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Stop the inhumane separation of families at the border

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The separation of families at the border is a choice, not a necessity.

Seeking to deter illegal border crossings, the Trump administration has made a point of criminally prosecuting adults who illegally enter the country. On April 6, Attorney General Jeff Sessions announced a “zero-tolerance” policy for illegal border crossing and instructed greater criminal prosecutions for such offenses.

At the same time, Sessions has ruled that victims of gang violence or domestic violence don’t necessarily qualify for asylum in the United States, which has led many asylum seekers to enter the country and ask for asylum, thus leading to prosecutions for illegal entry.

There is no evidence yet that these efforts have resulted in decreased illegal border crossings, but they have given the country haunting images of children in cages, separated from their adult relatives who have been hauled off to be criminally prosecuted.

These sets of practices are unnecessary, excessive and ultimately a deliberate choice of the Trump administration.

The “zero tolerance” policy isn’t required by law, as Ilya Somin, professor of law at George Mason University and blogger at The Volokh Conspiracy, has argued: “They could easily exercise the discretion to avoid prosecution and family separation, as previous administrations have, and as the Trump administration itself does in the case of nearly all small-time marijuana users.”

With the administration’s stance, it is unlikely it will adjust any time soon.

The Keep Families Together Act, introduced by California Sen. Dianne Feinstein, is one viable solution. The bill, backed by all Senate Democrats, would only allow family separation if there’s evidence the child is being abused by their parents or there is evidence of trafficking.

Sen. Ted Cruz, R-Texas, has proposed increasing the number of immigration judges, keeping families together and processing cases faster. One problem with his proposal is the idea that asylum cases should be rushed.

A better idea to deal with asylum seekers, suggested by Alex Nowrasteh at the Cato Institute, is to resume and expand the Family Case Management Program to all asylum seekers. Under the program, shut down by the Trump administration last year, families were kept together in shelters as they awaited asylum hearings.

Unfortunately, the Trump administration is clearly trying to use the separation of families as leverage to get Congress to approve more sweeping immigration legislation.

White House Press Secretary Sarah Huckabee Sanders said this week the president would reject a narrow fix that doesn't include border wall funding and restricting certain forms of legal immigration. "We want to fix the whole thing, we don't want to tinker with just parts of it," she said.

The Trump administration's cynical approach to this issue should be rejected by any member of Congress, regardless of political party.

This will certainly prove harder for many Republicans to do – polls on behalf of the Daily Beast have found significantly higher support for family separation among Republicans, whereas vast majorities of Democrats and independents oppose it. Fortunately, Senate Majority Leader Mitch McConnell says he correctly wants a "narrow fix."

Congress should set aside partisanship, ignore White House bluster and stop the inhumane practice of separating families at the border.