

Weaponizing the U.S.–Mexico Border: Trump's Use of Executive Power to Dismantle Asylum Protections, 2017-2021

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Abstract:

This paper examines how Trump's first administration weaponized executive power to undermine U.S. asylum protections, turning them into tools of political deterrence. The study utilizes the concept of "weaponization of borders" to analyze the link between rhetoric, policy, and practice. It also highlights significant measures including the Migrant Protection Protocols, transit bans, family separation under the Zero Tolerance policy, and Title 42 expulsions. It also examines how anti-immigrant rhetoric and security-based framing were turned into concrete executive actions that weakened protections under U.S. and international refugee law. A mixed-methods approach combines qualitative analysis of executive orders and policy documents with quantitative analysis of migration and asylum data. The findings indicate that these actions weakened legal protections, worsened humanitarian conditions, and limited access to asylum. The study concludes that the administration's asylum policy represented a deliberate transition from humanitarian protection to deterrence, with lasting legal, humanitarian, and global ramifications for refugee protection.

Keywords: Asylum Policy, Executive Power, Weaponization of Borders, Deterrence, U.S.-Mexico Border, Trump's First Administration

Introduction

The U.S.-Mexico border has historically been a central issue in discussions surrounding American immigration. It functions as both a tangible barrier and a symbolic area where policy, politics, and humanitarian issues meet. From 2017 to 2021, the Trump administration implemented significant alterations to U.S. asylum policy. By utilizing executive power assertively, the administration transformed the aim of asylum from humanitarian safeguarding to border control and political deterrence. These changes not only redefine the legal and operational aspects of the asylum system but also altered both national and international perspectives on refugee protection.

This paper contends that during his first term, Donald Trump used executive power to undermine asylum privileges in the United States. He transformed them into instruments for deterrent and exclusion. This was accomplished by restrictive regulations, securitization rhetoric, and legal reinterpretations. The result had far-reaching humanitarian, legal, and geopolitical consequences.

The paper intends to investigate the principal executive actions and policy measures implemented by Trump administration to limit access to asylum. It also aims to analyze how rhetoric and framing have played a role in the securitization of the U.S.-Mexico border.

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Ultimately, it highlights the humanitarian, legal, and global implications of transitioning asylum policy from a focus on protection to one of deterrence.

U.S. asylum policy has received extensive scholarly attention. Yet, its strategic use as a political tool is less explored. Sara Duvisac's 2022 work, *A Migration Policy Based on 'Deterrence' Increases the Risk of Gender-Based Violence*, investigates how U.S. immigration and asylum deterrence policies along the US-Mexico border lead to gender violence. In his 2020 edited volume, *Terrorism and Asylum*, James C. Simeon examines the relationship between terrorism and asylum. He addresses how terrorism causes forced relocation, as well as how anti-immigrant and asylum laws are shaped by terrorist worries. He also investigates the exclusion of people from refugee status based on alleged terrorist involvement. Amadu Jacky Kaba, in his 2019 paper "United States Immigration Policies in the Trump Era," studies the immigration measures under Donald Trump.

Despite these works, research is still lacking on how President Trump used executive power to undermine asylum rights and promote security agendas. This study addresses this gap by combining policy analysis, rhetoric analysis, and a discussion of the humanitarian, legal, and global consequences. It is based on the conceptual framework of the "weaponization of borders," which regards border control measures as strategic tools for political and deterrence reasons.

To address this gap, this study poses the following central research question: How did the Trump administration use executive power to reshape U.S. asylum policy into a deterrence-based system? It also asks three sub-questions. First, what executive orders and policy tools were employed to achieve this shift? Second, how did Trump's rhetoric frame asylum as a security threat? Third, what were the humanitarian, legal, and global consequences of this policy shift?

From a methodological perspective, this study utilizes a mixed-methods approach. It integrates qualitative analysis of executive orders, policy documents, and legal texts to comprehend the intentions and rhetoric surrounding changes in asylum policy. Additionally, it includes a quantitative analysis of migration and asylum data, with a particular emphasis on humanitarian consequences, especially regarding children who have been forcibly separated from their parents.

Theoretical Framework and Background

To understand how the Trump administration reshaped US asylum policy, key concepts such as "asylum," "executive power," and "weaponization" need to be first explained and contextualized. These concepts are then examined through the lens of securitization and deterrence theory, which provides insight into how asylum protections were strategically transformed under the presidency of Donald Trump (2017-2021).

Asylum is a type of legal protection given to those who escape their home countries due to persecution or a well-founded fear of persecution because of their race, religion, nationality, political beliefs, or membership in a specific social group. It allows them to stay in the host country, such as the United States, rather than being sent back to danger. Those granted asylum have access to work permits and certain public services, and they can seek for permanent residency after a year. The U.S. asylum system is based on international law, specifically the 1951 Refugee Convention and its 1967 Protocol. These were legally incorporated into US law with the Refugee Act in 1980.¹

¹ U.S. Committee for Refugees and Immigrants. (2024). *What is asylum?* <https://refugees.org/what-is-asylum/>

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Executive power, as described in Article II of the United States Constitution, empowers the President to enforce laws, manage international affairs, and serve as Commander in Chief. Although presidential orders are not directly mentioned in the Constitution, their constitutionality has been established via historical precedent and judicial examination. In *Youngstown Sheet & Tube Co. v. Sawyer* (1952), the Supreme Court declared that presidential actions must be supported by constitutional or statutory authority. In immigration matters, the executive has especially broad authority. Under 8 U.S.C. Section 1182, the President may suspend the entrance of noncitizens deemed detrimental to national interests; a power recognized by the Supreme Court in *Trump v. Hawaii* (2018). This legal foundation gave the Trump administration significant latitude to change asylum procedures through executive orders, often without legislative approval¹.

