



An Overview of U.S. Refugee Law and Policy

The United States has long been a global leader in the resettlement of refugees—and the need for such leadership remains enormous. The number of refugees around the world who are fleeing violence or persecution in their home countries in search of safety abroad has grown dramatically over the past decade.

Until recently, the United States offered refuge each year to more people than all other nations combined. But the Trump administration drastically reduced the maximum number of refugees that could enter the United States. Moreover, the United States government has imposed new security vetting procedures on refugees before they can be admitted into the country, which has greatly lengthened waiting times and left many refugees in dangerous situations for prolonged periods. In 2017, for the first time in modern history, the United States settled fewer refugees than the rest of the world.¹ In Fiscal Year (FY) 2020, the United States settled only 11,814 refugees²—the fewest in any year since the creation of the U.S. refugee program.

Forcible Displacement Is on the Rise Globally

People who are compelled by force to leave their homes often face two options. They can flee to another locale within their home country, in which case they are known as Internally Displaced Persons (IDPs). Or they can flee to another country, becoming “refugees” when they cross an international border. Those who travel directly to the country in which they seek “safe haven” are referred to as “asylum seekers,” while those who flee to another country and wait there for an opportunity for resettlement in a third country are called “refugees for resettlement.”³

The number of forcibly displaced people around the world has skyrocketed since 2010, growing from 41.1 million that year⁴ to 82.4 million as of 2020.⁵ Much of this displacement has been fueled by conflicts and crises in Syria, South Sudan, Ukraine, Myanmar, Venezuela, Afghanistan, Iraq, Libya, Somalia, the Central African Republic, Ethiopia, the Democratic Republic of the Congo, and Yemen.⁶

Refugee Flows Are Increasing Worldwide

Given the rising numbers of forcibly displaced people in general, it is not surprising that the numbers of refugees specifically are increasing. According to the United Nations High Commissioner for Refugees (UNHCR), there were 26.3 million refugees worldwide in 2020, up from 15.2 million in 2010.⁷ Children under the age of 18 represent roughly half of the refugee population.⁸ The top-five origin countries for refugees under UNHCR’s mandate in 2019 were Syria (6.6 million), Afghanistan (2.7 million), South Sudan (2.2 million), Myanmar (1.1 million), and Somalia (905,100).⁹

The Definition of a “Refugee”

Under U.S. law, a “refugee” is a person who is unable or unwilling to return to his or her home country because of a “well-founded fear of persecution” due to race, membership in a particular social group, political opinion, religion, or national origin.¹⁰ This definition is based on the United Nations 1951 Convention and 1967 Protocols relating to the Status of Refugees,¹¹ to which the United States became a party in 1968.¹² Following the Vietnam War and the U.S. experience resettling Southeast Asian refugees, Congress passed the Refugee Act of 1980, which incorporated the Convention’s definition into U.S. law and provides the legal basis for today’s U.S. Refugee Admissions Program (USRAP).¹³

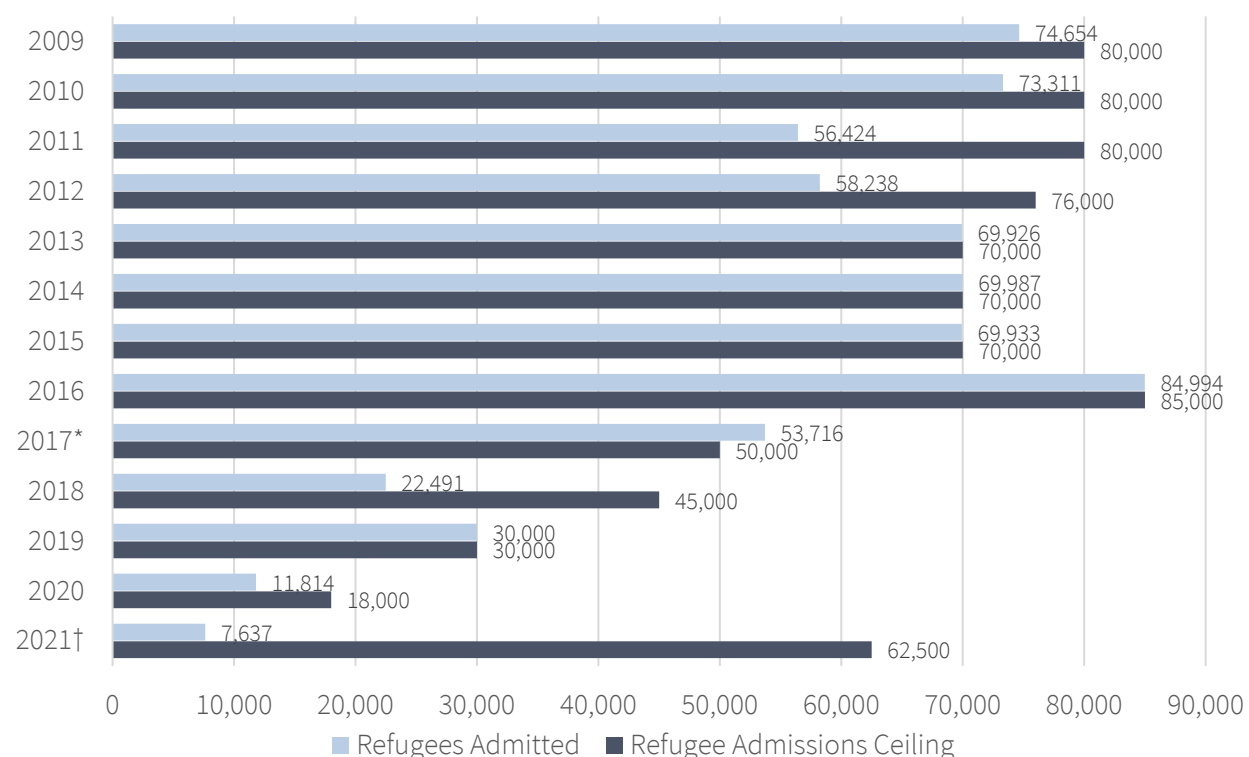
The international definition of a “refugee” encompasses only a subset of the entire population of forcibly displaced individuals. Individuals who are not defined as “refugees” may be forced to leave their homes for reasons other than “a well-founded fear of persecution,” such as resource scarcity and extreme weather events.¹⁴ For instance, as of 2020, there were 3.9 million Venezuelans displaced abroad who did not qualify as either refugees or asylum seekers.¹⁵

