



## **Statement for the Record**

### **The House Committee on the Judiciary Subcommittee on Immigration Integrity, Security, and Enforcement “The Biden Border Crisis: Part III”**

**May 23, 2023**

At the National Immigration Forum, we appreciate the opportunity to contribute to Congress’s discussions of federal immigration policy, with a focus on real-world, pro-immigrant solutions. Founded in 1982, the Forum has a long history of recognizing and advocating for the value of immigrants and refugees in the United States. We work alongside coalitions and constituencies as diverse as the nation itself, including faith leaders, law enforcement, business owners, and others who have a vested interest in the future of U.S. immigration writ large.

We believe that welcoming newcomers is a core American value, and we appreciate the opportunity to spotlight the kinds of policies related to immigration and border security that enjoy broad, bipartisan support.

Americans across the political spectrum take great pride in our heritage as a nation of immigrants. Less recognized, however, is that the U.S. has also fundamentally been shaped by its role as a refuge for those escaping danger.

For most of U.S. history, people faced with violence, persecution, torture, and death in their homelands have turned to our country for protection. Even before our founding fathers formed a “more perfect union,” Puritans fleeing religious repression in Europe famously founded a “city upon a hill” in New England. Centuries later, the first major migration of Mexicans to the U.S. largely consisted of asylum seekers, as the Mexican Revolution pushed hundreds of thousands of people northward in search of safety.<sup>1</sup>

Then, during decades of Cold War, the U.S. welcomed large numbers of forcibly displaced Hungarians following a failed revolt against communism, Cubans after their

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<sup>1</sup> John Weber, *From South Texas to the Nation: The Exploitation of Mexican Labor in the Twentieth Century* (Chapel Hill, NC: University of North Carolina Press, 2018), 23-24.

country fell to dictatorship, and Vietnamese allies escaping conflict.<sup>2</sup> In these and other moments, Americans have embraced our nation’s nonpartisan tradition of accepting vulnerable people from far and wide and allowing them to reach their full potential here — likely because so many of us see similarities between our own ancestors’ stories and the lived experiences of these newcomers.

Meanwhile, Americans have witnessed what happens when policymakers reject this tradition of welcome. In fact, part of why our contemporary asylum system exists today is in response to myriad humanitarian failures before and during World War II, when the U.S. infamously sent Jewish asylum seekers back to Europe amid the Holocaust.<sup>3</sup> And even after the U.S. enacted our contemporary asylum protections, the federal government has at times failed to live up to its promises. For example, officials refused to afford refuge to many Guatemalans and Salvadorans escaping war and persecution in the 1980s, detained Haitians at Guantanamo Bay and returned them to terrible conditions in the 1990s, and most recently — under the Title 42 public health order — expelled asylum seekers en masse without the opportunity to claim protection.<sup>4</sup> Now, our Afghan allies who have trekked through the Darién Gap between Colombia and Panama to reach our country reportedly feel abandoned as they face all but insurmountable obstacles to access safety and stability stateside.<sup>5</sup> Given this painful legacy that has continued into the present day, we urge Congress to stop repeating these

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<sup>2</sup> Jorge Duany, “Cuban Migration: A Postrevolution Exodus Ebbs and Flows,” migrationpolicy.org, May 11, 2021, <https://www.migrationpolicy.org/article/cuban-migration-postrevolution-exodus-ebbs-and-flows>; “Operation Safe Haven: The Hungarian Refugee Crisis of 1956,” USCIS, December 14, 2022, <https://www.uscis.gov/about-us/our-history/history-office-and-library/featured-stories-from-the-uscis-history-office-and-library/operation-safe-haven-the-hungarian-refugee-crisis-of-1956>; Jeanne Batalova and Laura Harjanto, “Vietnamese Immigrants in the United States,” migrationpolicy.org, October 15, 2021, <https://www.migrationpolicy.org/article/vietnamese-immigrants-united-states>.

<sup>3</sup> Andrew Ian Schoenholtz, Jaya Ramji-Nogales, and Philip G. Schrag, *The End of Asylum* (Washington, DC: Georgetown University Press, 2021), 6-7; “Voyage of the St. Louis,” Encyclopedia.USHMM.org (United States Holocaust Memorial Museum, July 12, 2021), <https://encyclopedia.ushmm.org/content/en/article/voyage-of-the-st-louis>.