The **term weaponization** generally refers to the act of using something such as information, institutions, laws, or social issues as a tool or weapon to attack, gain advantage, or achieve strategic objectives, often in a political context². In the context of U.S. asylum policy, weaponization describes the instrumental use of migrants and asylum seekers to exert political pressure or influence policy decisions. For instance, the deliberate relocation of migrants to politically symbolic areas or sanctuary cities can serve as a tactic to provoke public outcry or strain local governments. This approach effectively treats migrants as “living warheads” or a “weapons system,” transforming human beings into tools of political leverage³.

The U.S. asylum system is intended to offer protection to individuals at risk of persecution who are present in the country or at its borders. It requires that applicants demonstrate a well-founded fear of persecution under legal standards. However, political actors have at times manipulated asylum procedures not to uphold protection, but to assert control over migration flows or to signal toughness on immigration⁴.

A key example is the use of **Title 42** during the COVID-19 pandemic, which allowed the rapid expulsion of migrants under the guise of public health concerns. Although framed as a health measure, Title 42 effectively bypassed asylum protections and facilitated mass removals, illustrating how public policy can be weaponized to deter and exclude rather than protect⁵.

In this paper, the concept of *weaponization* is used to describe the strategic misuse of asylum law, specifically, not as a mechanism of refuge and humanitarian protection, but as a tool of political control and deterrence. This transformation raises serious legal, moral, and humanitarian concerns, particularly when policies intended to safeguard the vulnerable are repurposed to punish or politicize migration.

¹ Bomboy, S. (2025, January 29). Defining the president's constitutional powers to issue executive orders. National Constitution Center. <https://constitutioncenter.org/blog/defining-the-presidents-constitutional-powers-to-issue-executive-orders>

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³ Forti, M. (2022). Weaponisation of Migrants? Migrants as a (Political) Weapon and the EU Regulatory Response: What to Expect Now. EJIL Talk. <https://www.ejiltalk.org/weaponisation-of-migrants-migrants-as-a-political-weapon-and-the-eu-regulatory-response-what-to-expect-now/>

⁴ BAŞER, Selin. (2022). The Most Insidious Weapon Of The Changing World: Migration / Değişen Dünyanın En Sinsi Silahı: Göç. Published March 12, 2022; Approved November 5, 2022.

⁵ Forti, M. (2022). Weaponisation of Migrants? Migrants as a (Political) Weapon and the EU Regulatory Response: What to Expect Now. EJIL Talk. <https://www.ejiltalk.org/weaponisation-of-migrants-migrants-as-a-political-weapon-and-the-eu-regulatory-response-what-to-expect-now/>

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After clarifying the fundamental notions of asylum, executive power, and weaponization, it is critical to look into how US asylum law evolved in response to international standards and domestic priorities. This legal background sets the groundwork for understanding how executive authorities, notably under the Trump administration, used authority to limit asylum access within a flexible legal framework.

The United States' asylum law is founded on both international obligations and domestic statutes. The 1951 Refugee Convention and its 1967 Protocol, which the United States ratified in 1968, define a refugee as someone who has a reasonable fear of persecution. This persecution must be caused by race, religion, nationality, political viewpoint, or membership in a particular social group (PSG). This definition was formalized by the United States in 1980 with the Refugee Act. This legislation revised the Immigration and Nationality Act (INA) to align it with international norms.¹

Throughout the years, U.S. courts have defined the term PSG to include at-risk groups. This encompasses individuals identifying as lesbian, gay, bisexual, transgender, queer, or questioning, in addition to others (LGBTQ+), as well as victims of gender-based violence. In *Matter of Toboso-Alfonso* (1994), the court acknowledged sexual orientation as a legitimate cause for asylum. However, new legislation later imposed additional limits. The Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as well as the Real ID Act of 2005, established strict timelines and increased requirements of proof. These reforms made it more difficult to obtain asylum².

To gain a clearer understanding of the shifts in asylum policy during the Trump administration, this study utilizes two interconnected theoretical frameworks: securitization and deterrence. Securitization theory, which was formulated by the Copenhagen School of international relations, elucidates how state actors frame specific issues such as irregular migration as existential threats to national security. Once an issue is deemed securitized, extraordinary measures are deemed necessary, often bypassing democratic principles and legal safeguards³. Within this theoretical framework, it is important to emphasize that asylum seekers were no longer regarded as individuals deserving of humanitarian protection but rather as security threats to be managed or excluded under the Trump administration.

Closely tied to the theory of securitization is the deterrence theory. This theory, which was originally developed in criminology and international relations, asserts that individuals or states can be discouraged from engaging in undesirable actions, such as committing crimes or exhibiting military aggression, if the potential consequences outweigh the perceived benefits.

In terms of migration policy, deterrence is put into practice through severe enforcement measures intended to prevent asylum seekers from reaching U.S. borders. These measures include physical barriers such as the border wall, the detention of migrants, prosecution for unlawful entry, family separation, the Remain in Mexico program, and agreements with third

¹ Immigration Equality. (n.d.). Asylum law basics. Retrieved August 6, 2025, from <https://immigrationequality.org/asylum/asylum-manual/asylum-law-basics-2/asylum-law-basics/>. (taken from: Immigration Equality. (n.d.). Asylum law basics

² Ibid

³ Buzan, B., Wæver, O., & de Wilde, J. (1998). *Security: A New Framework for Analysis*. Lynne Rienner Publishers

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countries. One of the most debated cases is Title 42, enacted by the Trump administration in 2020, which prevented asylum seekers from entering the U.S. under the rationale of COVID-19 prevention. However, evidence suggests that such measures often do not reduce migration and may actually exacerbate risks, especially for communities at risk¹.

