

HUMAN SMUGGLING AND U.S. IMMIGRATION POLICY

EXECUTIVE SUMMARY

Without additional avenues to live or work legally in America, it will not be possible to end or even significantly reduce human smuggling along the U.S.-Mexico border, concludes a National Foundation for American Policy analysis of law enforcement and other government sources. The barriers to entry for becoming a smuggler are low and the ability to earn money is high. Cartels make money by levying “tolls” for passing through territories they control and extortion. Because of a lack of other alternatives, the individuals who pay smugglers have an incentive to employ people to guide them to or through the border as a way to work in the United States or seek human rights protection. Allowing individuals to apply from their home country for a work visa or protection would be the most effective way to reduce human smuggling.

Among the findings of the analysis:

- Historically, the only effective way to reduce illegal entry significantly has been by making it possible for foreign nationals to work legally in the United States. Increasing the lawful admission of farmworkers in the 1950s under the Bracero Program significantly reduced unlawful entry to the United States, according to [research](#) from the National Foundation for American Policy. Illegal entry declined 95% between 1953 and 1959 based on apprehensions at the border.
- Several methods exist to establish additional legal avenues to work in the United States. These include creating a new work visa with sufficient annual allocations, increasing family and employment-based green cards for Western Hemisphere countries, expanding the H-2B visa category and establishing [bilateral agreements](#) between the United States and Mexico, as well as countries in Central America.
- Another approach is to incorporate Central Americans more widely into the U.S. refugee program. U.S. officers could conduct circuit rides in Central America to interview potential applicants for the U.S. refugee program similar to programs in the former Soviet Union in the 1990s. The Biden administration has taken a step in this direction by reinstituting the Central American Minors (CAM) program, which was ended by the Trump administration.
- The low barrier to entry to become a human smuggler is a reason for pessimism that U.S. law enforcement could ever succeed in ending or significantly curtailing human smuggling. It takes few assets to become a smuggler, and some prominent smugglers are even teenagers. The low barrier to entry for human smuggling is a global phenomenon. “Smuggling markets tend to possess low barriers to entry and remarkably similar organizational arrangements in all the main smuggling routes in the world: no monopolies and small, localized, and rudimentary hierarchies,” according to Paolo Campana at the University of Cambridge. “[S]muggling services can be supplied without large investments in capital and

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resources: individuals and small-scale enterprises can afford to be in this business if the investment needed is low.”

- Expanding immigration enforcement is more likely to increase human smuggling rather than decrease it. Law enforcement sources concede that increased border enforcement fueled the reliance on human smugglers. “One finding across multiple surveys is that smuggler usage rates have increased steadily over the last 5 decades,” reports the Department of Homeland Security (DHS). Smuggler usage rates have risen from 40% to 50% in the 1970s to 95% by 2006.
- Would raising the costs to migrants due to increased fees for smuggling make a difference? Smuggling fees have increased but will likely remain within the reach of migrants to pay, which from a policy perspective is all that matters. That means relying on enforcement to price smuggling out of the market is unlikely to be successful.
- Border officials acknowledge that smugglers are service providers and migrants are customers. “Migrants will only tolerate higher fees to the extent that smugglers provide an essential and successful service,” according to DHS. “Smugglers also compete to attract customers by offering their services at the lowest profitable rate, so higher fees indicate rising costs to smugglers.
- The evidence indicates Mexican drug cartels do not “control” human smuggling. The cartels see human smuggling as a way to earn money with little risk or investment. In general, cartels play the role of “toll collectors” as opposed to overseers of human smuggling operations. Rather than control human smuggling, cartels make money from exploiting those who have no legal way to enter the United States, including by extortion.
- There is not much evidence that human smuggling and drug smuggling are typically combined. Some individuals who are smuggled may choose to bring in drugs as a way to defray costs, but that is different than an organized effort to combine smuggling people and drugs. Most drugs smuggled into the United States come through ports of entry rather than brought in through the routes used in human smuggling.

Human smuggling would largely end if those who now pay smugglers instead could obtain a legal visa to work in the United States. Expanding opportunities for individuals to apply for protection in their home countries would also make it less likely people would pay smugglers to reach the United States. History shows decrying human smuggling but offering only increased enforcement at the border as a policy option will not reduce human smuggling.

