

PREFACE

At the heart of the global asylum system lay two simple ideas—people have a fundamental right to seek refuge in another country, and governments are obligated to offer protection to those who meet the definition of refugee, no matter the time, place, and manner of their entry.

The United Nations High Commissioner for Refugees estimates that “[a]t the end of 2022, 108.4 million people worldwide were forcibly displaced as a result of persecution, conflict, violence, human rights violations and events seriously disturbing public order,” representing “an increase of 19 million people compared to the end of 2021.”¹ It has never been more important for countries like the United States to offer a meaningful opportunity to seek protection. If these ongoing conflicts remain unresolved, and if the new ones erupting are not reined in, the number of people fleeing in fear for their lives will only continue to increase. And if governments around the world continue to side with xenophobic and nationalistic desires to reduce migration rather than the longstanding humanitarian ethos of offering protection to those in need, the millions of people “yearning to breathe free” will face increasingly dire options for securing safety for themselves and their families.

This alarming global trend is ever so apparent in the United States; no matter the political party, administrations continue to recycle aggressive enforcement and deterrence-based policies in a short-sighted attempt, motivated by political optics, to control the numbers of people seeking refuge. But playing the numbers game is never going to work in today’s world, where rising authoritarianism, impunity toward powerful terrorist and transnational criminal organizations, natural disasters and the global socioeconomic impact of climate change have resulted in the highest numbers of forced human displacement on record. It is simple; people are going to flee to survive and to save their families. This is human nature, and there is no deterrence in the face of persecution, torture, and death.

As a result, these recycled and politically motivated policies have both failed to serve their stated purpose of creating orderly processing of asylum seekers and been found to be illegal under domestic and international law. Yet, the United States government continues to display a lack of political will to modernize a 20th century asylum system that is no longer equipped to address a 21st century humanitarian migration need. This overall failure to meet the challenge of constructing a new protection system has left us with one that is completely dysfunctional and that neither serves the understandable interests in an orderly and humane approach to border management, nor the needs of those deserving of protection.

In sum, we are witnessing the rapid erosion of the rights and ideals enshrined in the 1951 Refugee Convention and 1967 Refugee Protocol and codified in the 1980 Refugee Act. While the United States of America may still be a beacon of hope, we are no longer a country that offers a meaningful opportunity to seek protection. That is the true crisis at our borders, and it is a crisis of American identity. Until the U.S. government finds the courage, creativity, and moral leadership to turn away from short-term solutions and instead builds a modern and functional system of humanitarian protection that is fit to meet the challenges of 21st century global displacement, the same problems and the same political posturing will continue, unabated.

Meanwhile, it is up to us to keep fighting for this country to realize its ideals and to keep holding its government accountable to its purpose. It is up to us to demonstrate understanding in the face of ignorance; honor our commitment to due process of law and human rights; fight for liberty and justice for all; and recognize our common humanity with our neighbors. There has never been a more important time for advocates to fight for the rights of asylum seekers in this country. We must lift up and carry Lady Liberty’s torch, and it is my hope that this book will help us to do just that.

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¹ UNHCR Global Trends 2022, <https://www.unhcr.org/us/global-trends>.