



Human Rights First Analysis of the Trump Administration's Initial Immigration Executive Actions

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On the first day of the Trump-Vance Administration, the President issued a host of anti-immigrant and -refugee Executive Orders that undermine our national security, tarnish our global reputation, and eliminate crucial protections and safe pathways for those fleeing persecution. Human Rights First's analysis of the first executive actions by this administration follows:

Weaponizing Presidential War Powers and the Military Against Migrants

The Presidential Proclamation, "[Guaranteeing the States Protection Against Invasion](#)," (Jan. 20, 2025) wrongfully characterizes families with children and adults who arrive at the southern border to exercise their legal right to seek asylum under U.S. and international law, as an 'invasion' under Article IV, section 4 of the U.S. Constitution. The Order suspends their physical entry and bars access to asylum and other legal protections, in violation of law. This weaponization of constitutional wartime powers and their application to what is fundamentally a humanitarian situation subverts refugee protection globally and dangerously misuses the military against vulnerable people seeking safety.

Declaration of a National Emergency

The Executive Order, "[Declaring a National Emergency at the Southern Border of the United States](#)," (Jan. 20, 2025) states that "America's sovereignty is under attack," requiring use of the Armed Forces, including the Ready Reserve and the National Guard. Yet crossings between ports of entry by migrant families and adults are [lower](#) than when President Trump left office in 2020, and during the last two months of 2024, more migrants were processed at ports of entry than those crossing between ports of entry.

The Order invokes the construction authority and authorizes military support to the Department of Homeland Security (DHS), including by providing detention space, transportation, and other logistics, and calls for the construction of additional physical barriers and for the use of drones at the southern border. The Order seems to enlist U.S. military actors in immigration enforcement by directing the military and DHS to "impede and deny" the physical entry of asylum seekers and migrants, in violation of the non-derogable principle of *non-refoulement* as a nonadmission at a border and forced return of people to a place where their life or freedom may be threatened. The Order speaks to "use of force" policies by the military and DHS which, coupled with a separate Executive Order directing the Armed Forces to "repel" the "invasion" by migrants, signals the potential use of military force against a civilian population, which must be condemned. The Order directs the Secretaries of Defense and of Homeland Security to provide recommendations within 90 days of additional actions needed to obtain "complete operational control" of the border, including whether to invoke the Insurrection Act of 1807.

Dangerous Misuse of the Military

In a separate Executive Order, "[In Clarifying the Military's Role in Protecting the Territorial Integrity of The United States](#)," (Jan. 20, 2025) President Trump, as Commander-In-Chief, invokes the declared national emergency at the border to direct the United States Northern Command (USNORTHCOM) to deliver a plan within 10 days to prepare a mission to "seal the borders and maintain the sovereignty, territorial integrity, and security of the United States by repelling forms of invasion including unlawful mass migration, narcotics trafficking, human smuggling and trafficking, and other criminal activities." This sets dangerous precedents for further use of the military in domestic policy and the erosion of democratic norms in the United States. Using the military in domestic law enforcement could fundamentally alter the balance of power between the branches of government, leading to greater authoritarian abuses of military power on domestic soil.

Border Shutdown on Asylum and other Protections

The Executive Order, "[Guaranteeing the States Protection Against Invasion](#)," (Jan. 20, 2025) declares an invasion at the southern border under the Constitution and invokes sections 212(f) and 215(a) of the Immigration and Nationality Act (INA) to shut down processing of migrants and asylum seekers and ban access to asylum and other legal protections, in clear contravention of the INA. The Order does not specify exceptions for unaccompanied children or other vulnerable populations, such as victims of trafficking, leaving them at risk of being subjected to this unlawful shutdown and suspension of asylum and other protections.

