

Setting the Record Straight on 10 Misconceptions about Migration and Asylum at the US-Mexico Border

The United States has long received refugees who have fled their homes to escape violence and persecution. While some refugees arrive to the United States through the [US Refugee Admissions Program](#), others travel to the US to [apply for asylum](#). However they arrive, people flee their home countries because they fear persecution based on their race, religion, nationality, membership in a particular social group, or political opinion.

Despite this, seeking asylum at the US border has for years become more difficult and dangerous. Although seeking asylum at the border is a right guaranteed under US and international law, misconceptions and even falsehoods about the asylum process and migration at the US-Mexico border are common among the public and US law- and policymakers. Besides persistent myths, many people are unaware of how the [new asylum ban](#) restricts the ability and right to seek asylum. Below are 10 things to know about the asylum system and migration at the US-Mexico border today.

1. The asylum ban forces vulnerable people to wait in danger in Mexico. It also has not decreased displacement and migration.

The Biden administration's asylum ban rule, known officially as "[Circumvention of Lawful Pathways](#)," effective since May 11, 2023, has created extreme limits on the ability to seek asylum in the US.¹ A federal court has found the ban in [clear violation of US law](#).²

The Biden administration's claims that their new asylum ban is a "success" that is responsible for a decrease in the numbers of migrants crossing the border since the end of Title 42³ is also wrong. From June to July 2023, [Border Patrol apprehensions](#) increased by more than 30 percent, and [apprehensions of families](#) tripled. Such increases in arrivals suggests that the asylum ban, like many other restrictive policies in the past, are misguided attempts at deterrence that do not stop people from migrating and seeking safety for their families.

The Women's Refugee Commission's (WRC's) monitoring found that the ban has created confusion for those trying to seek asylum at the US-Mexico border, and that most wait in [dangerous and insecure conditions](#) in Mexico. Those who cannot wait may cross between ports of entry along dangerous routes and [risk serious injury or death](#). Such a policy cannot be considered a success.

2. Previous policies, such as Remain in Mexico and Title 42, limited access to asylum, harmed thousands of people, and failed to deter migration.

Policies that expel people back to Mexico, prevent them from requesting asylum, force them to wait in Mexico, or block access to asylum at ports of entry [created chaos](#) at the US-Mexico border. Remain in Mexico, under which US border officials returned non-Mexican asylum seekers to wait in Mexico while their claims were adjudicated in US immigration courts, resulted in thousands of kidnappings and other [violent crimes](#) against migrants and was a [due process disaster](#). Title 42 similarly resulted in [thousands of assaults](#) against migrants, denied people their basic right to seek asylum, and promoted more dangerous crossings between ports of entry via smugglers.

- 1 Under the asylum ban, non-Mexican adults and families who enter the United States through its southwest land border or adjacent coastal borders are presumed to be [ineligible for asylum](#) unless they can prove they meet certain exceptions or rebut the ineligibility presumption.
- 2 On July 25, 2023, a US federal court [blocked the asylum ban](#). The ban [remains in effect](#) as the Biden administration's appeal is heard on an expedited schedule.
- 3 For over three years, the [Title 42 Order](#) was used to deprive individuals of the chance to seek asylum in the US and summarily expelled them back to Mexico or to the country they had fled from—contrary to US and international refugee law. The Order, which had been dubiously justified as a COVID-19 mitigation measure, came to an end with the expiration of the national COVID-19 public health emergency on May 11, 2023.

Cruel rhetoric and policies do not prevent or deter migration. In fact, a [major increase in migration](#) occurred during the Trump administration despite family separations, rampant workplace immigration raids, and heightened, routine anti-immigrant rhetoric.

3. Facilitating access to asylum is an essential component of Customs and Border Protection's (CBP's) responsibilities at ports of entry.

US law and international law guarantee that people have the right to request asylum and the right not to be sent back to a country where they were persecuted or fear persecution, regardless of a person's manner of entry. Among many other duties, CBP is required to process people requesting asylum. When there's political will, CBP has significant capacity to do so. For example, after Russia invaded Ukraine, [more than 20,000 Ukrainians](#) entered the US through a single port of entry in spring 2022.

