



A Short-Term Plan to Address the Central American Refugee Situation

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Introduction and summary

Over the past half-decade, rising violence and structural poverty in the Northern Triangle region of Central America—which encompasses El Salvador, Honduras, and Guatemala—have pushed thousands of children and families to flee for safety. These three countries are some of the most dangerous on the planet, with high rates of homicide and specifically femicide—the killing of women and girls.¹ Violence, corruption, and extortion play a big part in everyday life.²

Since 2014, more than 120,000 children and another 120,000 people in family units from this region have arrived in the United States seeking protection. The flow of these asylum seekers peaked in fiscal year 2014 before dipping, perhaps temporarily, in FY 2015.³ This drop occurred not because conditions improved in the region but because of a sustained effort by the U.S. government—with the help of Mexico and the Northern Triangle countries—to stop people from making the dangerous journey or to intercept them on the way to the United States.⁴ This year, in FY 2016, the numbers of children and families arriving in the United States have begun to rise again as conditions in the region continue to deteriorate.⁵

This report lays out short-term recommendations for ensuring that all asylum seekers who reach the United States receive a full and fair shot at protection. The recommendations are structured to follow the process that children and families go through when seeking protection: arrival in the United States, custody determinations and detention, and proceedings in the immigration courts.

In a companion report, the Center for American Progress lays out a series of medium-term recommendations, to create a safe place for children and families to flee in Latin America and to process them as asylees and refugees, and long-term recommendations, to tackle the root causes of violence and structural poverty facing the Northern Triangle countries of Central America. Together, these reports lay out a comprehensive approach to meeting the challenge presented by refugees arriving from the Northern Triangle.

Upon arrival

- As soon as possible following apprehension, each person should receive a “know your rights” presentation by a qualified nongovernmental organization, or NGO.⁶
- The U.S. government must ensure that the protections for unaccompanied children in the Trafficking Victims Protection Reauthorization Act, or TVPRA,⁷ remain intact.
- Every immigration agency dealing with children—from the U.S. Department of Homeland Security and the Executive Office of Immigration Review to the Office of Refugee Resettlement—should adopt the “best interest of the child” principle in all aspects of care—from apprehension, shelter, and release to immigration proceedings. The U.S. Congress should codify this principle into the Immigration and Nationality Act.⁸
- Congress should leave the responsibility to care for unaccompanied children with the Office of Refugee Resettlement, or ORR.
 - The ORR should do more to ensure that sponsors are thoroughly screened before children are released to them and must expand post-release services to ensure the safety of children released from their custody.
 - Congress must give the ORR the resources to conduct these pre-release screenings and provide expanded post-release services.

During custody determinations and in immigration detention

- The administration should close the South Texas Family Residential Center in Dilley, Texas, and the Karnes County Residential Center in Karnes City, Texas, and release those detained mothers and children who do not pose a security or flight risk that cannot otherwise be mitigated.
- Rather than placing families who have expressed fear of returning to their home country in expedited removal, the U.S. Department of Homeland Security, or DHS, should place them into formal removal proceedings—known as 240 proceedings—that allow them to make their case for protection in front of an immigration judge.⁹

- The administration should create short-term processing centers for families upon arrival that function like shelters rather than prisons. These centers would give families the ability to get their bearings in the United States; attend legal orientations and connect with pro bono counsel; and receive medical, mental health, and other needed care.
 - The DHS should also complete the initial security and background checks in these centers and place individuals into formal removal proceedings at these centers.
 - Unless families pose a security or flight risk that cannot be mitigated with an alternative to detention, such as community supervision or an ankle bracelet, the DHS should release them from processing centers within 72 hours of apprehension.
- The default response when it comes to custody determinations should be to release asylum seekers while they await their immigration proceedings, unless there is a clear reason for using an alternative to detention or detention itself. In each case, such decisions should use the least restrictive form of supervision necessary and should take into account the unique circumstances of each family.

In immigration proceedings

- Congress should quickly pass the Fair Day in Court for Kids Act, which would instruct the U.S. attorney general to appoint attorneys for all children as well as other vulnerable individuals—such as those with disabilities and victims of abuse or violence—in immigration proceedings.¹⁰
- The administration should explore settlement negotiations to resolve *J.E.F.M. v. Holder*—in which advocates are challenging the government’s failure to appoint counsel for children in immigration courts—and/or adopt a policy of appointed counsel for children that would render the case moot.¹¹
- The U.S. Department of Justice, or DOJ, should appoint child advocates for unaccompanied children in immigration proceedings; currently, the government does not appoint advocates except in extreme cases of trafficking or other mitigating circumstances. Congress should appropriate the necessary funds for such a change.¹²

- The government should end its use of rocket docket—speedy trial dates for children and families seeking protection.
- Congress should increase staffing and resources for the immigration courts, which are creaking under the weight of a crushing caseload and backlog.¹³

In the short term, providing all those fleeing violence with the opportunity to make a full and fair case for protection will ensure that the United States lives up to its moral and legal obligations. These obligations start as soon as an asylum seeker arrives in the United States and continue through custody determinations and detention and then through the immigration court proceedings.

Certainly, all immigration laws on the books must be followed. Nothing in this report suggests that people who receive a full and fair process—including access to counsel and proper adjudication—and still lose their cases must be allowed to remain in the United States. But the country also has an obligation to make certain that its refugee laws are fully enforced—which means ensuring due process for persons who arrive in this country to request protection.

Ultimately though, these short-term fixes cannot address the bigger issue: the violence and structural poverty that plague the Northern Triangle countries and force children and families to look for safety wherever they can. Until the United States, Northern Triangle countries, and nations throughout the Western Hemisphere work to tackle these root causes, children and families will continue to seek protection at U.S. borders and in other countries throughout the region.

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As progressives, we believe America should be a land of boundless opportunity, where people can climb the ladder of economic mobility. We believe we owe it to future generations to protect the planet and promote peace and shared global prosperity.

And we believe an effective government can earn the trust of the American people, champion the common good over narrow self-interest, and harness the strength of our diversity.

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