



## Let Them Work

*Detention centers at the border are full of able-bodied people. Our economy needs workers. Maybe we can work something out.*

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We should all be thankful that the number of migrants crossing our southern border dropped dramatically last month, down overall 28 percent in June, with an even larger decline among families and unaccompanied children. But this welcome development does not mean the humanitarian crisis is over for thousands of asylum seekers who have been subjected to conditions in U.S. facilities most of us would not find acceptable for animals. Investigations by the Department of Homeland Security Office of the Inspector General confirm that even very young children lack beds, clothing, food, clean water and access to proper hygiene. Some have suffered psychological, physical, and sexual abuse by guards and Custom and Border Patrol agents. The DHS inspector general report revealed photographs of youngsters in overcrowded wire and concrete cages with only Mylar blankets to keep them warm. Physicians who have visited the sites report the stench of urine, feces, and sweat that pervades the holding cells. Some migrants have alleged they were told to drink from toilets when they complained that they had no access to water.

In any other administration, heads would roll. In Trumpworld, the nastier the conditions migrants must endure, the happier the immigration hardliners are, banking on the deterrent effect stories of abuse, sickness, even death will have on those thinking of making the dangerous trip north. “If Illegal Immigrants are unhappy with the conditions in the quickly built or refitted detentions centers, just tell them not to come,” Trump tweeted July 3. The president even claims that migrants are “living far better now than where they came from,” revealing a callousness that should no longer surprise us.

Our current asylum laws badly need revising—as do our immigration laws. Asylum laws provide protection for those who are fleeing persecution. Under rules in effect until Monday when Trump proposed changes, asylum seekers could make their claims only once they are on U.S. soil—and they had up to one year after entering the country to do so, regardless of where or how they entered. The tens of thousands of asylum seekers who have made it to the southern border over the last year are not criminals or even “illegal aliens,” as Trump officials like to refer to them. They are following U.S. law. But instead of processing asylum applicants quickly, gathering biometric and other data, issuing bonds, assigning court dates, and releasing them, the

administration has chosen to incarcerate them. ('Detention' is simply an anodyne description of what is occurring; were these asylum seekers actually convicts, they could make a good case that their constitutional right to be protected from cruel and unusual punishment was being violated.)

So what can be done? First, it is important to understand the role policy played in creating the current crisis. When Donald Trump took office, illegal immigration to the United States was at a modern historic low. In fiscal year 2017, CPB apprehended approximately 304,000 migrants at the southern border, fewer than at any point since 1971, part of a downward trend that began in 2000 and accelerated after the 2008 recession. Yet, Donald Trump managed to whip up a frenzy over illegal immigration during his campaign—promising to build a wall that Mexico would pay for to keep out imagined hordes of drug dealers, rapists, and other criminals. Subsequent administration actions and ever-harshening rhetoric sent a clear message to would-be asylum seekers that the window of opportunity for gaining entry was fast closing.

Conditions in the Northern Triangle countries of Central America drive much of the migration from that area, now exceeding that of Mexico, which for a century had been the main source of illegal migration. Drugs, gangs, violent crime, poverty, even climate change have made it difficult for many families to remain safely in Honduras, El Salvador, and Guatemala. Given the choice between feeding and protecting their children from gangs or risking the dangerous trek to the border and apprehension by U.S. authorities, in increasing numbers many parents have decided on the latter. In fiscal year 2017, CPB apprehended 75,622 migrants in family units and 41,435 unaccompanied children at the southern border. In FY 2018 that number had increased by 42 percent and 21 percent respectively. Until the upward trajectory reversed in June, FY 2019 was on track to see more than a million migrants apprehended overall, the greatest number in almost two decades.

The Trump administration's answer has been to make life as miserable as possible for those apprehended, separating families, caging children, and covering up conditions in detentions centers by limiting access by members of Congress and denying it altogether to the press. If any other nation did this, we would be outraged, and rightly so. But Trump has inured us to outrage. Not even the picture of a dead migrant toddler floating face down in the Rio Grande provoked a sustained public outcry. Within a week, we'd moved on to the horror du jour, the latest involving Trump's (now resigned) Labor Secretary Alex Acosta having negotiated a sweetheart prosecution deal for a pedophile a decade ago when Acosta was a U.S. attorney in Miami. But Congress has a duty to stay focused—and to address the crisis directly through legislation.