Today, CBP makes available 1,450 [CBP One mobile phone appointments](#) a day that allow individuals to enter the US at eight ports of entry along the US-Mexico border and then apply for asylum from their onward destination. Without a CBP One appointment, individuals who manage to cross the border are subjected to the asylum ban, unless they meet certain limited exceptions.⁴ So far, the vast majority of people subjected to the ban have been [unable to meet these exceptions](#). A [class action lawsuit](#) has challenged the federal government's policy and practice of turning back individuals who present at ports of entry along the southern border without CBP One appointments. Academics have found that CBP One acts as a [digital border](#) blocking access to asylum. Because people legally have the right to seek asylum without an appointment, CBP One cannot be the exclusive way for individuals to do so. A previous lawsuit already found [turnbacks illegal](#).

4. Per CBP's own guidelines, people should not be held in Border Patrol custody for more than 72 hours—an impossible timeline for someone to find a lawyer or the government to make complex immigration decisions.

In April 2023, the Biden administration began implementing [expedited fear screenings](#)—the initial screenings before someone can fully apply for asylum—while individuals are still in CBP custody to speed up their expedited removal. Individuals have to demonstrate fear of persecution to an asylum officer by telephone while detained in CBP holding facilities—known for [mistreatment](#) and [poor conditions](#)—just after completing what is usually a traumatic and dangerous journey. Meaningful [legal support is impossible](#) in these circumstances. In a court filing, the Biden administration stated that with this program and the asylum ban in place, the number of individuals who passed these initial screenings [fell to 45 percent](#), from a 83 percent rate in 2014–2019. Similar programs under the Trump administration led to [credible fear rates dramatically dropping](#) from 74 percent to 23 percent. Legal services providers have found [egregious due process violations](#) during the current expedited program.

Per [CBP's standards](#), individuals should not be held in custody for longer than 72 hours, yet under this new policy some are [held for more than 10 days](#), some for as long as 30 days. More than [60 members of Congress](#) called for the Biden administration to end credible fear interviews at CBP facilities, noting that “[d]ue process is a right and value enshrined in our nation's history. Affording people fair adjudication—including adequate time to obtain evidence, prepare one's case, and obtain and work with counsel—is particularly key for individuals fleeing life-threatening harm or torture.”

4 If the ban applies, a person seeking asylum can only overcome the ban and be considered eligible for asylum if they or a family member they were traveling with can prove that they faced an acute medical emergency, an imminent and extreme threat to life or safety, or were a victim of severe human trafficking when they entered the United States.

5. The incarceration of immigrants is expensive and inhumane—and no US law has ever required every immigrant be jailed.

No administration has ever detained every individual encountered at the US-Mexico border—nor should they. After CBP successfully runs background checks, the individual should be released to community or family in the US. Individuals can then find stability and continue their removal proceedings [in court](#).

The US immigration detention system [cannot be redeemed](#), and the harm and trauma inflicted by detention have been widely documented by [WRC](#) and others. Moreover, detention [costs \\$143 per day](#) for each adult, and in Immigration and Custom Enforcement’s (ICE’s) former [family detention facilities](#), detention cost almost \$320 per family member a day. The Biden administration rightly discontinued the use of family detention, but the number of [adults held in detention](#) continues to grow. [Government inspections](#) and [research](#) have found immigration detention is incapable of providing adequate care for the individuals in custody and violates US obligations under [international law](#).

6. Immigration officials vet people coming to the United States to seek asylum. Once released, the vast majority of people seeking asylum show up for their court dates for adjudication of their claim.

The Department of Homeland Security uses [biometrics](#) to verify an individual’s identity and conducts extensive security and criminal [background checks](#) before releasing anyone from its custody.

