

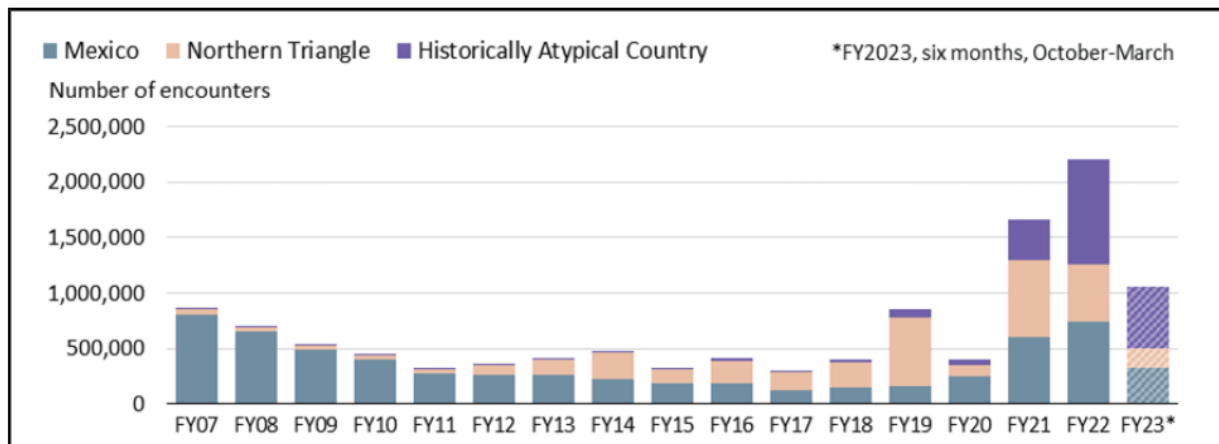


## Current state of Migration to the U.S.– Mexico Border and Asylum Law

### The Situation at the Border

For more than a decade, thousands of people have come to seek asylum in the United States through the U.S.–Mexico border. In the middle 2010s, many migrants came from Central American countries where violence and poverty were major sending factors. In the early 2020s, more and more migrants have come from “historically atypical countries.” The number of migrants arriving at the border has increased along with the number of displaced people around the world. People continue to seek refuge in the United States because they fear for their lives if they stay at home.

**Table 1: US Border Patrol Encounters by Country of Citizenship, FY2007 – March 2023**



*"U.S. Border Patrol Encounters at the Southwest Border: Fact Sheet," Congressional Research Service, May 16, 2023, p. 4, [crsreports.congress.gov/product/pdf/R/R47556](https://crsreports.congress.gov/product/pdf/R/R47556)*

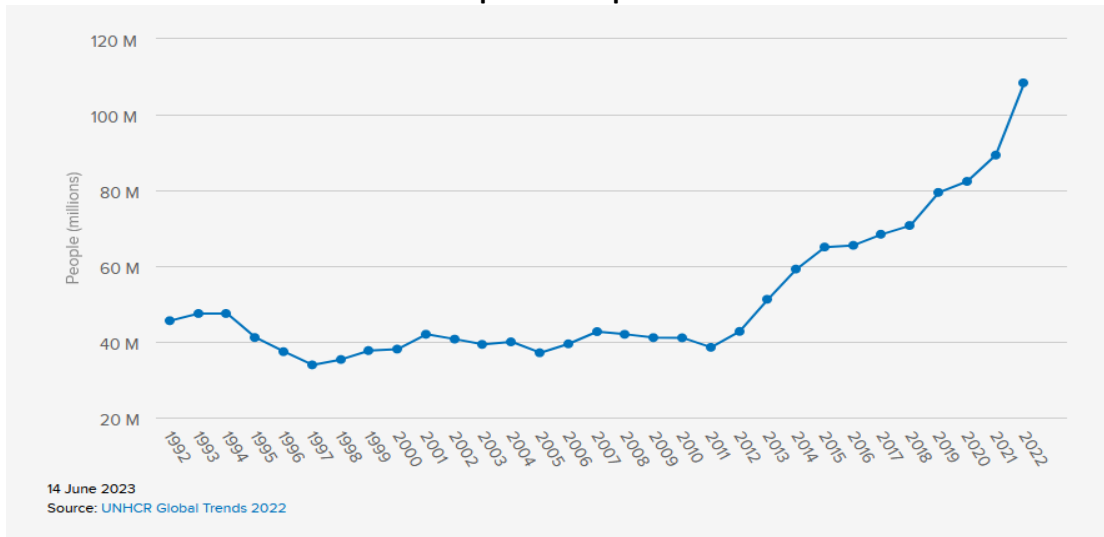
The U.S.–Mexico border is facing a humanitarian crisis, created in large part by U.S. government policies which often leave individuals and families stuck in dangerous situations with no options. While U.S. immigration policy focuses on deterring people from crossing the border, the root causes of migration, like violence and humanitarian crises, remain unaddressed.

