judicial systems, and the protection of children, women, and indigenous and LGBTQ persons;
 - Support reformers and anti-corruption figures, within and outside government, and international anti-corruption mechanisms, including pressing for continuing the mandates of, and strengthening, the CICIG in Guatemala and the MACCIH in Honduras—which are key to addressing corruption at all levels;
 - Stand up for human rights, environmental, indigenous, LGBTQ, women’s and other rights defenders who are pressing their countries to better protect people, including

to press these governments to investigate and prosecute state officials implicated in attacks or threats against defenders; and

- Insist that governments address abuses by security forces and continue efforts to strengthen civilian police forces.
- **Leverage aid to support well-targeted, effective programs preventing and countering violence, strengthening justice systems, combating corruption, defending human rights, and reducing violence, poverty, and climate displacement.** The United States should support programs that increase capacity to respond to violence against women and girls, reduce impunity for sexual and gender-based violence, safeguard children from gangs and reduce crime and violence through community-based initiatives, provide job training and other opportunities for youth at risk of gang recruitment, and support well-trained, well-resourced, and accountable child protection and education systems. Programming directed at reducing violence should include both violence response and prevention elements. Rather than cutting assistance, the United States should significantly increase the capacity of community-based initiatives to reduce violence and impunity for crimes. For instance, some reports indicate progress by some community-based violence prevention initiatives in Honduras, programs (cut by the Trump Administration in July 2017) that helped Guatemalan farmers adapt to climate change through diversification of crops and other strategies, as well as programs that strengthen justice systems. Curbing impunity and corruption are crucial steps toward increasing economic growth and reducing poverty. U.S. assistance should also support offices and initiatives of the UN High Commissioner for Human Rights, the Organization of American States (OAS), and independent anti-corruption mechanisms in these countries.

In providing this foreign assistance, the United States should enforce conditions to protect human

rights and address corruption, consult with civil society in these countries, focus on the effective use of assistance to ensure the implementation of impactful programming, and provide sustained aid to achieve results. The United States should also refrain from imposing infrastructure initiatives without consultation that can hurt local communities or support human rights violators. Programs that demonstrate success in protecting people, reducing violence and displacement, and providing economic opportunities to those in need should be scaled up. More detailed steps are outlined in a [comprehensive set](#) of recommendations developed by a group of organizations with regional expertise.

- **Strengthen aid and diplomacy to enhance the protection of, and solutions for, people who are internally displaced** within these countries. In addition to rights to education and basic services, aid and diplomacy should support the provision of safe shelter for internally displaced people, as well as other protections, for at-risk victims of violence who are displaced, including girls, women and LGBTQ persons.
- **Support effective programs that help reintegrate people returning to their home countries through sustained programming** that addresses psycho-social, education, skills training, and employment needs, particularly for children and families, to reduce the risks that they will be targeted for violence, forced to flee, or otherwise be displaced again. Existing return and reintegration programs that are demonstrating a high degree of success in helping people remain home rather than re-migrating should be supported and expanded. For more detail, recommendations for safe repatriation and sustainable reintegration are detailed in this [paper](#).

Expand and Strengthen asylum and refugee-hosting capacity in other countries

In addition to fleeing to the United States, Central American refugees are seeking asylum in [other countries](#) as well, including to Mexico, Costa Rica,

Belize, and Panama. Asylum filings in Mexico, for example, increased by over [seven hundred percent](#) since 2014. (Some countries in the region are also hosting large numbers of refugees from Venezuela and Nicaragua.) Additional support would strengthen the ability of countries in the region to continue to accept refugees. At the same time, migrants and refugees face acute risks of kidnapping, disappearance, sexual assault, trafficking, and other grave harms in Mexico as well as in other countries. If other countries build rights-respecting systems, and protect the safety of refugees staying there, more refugees will be able to choose to seek protection in those countries. The United States should:

- **Sharply increase support for regional refugee protection and the UN Refugee Agency (UNHCR) to increase asylum and refugee-hosting capacity in [Mexico](#)**, Costa Rica, Panama, Belize, and other countries including:
 - Develop strong asylum and refugee protection systems in Mexico and other countries. For instance, Mexico's asylum agency (COMAR) needs to build national reach through the addition of offices, particularly in northern states and major cities, and to add staff to handle growing caseloads and adjudicate cases in a timely manner. Mexican asylum cases should be adjudicated in the time period established under Mexican law. Support for legal representation is also critical.
 - Support shelters and other refugee-hosting capacity in the region, including open door shelters with specialized capacity for vulnerable populations including women, unaccompanied children, and LGBTQ asylum seekers.
 - Advance initiatives that help protect and assist refugees to live, work, and integrate in communities in the region.
 - Encourage reforms that ensure refugees are actually granted asylum, rather than it denied or delayed due to flaws in the system. The

United States should support training and oversight so that refugees are not unfairly refused asylum in Mexico, including through mistaken conclusions that persecutors do not have the ability to harm their targets throughout their home country, and that gender-based cases or those involving the protection of children are properly handled.