<sup>4</sup> A. Naomi Paik, “US Turned Away Thousands of Haitian Asylum-Seekers and Detained Hundreds More in the 90s,” *The Conversation*, October 25, 2022, <https://theconversation.com/us-turned-away-thousands-of-haitian-asylum-seekers-and-detained-hundreds-more-in-the-90s-98611>; Robert Tomsho, *The American Sanctuary Movement* (Austin, TX: Texas Monthly Press., 1987).

<sup>5</sup> Julie Turkewitz and Federico Rios, “The U.S. Left Them Behind. They Crossed a Jungle to Get Here Anyway,” *The New York Times*, May 21, 2023, [https://www.nytimes.com/2023/05/21/world/americas/darien-gap-afghan-migration.html?unlocked\\_article\\_code=FBAltBEjXaxrXTnJPhDl5WEswh6KDor7MyFOL7cbchwzRUIU9ET\\_BHoMETFbGt-JxPUfcubyqXF8-ION5CZl9uFQ\\_YBrNrGgEO-bKCzOFGShRWvE7YiQ2-PKSNxo6G58k427hegMpZ2Rze8z9waL-D1E8Ii3IT8IS8WKqswb6o8zoKKbXnWCGwSS67K-n2jOWfOY8n9MFHN-JmWMVkyvg7aHG3NvvtS3oBdCCCE6rEBHKATMBYUQUe4pMtPV5S9YfxuLwQpwJjfxrWRjmsJMoRFV\\_-SG2XBYBOhdwGN-VmaoLbVIK2JNNA1nEnpblZbcDe5Wdi1IBh\\_dCOinrCgpMS5tWznqg7pamP\\_VHg&smid=url-share](https://www.nytimes.com/2023/05/21/world/americas/darien-gap-afghan-migration.html?unlocked_article_code=FBAltBEjXaxrXTnJPhDl5WEswh6KDor7MyFOL7cbchwzRUIU9ET_BHoMETFbGt-JxPUfcubyqXF8-ION5CZl9uFQ_YBrNrGgEO-bKCzOFGShRWvE7YiQ2-PKSNxo6G58k427hegMpZ2Rze8z9waL-D1E8Ii3IT8IS8WKqswb6o8zoKKbXnWCGwSS67K-n2jOWfOY8n9MFHN-JmWMVkyvg7aHG3NvvtS3oBdCCCE6rEBHKATMBYUQUe4pMtPV5S9YfxuLwQpwJjfxrWRjmsJMoRFV_-SG2XBYBOhdwGN-VmaoLbVIK2JNNA1nEnpblZbcDe5Wdi1IBh_dCOinrCgpMS5tWznqg7pamP_VHg&smid=url-share).

mistakes and instead honor the U.S.'s longstanding commitment to humanitarian protections.

Amid large-scale global migration — including within the Western Hemisphere — we understand that U.S. policymakers are grappling with how to respond to the number of vulnerable individuals and families arriving at the country's southern border. At the same time, divisive rhetoric portraying migrants fleeing harm as “invaders” and public safety threats feeds false narratives, which in turn make it harder for lawmakers to work together and find actual solutions.

Migrants and asylum seekers are not mounting an “invasion,” and they should not be demonized as criminals or drug smugglers. The overwhelming majority of those coming to our borders are simply seeking a better life, with many fleeing violence and danger in their home countries. As policymakers consider how to reform our asylum system, they must work to uphold the U.S.'s history as a haven for those facing persecution.

Lawmakers should address the situation at our southern border as a symptom of what is truly broken: our immigration system. Because Congress has failed for decades to enact the bipartisan, pro-immigrant reforms Americans support, vulnerable people are being forced to make life-threatening treks north so they can exercise their legal right to claim asylum.<sup>6</sup> For many of these humanitarian migrants arriving at the southern border, no other viable pathway to the U.S. exists under current law.<sup>7</sup> If a solution is to be sustainable, that must change.