Migration restrictive policies expose migrants to dangerous conditions in Northern Mexico. Theft, kidnappings, and extortions by criminal organizations—and sometimes Mexican authorities—are common. Many migrants are afraid to leave the shelters where they are staying, and some do not feel safe in shelters in the first place.

While the most common sending countries have changed over time, the migrants’ need for U.S. asylum protection has not. Migrants may be fleeing authoritarian governments, armed conflict, threats and violence from gangs, discrimination and persecution, extreme weather, famines and supply shortages, or a combination of these factors. For example, Venezuela has become a major

sending country in the early 2020s, as Venezuelan citizens [face](#) brutal human rights crackdowns and a humanitarian emergency.

**Table 2: Displaced People Worldwide**



Source: "Figures at a Glance." United Nations High Commission on Refugees, June 14, 2023, [www.unhcr.org/us/about-unhcr/who-we-are/figures-glance](http://www.unhcr.org/us/about-unhcr/who-we-are/figures-glance)

As the number of asylum seekers has grown, the U.S. government has implemented policies that seek to inhibit or deter people from seeking asylum. The Trump and Biden administrations have used different “metering” tactics to limit the number of migrants allowed to enter the U.S. at one time. In recent years the “Remain in Mexico” policy and Title 42, a public health regulation, were used to return asylum seekers to Mexico.

Currently, the “[Circumvention of Lawful Pathways](#)” rule bars people from asylum who cross the U.S.-Mexico border between ports of entry, unless they were denied asylum in a country that they passed through prior to reaching the U.S. Because of the harsh standards this rule imposes, immigration advocates refer to it as an asylum ban.

Under the ban, migrants wishing to request asylum at the Southwest border must have appointments through the CBP One app. This requirement presents multiple challenges. There are a limited number of daily appointments available at specified ports of entry. To get an appointment, migrants must upload their information to the app; those without recent smartphones or an adequate internet connection often struggle to do this. Dark-skinned migrants face difficulties with CBP One’s facial recognition technology. There are also significant language barriers: the app has only been translated into a few languages, and some crucial error messages only appear in English. While current asylum regulations maintain that migrants who cannot use CBP One or who face emergencies may enter the U.S. without a CBP One appointment, in practice this has not been the case. The app can be useful for migrants who have the means to stay in hotels until they get appointments, but requiring all migrants to use it has created severe equity concerns.

## US Government Processing Upon Arrival

The situation at the U.S.–Mexico border continues to be a hot political button, with an us versus them mentality on multiple levels. The U.S. Department of Homeland Security, which is responsible for implementing U.S. immigration policy, frequently changes policy and procedures. How any one family or individual is treated at the border can vary by location, day or even hour of the day.

When border officials encounter a migrant, they have several options for how to proceed. They can grant the migrant parole, which allows them to enter the U.S. Often, migrants who are paroled are given a “notice to appear,” a document that initiates deportation proceedings against them through the immigration courts. They can move around the U.S. (keeping DHS notified of any change of address) and file for asylum as a defense against deportation.

Border officials can also detain migrants they encounter. Many migrants are placed in expedited removal proceedings, where they can be deported without a hearing, often within hours or days. If an individual in expedited removal proceedings expresses a fear of returning to their home country, they are referred to an asylum officer for a credible fear interview (CFI). Individuals placed in expedited removal often have little to no access to legal representation, and CBP agents frequently fail to refer migrants for a CFI, raising due process concerns. Asylum seekers who receive negative credible fear determinations can appeal to an immigration judge, but if this fails, they will likely be deported quickly. Detained migrants who pass the CFI may be detained for months or even years until their asylum case is decided.

In 2023, DHS instituted a new surveillance program for some families in expedited removal called FERM. Families that are apprehended and placed into FERM are released by U.S. Immigration and Customs Enforcement (ICE) to travel to their destination city where they are placed under surveillance and their credible fear interview is scheduled. One parent is required to wear an ankle monitor and adhere to a nighttime curfew. The family’s CFI may occur as quickly as a few days after they arrive in their destination city.