The Executive Order suspends entry and eliminates the right to seek asylum and other legal protections for asylum seekers and migrants "engaged in the invasion across the southern border." From the text of the Order it appears that this language is intended to refer to asylum seekers and other migrants generally. The Executive Order is ambiguously worded, such that it is unclear if the administration also intends to bar people from withholding of removal under section 241(b)(3) of the INA, which is a mandatory form of protection for those who qualify. In addition to banning asylum, it may ban protections for unaccompanied children and victims of trafficking, as well as other legal immigration status for which people may be eligible.

It also suspends entry and denies access to asylum or other legal status under the INA for anyone who fails to provide sufficient medical, criminal history, and background information to U.S. government officials before entering the United States, deeming these individuals detrimental to the interests of the United States. This latter provision does not appear to be limited to the southern border; it is not clear whether it could apply to individuals arriving by other means to the United States, or what it would mean for categories of visa holders, e.g. tourists, who, unlike immigrants seeking permanent status, are not required to undergo medical examinations for admission to the United States, or for arriving asylum seekers who by statute are not required to (and practically speaking could not) arrive in the United States with medical examination reports completed by U.S. civil surgeons in their home countries. The Order relies in

part on false assertions that paint migrants as a threat to public health, an approach widely [condemned](#) by leading public health experts and epidemiologists.

Suspension of CBP One and Humanitarian Parole Programs

The Executive Order, "[Securing Our Borders](#)," (Jan. 20, 2025) suspends use of the CBP One mobile application, which provided limited, lottery-based appointments for asylum seekers and migrants to present at U.S. border ports of entry to be processed. The Trump administration immediately cancelled all previously scheduled appointments for approximately 30,000 migrants who are now left in limbo. Additionally, an estimated [270,000 migrants](#) who have been waiting for an appointment — many for [eight months](#) or longer — remain in dangerous conditions in Mexico where they have been [targeted for kidnapping, torture, and other harms](#).

Despite [flaws in the operation of this system](#), at the time of its suspension, it was essentially the only means of being processed to seek U.S. asylum at the southwest border due to unlawful restrictions in place under the Biden administration. Elimination of CBP One appointments will increase desperation and insecurity for migrants and asylum seekers who face [unremitting violence and danger](#) while waiting to seek safety. Like other policies that restrict or eliminate processing at ports of entry, this move will fuel chaos and disorder by spurring people whose lives and safety are at risk to cross between ports of entry, only to then subject them to punitive criminal prosecution, incarceration, and likely deportation to persecution under related Executive Orders barring access to asylum and other protections at the border.

The Executive Order also terminates "all categorical humanitarian parole programs," including programs that provided a legal pathway for Cubans, Haitians, Nicaraguans, and Venezuelans to travel to and temporarily reside in the United States and may also include the Uniting for Ukraine parole program. People who applied for these programs were required to identify a U.S.-based sponsor who could support them, pass security vetting, and meet other criteria in order to be approved for travel to the United States.

Restart of "Remain in Mexico" Program

The Executive Order, "[Securing Our Borders](#)," (Jan. 20, 2025) reinstates the Migrant Protection Protocols (MPP, or commonly referred to as the [Remain in Mexico \(RMX\) policy](#)). DHS [announced](#) a resumption of the policy on January 21. RMX forced asylum seekers to wait in dangerous Mexican border cities while their U.S. immigration court cases were pending. It resulted in [thousands](#) of violent attacks against asylum seekers and migrants enrolled in the program, was a due process farce, wasted government resources, and violated U.S. and international law.

The policy was a [boon](#) to cartels: asylum seekers returned under RMX were routinely targeted by cartels collaborating with Mexican government agents and often [kidnapped, tortured, and held for ransom](#). Many asylum seekers, including children, [were abducted](#) immediately after the U.S. government enrolled them in RMX and returned them to cartel-controlled regions, as well as while traveling to their hearings or directly outside ports of entry before or after their hearings.

People were [overwhelmingly deprived](#) of their right to legal counsel and often could not attend or participate in their own immigration hearings.

As DHS concluded under the Biden Administration, RMX was counterproductive to effective migration policy, [spurring](#) unlawful crossings into the United States because people could not safely wait in Mexico and draining government resources that should have been directed to conduct fair and humane asylum adjudications in the United States and reduce the asylum backlogs.

