

# What to Know about Asylum

*Platform, Talking Points, and Policy Asks*



Welcome the stranger.  
Protect the refugee.

## Platform

Asylum seekers are people who leave their homes to escape persecution, torture, and extreme violence and come to the U.S. to seek safety and protection. Asylum is a fundamental human right protected by both international and domestic law. Despite these legal protections, over the past few years the U.S. has attempted to rewrite the rules and issue asylum guidance aimed at punishing, deterring, and harming those seeking safety in the U.S.

Today, asylum seekers face numerous obstacles, including complex immigration laws and bans that prevent individuals from seeking protection. Instead of following the rule of law, asylum policies have focused on closing the door on asylum seekers, criminalizing them, denying them due process, and ultimately sending them away. These policies ignore the fundamental purpose of asylum protection - that anyone from anywhere can come to the U.S. in any way to seek safety. The zero-tolerance policy which tore families seeking safety apart, the widespread use of mandatory detention for individuals and families, and recommendations to criminally charge people for seeking asylum are evidence that the U.S. is trying to skirt responsibility and make seeking protection as painful a process as possible. The U.S. must invest in a fair, humane, and efficient asylum process that respects the rights and dignity of asylum seekers.

### RELOCATING ASYLUM SEEKERS

The United States is currently preventing tens of thousands of people from entering the U.S. to seek asylum safely, as is required by both U.S. law and international treaties. Metering, one such measure, requires that asylum-seekers put their name on unofficial waiting lists at ports of entry and then wait their turn in line to apply for asylum. The “Remain in Mexico” policy has forcibly returned nearly 60,000 individuals to Mexico, where they must wait until their asylum hearing. Asylum Cooperative Agreements (ACA) which the U.S. pressured Guatemala, El Salvador, and Honduras into joining, now allow the U.S. to skirt its obligation to process asylum seekers, instead forcing individuals to seek asylum in these countries, which are significantly less safe for migrants. Similarly, a number of other policies bar individuals from asylum protections based on how they enter the U.S. or whether they have requested asylum in another country. All of these policies violate U.S. asylum laws. Under these laws, individuals seeking protection have the right to remain in the U.S. while their asylum claim is adjudicated to wait safely without fear of being returned to their country of origin.

All of these bans are illustrative of the U.S. abdication from global leadership in refugee protection. In order for the U.S. to once again be a country that values rule-of-law and the rights and dignity of people seeking safety, these policies must be rescinded. Keeping them in place means that individuals and families will be forced to wait in dangerous situations, seek humanitarian protection in other countries

ill-equipped to offer adequate protection, or be returned to their home country in spite of their well-founded fear of persecution - all clear violations of the law.

The U.S. asylum system is the result of 70 years of legislation, court precedent, international agreements, and administrative rulemaking. For decades the system while not perfect, fairly and effectively processed asylum requests in a humane way. Elected officials must be ready to push for investment in making the system better and to ensure that the U.S. upholds the fundamental right to seek safety.

## DENYING DUE PROCESS

One key way that the U.S. is punishing asylum seekers is to deny them one of our most basic rights: due process. The zero-tolerance policy, Migrant Protection Protocols, ACAs, and many others, place insurmountable safety and logistical barriers in the way of asylum seekers trying to obtain legal counsel. Attorneys continue to find it increasingly difficult to identify, screen, and advise potential clients who are in the Remain in Mexico program. For the few asylum seekers who do secure counsel, their circumstances make it nearly impossible to effectively communicate with their lawyers while they are in Mexico and during the brief periods they are allowed into the United States for court proceedings. This is similarly true for asylum seekers who are subjected to policies that cut them off from accessing legal counsel and rush them through processing at the U.S.-Mexico border. Without time and only limited access to phone calls, asylum seekers subject to this rushed process are effectively precluded from receiving support or legal advice. Due process is a cornerstone of the American constitution. For asylum seekers, access to fair legal proceedings and a lawyer can mean the difference between being granted asylum and being allowed to remain in the United States, or being returned to the countries and dangerous situations from which they fled.

## Talking Points

When speaking with candidates, always have a few key talking points on hand. Start with these:

1. **It is legal to seek asylum.** Under both U.S. and international law, the U.S. must hear the claims of asylum seekers, regardless of how they entered the country.
2. Our nation's immigration laws include provisions that allow asylum seekers to remain in the U.S. while their claim is being adjudicated. Those seeking safety in the U.S. should not be forced to wait in unsafe and uncertain circumstances in any other country.
3. We have legal protections for asylum seekers that are the result of 70 years of legislation, court precedent, international agreements, and administrative rulemaking.
4. We need practical solutions that restore our place as the world's humanitarian leader, respect due process, and show compassion for people fleeing persecution. America has the capacity to process asylum claims while treating people humanely and with respect for their basic human dignity.