The administration routinely derides the appropriate process for dealing with asylum seekers as "catch and release," claiming that releasing those picked up at the border, even children with parents or relatives already living in the U.S., endangers communities. Furthermore, they claim that those released fail routinely to appear for their hearings. As with so much of what this administration says, however, not only is there no evidence that this is true, there is abundant evidence from the administration's own agencies that refutes the claims. In fiscal year 2018, according to the Department of Justice, only 11 percent of those seeking asylum failed to appear

at their hearings and their cases were determined in absentia. For asylum seekers and unaccompanied minor who have legal representation, 98 percent show up for their hearings.

Nonetheless, it would be far better for all concerned if asylum seekers could pursue their claims in their home countries—which would require giving consulates the authority and resources to do so. But more must be done to deal with the situation actually driving so many families to flee their homes. Rep. Zoe Lofgren (D-California) has introduced a bill that would attempt to address conditions in the Northern Triangle, which would require the administration to come up with a five-year strategy to combat corruption and strengthen the rule of law in Guatemala, Honduras, and El Salvador. Republicans should welcome such an approach, but the administration has chosen instead to cut off all aid to the countries as punishment for their citizens' decision to exercise a basic human right, the right to emigrate.

But fixing the flaws in our asylum system is only part of the solution. Many of those seeking asylum are fleeing poverty, an understandable decision but not one the law contemplates as a valid qualification for asylum. In the past, parents who could not feed their children often made the difficult decision to leave them behind with family members in the home country while they sought work in other countries. For the last hundred years, millions of men, mostly Mexican, came north, crossing the porous border illegally, to work in fields, plants, and factories, sending money back to support their families when work was available and returning home when jobs dried up.

Employers were eager to hire them—which did not become illegal until 1987—and, at least in prosperous times, the government was happy to turn a blind eye. In the 1940s, the Bracero Program formalized the arrangement, sending illegal migration plummeting, by providing temporary work visas for some 4.6 million Mexicans. Even after the Bracero Program ended in 1964, Mexicans continued to come to the U.S. for seasonal work—albeit without documentation. As the Cato Institute had pointed out, Ronald Reagan remarked in 1977 in one of his regular radio addresses, ““It makes one wonder about the illegal alien fuss. Are great numbers of our unemployed really victims of the illegal alien invasion or are those illegal tourists actually doing work our own people won't do?,” Reagan asked. “One thing is certain in this hungry world; no regulation or law should be allowed if it results in crops rotting in the fields for lack of harvesters.””

Of course, Reagan famously granted amnesty in 1986 to some 3 million illegal immigrants, but the inept and ineffective legislation Congress passed that year to try to deal proactively with the problem of illegal immigration did little to stem the flow because it did not address the real issue: namely, how to provide employers with a reliable flow of immigrant labor for niche industries and markets where Americans shunned available jobs. Unsurprisingly, less than a decade later with the economy booming, more and more migrants made the trip north so that by 2000 the population of illegal immigrants had grown to more than 12 million.

In successive administrations from Bush '41 to Trump, the response has been to throw money at enforcement rather than recognizing the role of labor market forces in driving immigration. Conservatives used to understand market economics—maybe some still do, but Trump's

appointees and supporters clearly refuse to. With unemployment at historic lows, the economy producing more jobs than there are workers to fill them, and an aging native population, we must find a way to expand our labor force—and quickly. Why not give those adult asylum seekers languishing in CPB facilities who are willing and eager to work the right to do so by releasing them and granting temporary work permits immediately, as we once did, instead of making them wait at least six months? Many of these migrants have skills that are sorely needed in agriculture, construction, and other services. But would Congress much less the administration consider approving such a plan, even if it were temporary? Not likely—Democrats would cry exploitation and Republicans would claim the migrants were stealing American jobs. Nonetheless, a plan to create temporary work permits should be a part of the conversation on immigration reform.

Clearly, nothing we have done thus far has worked to deter desperate people from coming to the United States. It's time we recognized that a punitive approach serves no one's interests, certainly not those who have risked their lives to come here nor our own. Instead of helping our economy grow by allowing willing workers from Central America and elsewhere to take jobs Americans shun, we spend billions building fences, militarizing our border, and punishing those who manage to make it here against the odds. This may make Trump happy, but it certainly doesn't make America great.