HUMAN SMUGGLING HAS A LOW BARRIER TO ENTRY

The low barrier to entry to become a human smuggler is a reason to be pessimistic that U.S. law enforcement could ever succeed in ending or significantly curtailing human smuggling.

“How can we explain the ability of small unsophisticated smuggling organizations to move large numbers of migrants?” asks Paolo Campana, a university lecturer in criminology and complex networks at the Institute of Criminology, University of Cambridge. “The answer lies in the nature of the service rendered; by and large it does not appear to require large investments in resources and capital.”¹

In 2021, the *Washington Post* profiled a Mexican teenager who is a long-time professional smuggler. “Antonio guided his first group of undocumented migrants into the United States when he was 12. He’s 17 now, and one of the most prolific juvenile smugglers along a section of the border that’s full of them,” according to journalist Kevin Sieff. “He’s notorious among the Border Patrol agents of Brownsville, Tex., who keep a list of the 10 most successful juvenile smugglers on the wall of their office. Some have been caught more than a hundred times. Antonio, always cautious, is up to 15.”²

“[T]he smugglers at the heart of one of the world’s largest human migrations—including the current surge of children and families—are often children themselves. They are boys who grew up on the southern banks of the Rio Grande. They earn about \$100 for each migrant they get across. . . . Their success is made possible by a quirk in the U.S. immigration system. Antonio and the other juvenile smugglers mostly don’t have to worry about getting caught. It’s a long-standing practice: The U.S. Justice Department doesn’t prosecute Mexican minors for smuggling migrants. When the boys are apprehended, they’re put in white Border Patrol vans and expelled to northern Mexico, where they are free to escort more migrants across the border—sometimes within hours.”³

The low barrier to entry for human smuggling is a global phenomenon. “Smuggling markets tend to possess low barriers to entry and remarkably similar organizational arrangements in all the main smuggling routes in the world: no monopolies and small, localized, and rudimentary hierarchies,” according to Campana. “[S]muggling services can be supplied without large investments in capital and resources: individuals and small-scale enterprises can afford to be in this business if the investment needed is low.”⁴

¹ Paolo Campana, “Human Smuggling: Structure and Mechanisms,” p. 489, in *Crime and Justice*, vol. 49, 2020, *Organizing Crime: Mafia, Markets, and Networks*.

² Kevin Sieff, “The Child Migrant Smugglers of Northern Mexico,” *Washington Post*, October 2, 2021.

³ Ibid.

⁴ Campana, p. 471, 511.

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In his book *Clandestine Crossings*, Trinity University Professor David Spener described how three Mexican men managed to smuggle 600 people into the United States in a year working part-time. He interviewed a U.S. federal judge who “had seen hundreds, if not thousands, of ‘alien smuggling’ defendants in his courtroom over the years.” When the judge asked defendants why they decided to smuggle people into the U.S. one of the most common answers he received was “Se me hizo fácil [it just seemed easy to me].”⁵

Given the low barriers to entry, it should be clear that it is impossible to end human smuggling through policies based solely or primarily on immigration enforcement.

EXPANDED BORDER ENFORCEMENT HAS INCREASED HUMAN SMUGGLING

Expanding immigration enforcement is more likely to increase human smuggling rather than decrease it. Law enforcement sources concede that an increase in border enforcement fueled the reliance on human smugglers. “One finding across multiple surveys is that smuggler usage rates have increased steadily over the last 5 decades,” reports the Department of Homeland Security. “Previous research by the Office of Immigration Statistics found that smuggler usage rates climbed from 40-50 percent during the 1970s, to 59 percent in the late 1970s and early 1980s, 70-80 percent in the 1980s to 1990s, 80 to 93 percent in the 1990s to 2000s, and 95 percent for first-time crossers surveyed in 2006. Similarly, according to USBP interviews, relatively few illegal border crossers hired a smuggler prior to 2001, but usage rates climbed to 80-95 percent among apprehended border crossers in recent years, a trend partly driven by transnational criminal organizations’ (TCOs) control of crossing points along the Mexican side of the border.”⁶