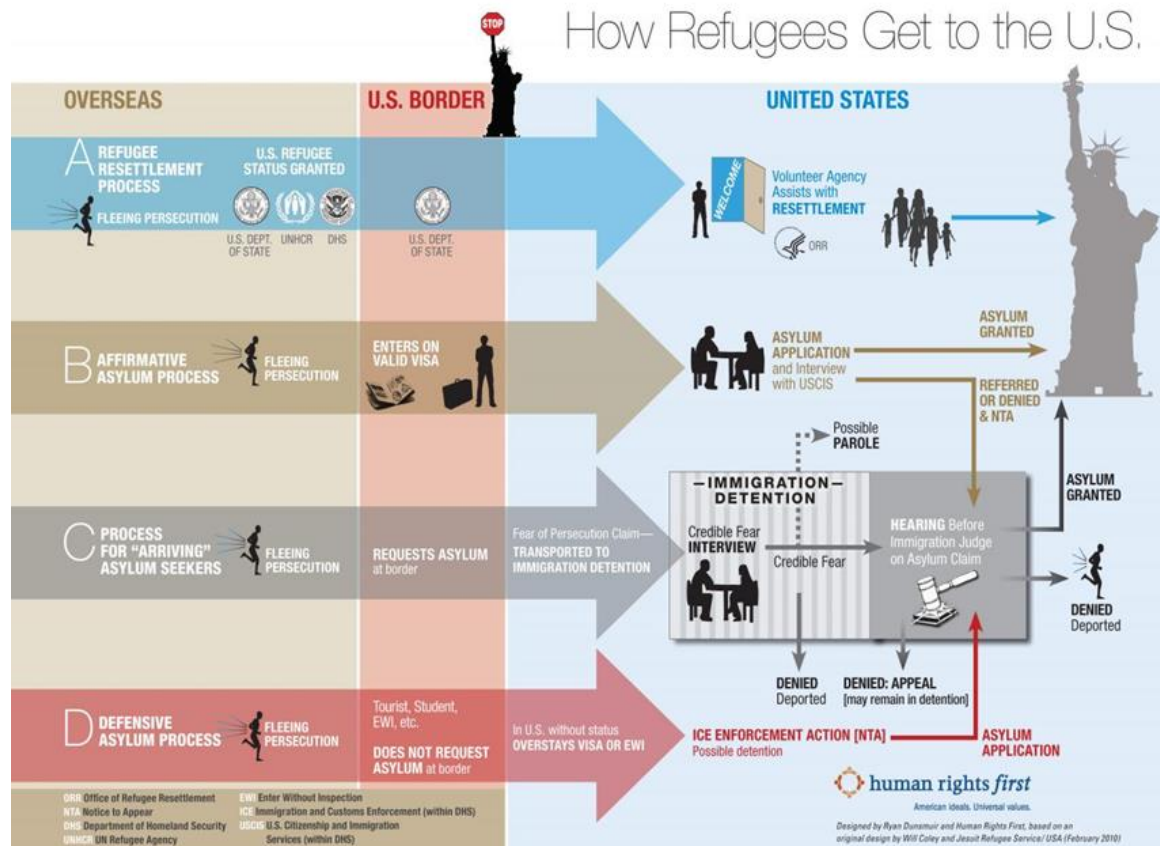
Once asylum seekers are allowed to enter the U.S. or get released from detention, their journeys are not over. Many migrants rely on services from faith-based and humanitarian organizations to provide food and shelter while they settle into the United States. Shelters and respite centers receive asylum seekers from border patrol stations, immigration detention centers, or those simply left on the streets to fend for themselves. They offer them a warm welcome and provide them with food, clothing, showers, telephone communication with family or friends, travel assistance, and other practical guidance.

Most asylum seekers move away from the border regions. Some go to live with friends and family; others do not know anyone who lives in the U.S., but they may still seek to travel to the interior for better housing and employment opportunities. Starting in 2022, the governors of Texas and Arizona began sending buses of migrants to large cities, like New York City, Washington D.C., and Chicago. Local faith and mutual aid groups in those areas responded swiftly to welcome and support the arriving asylum seekers.

## Additional Pathways for Migration & Protection

In addition to asylum, there are other paths leading to legal status for those who need safety in the United States. However, these pathways all have restrictions and limitations. For example, some are only granted to people outside the United States while others are only available once you are physically present. None of these pathways are sufficient replacements for the right to seek asylum. This section provides an overview of the types of humanitarian immigration statuses for educational purposes. It is not an exhaustive list and should not be taken as legal advice. Many individuals might be eligible to apply for more than one type of immigration status, and only a qualified immigration attorney or BIA accredited representative can determine the best strategy for an asylum seeker's case.

Like asylum seekers, **refugees** flee violence and disaster in their home countries. However, refugee status is approved before refugees enter the U.S. Refugees often wait years outside the U.S. before they are admitted. Once they arrive, refugees have access to many government services. They can apply for lawful permanent residence after they have been in the United States for one year. The current presidential administration has set a goal of admitting 125,000 refugees, but it is not clear if they can reach this goal because much of the infrastructure to accept refugees was previously dismantled. Access to the refugee program is also not available in every country, because the U.S. government determines processing locations.