The strategy employed by the Trump administration distinctly embodied the principles of deterrence through the enhancement of detention facilities, the implementation of a zero-tolerance prosecution policy that resulted in family separations, and the suggestion of indefinite detention measures. Officials justified these actions by claiming that more lenient practices, such as 'catch and release,' encouraged unlawful entry. Notable initiatives, including the construction of tent cities and the restriction of asylum eligibility, illustrate how deterrence was effectively utilized as a fundamental tactic to reshape the asylum system into one characterized by exclusion and control².

It is crucial to emphasize that this paper utilizes securitization and deterrence theories to elucidate the extensive changes in U.S. asylum policy during the Trump administration. Instead of strengthening humanitarian protections, executive authority was employed to limit access and advance security. Consequently, asylum transitioned from a protective legal framework to a tool of exclusion and political dominance; illustrating its weaponization and provoking significant concerns regarding the United States' dedication to international refugee responsibilities.

Trump's Asylum Policy (2017-2021): A Break from Presidential Norms

By the mid-2010s, migration trends at the U.S.-Mexico border had changed significantly, paving the way for one of the most notable shifts in presidential asylum policy in contemporary history. Previously, the majority of migrants were adult, undocumented Mexican men in search of economic opportunities; however, in recent years, there has been an influx of men, women, unaccompanied minors, and families from various countries. Many of these individuals sought asylum, a right protected by U.S. and international law. In response, the federal government initiated measures to limit access to the asylum system.³

Historically, earlier administrations, though not without limitations; generally upheld the right to seek asylum. The current U.S. asylum framework, established by the 1980 Refugee Act under President Jimmy Carter, aligned national law with international refugee protections. Ronald Reagan accepted a considerable number of Southeast Asian refugees, despite skepticism regarding Central American asylum requests. George H. W. Bush expanded legal immigration avenues and established Temporary Protected Status (TPS). Bill Clinton introduced expedited removal protocols but continued to allow access to asylum. Both George W. Bush and Barack Obama endorsed comprehensive immigration reform, expanded TPS, and increased refugee admissions during humanitarian crises. None of these administrations completely suspended asylum access. This pattern created a foundation for maintaining asylum protections alongside enforcement measures⁴.

¹ Duvisac, Sara. (2022). A Migration Policy Based on "Deterrence" Increases Risk of Gender-Based Violence. Oxfam America and Tahirih Justice Center

² Ryo, Emily. (2019). Detention as Deterrence. Stanford Law Review Online, 71, pp. 239-240

³ Ryo, Emily. (2019). *Detention as Deterrence*. Stanford Law Review Online, 71, pp. 239-240

⁴ Council on Foreign Relations. (2017). Timeline: U.S. Postwar Immigration Policy. Retrieved from <https://www.cfr.org/timeline/us-postwar-immigration-policy>

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Donald Trump's 2016 presidential campaign represented a significant break from established norms. Immigration emerged as a pivotal issue, and he took advantage of the fact that nearly 60 percent of registered voters viewed it as a crucial electoral concern. His agenda featured the construction of a border wall financed by Mexico, the repeal of President Barack Obama's Deferred Action for Childhood Arrivals (DACA) program, and a prohibition on entry from countries with a majority Muslim population¹.

In contrast to some of his predecessors, whose tough rhetoric was not followed by immediate action, Trump quickly set about executing his promises. Within ten days of taking office in January 2017, he signed executive orders that prohibited entry from several Muslim-majority countries, expanded deportation priorities, and tightened border enforcement (Kaba, 2020, pp. 320–321). These initial actions indicated a readiness to aggressively use executive power to reshape immigration and asylum policies².

During his presidency, Trump enacted policies that transformed the eligibility criteria for asylum seekers and altered the claims processing system. The Matter of A-B- decision nullified prior rulings that allowed victims of domestic violence to pursue asylum, while the Migrant Protection Protocols (MPP), referred to as 'Remain in Mexico,' required applicants to remain in unsafe conditions across the border during the processing of their cases³.

Additionally, his administration heightened the scrutiny of refugees, decreased the annual admissions limit, and signed a Safe Third Country Agreement with Mexico that limited the asylum eligibility of Central American migrants. These policies, among others, endangered thousands of individuals and violated U.S. and international legal obligations⁴.

Trump additionally intensified restrictions by restricting asylum applications to official entry points, invoking Title 42 during the COVID-19 pandemic to remove migrants without screening, indefinitely halting the refugee resettlement program, and abolishing humanitarian parole programs for certain demographics. Collectively, these steps constituted a purposeful dismantling of long-established asylum protections; an initiative that no former president had pursued⁵.

In brief, between 2017 and 2021, the presidential administration of Donald Trump implemented a range of exclusionary policies and tactics to restrict immigration and limit immigrant rights. These policies and practices included declaring an emergency at US borders, drastically reducing and temporarily suspending refugee admission, trying to end birthright

¹ Couzo, Amber. (2021). Asylum or Exile? A Look at How the Trump Administration Is Changing U.S. Asylum Policies. University of Miami Inter-American Law Review, p. 181. Available at: <https://repository.law.miami.edu/umialr/vol52/iss1/8>

² Kaba, Amadu Jacky. (2019). United States Immigration Policies in the Trump Era, pp. 320-321. Sociology Mind, 9(4), 316-349.