- **Firmly support access to asylum and protection in Mexico and throughout the region.** The United States, which provides significant funding to Mexican government border enforcement activities, should support Mexico's efforts to increase training of migration officers to better identify and refer asylum seekers for refugee processing, rather than deporting them and dissuading them from applying for asylum. The United States should also support and encourage the expansion of alternative measures for individuals who apply for asylum in Mexico, rather than the use of detention, which often discourages the filing of asylum applications in Mexico. The United States should not encourage the detention of children, which is prohibited under Mexican law. The United States should require, as a precondition for any assistance to Mexico for migration or border enforcement, that Mexico demonstrate that its migration officers are fully screening migrants for protection concerns and referring them to COMAR, and that allegations of abuse or human rights violations of migrants and asylum seekers are promptly and thoroughly investigated. Border security assistance should not go to support either the involvement of Mexican security forces in migration enforcement or abusive migration enforcement agencies. While UNHCR support to COMAR is critical, the United States should also encourage the Mexican government to fund and dramatically expand the capacity and size of COMAR to provide timely and fair processing.
- **Make the safety and protection of refugees and migrants a top priority in the U.S.-Mexico relationship,** leveraging diplomacy, law enforcement cooperation, and rule of law

assistance to reduce violence against migrants and refugees in Mexico and greatly improve their rights protections in the country. The United States should provide technical assistance on investigating and prosecuting transnational crimes against migrants and searching for disappeared migrants. In addition, the United States should continue its foreign assistance support for judicial reform, the rule of law, and anti-corruption efforts in Mexico. It should also discuss with the Mexican government ways to support Mexico's efforts to strengthen internal and external controls over security forces and migration agents who often collude with criminal organizations targeting migrants for kidnappings and violence. The United States should also expand support for the Mexican and other offices of the High Commissioner for Human Rights which monitor and help address human rights violations including violence against migrants and refugees.

- **Launch a regional resettlement initiative as is done in other major refugee situations and facilitate alternative legal pathways for others with humanitarian needs.** Working with the UN Refugee Agency and other resettlement countries, the United States should lead a bold regional strategy to bring some refugees to safety through safe and orderly routes. To succeed, the United States must resettle significant numbers in a timely manner, forge a multi-year commitment along with other resettlement countries, and recognize the claims of refugees from Central American countries – including those whose persecution claims relate to deadly gangs or domestic violence - with an acceptance rate commensurate with the gravity of their protection needs. This initiative must not undermine the development of asylum systems in Mexico and other countries and must safeguard access to asylum for those who flee to seek protection at the U.S. border. Key steps include:
 - Create a P-1 priority resettlement initiative for refugees from Honduras, Guatemala, and El Salvador who have fled their home countries.

Resettlement processing centers should be located in Mexico and other countries to which these refugees have fled. Such an initiative should resettle vulnerable cases, including unaccompanied children, women at risk, LGBTQ persons, and refugees facing acute danger or risk in the country where they are currently staying. The United States should improve the pace of its resettlement processing and strengthen support for UNHCR's efforts to provide protection to at-risk refugees as they await resettlement processing.

- Secure commitments from a larger number of resettlement countries—both inside and outside the region—to resettle significant numbers of Northern Triangle refugees. To encourage other countries to join this effort, the United States must remedy its failure and refusal to recognize and provide protection to many Central American refugees, including women who have suffered sexual or gender based violence and families and children fleeing forced recruitment or extortion by violent gangs.
- Continue to focus on identification of extremely urgent protection cases inside the three Northern Triangle countries but, given the acute dangers facing at-risk people in these countries, the United States should expand support for the emergency transfer of people in danger. Without strong emergency evacuation capacity, this “in-country” effort must remain limited.
- This resettlement initiative should not replace resettlement of refugees from other parts of the world. Instead, the overall presidential determination should be substantially increased so that the United States can resettle refugees from various parts of the world commensurate with global needs. A stronger global U.S. resettlement program will expand protection for refugees around the world, supporting the front-line countries

that continue to host the overwhelming majority of the world's refugees.