### **Irregular Migration at the U.S.-Mexico Border**

Last year, the United Nations High Commissioner for Refugees announced that — for the first time on record — more than 100 million people worldwide had been forced to flee their homes.<sup>8</sup> In the Western Hemisphere specifically, survivors trying to escape gender-based violence, gang activity, political instability, poverty, and climate-related disasters have been displaced in a regional diaspora, evinced by the high number of

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<sup>6</sup> Julie Turkewitz, “In a Brutal Jungle, Small Acts of Kindness,” *The New York Times* (*The New York Times*, November 23, 2022), <https://www.nytimes.com/2022/11/23/insider/in-a-brutal-jungle-small-acts-of-kindness.html>; “8 U.S. Code § 1158 - Asylum,” *Law.Cornell.Edu* (Legal Information Institute), accessed December 11, 2021, <https://www.law.cornell.edu/uscode/text/8/1158>.

<sup>7</sup> “Why Don't Immigrants Apply for Citizenship? There Is No Line for Many Undocumented Immigrants,” *American Immigration Council*, October 7, 2021, <https://www.americanimmigrationcouncil.org/research/why-don%E2%80%99t-they-just-get-line>.

<sup>8</sup> “100 Million People Forcibly Displaced,” *UNHCR Refugee Statistics*, accessed March 2, 2023, <https://www.unhcr.org/refugee-statistics/insights/explainers/100-million-forcibly-displaced.html>.

asylum claims filed recently in other countries such as Colombia, Costa Rica, and Mexico.<sup>9</sup>

Amid this large-scale humanitarian migration across the Americas, the U.S. has experienced demographic shifts in the migrants coming to its southern border. For years, the bulk of those migrants were single adults, many from Mexico, often hoping for work to improve their lives. But over the last decade, encounters with U.S. immigration officers have increasingly involved children and families in search of protection.<sup>10</sup> More recently, those arriving at the U.S.-Mexico border have also started to represent a truly heterogeneous set of nationalities, as desperate people from countries such as Venezuela and Nicaragua — or even farther afield, including those fleeing authoritarian governments in China and Afghanistan — take life-threatening journeys in hopes of safety and opportunity stateside.<sup>11</sup>

When these humanitarian migrants finally reach the U.S., they often exercise their statutory right to ask for asylum, as permitted under domestic and international law.<sup>12</sup> They seek protection because many of them will in fact qualify for asylum. Others who

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<sup>9</sup> Arturo Castellanos-Canales, “The Reasons behind the Increased Migration from Venezuela, Cuba, and Nicaragua,” National Immigration Forum, February 13, 2023, <https://immigrationforum.org/article/the-reasons-behind-the-increased-migration-from-venezuela-cuba-and-nicaragua/>; Ariel G. Ruiz Soto et al., “Charting a New Regional Course of Action: The Complex Motivations and Costs of Central American Migration,” migrationpolicy.org (The Migration Policy Institute, November 2021), [https://www.migrationpolicy.org/sites/default/files/publications/mpi-wfp-mit\\_migration-motivations-costs\\_final.pdf](https://www.migrationpolicy.org/sites/default/files/publications/mpi-wfp-mit_migration-motivations-costs_final.pdf); “Costa Rica,” Global Focus (The United Nations High Commissioner for Refugees), accessed March 6, 2023, <https://reporting.unhcr.org/costarica#:~:text=By%20the%20end%20of%202021,of%20new%20individual%20asylum%20claims>; Rosa Flores, “Mexico Rethinks Asylum Initiative After Controversial US Announcement,” CNN (Cable News Network, February 25, 2023), <https://www.cnn.com/2023/02/24/americas/mexico-asylum-policy-intl-latam/index.html#:~:text=Mexico%20has%20received%20a%20surge,January%202022%2C%20the%20data%20shows>; Arturo Castellanos-Canales, Clara Villatoro, and Alexandra Villarreal, “The Implications of the Biden Asylum Rule in Mexico, Costa Rica, Colombia, and the Northern Triangle Nations,” National Immigration Forum, May 10, 2023, <https://immigrationforum.org/article/the-implications-of-the-biden-asylum-rule-in-mexico-costa-rica-colombia-and-the-northern-triangle-nations/>.

<sup>10</sup> “Fiscal Year 2020 Enforcement Lifecycle Report,” DHS.gov (The Department of Homeland Security, December 2020), [https://www.dhs.gov/sites/default/files/publications/immigration-statistics/Special\\_Reports/Enforcement\\_Lifecycle/2020\\_enforcement\\_lifecycle\\_report.pdf](https://www.dhs.gov/sites/default/files/publications/immigration-statistics/Special_Reports/Enforcement_Lifecycle/2020_enforcement_lifecycle_report.pdf), 1.