³ Asylum or Exile? A Look at How the Trump Administration Is Changing U.S. Asylum Policies by Amber Couzo p181-182

⁴ Ibid

⁵ Council on Foreign Relations. (2017, April 27). Timeline: U.S. Postwar Immigration Policy. Retrieved from <https://www.cfr.org/timeline/us-postwar-immigration-policy>

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citizenship, restricting the practice of releasing immigrants held in detention while awaiting immigration proceedings, preventing asylum seekers from entering the United States, increasing scrutiny of work permits, targeting sanctuary cities, denying public benefits to immigrants, and expanding detentions and deportations¹.

Trump's Rhetoric: Framing Asylum as a Threat

Throughout the history of the United States, the nation has experienced the implementation of various immigration policies. It is crucial to comprehend how presidents have addressed immigration. Presidential rhetoric serves as a potent mechanism for establishing the agenda and shaping public opinion. Every speech is intended to acquire public support and achieve a policy objective. Historically, rhetoric was employed by the elite to persuade; however, in a democratic society, it has evolved into a more complicated tool that not only persuades but also frames issues in ways that might impact political results. A president's response to or words on immigration might pave the way for significant policy changes.²¹

In 2016, Donald Trump commenced his campaign for the presidency by employing anti-immigration rhetoric, labeling Mexican migrants as criminals and rapists while attributing the responsibility to Mexico for their arrival in the U.S. He remarked: "When Mexico sends its people, they're not sending their best. They're not sending you. They're not sending you. They're sending individuals who have numerous issues, and they are bringing those issues with them [sic!]. They are bringing drugs. They are bringing crime. They are rapists. And some, I assume, are good people."²² Throughout the campaign, he utilized inflammatory language and rhetoric to address the topic of immigrants. On numerous occasions throughout the campaign, he referred to immigrants as "killers," "drug smugglers," and "rapists," portraying them as a danger to America's safety and its values.²³

Moreover, scholars noted that Trump's rhetoric in this timeframe significantly deviated from traditional presidential discourse, revealing an unusual intensity of aggression, especially, towards minorities and marginalized groups. As an illustration, during his speech announcing his candidacy in 2015, animosity emerged as the key emotional appeal. Donald Trump represented minority groups, particularly immigrants and asylum seekers; not as individuals in search of refuge but as threats. This discriminatory language framed these communities as "out-groups" within American society. It reinforced the logic of securitization. Trump's style normalized animosity towards immigrants and laid the ideological foundation for viewing asylum as a security issue rather than a humanitarian obligation.²⁴

¹ Borrell, Luisa N., and Farzana Kapadia. (2025). The Escalating War on Immigrants Is a Public Health Crisis. *American Journal of Public Health*, 115(8), p. 1220. <https://doi.org/10.2105/AJPH.2025.308158>

²¹ Stuckey, Mary E. (2010). "Rethinking the Rhetorical Presidency and Presidential Rhetoric." *Review of Communication*, 10(1), 38-52. <https://doi.org/10.1080/15358590903248744>.

²² BBC News. (2016, September 1). US election 2016: Trump defends wall on Mexico visit. Retrieved from <https://www.bbc.com/news/world-us-canada-37227545>

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In August 2015, at an early campaign rally in Mobile, Alabama, Trump repeated and strengthened it. He portrayed immigrants as criminals and criticized refugee cities. To provoke fear, he mentioned the killings of two white women by undocumented immigrants; stories that connected with audiences already influenced by right-wing media. While discussing unauthorized immigration in general, his comments confused the distinction between asylum applicants and criminals.²⁵

Once in office, Trump maintained this strategy, drawing on fear, animosity, and spectacle to drive his immigration agenda. Latin American immigrants, in particular, were denounced as “criminals” and “animals” who could “infest” the United States. Trump questioned the necessity of admitting individuals from “sh--hole countries” like Haiti and El Salvador, thereby reinforcing the perception of immigrants as unwelcome outsiders. He also capitalized on dramatic events to incite fear. In one prominent case, he described a migrant caravan from Guatemala as a threat, asserted that migrants had thrown rocks at Mexican forces, and directed U.S. troops to regard rocks as if they were rifles. This manipulation of events illustrated how spectacle-based rhetoric was employed to justify harsh enforcement, even in the absence of verified facts. In fact, from the start of his campaign, Trump characterized Mexican immigrants as “rapists” and “murderers,” framing them as enemies of American culture and the rule of law.²⁶

In both speeches and official statements, Trump and his administration frequently connected asylum seekers and immigrants, especially those at the U.S.-Mexico border, to terrorism, crime, and social instability. His language transformed asylum seekers into a security concern rather than a humanitarian issue. This strategy cultivated a climate of fear that made deterrence appear as a standard policy response, framing humanitarian protection as a threat to national security.²⁷

A notable example was his proclamation of a “National Emergency” at the border. President Trump warned about “criminals” and “unknown Middle Easterners” supposedly hiding in a migrant caravan. However, independent observers like the *BBC* said the caravan was mostly poor men, women, and children fleeing hardship and seeking safety. Still, Trump’s words increased public fear by making it seem like an immediate threat. This policy followed a broader securitization strategy, where leaders use fear-based stories to justify tough restrictions.²⁸

This securitization was most prominently noted in his national address concerning border security. He portrayed the border as “a pipeline for vast quantities of illegal drugs, including

¹ . Akbar, Noor Falah Hassan, and Nawal Fadhil Abbas. (2023). Negative Other-Representation in American Political Speeches, p. 113. *International Journal of English Linguistics*, 9(2). <https://doi.org/10.5539/ijel.v9n2p113>

²² .Giagnoni, Silvia. (2019). Fear and Hate in Alabama and Beyond: Narratives of Immigration in the Trump Campaign. *Journal of Hate Studies*, 14(1), p. 7. <https://doi.org/10.33972/jhs.122>. Available at: <https://repository.gonzaga.edu/jhs/vol14/iss1/2> [Accessed 2025.]