5. People seeking asylum in our country are seeking safety and are fleeing danger, violence, and persecution. Any one of us would want to know that if our families ever faced hard times and were forced to make the difficult choice to leave our homes, we would have the right to do that, and to seek safety elsewhere.
6. The U.S. is capable of processing the claims of asylum seekers arriving at our borders - and did so in a fair and effective manner for decades. Customs and Border Protection should be focused on restoring orderly asylum processing and investing in improving our asylum system by hiring more immigration judges to address the court backlog, and training asylum officers.<sup>1</sup>
7. Asylum seekers coming to the U.S. are not a threat to our national security. The men, women, and children arriving at our borders have fled their homes to escape violence, and have come to the U.S. to find safety - not to do harm.
8. Policies meant to deter, block, or punish individuals seeking safety in the U.S. are illegal. Turning asylum seekers away or deliberately slowing down asylum processing at ports of entry places asylum seekers in an increasingly more precarious and dangerous situation.
9. Detaining asylum seekers is harmful. Detention impedes people's ability to access legal counsel which significantly limits their due process, and can have lasting impacts on families who have already suffered great trauma.<sup>2</sup>
10. Asylum seekers in the U.S. undergo rigorous security screening. After filing an application for asylum, they are required to have a biometric service appointment where fingerprints and other biographic data are collected. The FBI also checks its Universal Index for information about any criminal background. Security checks are valid for 16 months, at which point, they run again.
11. Families should not be punished for trying to protect themselves. Any policies that call for children to be separated from their parents or for families to be detained must be ended.
12. In response to the outbreak of COVID-19, the Administration closed the U.S.-Mexico border, stopped the entry of asylum seekers, and allowed for U.S. border agents to return anyone trying to cross the border to Mexico with no formal processing.

### **POLICY SPECIFIC TALKING POINTS**

1. The Administration has signed unsafe third-country agreements with the governments in Guatemala, El Salvador, and Honduras that allow the United States to remove asylum seekers,

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<sup>1</sup> Human Rights First (2018), *Refugee Blockade: The Trump Administration's Obstruction of Asylum Claims at the Border*

<sup>2</sup> Women's Refugee Commission (2018), *The Harm of Family Detention*

sending them to one of these countries to seek protection instead. In these countries asylum seekers will face significant hardships in finding safety. The U.S. must not outsource asylum.

2. The Administration has barred individuals from asylum protections for failing to apply for asylum in another country prior to arriving in the United States. This effectively bans nearly all asylum seekers arriving along the U.S.-Mexico border, including Central Americans, Cubans, and Africans, from seeking safety in the U.S.
3. Forcing asylum seekers to wait in Mexico for their immigration court hearing is illegal under U.S. immigration laws. The Migrant Protection Protocols, or Remain in Mexico program, violates the rights of asylum seekers and forces them into dangerous situations. Under U.S. law, asylum seekers are entitled to wait for their asylum hearings safely in the U.S.
4. Detaining asylum seekers is harmful and in many cases, unnecessary. Detention impedes people's ability to access legal counsel which significantly limits their due process, and can have lasting impacts on families who have already suffered great trauma.
5. There should be an emphasis on implementing successful alternatives to detention instead of circumventing and dismantling laws that keep families together and prevent the long-term detention of children. Families seeking protection deserve due process, which includes having their cases heard in a fair and expeditious manner.

## ASKS FOR CANDIDATES

When speaking with candidates, always make a few direct asks:

1. Support administrative policies that uphold the fundamental right for asylum seekers to have access to a safe, humane and legal asylum system.
2. Call for a rescission of the Migrant Protection Protocols, the varied Asylum Cooperative Agreements, and policies that ban individuals from accessing asylum protections based on how they arrive in or travel to the United States.
3. Permanently end any form of family separation and stop the expansion and use of family detention.
4. Prioritize rule of law and restore a fair and humane process for all asylum seekers who arrive at our borders to seek protection.

5. Rescind all policies that restrict access to asylum, including metering, Remain in Mexico, the Asylum Cooperative Agreements with Guatemala, Honduras, and El Salvador, and any bans on asylum due to manner of entry or transit through other countries.
6. End the use of detention for asylum seekers. Rebuild and utilize community-based alternatives to detention like the Family Case Management Program, releasing asylum seekers who have a sponsor and pose no community safety risk
7. Access to counsel is critically important as asylum seekers, especially children and detained individuals, navigate the complex immigration system. The U.S. should work to expand Legal Orientation Programs and access to Know Your Rights (KYR) Presentations and should immediately end policies that inhibit or block asylum seekers - detained and non-detained - from speaking with an attorney.