Increased immigration enforcement has failed to achieve its objectives and had unintended consequences. “From 1986 to 2008 the undocumented population of the United States grew from 3 million to 12 million persons, despite a fivefold increase in the number of U.S. Border Patrol officers, a fourfold increase in hours spent patrolling the border, and a twenty-fold increase in nominal funding,” according to Douglas S. Massey (Princeton University), Jorge Durand (Centro de Investigación y Docencia Económicas), Karen A. Pren (Princeton University). “Whether measured in terms of personnel, patrol hours, or budget, studies indicate that the surge in border enforcement had little effect in reducing unauthorized migration to the United States.

“The strategy of enhanced border enforcement was not without consequences, however, for research also suggests that it reduced the rate of return migration and redirected migrant flows to new sectors along the border with Arizona

⁵ David Spener, *Clandestine Crossings*, (Ithaca: Cornell University Press, 2009), p. 154.

⁶ *Department of Homeland Security Border Security Metrics Report: Fiscal Year 2019*, Department of Homeland Security, August 5, 2020, p. 55.

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and then toward new destinations throughout the United States. [T]he unprecedented militarization of the Mexico-U.S. border not only failed in its attempt to reduce undocumented migration but backfired by increasing the rate of undocumented population growth and turning what had been a circular flow of male workers going to three states into a settled population of families living in 50 states.”⁷

Would raising the costs to migrants due to increased fees for smuggling make a difference? Smuggling fees have increased but will likely remain within the reach of the ability of migrants to pay, which from a policy perspective is all that matters. That means relying on enforcement to price smuggling out of the market is unlikely to be successful.

“Survey results also indicate steady increases in fees paid to migrant smugglers,” according to DHS. “Averaging across the available sources . . . smuggling fees increased by 5% per year during the 1980s, 1 percent per year during the 1990s, and have doubled since 2012 (according to EMIF data) or since 2014 (according to USBP data),” according to DHS. “These numeric trends may understate the actual increase in border crossing costs. Custodial interviews conducted by subject matter experts within CBP have found that smuggling fees are often paid in stages. The range of smuggling fees also differs greatly depending on tactics and procedures utilized by TCOs in various border crossing locations. Initial fees required to approach staging locations along the border were often lower than \$100 prior to the late 2000s, and an additional \$1,000-\$3,000 in fees were charged upon delivery to the destination.

“More recently, smuggling fees for Mexicans and Central Americans reportedly have increased partially due to enhanced security measures in Mexico, and have been as high as \$1,300 for the initial staging payment and up to \$12,000 at the destination. Custodial interviews also find evidence of an increase in alternative forms of payment in exchange for passage, including migrants being required to participate in smuggling controlled substances or other illicit items across the border or to work off debts upon arrival in the United States, as well as reports of harsh negotiations concerning payment plans with family members.”⁸

Border officials acknowledge that smugglers are service providers and migrants are customers. “Migrants will only tolerate higher fees to the extent that smugglers provide an essential and successful service,” state DHS. “Smugglers also compete to attract customers by offering their services at the lowest profitable rate, so higher fees indicate rising costs to smugglers. Rising smuggling fees also reflect an increased risk to smugglers of a criminal conviction; smugglers pass this risk along to customers in the form of higher fees.”⁹

⁷ Douglas S. Massey, Jorge Durand, Karen A. Pren, “Why Border Enforcement Backfired,” *American Journal of Sociology*, Volume 121 Number 5 (March 2016) 1557-1600.

⁸ *Department of Homeland Security Border Security Metrics Report: Fiscal Year 2019*, p. 56.

⁹ *Department of Homeland Security Border Security Metrics Report: Fiscal Year 2017*, Department of Homeland Security, May 1, 2018, p. 47.

Since greater enforcement has increased the reliance on smugglers, it is not logical to assume more enforcement will reduce that reliance.