²³ Astrada, Scott B., and Marvin L. Astrada. (2020). Truth in Crisis: Critically Re-examining Immigration Rhetoric & Policy Under the Trump Administration. *Harvard Latinx Law Review*. Available at: <https://racism.org/articles/citizenship-rights/immigration-race-and-racism/8265-truth-in-crisis-critically> [Accessed 2025].

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meth, heroin, cocaine, and fentanyl,” blaming them for thousands of American deaths each year. He stated that “thousands of Americans were brutally killed” by illegal entrants and that “countless others were assaulted, raped, and beaten.” He pointed out that “one in three women are sexually assaulted during the hazardous journey through Mexico” and that many children were “exploited as human pawns by vicious coyotes and ruthless gangs.” By tying migration to crime, drugs, and violence, Trump portrayed immigration not just as a legal or economic problem but as a direct threat to American security.²⁹

It is evident that Trump's rhetoric depicted asylum seekers as a danger a threat. To see how this translated into action, it is important to examine the specific executive orders and legal mechanisms his administration implemented. This examination reveals how asylum policy was reshaped during Trump's first term in office.

Executive Actions that Reshaped Asylum Policy

To understand how the Trump administration altered U.S. asylum policy, it is crucial to explore the significant executive actions that had the greatest influence. These measures were designed to discourage asylum seekers by implementing stricter enforcement and limiting access to protections. The primary initiatives encompass the Migrant Protection Protocols (MPP), the Zero Tolerance policy along with family separations, Title 42 expulsions, and the Asylum Transit Ban in conjunction with Safe Third Country Agreements.

Migrant Protection Protocols (MPP)

The Migrant Protection Protocols (MPP), commonly referred to as the “Remain in Mexico” policy, was enacted by the U.S. Department of Homeland Security in January 2019 during the Trump administration. This immigration policy mandates that asylum seekers who arrive at the U.S. southern border must remain in Mexico while their asylum applications are processed in U.S. immigration courts, instead of being permitted entry into the U.S. during this time. Proponents of the policy defended it as a strategy to enhance border security and to discourage human smuggling and trafficking. In this context, upon the announcement of the policy, former Secretary of Homeland Security, Kirstjen Nielsen, praised the MPP initiative as “an unprecedented action that will tackle the urgent humanitarian and security crisis at the Southern border.” As such, the MPP quickly became a central component of the Trump administration's immigration agenda.³⁰

Prior to the enactment of the Migrant Protection Protocols (MPP), most asylum seekers were granted entry into the United States and allowed to remain there while their claims were processed. The introduction of MPP signified a major transformation, necessitating that asylum applicants wait in Mexico for the entirety of their legal proceedings. Although the policy specified exemptions for certain vulnerable groups including: unaccompanied minors, Mexican nationals, individuals with severe health issues, and lawful permanent residents, these exceptions were applied very restrictively in practice.³¹

As a result, the vast majority of applicants were returned to border cities in Mexico. Between January 2019 and January 2021, an estimated 71,036 individuals were subjected to this policy. Most of these individuals originated from Honduras, Guatemala, El Salvador, and Cuba—countries afflicted by gang violence, political instability, and widespread poverty. Although many of those returned had articulated a credible fear of persecution or harm in their home countries, MPP allowed their return to Mexico as long as they were not considered “more likely than not” to face persecution or torture there.³²

The Zero Tolerance Policy

The “Zero Tolerance Policy” (ZTP) was officially implemented on April 6, 2018, when then-U.S. Attorney General Jeff Sessions released a memo stating that all individuals caught crossing the U.S.-Mexico border without proper authorization would face criminal prosecution, rather than civil or administrative penalties. Consequently, parents were separated from their children, as minors cannot legally be detained in criminal facilities alongside adults. The policy was intentionally designed to deter irregular migration by amplifying the consequences for unauthorized border crossings. Federal officials made these penalties widely known through press conferences and public announcements, with the goal of discouraging families from attempting the journey by warning them of the risks of family separation and criminal prosecution.³³

The Trump administration justified this policy by presenting family separation and child detention as unavoidable consequences of law enforcement. With the objective of indefinite detention for all undocumented migrants, authorities removed children from their parents and processed them separately, often on varying timelines. This transition was abrupt, and the federal infrastructure comprising facilities, staff, and procedures, was not prepared to accommodate the sudden influx of unaccompanied minors in custody.³⁴

Significantly, the Zero Tolerance Policy was applicable to all migrants, including those seeking asylum and family units. To support its implementation, the Attorney General announced the deployment of additional prosecutors to U.S. Attorney's Offices along the Southwest border and the addition of 18 immigration judges to nearby courts.³⁵ Under this policy, adults apprehended at the southern border faced prosecution for illegal entry. As children could not be incarcerated with their families, they were placed in federal custody. This resulted in the forced separation of over 3,000 children from their parents.³⁶