Refugee Ban

The Executive Order "[Realigning the US Refugee Admissions Program](#)" (Jan. 20, 2025) indefinitely suspends, with the possibility of case-by-case exceptions, the US Refugee Admissions Program (USRAP) beginning on January 27, 2025. However, on [January 21, 2025](#), the State Department notified resettlement agencies that refugees who have already undergone vetting and thorough processes by the U.S. government and were scheduled to travel to the United States would have their flights cancelled, ahead of the January 27th effective deadline set by the Executive Order. Upon taking office in 2017, President Trump temporarily suspended the refugee admissions program for 120 days.

The Refugee Ban impacts all individuals in the USRAP pipeline, including all priority referral categories (Priority 1, Priority 2, and Priority 3), as well as Welcome Corps, Central American Minor (CAM) refugees, and follow-to-join family petitions (I-730) processed by USRAP (unless subject to case-by-case exceptions). The Executive Order does not on its face apply to Special Immigrant Visa (SIV) applicants, so Afghans processed as SIVs should not be stopped from completing consular processing and travelling to the United States. Family members joining their Afghan (or Iraqi) SIV holder family members go through a SIV follow-to-join process that falls under the same SIV statute, so similarly should not be impacted by this Refugee Ban. The Executive Order also directs the Secretary of DHS and Secretary of State to examine existing law to determine if states and localities could provide more determinative power around decisions for resettlement placement in their jurisdiction.

Currently, there are over 200,000 refugees who are waiting in the refugee resettlement pipeline, refugees our country has pledged to protect. Pauses in resettlement, even when temporary, can have cascading impacts on the program as a whole, as refugees booked for travel are required to repeat lengthy security and medical checks that are only valid for a short window of time. These are some of the most vulnerable refugees around the world, who have been selected often because they remain unsafe in their first country of asylum.

The USRAP has enjoyed overwhelming bipartisan support throughout its decades-long history. Refugee resettlement benefits the United States at every level, bringing enormous economic and sociocultural benefits to our communities and strengthening our national security. Resettlement advances U.S. interests by providing critical support to front-line nations that host the vast majority of refugees, enabling them to continue to welcome and host refugees. At a time of

unprecedented and growing resettlement needs around the world, suspending the refugee program is an abdication of our core humanitarian values and the leadership role the United States plays around the world.

Expansion of Summary Deportations

The Executive Order, "[Protecting the American People Against Invasion](#)," (Jan. 20, 2025) expands the use of expedited removal, a process that allows immigration officers to summarily deport people without access to immigration court hearings. The Order directs the Secretary of Homeland Security to apply expedited removal to people anywhere in the interior of the United States who were not admitted or paroled into the country and who cannot affirmatively show that they have been continuously physically present in the United States for at least two years. DHS issued a [notice](#) of the expansion to take effect on January 21, 2025.

Expedited removal is a flawed process that lacks critical due process protections, exacerbated by recent policies that further [eroded](#) safeguards in the process. People subjected to expedited removal are summarily deported unless they express a fear of return, in which case they must be referred for a fear screening (a credible fear interview). Yet the recent elimination of the requirement that immigration officers ask people in expedited removal whether they fear return has compounded the pre-existing flaws of this process and [led to](#) widespread unlawful summary deportations of asylum seekers without statutorily mandated fear screenings. The overwhelming majority of people in expedited removal are unable to secure legal representation or even consult with a legal representative while detained before being summarily deported.

The use of expedited removal has [led](#) to the wrongful deportation without asylum hearings of people fleeing persecution, including people who were murdered after they were deported. Expanding the application of expedited removal will escalate these unlawful deportations: many people will not know that they are required to spontaneously express their fear of return in order to be referred for a fear screening—especially when they are already living in the United States—or will be unable to do so because they do not speak English, have disabilities or mental health issues, or face abuses and intimidation at the hands of immigration officials. Other recent [regulatory changes](#) have increased the complexity of these fear screenings by including consideration of bars to asylum at the initial screening stage, increasing the risk of wrongfully returning people seeking asylum to persecution.