CARTELS LEVY “TOLLS” BUT DO NOT “CONTROL” HUMAN SMUGGLING

The role of cartels in human smuggling is controversial, but the evidence indicates Mexican drug cartels do not “control” human smuggling. The cartels see human smuggling as a way to earn money with little risk or investment. In other words, the role of cartels in human smuggling is dynamic and opportunistic rather than central to the success of the smugglers. “There is ample evidence of protection fees imposed by Mexican drug trafficking organizations that have control over a territory,” writes Campana. “The protection money, known as el piso or derechos de piso, is ‘a one-time toll to access specific parts of the migrant trail under the control of a DTO [Drug Trafficking Organization]. The payment of piso entitled migrants and their guides to, in theory, travel without fear.’”¹⁰

In general, cartels play the role of “toll collectors” as opposed to overseers of human smuggling operations. “Leutert (2018) indicates that organized crime groups, such as the Gulf cartels and the remaining factions of the Zeta cartels, tax the movement of people and goods, particularly in the state of Tamaulipas, ‘the failure of a smuggler to pay the proper fee for migrants to cross a TCO’s [transnational criminal organization] territory might also lead to the migrants being kidnapped’” notes Campana. “In some cases, drug trafficking organizations might deliberately leave intimidating signs on the route, such as burned or flipped cars, as a warning to those who don’t pay the fee (Sanchez and Zhang 2018, p. 142). In testimonies collected by Sanchez and Zhang (2018), the threat of violence was sufficient for smugglers to comply with the protectors’ requests.”¹¹

There also does not appear to be much evidence that human smuggling and drug smuggling are typically combined. Some individuals who are smuggled may choose to bring in drugs as a way to defray costs, but that is different than an organized effort to combine smuggling people and drugs.

The vast majority of drugs smuggled into the United States come through ports of entry rather than brought in through the routes used in human smuggling. “[T]he drugs that are actually taking the lives of people here in the United States—methamphetamine, cocaine, heroin, fentanyl—almost universally come through the ports of entry along the southern border—so that is people that carry them on their bodies or even in their bodies or cars or vehicles,” said Gil Kerlikowske, former commissioner of U.S. Customs and Border Protection (2014-17) in an interview with [National Public Radio](#). “And then the second way is through the international postal mail service. . .

¹⁰ Campana, p. 494.

¹¹ Ibid., p. 494.

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[W]ell over 90 percent. People don't backpack or try to sneak those drugs across the border between the ports of entry because, one, they could be caught by the Border Patrol. Number two, they don't really trust those people to do that. So, it's much better for them to have somebody that is taking the drugs through a port of entry where they're met on the other side of the port here in the United States, and those drugs are immediately taken.”¹²

CARTELS MAKE MONEY FROM EXTORTION

Rather than control human smuggling, cartels make money from exploiting those who have no legal way to enter the United States. “Kidnapping families, torturing kids for information on whom to ask for ransom, and dismembering those that don't pay: This is how cartels and local gangs operate as they have diversified their business from drug trafficking to extortion,” according to interviews with *Noticias Telemundo Investiga* of individuals released and reported by [Axios](#).¹³

“The kidnappings happen both before attempted crossings to the U.S. and after expulsions from the border. . . . There are ‘hawks,’ or cartel spies, in bus and taxi stations and sometimes even in migrant shelters run by NGOs. They ID possible targets. Once people are kidnapped, often forced onto cars at gunpoint, they are told to hand over their cellphones. If they're not unlocked, their owners are threatened with having a finger chopped off. The abductors use the phones to [extort funds](#) from victims' family members, first threatening beatings or rape, and then sending photographs of the victims after those threats are carried out. . . . Cartels and other organized crime groups in Mexico can make between \$600 and \$20,000 from each ransom, per [interviews](#).” Individuals with families in the United States are often victims due to the perception more money can be demanded from them.¹⁴

ONLY LEGAL VISAS AND REFUGEE PROCESSING ARE LIKELY TO END OR SIGNIFICANTLY REDUCE HUMAN SMUGGLING

Without additional avenues to live or work in America legally, it will not be possible to end or even significantly reduce human smuggling along the U.S.-Mexico border. The barriers to entry for becoming a smuggler are low and the ability to earn money is high. Cartels also make money by levying “tolls” for passing through territories they control. Finally, because of a lack of other alternatives, the individuals who pay smugglers have an incentive to employ people to guide them to or through the border as a way to work in the United States or seek human rights protection.