- Launch an enhanced initiative to bring children who are in danger in the Northern Triangle countries to safety in the United States through an orderly program that provides them with permanent protection, and ensure emergency transit or transfer mechanisms are available for children in danger during processing.
- Resettle refugees with family in the United States by creating a priority resettlement category for nationals of Honduras, Guatemala, and El Salvador with approved I-130 relative petitions.
- **Create a contingency fund to be prepared to surge the capacity of agencies to respond** to refugee and humanitarian challenges when there are increases in refugee and protection needs, perhaps by amending the Emergency Refugee and Migration Assistance (ERMA) account. Support other humanitarian and visa programs that provide opportunities for migration and adhere to international standards and laws.
- **Combat smuggling and trafficking in the region while safeguarding access to protection.** U.S. agencies must ensure anti-smuggling and anti-trafficking efforts do not punish victims or block escape from dangerous countries. These efforts must include measures to safeguard human rights and access to asylum. By strengthening asylum, resettlement, and work visas in the region, more people will have alternate routes to protection.

Manage U.S. asylum arrivals effectively through a genuine humanitarian response that upholds U.S. law and provides order

The Trump Administration is utterly mismanaging the arrival of families with humanitarian and protection needs at the border. The Department of Homeland

Security (DHS) is spurring crossings between ports of entry by cutting asylum processing at official ports of entry, separating families, failing to adequately care for children in its custody, canceling effective case management systems, and illegally returning thousands to danger in Mexico. Instead of this dysfunction, the United States can and must manage the arrival of families seeking refugee protection. Steps include:

- **Restore timely and orderly asylum processing at ports of entry and ensure humane conditions at all DHS facilities.** Customs and Border Patrol (CBP) must create special processing centers for children and families, appropriately staffed to ensure adequate care and screening, and humane conditions appropriate for processing asylum seekers and migrants at all its facilities. After this initial processing and vetting, asylum cases should be effectively managed—through case management initiatives and timely and fair case decisions, as detailed below—rather than through costly and inhumane mass detention.
- **End border policies that endanger refugees, create chaos, and violate U.S. law and treaties.** The Trump Administration, DHS, and the next administration must end the Remain in Mexico scheme, as well as “metering” policies that encourage crossing between ports of entry and put the lives of asylum seekers at risk as they wait in dangerous conditions in Mexico. Similarly, the United States must stop attempts to designate Mexico a “safe third country;” given the deficiencies in its asylum system and the dangers refugees face there, Mexico does not meet the applicable legal standards. In addition, the United States must end the separation of families, asylum bans, criminal prosecutions relating to entry and presence that violate due process and the Refugee Convention, and other policies aimed at punishing, deterring, or blocking people from seeking refuge in the United States. Not only do these cruel and costly policies violate U.S. law and refugee protection treaties, but they discourage other countries

from upholding their own refugee protection responsibilities.

- **Surge humanitarian resources through a cost-effective public private initiative that supports NGOs and shelters in the United States.** As in refugee responses around the world, humanitarian needs should be met by galvanizing and supporting a network of organizations, such as faith-based organizations, the American Red Cross, legal non-profits, and refugee assistance agencies with offices across the country. Several faith-based groups and shelters, as well as refugee agencies, are already providing crucial assistance to new arrivals, but they are overstretched. At these shelters and sites, refugees should be given information about their immigration appearance obligations (through proven Legal Orientation programs, described below), referred for medical services, trauma support, and legal representation, and registered into a case management program with offices in the location where they will be staying.
- **Launch a community-based case management program that actually manages cases and supports appearance.** A DHS advisory committee recommended community-based case management programs, rather than detention. Effective case management programs support asylum seekers and migrants to attend required immigration appointments and court hearings, assist them to find legal representation and refer them to medical, trauma-related or other resources to tackle difficulties that, if not addressed, could otherwise derail people from appearing for immigration appointments. DHS’s Family Case Management Program demonstrated tremendous success—with a 99 percent appearance rate for hearings—when it was piloted from January of 2016 to June of 2017. More fiscally prudent than detention, the program cost about \$38 a day per family while family detention costs almost \$320 a day per person. Similarly, legal representation also leads to a 97 percent appearance rates for immigration hearings.