<sup>11</sup> Ariel G. Ruiz Soto, “Record-Breaking Migrant Encounters at the U.S.-Mexico Border Overlook The Bigger Story,” migrationpolicy.org, October 25, 2022, <https://www.migrationpolicy.org/news/2022-record-migrant-encounters-us-mexico-border>; Alfonso Flores Bermúdez and Frances Robles, “In Record Numbers, an Unexpected Migrant Group Is Fleeing to the U.S.,” The New York Times (The New York Times, December 27, 2022), <https://www.nytimes.com/2022/12/27/world/americas/nicaragua-us-migration.html>; Turkewitz, “In a Brutal Jungle;” Wenxin Fan and Shen Lu, “Determined to Flee China, Thousands Take a Long, Dangerous Route to the Southern U.S. Border,” The Wall Street Journal, April 18, 2023, <https://www.wsj.com/articles/determined-to-flee-china-thousands-take-a-long-dangerous-route-to-the-southern-u-s-border-73acfbe9>.

<sup>12</sup> “8 U.S. Code § 1158 - Asylum,” Law.Cornell.Edu (Legal Information Institute), <https://www.law.cornell.edu/uscode/text/8/1158>.

do not ultimately win their case still petition in good faith, believing that the dire circumstances they have just escaped should warrant relief. And, while not every claim succeeds given the U.S.'s relatively narrow asylum definition, bad faith or fraudulent claims are the exception, not the rule.<sup>13</sup>

Yet the U.S.'s massive backlog of asylum cases – both affirmative and defensive – plus the sheer scale of people making dangerous treks to our southern border today lay bare an urgent problem: the absence of alternative, more orderly pathways.<sup>14</sup> Those coming to the southern border would much rather arrive safely with a visa or legal permission in-hand, but all too often, our outdated immigration system does not provide them such opportunities or is compromised by long delays that threaten to place those fleeing persecution at grave risk. In other words, the current situation at the U.S.-Mexico border is a reflection of an immigration system that is broken, and Congress can fix it through commonsense reforms that already have the support of the American people.

For good or ill, every recent presidential administration has tried to take steps to bring order to a dysfunctional immigration system resulting from congressional inaction. But only Congress has the ability to turn the existing mess of antiquated laws and policies into a functioning, modern-day immigration framework. Absent legislative reforms, the executive branch across administrations has used a mix of temporary relief and deterrence measures, both of which have often faced resistance in the courts.<sup>15</sup> Meanwhile, sudden policy shifts during different administrations have exacerbated inconsistencies and confusion at the U.S.-Mexico border, put humanitarian migrants in dangerous situations, and still largely failed to curb irregular migration.<sup>16</sup>

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<sup>13</sup> “Fact Sheet: Asylum Fraud and Immigration Court Absentia Rates,” National Immigration Forum, October 8, 2021, <https://immigrationforum.org/article/fact-sheet-asylum-fraud-and-immigration-court-absentia-rates/>.

<sup>14</sup> “A Sober Assessment of the Growing U.S. Asylum Backlog,” trac.syr.edu (Syracuse University's Transactional Records Access Clearinghouse, December 22, 2022), <https://trac.syr.edu/reports/705/>.

<sup>15</sup> “The Current State of DACA: Challenges Await in Litigation and Rulemaking,” National Immigration Forum, October 7, 2022, <https://immigrationforum.org/article/the-current-state-of-daca-challenges-await-in-litigation-and-rulemaking/>; “ACLU Has Filed 400 Legal Actions against Trump Administration,” American Civil Liberties Union, August 16, 2020, <https://www.aclu.org/press-releases/aclu-has-filed-400-legal-actions-against-trump-administration>.