¹² “How Do Illegal Drugs Cross The U.S.-Mexico Border?,” National Public Radio, April 6, 2019.

¹³ Marina E. Franco, “Mexico's drug cartels target migrants as they expand into extortion,” *Axios*, October 5, 2021.

¹⁴ *Ibid.*

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Legal Visas: In general, there is no legal way for an individual in Mexico or Central America to obtain a visa to work year-round in the United States in a job that does not require a college degree. The closest visas available that allow for work most of the year are temporary visas. The H-2A visa is for seasonal agricultural work, and the volume of visas has increased over the years, likely limiting illegal entry from Mexico. However, it does not include jobs such as in dairy because those are considered full-year employment. H-2B visas are for seasonal nonagricultural work but are limited to 66,000 a year, a supply that is exhausted annually. Work in resorts and crab picking in Maryland are examples of H-2B visa employment.

Historically, the only effective way to reduce illegal entry significantly has been by making it possible for foreign nationals to work legally in the United States. Increasing the lawful admission of farmworkers in the 1950s under the Bracero Program significantly reduced unlawful entry to the United States, according to [research](#) from the National Foundation for American Policy. Apprehensions at the border, a proxy for illegal entry, declined 95% between 1953 and 1959. More farmworkers chose to enter legally as lawful avenues increased.¹⁵ After the Bracero program ended in 1964, apprehensions increased over 900%, rising from 86,597 to 875,915 from 1964 to 1976.¹⁶

An increase in family and employment-based green cards for individuals and families from Mexico and Central America is an additional option. Prior to 1965, there was no hard ceiling on the annual admission of immigrants from the Western Hemisphere.

Not everyone coming to the U.S. border is seeking work, although many asylum seekers likely would be pleased with the possibility to work legally in America. That is because it is often difficult to obtain asylum even under the best of circumstances. Title 42 has allowed Border Patrol agents to expel many individuals who are not provided an opportunity to apply for asylum.

“[T]he Biden administration should create programs in Central America that allow asylum seekers to be heard in their home countries—at U.S. embassies and consulates,” writes Tony Payan, director of the Center for the United States and Mexico at Rice University’s Baker Institute for Public Policy. “They need not travel to the border. The infrastructure can be set up in Central America to create a list of asylum seekers and arrange for a hearing. People try to cross the border because it is their only chance for their case to be heard. If we provide opportunities to file for asylum in their home countries, fewer people would head north toward the U.S. to do the same.”¹⁷

¹⁵ Stuart Anderson, *The Impact of Agricultural Guest Worker Programs on Illegal Immigration*, NFAP Policy Brief, National Foundation for American Policy, November 20, 2003.

¹⁶ Ibid.

¹⁷ <https://blog.bakerinstitute.org/2021/03/15/is-there-a-crisis-at-the-border/>.

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Arranging increased access to human rights protections and opening new legal paths to work will take increased logistical effort. However, it cannot be more difficult than dealing with the problems at the U.S.-Mexico border of the past two or three years.

Another approach is to incorporate Central Americans more widely into the U.S. refugee program. U.S. officers could conduct circuit rides in Central America to interview potential applicants for the U.S. refugee program similar to programs in the former Soviet Union in the 1990s. The Biden administration has taken a step in this direction by reinstituting the Central American Minors (CAM) program, which the Trump administration ended.¹⁸

CONCLUSION

Several methods exist to increase the legal avenues to work in the United States. These include establishing a new work visa with sufficient annual allocations, expanding the H-2B visa category and establishing [bilateral agreements](#) between the United States and Mexico, as well as countries in Central America. Human smuggling would drop significantly or even largely disappear if those who now pay smugglers instead could obtain a legal visa to work in the United States. Expanding opportunities for individuals to apply for protection in their home countries would also make it less likely people would pay smugglers to reach the United States. History shows decrying human smuggling but offering only increased enforcement at the border as a policy option will not reduce human smuggling.

¹⁸ <https://www.state.gov/joint-department-of-state-and-department-of-homeland-security-rollout-of-the-application-process-for-the-central-american-minors-cam-program/>.

ABOUT THE NATIONAL FOUNDATION FOR AMERICAN POLICY

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