Under the expansion, those who are unable to prove—upon apprehension by a DHS officer—that they have resided in the United States for longer than two years will be subjected to expedited removal and potentially deported without access to a hearing. The expansion of this due process deficient summary deportation authority will also pose a risk to U.S. citizens, particularly those with cognitive disabilities, those with mental illness, and those who derived citizenship from a U.S. citizen parent. DHS (and before it, the INS) has detained U.S. citizens on the mistaken assumption that they are undocumented immigrants; expedited removal authority makes these situations almost impossible to fix before the person is actually deported.

Expanded Detention and Criminalization of Individuals Without Status

The Executive Order, "[Protecting the American People Against Invasion](#)," (Jan. 20, 2025) mandates sweeping enforcement actions in targeting *all* undocumented people and revokes the Biden administration's enforcement priorities which focused ICE and CBP's resources on individuals who recently arrived in the United States or were deemed to pose a threat, such as to national security and public safety. The Order chillingly calls for a registration requirement for all undocumented people and treats those who fail to register as a civil and criminal enforcement priority. A similar program (known as "Special Registration") was implemented in the immediate aftermath of 9/11, which racially profiled Arabs and Muslims, placed the many undocumented people who complied with the order to register into removal proceedings, and did nothing to advance national security.

Mass, Wasteful, and Unnecessary Detention

The Order similarly mandates expanded immigration detention, targeting *all* individuals who are arrested for an immigration law violation. The "[Securing Our Borders](#)" Executive Order also directs DHS to detain people who are apprehended between ports of entry for the duration of their proceedings, which will subject families with children and adults to prolonged detention in harsh and abusive conditions, inflict severe harm to physical and mental health, block access to legal representation, prevent people from preparing their immigration cases, and cost [billions](#) of taxpayer dollars. [Detaining families with children can lead](#) to life-long damage to health and development, leading to issues including post-traumatic stress disorder, depression, developmental regressions, suicidal behavior, weight loss, sleep disturbance, and frequent infections.

Instead of jailing people seeking safety and other immigrants, the government has legal authority to release them to U.S. communities where they can safely wait for their cases to be decided. Community-based case support [programs](#), which facilitate access to counsel and provide social and other services, have proved drastically less costly than detention and overwhelmingly ensured appearance at court hearings.

These provisions will significantly worsen immigration case backlogs, which reached [3.6 million](#) at the end of FY 2024, due to the [consistent pattern of disproportionately funding immigration detention over immigration adjudication](#) when expanding immigration enforcement.

Ill-targeted Criminal Prosecutions

The "[Protecting the American People Against Invasion](#)" Executive Order (Jan. 20, 2025) calls for expanded criminal prosecutions of families and adults who cross between ports of entry to seek asylum, as well as individuals present in the United States without status. The [Securing Our Borders](#) Executive Order also calls for prioritization of the "prosecution of offenses that relate to the borders of the United States." These ill-advised criminal prosecutions divert resources from more serious security threats and violate due process and U.S. treaty obligations not to penalize refugees for the irregular manner of their entry into or presence in their country of refuge.

Through its Zero Tolerance policy, the first Trump administration weaponized the criminal prosecution of families crossing the border to separate children from their parents. Under this policy, the administration separated nearly [5,000](#) families, resulting in irreparable trauma and harm to children and parents and amounting to [enforced disappearances](#). To this day, over [1,300](#) children remain separated. The prioritization of criminal prosecutions for unlawful entry will overwhelm district courts, [especially in border states that have previously experienced emergency-level backlog issues caused by these increased prosecutions](#). In 2018, 70 former U.S. Attorneys who served under both Democratic and Republic administrations [wrote](#) to the Trump administration explaining that prosecuting unlawful entry cases detracts resources from investigating “more significant crimes” and that the Zero Tolerance policy has a “dangerous national security impact.”