<sup>16</sup> Anna Oltman, “Analysis | Does Separating Families at the Border Discourage Immigration? Here's What the Research Says,” The Washington Post (WP Company, December 7, 2021), <https://www.washingtonpost.com/news/monkey-cage/wp/2018/05/31/does-separating-families-at-the-border-discourage-immigration-heres-what-the-research-says/>; Kennji Kizuka, “Delivered to Danger: Illegal Remain in Mexico Policy Imperils Asylum Seekers' Lives and Denies Due Process,” Human Rights First, November 18, 2022, <https://humanrightsfirst.org/library/delivered-to-danger-illegal-remain-in-mexico-policy-imperils-asylum-seekers-lives-and-denies-due-process/>; “Title 42: ‘Human Rights Stain, Public Health Farce,’” Human Rights First, January 14, 2023, <https://humanrightsfirst.org/library/title-42-human-rights-stain-public-health-farce/>.

For instance, despite using large-scale immigration detention (at a high cost to U.S. taxpayers) to discourage parents from coming to the U.S.-Mexico border with their children, both the Obama and Trump administrations did not effectively deter significant numbers of vulnerable families from traveling north to the U.S. until the onset of the COVID-19 pandemic.<sup>17</sup> Similarly, the Trump and Biden administrations' reliance on the Title 42 public health order to summarily expel migrants back to Mexico with minimal opportunity to seek protection led border encounters to rise precipitously, resulting in nearly 2.4 million encounters in fiscal year 2022 — the highest number ever recorded.<sup>18</sup> Even the Trump administration's draconian Zero Tolerance policy — under which children were separated from their parents, who were being criminally prosecuted for unlawful entry and other immigration offenses — failed to significantly stem migration at the southern border over the long-term.<sup>19</sup>

These and other enforcement-focused executive branch responses to irregular migration have been unsustainable and have often exacted more harm than good. Such policies are no substitute for meaningful legislative reforms that instill fairness and order in our immigration system, while addressing the situation at the U.S.-Mexico border. But to accomplish these higher goals, Congress must act.

## **Bipartisan Consensus on the Need for Reforms to Improve Our Immigration System**

Reforms improving and updating our immigration system are backed by the overwhelming majority of Americans. Fox News published polling data in early 2023 that found nearly three-quarters of registered voters “favor making it easier to immigrate,” while a similarly strong cohort support allowing undocumented immigrants with jobs to earn legal status in the U.S.<sup>20</sup>

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<sup>17</sup> “The Math of Immigration Detention, 2018 Update: Costs Continue to Multiply,” National Immigration Forum, April 11, 2019, <https://immigrationforum.org/article/math-immigration-detention-2018-update-costs-continue-multiply/>.

<sup>18</sup> “Southwest Land Border Encounters,” U.S. Customs and Border Protection, accessed March 6, 2023, <https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters>; “Explainer: Title 42 and What Comes Next at the Border,” National Immigration Forum, February 1, 2023, <https://immigrationforum.org/article/explainer-title-42-and-what-comes-next-at-the-border/>; Camilo Montoya-Galvez, “Migrant Border Crossings Drop from 10,000 to 4,400 per Day after End of Title 42,” CBS News, May 18, 2023, <https://www.cbsnews.com/news/immigration-title-42-border-crossings-drop-migrants/>.

<sup>19</sup> Ian Kullgren, “CBP: Border Arrests Doubled in 2019,” POLITICO, October 29, 2019, <https://www.politico.com/news/2019/10/29/us-mexico-border-2019-arrests-061168>.

<sup>20</sup> Victoria Balara, “Fox News Poll: Majorities Support Policies to Strengthen Border But Also to Make It Easier to Immigrate to US,” Fox News (FOX News Network, February 26, 2023), <https://www.foxnews.com/politics/fox-news-poll-majorities-support-policies-strengthen-border-make-easier-immigrate-us.amp>.



Recent polling by the National Immigration Forum and the research firm Bullfinch Group reinforces public endorsement of these types of improvements to our immigration system.<sup>21</sup> Three in four U.S. adults say they want Republicans and Democrats to work together on immigration reforms that strengthen border security, allow Dreamers to earn citizenship, and ensure a legal, reliable workforce for farmers and ranchers. Two-thirds believe in providing refuge to individuals and families fleeing serious persecution and torture, and seven in ten say that welcoming newcomers to our communities is an American value.

The bottom line is this: overwhelmingly, Americans recognize the value of noncitizens, many of whom pay taxes, work frontline jobs, foster entrepreneurship, and support the country's aging population.<sup>22</sup> Constituents understand that the U.S. is both a nation of immigrants and a nation of refuge, and we want lawmakers to get to work actualizing the country's historic tradition of welcome at and beyond our borders.