**Humanitarian parole** admits people from countries designated by the president for a limited period of time who must apply from outside the United States. Humanitarian parole does not create a path to permanent residence or citizenship, but recipients may apply for asylum once they are physically located in the U.S. It allows the president to respond to a great need for residents of a particular country—but limits often apply. For example, the parole program for Venezuelans, Nicaraguans, Cubans, and Haitians requires recipients to have sponsors in the United States, have passports, and arrive via air. Because of these restrictions, the program is not a viable option for every asylum seeker. These are the country-specific humanitarian parole programs as of January 2024:

- [Parole for Afghan nationals](#)
- [Uniting for Ukraine](#)
- [Parole for Cubans, Haitians, Nicaraguans and Venezuelans](#)
- Family Reunification parole – only available for beneficiaries of family reunification visa applications from certain countries

[Temporary Protected Status \(TPS\)](#) allows the Secretary of Homeland Security to designate countries that he considers dangerous for immigrants to be deported to. Nationals of the designated countries must already be in the United States as of the date TPS is designated. TPS recipients receive work permits and cannot be deported or placed in immigration detention. TPS protections last up to eighteen months, though the Secretary of Homeland Security can extend TPS if he or she determines that the country conditions are still unstable. The DHS Secretary can also redesignate TPS so that people who arrived after the initial designation become eligible. TPS recipients have no path to permanent residence or citizenship, even though some TPS recipients have lived in the United States for over twenty years.

[Withholding of removal under the Convention Against Torture \(CAT\)](#) prevents a person from being deported to their home country. However, they still can be deported to a third country if that country agrees to take them. Furthermore, in the future they can be deported to their own country if conditions are deemed to have changed, even if they have lived in the U.S. for years. Unlike asylees, people who receive withholding of removal cannot petition for legal status for relatives. Withholding of removal also requires a higher burden of proof of possible persecution than asylum. However, people who are not eligible for asylum because they were previously deported could be eligible for withholding of removal.

The [Central American Minors \(CAM\)](#) Program was established in 2014 to allow for family reunification of minors in northern Central America with a parent living in the U.S. This program was initiated to address the increased number of unaccompanied minors arriving at the border. CAM has started and stopped several times with the latest changes announced in July 2023. It allows qualifying parents present in the United States in certain immigration categories to request that their unmarried children under 21 years of age (as well as certain other eligible family members) who are nationals of El Salvador, Guatemala, or Honduras, be considered for admission to the U.S. as refugees or under humanitarian parole.

## State Level Policies

While immigration policy is within the purview of the federal government, immigration issues have become a contentious and central focus for some state governments. Some states have passed pro-immigrant legislation: for example, several states allow undocumented immigrants to get driver's licenses; in 2024, California [began](#) to provide health insurance for low-income undocumented immigrants under Medicaid.

Other states have ramped up immigration enforcement and anti-immigrant legislation. In 2023, Florida Governor Ron DeSantis signed SB1718, one of the nation's most anti-immigrant bills. The sweeping law criminalizes individuals who travel with undocumented immigrants across state lines, requires hospitals to ask about immigration status, and invalidates out of state driver's licenses issued to undocumented immigrants. It has prompted many immigrants across Florida to flee in fear of the law's repercussions.

Texas has also vastly increased immigration enforcement, most notably, Operation Lone Star (OLS), a multibillion dollar and multi-agency immigration program launched in 2021. Through this program, Texas officials erected dangerous barriers in the Rio Grande River and began to jail migrants accused of state level misdemeanors for weeks or months at a time. Disturbingly, Texas border officials have refused to help migrants injured while trying to get past the barriers. In December of 2023, Texas's governor signed a package of bills that makes irregular immigration a state-level offense and allows state officials to deport migrants back to Mexico. Texas's strategy violates laws and international agreements that prohibit states from enforcing immigration laws or erecting barriers in international waters. Lawsuits have already been filed against these measures.

## Additional Information

### Asylum Ban and CBP One

- PCUSA [blogpost](#), "Biden's Asylum Transit Ban: A Concerning Road Ahead"
- Human Rights First [fact sheet](#) on the asylum ban
- [Article](#) from the Associated Press on the ban and appeal, "Biden administration warns of major disruption at border if judges halt asylum rule"
- American Immigration Council [overview](#) of CBP One

### Expedited Removal and Credible Fear Interviews:

- [Flow chart](#) of the expedited removal process
- National Immigrant Justice Center [explainer](#) on expedited removal
- Americans for Immigrant Justice [report](#) on FERM

### State-level Immigration Policy

- ACLU of Florida [factsheet](#) on SB1718
- Immigrant Legal Resource Center state immigration enforcement [map](#)