As a consequence of the Zero Tolerance policy, thousands of immigrant parents, predominantly from Central America, were forcibly separated from their children during migration or upon deportation. While the parents were detained or removed from the country, their children were placed in various facilities across the United States, including detention centers and long-term care shelters, where many remained for extended durations. In total, this policy resulted in the separation of over 5,000 families, without any organized plan for reunification. The majority of affected families originated from Guatemala, Honduras, and El Salvador, with most of the separated children being boys aged between 5 and 17. As of April 2023, nearly 1,000 families had still not been reunited.³⁷

The effects of this policy are long-lasting and profoundly harmful. Studies have demonstrated that such separations can lead to severe and persistent mental health issues for children, including trauma-related symptoms, anxiety, depression, and behavioral disorders. Experts also warn of the potential for intergenerational trauma. The disruption of the parent-child bond can impede a child's ability to form secure attachments and healthy relationships well into adulthood. Parents, too, have experienced significant psychological damage. Many who were forcibly separated from their children have shown elevated rates of post-traumatic stress disorder (PTSD) and major depressive disorder.³⁸ The ramifications of this policy are likely to be felt for years, if not generations, to come.

Title 42 Expulsions

Title 42 expulsions refer to a disputed U.S. policy that was put into effect during the COVID-19 pandemic, allowing the government to quickly expel migrants at the southern border without providing them access to the asylum process. Citing Section 265 of Title 42 of the U.S. Code, the

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Trump administration invoked public health authority in March 2020 to prevent the entry of migrants, claiming it was necessary to curb the spread of a communicable disease.³⁹

Although the policy seemed to stem from the Centers for Disease Control and Prevention (CDC), reports indicate that it was actually initiated by the Department of Homeland Security. Under Title 42, migrants were expelled either to Mexico or to their home country without being assessed for asylum eligibility or credible fear. This practice was in direct violation of Article 33(1) of the 1951 Refugee Convention, which forbids returning individuals to nations where their life or freedom could be endangered. From March 2020 to May 2023, U.S. Customs and Border Protection (CBP) executed over 2.9 million Title 42 expulsions.⁴⁰

As Title 42 transitioned from a temporary public health response to a de facto immigration enforcement tool, it sparked deep legal, humanitarian, and political debates. While initially justified as a measure to contain the spread of COVID-19, its broad application, particularly against asylum seekers, revealed a strategic shift toward restricting border access under the pretense of emergency authority. This evolution weakened the distinction between health policy and immigration control, raising concerns regarding the proper application of executive authority during crises. The policy's wide-ranging nature and absence of individualized assessments established systemic obstacles for individuals seeking international protection.⁴¹

Asylum Ban 2.0

On July 16, 2019, the Department of Homeland Security (DHS) implemented the "Third-Country Transit Ban," also referred to as "Asylum Ban 2.0." This regulation prohibited the majority of asylum seekers entering through the U.S.-Mexico border if they had traversed another country beforehand. Migrants could only be eligible if they had previously applied for and been denied asylum in that country. The rule was applicable regardless of their method of entry whether without inspection, on a visa, or after a short visit to Mexico. Since all non-Mexican migrants must cross another country before arriving in the U.S., most asylum seekers were disqualified. DHS argued that the policy was consistent with existing regulations such as firm resettlement and safe third country provisions. Officials claimed it prioritized individuals with 'nowhere else to turn.' Critics, however, contended that many transit countries lack fair asylum systems or safe conditions for refugees.⁴²

The restriction encompassed merely two specific exceptions: victims of severe trafficking and those who had been issued a final denial of protection in at least one transit country. In practice, both exceptions were hard to fulfill. The trafficking exception demanded evidence that satisfied the severe legal requirements for T visa eligibility, while the denial exception was unrealistic in countries that did not have effective asylum processes. As a result, the policy nearly eradicated asylum access for the majority of individuals arriving at the southern border. Its extensive scope and limited exceptions attracted considerable criticism from immigrant advocates, who argued that it weakened the essential protections guaranteed by U.S. asylum law.⁴³

Alongside significant legal and humanitarian issues, the Transit Bar was criticized for infringing upon procedural requirements set forth in the Administrative Procedure Act (APA). Plaintiffs in cases such as *East Bay Sanctuary Covenant v. Barr* and *Capital Area Immigrants' Rights Coalition v. Trump* claimed that the government unlawfully evaded the notice-and-comment rulemaking process and neglected to provide a reasoned rationale for the rule, making it arbitrary and capricious under federal law.⁴⁴

Asylum Cooperation Agreements

In late 2019, the U.S. government introduced a policy to deport some people seeking asylum at the U.S.-Mexico border to other countries. These countries have special agreements with the

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U.S. called Asylum Cooperative Agreements, or ACAs. These agreements are also known as “safe third country” agreements.⁴⁵ Under this policy, asylum seekers might not be allowed to apply for protection in the U.S. Instead, they could be sent to a third country if certain rules were met. First, the U.S. must have an agreement with that country. Second, the asylum seeker must not face danger or persecution there because of their race, religion, nationality, political beliefs, or membership in a particular group. Third, the country must provide a fair process for deciding asylum claims.⁴⁶

Critics maintain that these agreements did not fulfill essential humanitarian standards. While the Trump administration claimed that these countries could adequately process asylum claims, the reality was that significant levels of crime, corruption, and weak legal frameworks left them ill-equipped to protect refugees. Many worried that asylum seekers sent to these countries could be forced to return to dangerous situations. Human rights organizations asserted that the ACAs prioritized the deterrence of migration over the assurance of safety, effectively outsourcing U.S. legal and ethical responsibilities to countries incapable of fulfilling them. This issue highlights the tension between border enforcement and the right to seek protection from persecution.⁴⁷

The Humanitarian, Legal, and Global Implications of Trump's Asylum Policy

The executive orders and regulations enacted during Trump's first term not only altered how asylum was processed, but they also had far-reaching consequences. These changes produced major humanitarian concerns, raised important legal questions, and impacted the US role on the world arena. Understanding these deeper consequences reveals the entire scope of the administration's policy to asylum.