## **Real Solutions for a Functional Immigration System**

Already, lawmakers from previous Congresses have drafted useful legislation that could serve as a blueprint for needed reforms. For example, proposals like the Dream Act, the American Dream and Promise Act, and the Farm Workforce Modernization Act would represent important steps that could help restore fairness, justice, order, and efficiency to the U.S. immigration system.<sup>23</sup>

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<sup>21</sup> "New Poll: Americans Value Offering Refuge, Welcome," National Immigration Forum, March 8, 2023, <https://immigrationforum.org/article/new-poll-americans-value-offering-refuge-welcome/>.

<sup>22</sup> "Adding Up the Billions in Tax Dollars Paid by Undocumented Immigrants," American Immigration Council, August 12, 2017, <https://www.americanimmigrationcouncil.org/research/adding-billions-tax-dollars-paid-undocumented-immigrants>; "Entrepreneurship: How Immigration Plays A Critical Role," New American Economy, March 15, 2022, <https://www.newamericaneconomy.org/issues/entrepreneurship/>; "Immigrant Healthcare Workers Are Critical in the Fight Against Covid-19," New American Economy Research Fund, April 9, 2020, <https://research.newamericaneconomy.org/report/covid-19-immigrant-healthcare-workers/>; Ali Noorani and Danilo Zak, "Room to Grow: Setting Immigration Levels in A Changing America," immigrationforum.org (The National Immigration Forum), accessed March 7, 2023, <https://immigrationforum.org/wp-content/uploads/2021/02/Room-to-Grow.pdf>.

<sup>23</sup> AV Press Releases, "Immigration Polling Roundup: Path to Citizenship Proposals Enjoy Broad Bipartisan Support," America's Voice, August 25, 2021, [https://americasvoice.org/press\\_releases/immigration-polling-roundup-path-to-citizenship-proposals-enjoy-broad-bipartisan-support/](https://americasvoice.org/press_releases/immigration-polling-roundup-path-to-citizenship-proposals-enjoy-broad-bipartisan-support/); "H.R.6 - American Dream and Promise Act of 2021 - Congress," Congress.gov, accessed March 7, 2023, <https://www.congress.gov/bill/117th-congress/house-bill/6>; Alliance for a New immigration Consensus, "March 2, 2022 Letter to Speaker Pelosi, Republican Leader McCarthy, Majority Leader Schumer, Republican Leader McConnell," (National Immigration Forum, March 2, 2022), <https://immigrationforum.org/wp-content/uploads/2022/02/ANIC-letter.pdf>.

## *Permanent Solutions for Dreamers*

First, and most urgently, Congress must create a permanent solution and pathway to citizenship for Dreamers and other deeply rooted communities in legal limbo. These “Americans-in-all-but-name” have grown up, studied, and worked in the U.S., and they and their families have become integral members of our communities. Many of them have U.S.-citizen children and spouses.<sup>24</sup> A large number also live with the fear of removal to countries that are dangerous, where they have not lived or visited for decades.<sup>25</sup> In addition, so-called “Documented Dreamers” who came here legally as the children of parents with work visas now face self-deportation and/or loss of status because the U.S.’s arcane immigration laws and chronic processing backlogs prevented them from obtaining green cards in a timely manner.<sup>26</sup> As Congress works on border security, lawmakers should also take this opportunity to prioritize long-awaited peace of mind and stability for these key contributors to our communities and economy.

By considering overdue reforms to help long-term residents have pathways to permanent status and eventual citizenship, Congress has the capacity to ensure the U.S.’s brightest possible future — and a better, safer future for those who are already benefitting our nation.

