

MEMORANDUM

October 29, 2018

MEMORANDUM FOR THE PRESIDENT

FROM: Refugees International (RI)¹
SUBJECT: The Migrant Caravan: Securing American Borders, American Values, and American Interests

Purpose

To obtain your agreement on a new multifaceted approach to the migrant caravan and related migration issues—to better secure U.S. borders, U.S. values, and U.S. interests.

Background

The context—migration from Central America: Migration from Central America is fueled primarily by well-founded fears of women, men, and children of persecution, human rights abuses, and criminal violence, and by grinding poverty. Some years ago, the head of the U.S. Southern Command, Gen. Douglas Fraser, called the Northern Triangle of Honduras, El Salvador, and Guatemala “the deadliest zone in the world outside of active war zones.” These countries have among the highest homicide rates in the world. A 2014 report from the UN’s refugee agency, based on surveys of unaccompanied minors from Central America and Mexico, revealed that a substantial majority of children had what appeared to be significant fears of serious personal harm if returned. Department of Homeland Security (DHS) statistics reveal that high percentages of women from Central America risk severe mistreatment if returned to their countries of origin.

The caravan and the threat to the United States—a challenge, but not a crisis: The attempt of several thousand individuals to seek asylum in the United States is a policy challenge, but not a crisis. To illustrate by comparison: in the fiscal year ending September 30, 2018, the U.S. Border Patrol apprehended just over 396,000 individuals between ports of entry at the southwest border (or nearly 8,000 per week), and the annual number has averaged about 385,000 in recent years. Moreover, it is unclear how many of the Central Americans in this caravan will even arrive at the border, as many will have returned to their countries of origin or will remain in Mexico. Finally, this kind of group movement may actually offer asylum seekers, who are believed to include more than 2,000 children, a measure of protection against criminal elements.

Queue jumping and asylum: You have argued against immigration “queue jumping” by Central Americans. But at the UN last year, you supported agreements to host refugees in their home regions when

¹ In this memorandum, RI has included key references in an appendix.

people are in flight. The U.S. asylum process provides a narrow but critical avenue of protection for those fleeing persecution in the Americas—our home region. And contrary to popular perception, the United States does not provide asylum to large numbers: between 2007 and 2016, annual asylum grants averaged under 25,000.

Border security—and the asylum-seekers in our backlog: As you well know, your administration is engaged in a range of measures to enhance border security. Of course, these measures will not eliminate the presence of asylum applicants in the United States, including the asylum backlog, estimated at over half a million. The numbers are high (and lowering them is addressed below), but—as is the case with the caravan—the numbers do not represent a crisis. For instance, the backlog is far less than the number of those who overstayed their U.S. visas in FY 2016 and 2017. And with millions of pending asylum applications worldwide, asylum cases represent a challenge with which many governments are dealing. Finally, a majority of asylum seekers show up for their hearings, and this is a population that can be tracked (more on this below).

Neighbors in the region: The roles of Mexico and Central America will be critical in managing migration issues. For refugees, Mexico is a country of origin and transit, but also a country of asylum, and in theory its law provides broader opportunities for successful asylum claims than the laws of the United States. The challenges for El Salvador, Honduras, and Guatemala are two-fold: first, to address governance and development issues so their citizens have less reason to leave; and second, to enhance protections for deportees from the United States and Mexico who will be at risk upon return. Costa Rica and Belize are both countries of asylum that need U.S. support. Costa Rica is also a host for the regional Protection Transfer Arrangement, which provides temporary protection for asylum seekers pending their resettlement in third countries.

Components of a New Approach

These issues are certainly challenging, but they are amenable to solutions that meet U.S. border security concerns while safeguarding both human lives and critical interests and relationships within the region. The following multifaceted approach offers the prospect of real progress.

Publicly emphasize that this is a humanitarian challenge: Especially in light of the tragic events of last week, we urge you to lower the public temperature and to focus in measured terms on what is a humanitarian challenge. This will have the added benefit of allaying what the Pew Research Center—based on a recent survey—reports as an increasing sense of uneasiness within the Hispanic community in the United States. You can maintain a focus on border security without characterizing the asylum-seeker population in such negative (and inaccurate) terms.