Terrorizing Communities

The “[Protecting the American People Against Invasion](#)” Executive Order (Jan. 20, 2025) directs the creation of Homeland Security Task Forces, with representation from state and local law enforcement agencies, that will operate in all states and whose objectives will include to “ensure the use of all available law enforcement tools to faithfully execute the immigration laws of the United States.” The Order also directs the Secretary of Homeland Security to use 287(g) or other agreements to authorize state and local law enforcement officials “to perform the functions of immigration officers in relation to the investigation, apprehension, or detention” of noncitizens. It further instructs the Attorney General and Secretary of Homeland Security to take action to ensure that sanctuary jurisdictions that interfere with federal enforcement operations do not receive access to federal funds and to undertake any criminal and civil action against such jurisdictions that are deemed warranted. These steps will expend state and local resources to carry out the administration’s mass deportation plans, terrorize and intimidate immigrant communities, lead to racial profiling, civil rights violations, harassment by law enforcement, and separate families.

Attack on Birthright Citizenship

The “[Protecting the Meaning and Value of American Citizenship](#),” Executive Order (Jan. 20, 2025) attempts to revoke birthright citizenship for certain children born in the United States based on their parents’ immigration status. This is in clear violation of the Fourteenth Amendment, which guarantees that all people born in the United States and subject to the jurisdiction thereof are U.S. citizens. The Order directs federal agencies to refuse to recognize the U.S. citizenship of children born on or after February 19, 2025 if, at the time of birth: 1) their mother is unlawfully present in the United States and the father is not a U.S. citizen or lawful permanent resident or 2) the mother has lawful but temporary presence in the United States and the father is not a U.S. citizen or lawful permanent resident. This Order appears to deny the U.S.-born children of many asylum seekers, asylees, and other immigrants present on long-term visas a fundamental right guaranteed by the Constitution and will cause chaos for federal, state, and local agencies.

The Order rests on the legally unsupported claim that these children are not subject to the jurisdiction of the United States. To illustrate the bizarre and dangerous ways this would play out: Suppose a couple from Afghanistan, some months after being granted asylum in the United States, have a daughter. That child, whose U.S. citizenship was not previously in any doubt, would not be covered by her parents' asylum grant, because she was born after their case was approved. Without U.S. citizenship she would be left a citizen of Afghanistan only, *and with no lawful status whatsoever in the United States*, the country of her birth. But neither could DHS remove her, because, according to this Order, she is not subject to U.S. jurisdiction. The Order would also render stateless the children of immigrants unable to derive citizenship from their parents, and would cast a cloud over the U.S. citizenship of children born to parents who were not U.S. citizens or permanent residents *before* February 19, 2025.

Designating Cartels as Foreign Terrorist Organizations and the Alien Enemies Act of 1798

The Executive Order, "[Designating Cartels and Other Organizations as Foreign Terrorist Organizations and Specially Designated Global Terrorists](#)," (Jan. 20, 2025) creates a process for a recommendation to be made within 14 days on whether to designate certain international cartels and transnational organizations, such as Tren de Aragua and Mara Salvatrucha (MS-13), as a Foreign Terrorist Organization and/or a Specially Designated Global Terrorist. The Order declares a national emergency under the International Emergency Economic Powers Act to deal with these threats to the "national security, foreign policy, and economy of the United States." The Order also directs the Attorney General and the Secretary of Homeland Security, in consultation with the Secretary of State, to undertake operational preparations within 14 days for the detention and removal of individuals who may be designated under an invocation by the President of the Alien Enemies Act of 1798.

The groups named in this Order commit serious crimes and pose a significant threat to the security of people in Mexico and in several countries of Central and South America, as well as to the integrity of government functions in many areas. Some have caused significant displacement of civilians, and cartels continue to target migrants in Mexico for terrible human rights violations, in some cases with the cooperation or acquiescence of local law enforcement. Refugees and asylum seekers coming to the United States in search of safety from these groups have been saying this to the United States government for years.