## *Legal Workforce Solutions for Agricultural Workers and Others*

In addition, persistent labor shortages that hurt U.S. consumers have underscored how legislators desperately need to bolster our country’s workforce and economy, starting with its agricultural sector. Families have been facing higher costs at the grocery store, including noteworthy price spikes for basic food staples like bread and eggs, in part because our nation’s farmers and ranchers are struggling to find a reliable labor supply.<sup>27</sup> Commonsense agricultural reform that includes access to more employment-based visas with an eventual pathway to citizenship for this workforce could ease pressure at the U.S.-Mexico border by offering a viable, orderly, and legal work-based

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<sup>24</sup> Julia Gelatt and Jie Zong, “Settling in: A Profile of the Unauthorized Immigrant Population in the United States,” migrationpolicy.org (Migration Policy Institute, November 2018), [https://www.migrationpolicy.org/sites/default/files/publications/UnauthorizedData-FactSheet\\_FinalWeb.pdf](https://www.migrationpolicy.org/sites/default/files/publications/UnauthorizedData-FactSheet_FinalWeb.pdf), 4.

<sup>25</sup> “Fact Sheet: Temporary Protected Status (TPS),” National Immigration Forum, February 1, 2023, <https://immigrationforum.org/article/fact-sheet-temporary-protected-status/>.

<sup>26</sup> Michelle Hackman and Teresa Mettela, “Adult Children of Work-Visa Recipients Forced to Return to Parents’ Countries,” The Wall Street Journal (Dow Jones & Company, June 7, 2022), <https://www.wsj.com/articles/adult-children-of-work-visa-recipients-forced-to-return-to-parents-countries-11654596000>.

<sup>27</sup> Dan Newhouse, “Senate Needs to Pass Farm Workforce Modernization Act Now,” The Hill, September 30, 2022, <https://thehill.com/opinion/congress-blog/3668870-senate-needs-to-pass-farm-workforce-modernization-act-now/>.



alternative for those seeking a better life in the U.S. And, just as importantly, such positive change would restore much-needed stability and affordability for all Americans who want to put food on the table for their families, while giving a long-awaited reprieve to the farmers and ranchers who work so hard to sustain our nation. Congress can act to modernize the agricultural workforce, just as it can address labor shortages and related challenges in other sectors.

Lawmakers should also pass legislation in response to bipartisan demands around expedited employment authorization for asylum seekers.<sup>28</sup> Right now, those requesting protection in the U.S. face unnecessarily long delays to receive permission so they can work legally. Such prolonged waiting periods funnel asylum seekers into potentially exploitative, under-the-table jobs, while also putting undue strain on their support systems and local service providers. Congress can easily remedy this issue by making people eligible for work authorization earlier in the asylum process and funding U.S. immigration personnel to more rapidly review applications. New research suggests that humanitarian migrants may already be filling some of the nation's critical labor shortages, and asylum seekers could prove ideal candidates to continue to fill these workforce gaps.<sup>29</sup>

### *More Resources for Border Infrastructure and Processing*

In terms of actions at the U.S.-Mexico border, Border Patrol agents have consistently reiterated at recent congressional hearings that they need more resources to improve migrant processing and better address upticks in people arriving.<sup>30</sup> Congress should listen to the boots on the ground and advance legislation that would increase the number of asylum officers, immigration judges, Port of Entry (POE) personnel, and other staff. It should also provide funds to modernize border technology and bolster other much-needed POE infrastructure at the southern border. This inflow of resources would provide immediate relief to overburdened border personnel, while helping to

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<sup>28</sup> Matthew Bourgault, "Sen. Collins Calls for U.S. to Allow Asylum Seekers to Get Work Permits Sooner," WGME, March 29, 2023, <https://wgme.com/news/local/senator-susan-collins-asylum-seekers-work-permits-homeland-security-visas-alejandro-mayorkas>; Nick Reisman, "Hochul Wants Expedited Work Approval for Migrants," spectrumlocalnews.com, May 15, 2023, <https://spectrumlocalnews.com/nys/central-ny/ny-state-of-politics/2023/05/15/hochul-wants-expedited-work-approval-for-migrants>.

<sup>29</sup> "To Lower Inflation, America Needs More Immigration to Alleviate National Labor Shortages," FWD.us, May 2, 2023, <https://www.fwd.us/news/immigration-inflation/>.

<sup>30</sup> "Border Chief Asks House Panel to Boost Migrant Processing," Roll Call, March 15, 2023, <https://rollcall.com/2023/03/15/border-chief-asks-house-panel-to-boost-migrant-processing/>; Eric Katz, "I Do Not Have Enough Agents,' a Border Chief Tells Congress," Government Executive (Government Executive, February 7, 2023), <https://www.govexec.com/workforce/2023/02/border-chief-congress-i-do-not-have-enough-agents/382674/>.

preserve longstanding commitments to those facing danger and reaffirm the U.S.'s place as a nation of welcome.