Do not attempt to close U.S. borders to asylum seekers: You should not seek to suspend entry of asylum seekers at our southwest border. First, in the face of legal challenges, it would be more difficult than in the case of the prior immigration executive orders to articulate a defensible legal rationale even under a deferential standard of court review. Second, it would break faith with Mexico, whose cooperation is critical. Third, it would not stem unauthorized entry into the United States. Fourth, it will represent—and be seen to represent—a profound departure from a long-held United States commitment to provide access to asylum for those fleeing persecution.

Expand support to Mexico to address asylum: In many respects, Mexico should be a more attractive place of asylum than the United States; as mentioned, Mexican laws and policies offer broader protections than those provided under U.S. asylum law. Enhanced Mexican capacity would lessen migration pressures

on the United States. Even with the recent provision of an additional \$7.4 million from the State Department, Mexico has received less than \$20 million this year from the United States for migration capacity building implemented by the UN refugee agency. The administration should increase this support by at least a factor of 10. The new money would help to fund training for Mexico's refugee agency, shelters in Mexico, cash assistance for asylum seekers, and local integration in Mexico for Central Americans.

Augment support for protection of deportees to Central America: The administration should significantly increase assistance to protect the lives and well-being of those deported to Central America who may not qualify for asylum but may still be at grave risk. In addition to support for the UN refugee agency and the International Organization for Migration (IOM), the United States should be aiding local civil society groups that seek to provide safeguards for returnees. The State Department should commit to an additional \$50 million in annual support.

Meet with and thank the Costa Rican ambassador and expand the Protection Transfer Arrangement: Costa Rica has accepted asylum seekers from the region and their efforts should be applauded. We recommend you meet with the ambassador to thank his government and express U.S. willingness to expand support for the Protection Transfer Arrangement.

Appoint a Special Envoy for the Northern Triangle and increase assistance for development: While governance challenges in the region make it difficult to envision the kind of development that will create incentives for people not to flee, U.S. policy on aid has been less than coherent. Vice President Pence recently told Central American governments that the United States is committed to their prosperity, but you proposed significant FY 2018 and 2019 cuts in development funding to the region. Similarly, threats to end aid in the absence of cooperation on migration are unlikely to yield good outcomes. Though we don't have final figures for FY 2018, FY 2017 spending for the Northern Triangle was over \$500 million from all sources, but, frankly, the United States will have to do more. Obstacles on the ground—and the importance of having an authoritative voice engaging Congress—suggest that such an appointment of a Special Envoy—to handle the broad of issues addressed in this memo—makes sense.

For DHS—Identify credible alternatives to detention: The DHS Secretary should examine alternatives to detention, in light of the very high cost of incarcerating asylum seekers, litigation risks, and limitations in detention capacity. In fact, most asylum seekers show up at court proceedings, but some do not. DHS has made extensive use of monitoring bracelets, but there are other alternatives that have proven effective in the past, such as a variety of case or community management programs in which asylum seekers work closely with service providers.

For DHS—Strengthen capacity at U.S. ports of entry and devote additional personnel to the backlog: If you are urging asylum seekers not to enter the United States without authorization, then the administration must enhance capacity to process asylum seekers at ports of entry. The administration must also find additional resources to address the asylum backlog, and ensure they are not drawn from the already modest refugee admissions program. Given the enormous resources now being spent on a range of enforcement measures, a significant investment in this area is wholly appropriate.

Recommendation

That you approve this plan of action, and authorize the Secretaries of State and Homeland Security, along with other senior officials, to implement its elements.