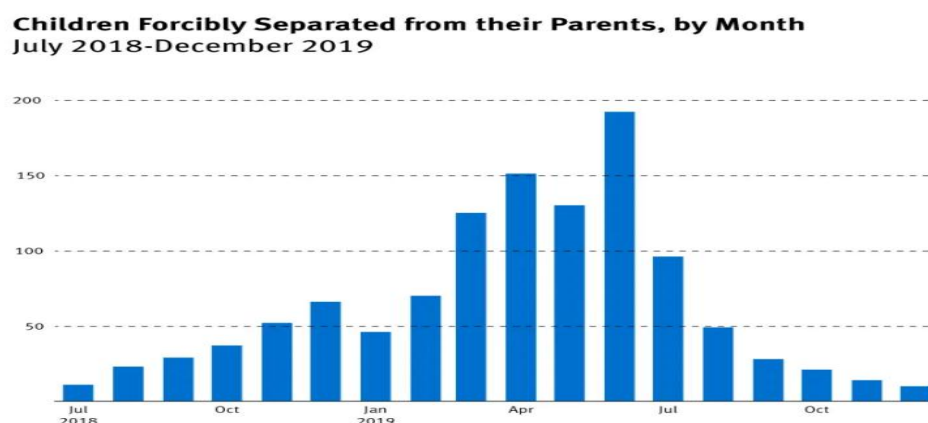
Humanitarian Consequences

The humanitarian consequences of the Trump administration's asylum and immigration policies were severe: undermining fundamental rights and exposing migrants, particularly children and families, to lasting harm. Yet, among the most damaging measures was the family separation policy, which affected both legal and undocumented immigrants and caused widespread emotional, psychological, and social distress. Parents of US citizen children were deported, asylum seekers were separated from their families, and limits on family-based visas limited prospects for reunion. Such activities undermined the idea of family unity, which is a cornerstone of local and international human rights laws.⁴⁸

The humanitarian consequences of these policies were particularly harmful to children. The disconnection from their parents and their placement in harsh conditions, at times even in cages, resulted in psychological trauma, disrupted emotional bonds, toxic stress, and a deep sense of dehumanization. Research identified five main effects of these policies on children: the disintegration of families, negative impacts on both short- and long-term mental health, threats to economic stability, restricted access to education and essential resources, and the endangerment of the lives of children and families pursuing asylum.⁴⁹ the following figure depicts the scale of harm caused by Trump's family separation policies. It indicated the number of children separated from their parents by month July 2019 to December 2019 duration:

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Figure 1: Children Forcibly Separated From their Parents, by Month July 2019- December 2019



Source: Sanchez, Sandra. (2024, December 16). *Report documents family separations during 1st Trump term*. Border Report. <https://www.borderreport.com/immigration/report-documents-family-separations-during-1st-trump-term/>

The figure shows a significant rise in the number of children forcibly separated from their parents at the U.S. border, starting from about 20 in July 2018. It sharply increased to a peak of nearly 190 in June 2019. This rise reflects the enforcement and escalation of the Trump administration's "zero tolerance" policy. After mid-2019, the number of separations declined rapidly, likely due to public opposition, legal challenges, and policy changes aimed at ending family separations by the end of 2019.

Additionally, Trump-era immigration policies, such as the Migrant Protection Protocols and Title 42, forced many asylum applicants to spend extended periods of time in dangerous Mexican border cities, exposing them to major risks like extortion, kidnapping, and violence. In Nuevo Laredo, for example, kidnappers operate in important sites such as airports and bus terminals, where paid informants monitor migrants arriving from neighboring cities. Some taxi drivers participate with the Northeast Cartel, sending migrants directly to kidnappers. Even migrant shelters are unsafe. There, criminal organizations conduct informal checks, requiring proof of payment known as the "clave," for permission to remain in the city. Those who lack this key are frequently kidnapped, with ransoms reaching \$10,000, according to local experts.⁵⁰

Furthermore, a risky practice under Title 42 termed "lateral expulsions" escalated the threats faced by migrants by returning them to unfamiliar and dangerous regions of the border instead of the nearest crossing point. Migrants who had been allowed safe passage through one cartel's jurisdiction suddenly found themselves at the mercy of competing gangs in areas where they had no safety or legal right to remain. A case documented by Human Rights First illustrates this, where a Honduran mother and her daughter were kidnapped just blocks away from the Ciudad Juárez port of entry after their expulsion. This policy aggravated the humanitarian challenges that asylum seekers faced during the Trump administration.⁵¹

Legal Impacts

Legally, Trump's measures represented a dramatic retreat of asylum protections guaranteed by US law and international treaties. A presidential proclamation limited asylum claims to official ports of entry, thus suspending the 1965 Immigration and Nationality Act's (INA)

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provision allowing anybody physically present in the United States to apply for asylum. This ban contradicted constitutional due process rights and went against the 1951 Refugee Convention's prohibition on penalizing irregular entrance. The "zero tolerance" policy criminalized unauthorized border crossings, resulting in widespread family separations and severe obstacles for asylum seekers, including limited processing at ports of entry, indefinite waits, and exposure to violence while stranded in border areas.⁵²