### *Regional Cooperation to Address Migration*

At the same time, Congress and the administration should work with partners in the region to address the factors that lead migrants to leave their home countries, with a focus on combatting corruption and violence.<sup>31</sup> It is not uncommon to hear migrants and asylum seekers say that they miss their homeland and wish they could return. People want the ability and the right to stay home, but — with so much instability — they feel they have no choice but to migrate. The U.S., working in concert with regional partners, should devote resources to mitigating the push factors that are causing people to migrate across the Western Hemisphere. By treating the root causes of displacement, the U.S. can help to preempt large-scale migration at its southern border while protecting vulnerable people from making an unnecessarily dangerous journey north.

### *Tackle the Opioid Crisis*

Finally, lawmakers must respond to the growing opioid crisis and addiction epidemic across this country. With more than 100,000 overdose deaths in 2021, roughly two-thirds of which were linked to deadly synthetic opioids such as fentanyl, Congress has a responsibility to act on this urgent issue.<sup>32</sup> In so doing, the Forum urges policymakers to focus on empirical solutions to the humanitarian and national security challenges at the southern border, in part by separating myth from fact and avoiding scapegoating migrants who are not to blame for these tragedies.

The data are clear: fentanyl is overwhelmingly being brought across the border by U.S. citizens coming through ports of entry, as opposed to vulnerable asylum seekers or migrants crossing between ports of entry.<sup>33</sup> Targeting asylum seekers or emboldening inaccurate rhetoric about an “invasion” at the border will not stem the ongoing opioid crisis. We need to focus our efforts on the transnational criminal organizations responsible for smuggling illicit substances into the U.S., without unfairly and

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<sup>31</sup> “Working Paper: Addressing the Increase of Central American Migrants,” National Immigration Forum, May 21, 2019, <https://immigrationforum.org/article/addressing-the-increase-of-central-american-migrants/>.

<sup>32</sup> “Drug Overdose Death Rates,” National Institutes of Health (U.S. Department of Health and Human Services, March 8, 2023), <https://nida.nih.gov/research-topics/trends-statistics/overdose-death-rates>.

<sup>33</sup> David J. Bier, “Fentanyl Is Smuggled for U.S. Citizens By U.S. Citizens, Not Asylum Seekers,” Cato.org (The Cato Institute, September 14, 2022), <https://www.cato.org/blog/fentanyl-smuggled-us-citizens-us-citizens-not-asylum-seekers>.

inaccurately laying the blame on those who play no role in the smuggling of illegal drugs and are simply turning to our nation for help.<sup>34</sup>

Congress should embrace a clear-headed, fact-based approach to reforming border security, in part by devoting funds to improving staffing and technology at POEs so the federal government can increase inspections and confiscate drugs before they reach the U.S. interior. This includes supporting investments in non-intrusive inspection technology and funding U.S. Customs and Border Protection's (CBP's) Forward Operating Labs (FOLs). That surge of resources, along with needed fixes to our immigration system that offer migrants safer and more orderly pathways to the U.S., will allow the Department of Homeland Security (DHS) to better prioritize drug interdiction and crack down on the flow of illicit substances across the southern border.

## **Conclusion**

Americans overwhelmingly agree that welcoming newcomers is a core American value. And, as the world experiences a herculean global displacement challenge, now is not the time for U.S. policymakers to turn their backs on our national tradition of refuge.

When lawmakers consider the situation at the U.S.-Mexico border, they should focus on real solutions for the larger immigration system. The commonsense reforms laid out above enjoy broad public support, and they would both strengthen border security and restore our historic commitment to freedom from persecution. By finding sustainable resolutions for "Americans-in-all-but-name" and chronic workforce challenges, while also making needed investments to border technology and personnel, Congress can take a meaningful first step toward building a fairer, more efficient immigration system for all.

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<sup>34</sup> "The 'Great Replacement' Theory, Explained," ImmigrationForum.org (National Immigration Forum), accessed March 8, 2023, <https://immigrationforum.org/wp-content/uploads/2021/12/Replacement-Theory-Explainer-1122.pdf?hidemenu=true>.