- **Safeguard families and other asylum seekers from arbitrary, unjust, and costly incarceration**, upholding *Flores* limits on the length of time families can be detained and overturning Trump Administration actions that tie the hands of immigration judges by preventing them from issuing bonds to asylum seekers, as is regularly done in other judicial systems. Regulatory changes to assure bond hearings (with affordable bonds) for all asylum seekers are more necessary than ever, along with effective use of parole, as the Trump Administration is subjecting many more adult asylum seekers to lengthy and prolonged detentions. As the American Academy of Pediatrics explains, detention harms children. Medical studies also confirm that detention harms the health of asylum seekers, and that these harms escalate the longer asylum seekers are detained.

Upgrade the asylum and immigration court systems, providing timely and fair decisions, and reverse policies that rig the system

The Trump Administration is also mismanaging the immigration courts and asylum system, eliminating safeguards against politicized hiring, encouraging adjudicators to deny cases by falsely painting them as meritless and fraudulent, and spurring the growth of backlogs through its mishandling of court dockets. Instead, the long-term disparity between escalating enforcement resources and lagging adjudicatory resources must be righted, and the steps outlined below should be taken to ensure fair, effective and timely adjudications. Steps include:

- **Fix the immigration court system and increase the number of immigration judges and their support teams to provide timely and fair adjudications for asylum cases.** About 30 to 40 percent of the court's docket is estimated to be asylum cases. Reforms should secure due process, judicial independence, and timely hearings, while ensuring that political

appointees can no longer attempt to improperly influence the courts' decisions in asylum and other cases. Key steps include:

- Implement safeguards against politicized hiring, restoring the role of career professionals in final decisions;
 - Increase court staff, interpreters (including those who speak indigenous dialects to assure accurate hearings and prevent continued adjournments), and judges through fair and objective hiring;
 - Transform the courts into independent Article I courts, as the American Bar Association and other legal groups recommend; and
 - Terminate Trump Administration policies that pressure judges to deny asylum cases. Rather than rushed rocket-dockets, asylum adjudications must allow sufficient time to gather evidence for hearings and provide timely resolution of cases (both asylum grants, and removals of those denied relief).
- **Support a major legal representation initiative to ensure eligible refugees receive protection at the earliest stages of the process.** Not only do asylum seekers who have legal representation appear for their hearings at near perfect rates, but they are also much more likely to be granted relief, reducing the number of cases that need to be appealed to correct mistaken decisions. Government funding for appointed counsel will safeguard due process and promote accurate adjudications. Funding should also support the leveraging of private sector pro bono initiatives and universal legal orientation presentations (LOPs)—including for families released from DHS/CBP custody—to explain appearance obligations, the legal system, and how to secure counsel. These programs make the system run more efficiently and are cost-effective.
 - **Surge asylum officers to conduct screening and asylum interviews:**
 - The Trump Administration plan to rig the system by attempting to rewrite credible fear

screening standards and having Border Patrol officers, instead of trained United States Citizenship and Immigration Services (USCIS) asylum officers, conduct these assessments—to determine whether people meet the legal standards to demonstrate a “significant possibility of establishing eligibility for asylum ...”—must be abandoned.

- In addition, allow more cases to be granted efficiently at the USCIS asylum office by providing initial decision-making authority to the asylum office in all asylum cases, reducing the number of cases referred for immigration court removal proceedings while preserving the right of those denied asylum to pursue their claims when subsequently put into removal proceedings. Ensure that children who enter the country unaccompanied have their cases heard initially at the asylum office instead of in removal proceedings.
- Assure the availability of an application process for “cancellation of removal” relief so these cases do not clog the asylum system, and a formal process should be created to request expedited asylum interviews for asylum seekers facing pressing humanitarian challenges, such as family stranded in danger.
- **Reverse Trump Administration efforts to prevent refugees from receiving asylum in the United States**—including former attorney general Jeff Sessions’ ruling to deny protection to women and children who are fleeing domestic violence and families and children escaping from deadly gangs that control territories—and repeal barriers that unjustly block refugees from asylum and subject them to detention and other punitive treatment.
- **Uphold laws that protect children and prohibit return of refugees to persecution.** Preserve procedural protections for children that are contained in the Trafficking Victims Protection Reauthorization Act (TVPRA) and *Flores*, which provide vulnerable children with

the support needed to articulate their reasons for seeking safety. Assure that unaccompanied Mexican migrant children are provided the same right to access protection in the United States as other migrant children by transferring the responsibility to screen them from CBP to a government agency with expertise in child welfare and the identification of victims of trafficking and persecutions, such as the Office of Refugee Resettlement.

- **Strengthen protections for other at-risk populations**—including individuals with Temporary Protected Status and DACA recipients. For individuals who face life-threatening harms that are not covered by asylum law, such as people forced to flee across borders due to climate change, work with Congress on complementary humanitarian protections.