The administration further broadened the scope of expedited removals, referred to as "hot returns," within a 100-mile border zone, effectively denying migrants essential legal protections, including access to counsel and hearings. Additionally, it aimed to dismantle the Flores Settlement, which safeguards detained minors, thereby permitting the indefinite detention of children and families. In spite of legal challenges and temporary injunctions, these actions collectively weakened both domestic legal standards and the United States' commitments under international refugee law.⁵³

Equally important, the administration stopped asylum processing at official border points. This caused major legal challenges. One key case was *Al Otro Lado v. Trump*. The lawsuit was filed by people fleeing violence and groups like Al Otro Lado and the Haitian Bridge Alliance. They were supported by the Center for Gender and Refugee Studies and the American Immigration Council. The plaintiffs said the shutdown broke U.S. immigration laws and international refugee protections. It made applying for asylum almost impossible, canceled appointments, and added confusing new rules. Thousands were left stranded in dangerous places in Mexico. The lawsuit argued the government broke the right to seek asylum guaranteed by the Immigration and Nationality Act (INA). It said the government went beyond its legal authority, especially by wrongly using Section 212(f). It also ignored the Refugee Act of 1980 and broke the principle of non-refoulement, which stops sending refugees back to danger.⁵⁴

During Trump's first term, various policies significantly weakened existing asylum laws, particularly the Immigration and Nationality Act and the Refugee Act of 1980, both of which protect everyone's right to seek asylum regardless of legal status. Measures such as the "zero tolerance" family separation policy, the Migrant Protection Protocols, and restrictions on claims related to domestic or gang violence undermined these protections. The administration also increased the burden of proof for those seeking asylum as members of certain social groups. Legal cases like *Matter of A-B- and Grace v. Whitaker* challenged whether these policies reflected congressional intent. As a consequence, denial rates rose, detention periods lengthened, and access to legal assistance became more difficult. Altogether, these changes represented a significant rollback of the United States' commitment to refugee protection.⁵⁵

Global Implications

Trump's asylum policy attracted considerable criticism for violating international law, particularly the principles embedded in the 1951 Refugee Convention and its 1967 Protocol, as well as the Universal Declaration of Human Rights. One of the most intolerable violations was the principle of non-refoulement, which forbids the return of refugees to places where they face a credible threat of persecution. Initiatives such as the Migrant Protection Protocols (MPP) and Asylum Cooperative Agreements with nations like Guatemala and Honduras resulted in the deportation of thousands of asylum seekers to perilous areas without adequate protection or due process.⁵⁶

The administration's disapproval for international standards was further highlighted by its rejection of global human rights treaties, including the Universal Declaration of Human Rights, which asserts that "Everyone has the right to seek and enjoy asylum from persecution in other

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countries." These strategies not only endangered vulnerable individuals to violence, kidnapping, and death, but also breached the United States' obligations under international law. Human rights organizations and legal scholars denounced these actions as a serious violation of international refugee protections and evidence of the administration's intention to dismantle the asylum system by disregarding established global rules.⁵⁷

In this regard, President Donald Trump's decisions to halt all refugee admissions and impose travel bans on several Muslim-majority countries sparked widespread international reaction, underscoring the global impact of his asylum policies. Human rights organizations and the United Nations condemned the measures, urging the United States to uphold its commitment to protect refugees regardless of race, nationality, or religion. Several world leaders, including the United Kingdom's Prime Minister Theresa May, Canada's Prime Minister Justin Trudeau, and Germany's Chancellor Angela Merkel, publicly criticized the bans for being unjust and contrary to humanitarian principles. The Arab League and officials from France and Iran also voiced concerns about the restrictions and their broader implications for international cooperation and refugee protection.⁵⁸

Conclusion

The Trump administration utilized executive power not only to reform but also to weaponize the U.S. asylum system. Trump's policy changed it from a system of humanitarian protection into a strategic instrument for border enforcement and political deterrence. By extensively employing executive authority, the administration reinterpreted the meaning and purpose of asylum, representing a significant deviation from established norms and legal obligations.

An unprecedented array of executive actions and legal mechanisms was implemented, including the Migrant Protection Protocols (MPP) and the Third-Country Transit Ban, as well as initiatives that restricted asylum eligibility for victims of gender-based and gang violence. These actions limited access to protection, circumvented congressional oversight, and reformed asylum adjudication processes to conform with enforcement priorities.

Beyond policy, the administration's use of rhetoric to depict asylum seekers as threats, invaders, or system abusers securitized the discourse surrounding migration. This portrayal provided a rationale for severe deterrence strategies, including family separation and extended detention. The consequences were profound. Humanitarian damage resulted in enduring trauma for countless migrants and compromised the integrity of refugee protection along the U.S.-Mexico border.

From a legal perspective, fundamental principles of domestic and international asylum law, particularly, the rights to non-refoulement and fair asylum procedures were put to the test. Globally, Trump's asylum policies were considered a violation of international law and sparked widespread disapproval. Leading figures on the world stage criticized these policies for undermining humanitarian principles.

This transition from humanitarian protection to political deterrent and securitisation is an important change with far-reaching consequences for asylum seekers. It raises critical questions for future inquiry. How can laws better protect asylum rights from being weakened by strong executive actions? What can be done to hold leaders accountable when political goals harm humanitarian values? Finding answers to these questions is important to balance border security with the safety and rights of people seeking protection.

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