How U.S. Refugee Admissions Numbers Are Determined

The President, in consultation with Congress, determines the numerical ceiling for refugee admissions each year. The State Department and Department of Homeland Security (DHS) are the primary agencies that assess the viability of different refugee populations for admission, as well as the capacity of U.S. government officials to process them. For FY 2020, the ceiling was set at an all-time low of 18,000, down from the previous all-time low of 30,000 set in FY 2019.¹⁶ This low ceiling was not reached in FY 2020 in part because the refugee resettlement program was temporarily suspended during the COVID-19 pandemic.¹⁷

Of the 11,814 refugees who were resettled in the United States during FY 2020, the largest share was from Africa, followed by Europe, East Asia, the Near East/South Asia, and Latin America/Caribbean.¹⁸ Specifically,

- 35.2 percent (or 4,160) of all refugee arrivals came from Africa—compared to 31,624 in FY 2016 (the last year of the Obama administration).¹⁹
- 21.8 percent (or 2,578) of all refugee arrivals came from Europe—compared to 3,957 in FY 2016.²⁰
- 18 percent (or 2,129) of all refugee arrivals came from East Asia—a region that includes China, Vietnam, and Indonesia—compared to 12,518 in FY 2016.²¹
- 16.9 percent (or 1,999) of all refugee arrivals came from the Near East/South Asia, a region that includes Iraq, Iran, India, Syria, and Egypt—compared to 35,555 in FY 2016.²²
- 8 percent (or 948) of all refugee arrivals came from Latin America/Caribbean—compared to 1,340 in FY 2016.²³

Figure 1 Refugee Admission Ceiling and Refugees Admitted, FY 2009 to August 31, 2021

Source: U.S. Department of State, Bureau of Population, Refugees, and Migration, “Refugee Admissions Report as of August 31, 2021,” <https://www.wrapsnet.org/documents/Refugee%20Admissions%20Report%20as%20of%2031%20Aug%202021.xlsx>.

Notes: * FY 2017 ceiling set at 110,000 by Obama administration; subsequently reduced to 50,000 by Trump administration.

† FY 2021 as of June 30, 2021. FY 2021 ceiling set at 15,000 by Trump administration and subsequently raised to 62,500 by Biden administration.

The Basics of the U.S. Refugee Resettlement Process

The United Nations High Commissioner for Refugees (UNHCR) conducts an initial screening to determine if an individual seeking refugee status qualifies as a refugee under international law and then identifies an appropriate “durable solution” for that individual: voluntary repatriation, local integration, or resettlement.²⁴ Individuals identified as refugees in need of resettlement are referred to one of nine U.S. Department of State Resettlement Support Centers (RSCs) around the world where they are screened to ensure they meet U.S.-designated processing priorities.²⁵

There are three principal categories through which individuals can seek access to the U.S. Refugee Admissions Program (USRAP):²⁶

- **Priority One.** Individuals with compelling protection needs or those for whom no other durable solution exists. These individuals are referred to the United States by UNHCR, or they are identified by a U.S. embassy or a non-governmental organization (NGO).

- **Priority Two.** Groups of “special concern” to the United States, which are selected by the Department of State with input from U.S. Citizenship and Immigration Services (USCIS), UNHCR, and designated NGOs. Currently, these groups include certain persons from the former Soviet Union, Burma, and Iraq.
- **Priority Three.** The relatives (parents, spouses, or unmarried children under 21) of refugees who are already settled in the United States. The U.S.-based relative must file an Affidavit of Relationship (AOR) and must be processed by DHS.