However, an FTO designation specifically would have numerous unintended consequences, not only for [U.S. companies](#) doing business in those countries and for humanitarian organizations active there, but for the victims of these groups. This concern is based on the prior use of the terrorism-related inadmissibility grounds of the immigration statute against people who were subjected to duress at the hands of non-state armed groups, forced to pay them money, for example, to secure their own release from captivity or the release of a spouse or child.

Such treatment stigmatizes the victims, and causes (at best) major delay and added stress to the adjudication of their immigration cases. As for the cartels and other groups that might be

targeted by an FTO designation, they would be unaffected by any resulting stigma—these criminal groups have no reputation to lose, and their criminal activities are already prohibited by law both in the United States and in the countries where they operate, including an extensive body of law targeting narco-trafficking and narco-traffickers.

The Order’s suggestion that any of these groups threaten the territorial integrity of the United States, or are otherwise staging or planning an “invasion” of the United States is baseless. Any use of the Alien Enemies Act to detain actual or perceived members of these groups, or others, would violate the law and likely face immediate legal challenges. This is not only because the state of war or invasion required for invoking the Act in 1798 and in past instances does not exist, but also because such actions would conflict with subsequent statutory authority, modern U.S. constitutional law, and international human rights standards.

Externalizing Asylum: Agreements to Send Asylum Seekers to Unsafe Third Countries

The “[Securing Our Borders](#)” Executive Order (Jan. 20, 2025) directs the Secretary of State, in coordination with the Attorney General and Secretary of Homeland Security, to pursue international agreements, including agreements for removing asylum seekers to third countries. The first Trump administration initiated agreements, which were not safe third country agreements and did not comply with U.S. or international law, to send people to third countries where they had no guarantees of safety. Under one of these agreements, the United States [deported](#) nearly 1,000 Honduran and Salvadoran asylum seekers, the majority of whom were women and children, to Guatemala, where many feared the same persecution that they had suffered in their home countries and/or did not have access to effective protection.

Laying the Foundation for a Travel Ban

The Executive Order, “[Protecting the United States from Foreign Terrorists and Other National Security and Public Safety Threats](#),” (Jan. 20, 2025) lays the groundwork for country-specific travel bans as done under the first Trump administration’s [ban](#) which [barred](#) entry by nationals from several Muslim-majority and African countries. The Order directs the submission, within 60 days, of a list of countries worldwide whose vetting and screening information is “so deficient” as to warrant a partial or full suspension of the admission of nationals from those countries pursuant to section 212(f) of the INA (8 U.S.C. 1182(f)). The Order calls for enhanced vetting and screening, including for individuals who are already inside the United States, and particularly for “regions or countries with identified security risks,” as well as stringent identification verification for refugees or stateless individuals beyond that required of any other individual seeking admission. The refugee resettlement process is already more invasive, and gathers more biographical and other information about individuals, than any regular immigration process administered by the United States. Nor is the identity of stateless people necessarily less well documented than persons enjoying a nationality. It stigmatizes both groups, and imposes unnecessary delay and costs to the U.S. government, to single them out for extreme identity-verification measures.

Targeting Non-Governmental Organizations

The Executive Order, "[Protecting the American People Against Invasion](#)," (Jan. 20, 2025), directs the Attorney General and the Secretary of Homeland Security to review and potentially audit contracts, grants, or other agreements providing federal funding to non-governmental organizations that support or provide services to undocumented people. The order instructs the agencies to review these agreements for any waste, fraud, abuse, or violation of immigration laws and references steps including terminating these agreements or even initiating "clawback or recoupment procedures." These actions are in line with steps taken by [state government actors](#) and [members of Congress](#) to intimidate, defund, harass, investigate, and pursue legal action against legal service and humanitarian organizations assisting migrants and asylum seekers, which spark further violence and threats by non-state actors.

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