Appendix: Notes on Factual References in the Memorandum

References on Page 1

The quotation from General Fraser can be found in a *Christian Science Monitor* article by Anna Mulrine, “Pentagon: Central America ‘deadliest’ non-war zone in the world,” April 11, 2011. <https://www.csmonitor.com/USA/Military/2011/0411/Pentagon-Central-America-deadliest-non-war-zone-in-the-world>

The survey on unaccompanied minors is drawn from a UN High Commissioner for Refugees (UNHCR) publication, *Children on the Run, Unaccompanied Children Leaving Central America and Mexico and the Need for International Protection* (2014). <http://www.unhcr.org/en-us/children-on-the-run.html>

The statistics around women claimants for asylum are referenced in UNHCR, *Women on the Run, First-hand Accounts of Refugees Fleeing El Salvador, Honduras, Guatemala, and Mexico* (2015). <http://www.unhcr.org/en-us/publications/operations/5630f24c6/women-run.html>

Statistics on apprehensions at the southwest border for 2018 can be found at the website of U.S. Customs and Border Protection. Figures for FY 2018 are at <https://www.cbp.gov/newsroom/stats/sw-border-migration>. Figures for the prior four years are at <https://www.cbp.gov/newsroom/media-resources/stats>

The figure on the number of children in the caravan comes from an October 26, 2018 statement from UNICEF. <https://www.unicef.org/press-releases/estimated-2300-children-traveling-migrant-caravan-mexico-need-protection-and>

For presidential comments on “queue jumping,” see “Full replay: President Trump hold ‘MAGA’ rally in Charlotte, North Carolina,” *RealClear Politics* (October 2018), https://www.realclearpolitics.com/video/2018/10/26/watch_live_president_trump_holds_maga_rally_in_charlotte_north_carolina.html

The president’s UN comments on hosting refugees were made in his UN General Assembly speech in September 2017, and can be found on the White House website. <https://www.whitehouse.gov/briefings-statements/remarks-president-trump-72nd-session-united-nations-general-assembly/>

References on Page 2

Figures on average numbers of people granted asylum are drawn from DHS statistics, but were accessed from a webpage of the American Immigration Lawyers Association. <https://www.americanimmigrationcouncil.org/research/asylum-united-states>

Data on the U.S. backlog is drawn from Syracuse University’s *Transactional Records Access Clearinghouse*, at http://trac.syr.edu/phptools/immigration/court_backlog/

Visa overstay data is referenced by DHS, at <https://www.dhs.gov/news/2018/08/07/dhs-releases-fiscal-year-2017-entryexit-overstay-report>

Data on pending asylum applications worldwide is drawn from a UNHCR publication, *Global Trends: Forced Displacement in 2017*. <http://www.unhcr.org/5b27be547.pdf>

For information and commentary on whether asylum seekers show up for hearings, see Kruzel, “Majority of undocumented migrants show up for court, data shows” (June 26, 2018), *Politifact*, <https://www.politifact.com/punditfact/statements/2018/jun/26/wolf-blitzer/majority-undocumented-immigrants-show-court-data-s/>

For a discussion of Mexico’s refugee law, see Luna, “Mexico’s Refugee Law: (2018), on the website of the Center for Immigration Studies. <https://cis.org/Luna/Mexicos-Refugee-Law>

The Pew study on Hispanic perceptions (October 2018) can be found at <http://www.pewhispanic.org/>

References on Page 3

For Vice President Pence’s October comments about prosperity in Central America, see the White House transcript of his remarks, at <https://www.whitehouse.gov/briefings-statements/remarks-vice-president-pence-conference-prosperity-security-central-america/>

Figures on 2017 actual spending are drawn from two sources: 1) the FY 2019 State Department’s Foreign Operations Congressional Budget Justification, <https://www.state.gov/documents/organization/279518.pdf>; and 2) the Washington Office of Latin America—“Monitoring U.S. Assistance to Central America, at <https://www.wola.org/monitoring-assistance-central-america/>

For a very brief discussion of alternatives to immigration detention, see Nowrasteh, “Alternatives to detention are cheaper than universal detention” (June 20, 2018), *CATO at Liberty*, <https://www.cato.org/blog/alternatives-detention-are-cheaper-indefinite-detention>