RSCs create a case file for each prospective refugee under consideration and request background security checks from U.S. national security agencies including the National Counterterrorism Center, FBI, and Department of Defense.²⁷ Officers from USCIS conduct interviews to confirm that the individual qualifies for resettlement under a designated refugee processing priority, meets the international definition of a refugee, is not firmly resettled in a third country, and is otherwise admissible to the United States under U.S. law.²⁸

Applications for refugee resettlement can be denied for a variety of reasons including criminal histories, past immigration violations, alleged connections to terrorist groups, or communicable diseases.²⁹ Applicants cannot appeal the decision unless new or previously unavailable information arises.³⁰ In January 2018, the Trump administration put in place new security measures, including additional screening of individuals from “high risk” countries, administering the refugee program in a more “risk-based” manner, and periodic review of countries deemed to be “high-risk.”³¹ Refugee resettlement organizations have stated that these additional “extreme vetting” measures were unnecessary and a pretext to make it more difficult to resettle Muslim refugees.³² In February 2021, President Biden, through Executive Order 14013, ordered a review of previously implemented refugee security vetting procedures to “increase their efficiency, fairness, and effectiveness.”³³

Individuals who pass the security and medical checks and receive formal approval from USCIS are eligible for resettlement. RSCs send biographical information on the refugees selected for resettlement to the nine domestic resettlement agencies and organize travel to the United States in coordination with the International Organization for Migration (IOM).³⁴ Before departing, refugees sign a promissory note to repay the United States for their travel cost.³⁵

The domestic resettlement agencies, many of them faith-based organizations such as Church World Service and the U.S. Conference of Catholic Bishops, handle resettlement logistics and consult with local authorities to determine where the refugee will live.³⁶ Refugees resettled in the United States do not need to have a “sponsor.” If a refugee approved for admission does have a relative living in the United States, efforts are made to place the refugee near his or her relative.³⁷

The State Department’s Reception and Placement Program provides funds to cover refugees’ rent, furnishings, food, and clothing for an initial 90-day period. The Office of Refugee Resettlement in the Department of Health and Human Services provides longer-term cash and medical assistance, along with other social services such as language classes and employment training to support the integration of refugees into local communities.³⁸ One year after resettlement, refugees may apply for Lawful Permanent Resident (LPR) status. If they adjust to LPR status, they may petition for naturalization five years after their arrival in the United States.³⁹

In FY 2020, the largest number of new refugee arrivals settled in California (1,188), followed by Washington (1,108), Texas (902), New York (623), and Michigan (493).⁴⁰

Delays in the Refugee Resettlement Process

The process of refugee resettlement in the United States can be very time consuming. According to a Human Rights First report, the processing times of the U.S. refugee resettlement program “can be quite prolonged, leaving some refugees stranded in dangerous locations or in difficult circumstances.”⁴¹ The Department of State reported in 2016 that the entire process takes an average of 18-24 months to complete.⁴² However, security screening became even more complicated in 2017 when DHS—under the Trump administration—began “implementing program enhancements to raise the bar for vetting and screening procedures.” This included “increased data collection to more thoroughly investigate applicants, better information sharing between agencies to identify threat actors, and new training procedures to strengthen screener ability to detect fraud and deception.”⁴³

Refugee Admissions into the United States Have Declined Dramatically Under the Trump Administration

The prospects for refugees hoping to resettle in the United States changed abruptly in 2017. In January of that year, President Trump signed an executive order that suspended the entire U.S. refugee admissions program for 120 days. In addition, the Trump administration suspended indefinitely the entry of Syrian refugees into the country and lowered the FY 2017 refugee admissions ceiling from 110,000 (set under the Obama administration) to 50,000.⁴⁴

This pause in refugee resettlement was meant to give DHS and the State Department time to conduct a security review of the application and adjudication procedures for refugee admissions.⁴⁵ The refugee program did resume—with the exception of nationals from 11 countries (Egypt, Iran, Iraq, Libya, Mali, North Korea, Somalia, South Sudan, Sudan, Syria, and Yemen) who were subject to an additional 90-day travel ban.⁴⁶ The ban and its subsequent iterations continued and were repeatedly challenged in the federal courts until June 2018, when the Supreme Court ruled in favor of the third iteration of the ban.⁴⁷

The Trump administration continued to lower the admissions ceiling in subsequent years, decreasing it to 45,000 in FY 2018 (with fewer than 50 percent admitted); 30,000 in FY 2019; and 18,000 in FY 2020 (with fewer than 12,000 admitted).⁴⁸ The Trump administration set the FY 2021 refugee admissions ceiling at 15,000. Initially, the Biden administration maintained that ceiling,⁴⁹ but later raised it to 62,500.⁵⁰ However, as of August 31, only 7,637 refugees had been admitted—with only one month remaining in the fiscal year.⁵¹

Endnotes

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