To be granted asylum, an individual must navigate processes with multiple government agencies and submit extensive documentation demonstrating their identity, medical records, witness testimonies, and evidence of alleged persecution they experienced or the persecution they would face if returned to their home country. It is extraordinarily difficult to do this without an immigration lawyer. Still, evidence shows that people seeking asylum are especially likely to complete their case process when informed about the proceedings and provided legal counsel. A study analyzing a decade’s worth of data found that the vast majority—83 percent—of immigrants attended all of their court hearings. Of those with legal counsel, [96 percent](#) attended all of their court hearings.

In US government fiscal years 2022 and 2023 so far, [55 percent](#) of people who had their asylum claims decided on the merits after a positive fear determination were granted asylum. People who are denied asylum are subject to removal from the US if they do not win an appeal and are not otherwise eligible for any immigration status.

But processes that rush people through the full adjudication of their asylum claim set them up for failure and wrongful deportation. The Biden administration’s new and rapidly expanding [Family Expedited Removal Management](#) (FERM) program requires the adult family member to wear an ankle monitor, subjects the family to a curfew, and seeks to complete cases on an extremely short timeline that challenges their ability to secure legal support.

7. Welcoming new neighbors requires coordination, financial support, and political will—and we do it together every day.

From [San Diego](#) to [New York](#), volunteers, faith groups, nonprofits, and municipalities welcome people seeking asylum and help them meet their basic needs after long journeys to the United States. At the US-Mexico border, immigration officials and humanitarian service providers work together every day to ensure that new neighbors are not abandoned on the street without shelter, food, and a way to get to their family and communities across the US. This reduces pressure on border officials as they continue to facilitate high volumes of travelers and goods. While imperfect and in need of more robust support, these efforts help ensure that people exercising their legal right to seek asylum can do so in a [safe and humane manner](#).

Programs that support communities welcoming new neighbors—like the [Shelter and Services Program](#) and the recently launched [Case Management Pilot Program](#)—should be expanded, improved upon, and administered in close consultation with service providers.

8. Smaller, less resourced countries host far more refugees than the United States.

[Sub-Saharan African countries](#) host 20 percent of the global refugee population. Turkey hosts 4 million refugees, more than any other country. In the Americas, the overwhelming majority of the 7 million Venezuelan refugees and migrants are hosted in nearby [Latin American and Caribbean countries](#). While the US contributes the most financial support to the UN Refugee Agency, it fails to meet its own [refugee resettlement goals](#) each year. And for more than three years, the US [turned away most people](#) seeking asylum at its southern border.

Economists have found that restricting the entry of refugees and people seeking asylum harms the US economy and [call for increased migration](#). The United States historically led the world in refugee resettlement. With growing numbers of people who are forcibly displaced around the world, it is imperative that the US lead again.

9. Fentanyl trafficking is completely unrelated to human migration.

In 2021, US citizens accounted for more than [85 percent](#) of fentanyl trafficking convictions in the US. At the US-Mexico border, [95 percent](#) of all fentanyl seized by CBP occurred at a port of entry or vehicle checkpoint, not via a migrant crossing the river as some politicians suggest. The American Immigration Council's analysis of every CBP press release mentioning a fentanyl seizure over a six-month period [found that only three](#)—out of 89—involved undocumented immigrants.

10. Parole programs are limited and require individuals to go through other immigration pathways to remain in the US.

Some lawmakers claim that the Biden administration is using “mass parole” to allow everyone into the country. In reality, the Biden administration has implemented new [parole programs](#) for some individuals from certain countries. The programs are full of [barriers to access](#), from requiring a passport to a financial sponsor in the US, which are especially hard to obtain for those who are seeking safety and may need to flee their home country quickly. If someone is granted parole and enters the US through these programs, they lack integration support services and have no path to permanent residency from that status. They still need to apply for asylum or another permanent status and have that claim adjudicated in court.

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Women's Refugee Commission

The Women's Refugee Commission (WRC) improves the lives and protects the rights of women, children, and youth who have been displaced by conflict and crisis. We research their needs, identify solutions, and advocate for programs and policies to strengthen their resilience and drive change in humanitarian practice. Since our founding in 1989, we have been a leading expert on the needs of refugee women, children, and youth and the policies that can protect and empower them. womensrefugeecommission.org.

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