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Executive Summary

Immigration policy is one of the most polarized parts of the national political discourse in the United States, often pitting security concerns against the economic and cultural benefits of immigration as well as against the United States’ humanitarian obligations to help those fleeing harm. But a sound immigration policy that harnesses the power of immigration and upholds our international obligations is not at odds with responding to potential threats. This paper offers recommendations on how to advance a humane, values-driven approach to immigration that bolsters national security and improves the United States’ ability to achieve its foreign policy goals.

Pro-immigrant policies enhance US national security in many ways, including allowing for the economic benefits of migration, using immigrant talent and innovation to grow US global competitiveness, and bolstering US influence abroad. Security vetting through the immigration process is an important tool to identify those who seek to use immigration benefits to travel to the United States and cause harm, but these considerations cannot come at the expense of treating each individual with dignity and compassion and of encouraging legitimate migration to the United States.

The contemporary immigration system is dramatically out of sync with modern times. Current laws were enacted in the 1960s and successive reforms have limited immigration without adapting to US labor market needs or changing global migration flows. This has choked opportunities to enhance economic security and created an overreliance on humanitarian and protection pathways as a means of obtaining legal status. To address these concerns, the United States must:

» Create more equitable immigration pathways by aligning immigration policies with economic realities: New pathways for legal migration must align with contemporary economic needs, including addressing shortfalls in the labor market created by the depopulation of rural areas;

» Eliminate rules that effectively trap immigrants in the United States: These rules impede the free flow of migration and force individuals to remain in the United States even if they fall out of legal status, leaving them susceptible to exploitation and harsh enforcement;

» Rebalance vetting needs versus promoting humanitarian concerns: Refugees and asylum seekers are the most vetted groups of individuals in the United States; technology and clearer information-sharing can streamline these processes to make them more efficient and minimize human suffering; and

» Frame reform in the context of racial justice: Immigration reform must be situated within broader cross-movement collaborations that center racial justice and advance principles of equity and inclusion.
Within this context, and on the eve of its twentieth anniversary, the Department of Homeland Security (DHS), which executes the majority of immigration policy, requires restructuring to better meet the needs and challenges of current migration flows without rooting all responses in post-9/11 reflexes. Because immigration law and policy is interpreted and implemented within an agency whose primary mission is to enhance homeland security, immigration enforcement has become a tool of national security that justifies treating migrants as a danger to the homeland. To remedy these deficiencies, DHS and its stakeholders should:

» **Restructure DHS to center humanitarian values and just processes, including urging Congress to pass the DHS Reform Act:** If DHS prioritizes creating operational structures that focus on humanitarian responses to migration, it can lay the groundwork for a new framing of the national dialogue on immigration that shifts away from viewing immigration as a security threat and, by improving the agency’s public reputation, will help strengthen the rule of law;

» **Reorient the work of Customs and Border Protection (CBP):** CBP should return to its original focus on national security, and another agency such as the Federal Emergency Management Administration (FEMA) or US Citizenship and Immigration Services (USCIS) should be charged with managing the humanitarian needs stemming from migration;

» **Invest in USCIS, including by refocusing on humanitarian programs:** Additional funding for USCIS would allow the agency to build more robust systems for timely and fair adjudications of applicant benefits; and

» **Assemble a task force for DHS reform:** A task force of current and past leadership, stakeholders, academics, and policy experts should assess the efficiency and impact of current structures and make recommendations for how to align the mission and work of DHS with fundamental American values and security needs.

Immigration reform policies that strengthen national security and center humanity and dignity are possible. The recommendations herein offer concrete pathways to realize that vision.
Introduction

This paper lays out a framework that places discussion of immigration law and policy within today’s security challenges but without compromising America’s values. It is premised on the belief that a humane immigration policy that upholds fundamental values of dignity and welcoming is not at odds with national security. That policy must account for the security challenges that arise when malicious actors seek to use the immigration system to further their dangerous aims, such as trafficking of weapons, drugs, illicit goods, or people, or promoting extremism. At the same time, the free flow of migration is fundamental to the values the United States was built upon and relies on to exert leverage around the world. Generous migration policies are also essential to the continued growth and strength of the American workforce and to the United States’ position as a leading global economy, in itself a significant contributor to our overall security.

This paper is divided into three parts. The first section examines linkages between immigration policy, national security, and foreign policy—and thus why immigration is a national security concern. The second section provides a broader context to center current operational challenges in the current legal framework by examining the need for more equitable immigration pathways, why that goal has been so elusive, and recommendations to achieve progress. The third section focuses on DHS—the epicenter of immigration policy design and implementation—and reforms needed in that institution, including recommendations for action.

Amid the plethora of concerns associated with immigration policy development and implementation, this paper focuses on DHS, and the broader context in which that agency operates, as a means to illustrate how a value-driven approach to immigration policy is not at odds with security concerns. The intent is not to diminish the role of the Department of State, the Department of Justice, the Office for Refugee Resettlement, or any other agencies that also play central roles in the management of our immigration system. Such a comprehensive overview of the entire immigration system, however, would be too lengthy for this examination to cover and, in order to not treat these agencies’ roles superficially, they are not included here.

The information presented in this paper was gathered from multiple sources. The author consulted widely within the Truman membership, and the main insights and arguments were provided from Truman members and experts in fields related to immigration practice and policy, some of whom are named in the acknowledgments and some of whom cannot be publicly recognized due to the nature of their positions with the government, the military, or other agencies. Additionally, the author engaged in a series of closed-door meetings with current policy makers and government officials within DHS and other federal agencies as well as site visits and other field research to observe the local impact of immigration policy. Finally, the author relied on her own twenty years of experience as an immigration attorney and advocate, including working on the frontlines of numerous immigration crises and engaging with three White House administrations and Congress to identify overdue administrative fixes and legislative reforms.
Why a Humane Immigration System Bolsters National Security

Immigration is simultaneously a foreign policy issue influenced by domestic policy, and a domestic policy issue that has foreign policy and national security implications. Over the last thirty years, and most recently during the last two decades that coincide with the existence of DHS, immigration laws and policies have fallen out of sync with geopolitics and with evolving economic and civil realities. The world has moved past the Cold War and the civil rights era, which shaped the current immigration system, and the outdated legal structures that remain make the United States less effective at countering security threats and meeting economic needs with every passing year.

Much of the polarized national dialogue on immigration centers, at its crux, around the tension between immigration and national security. Political discourse and media narratives focus on the perceived danger foreigners pose to Americans’ well-being and create what Congresswoman Elissa Slotkin calls “the false choice between securing our borders and remaining a country that’s welcoming to immigrants looking for a better life in the United States.”

Vetting, at the border and through the immigration process, is an important tool of national security. Most foreigners who seek to do harm in the United States leverage the immigration system. The attacks on September 11, at the Boston Marathon, and on Manhattan’s West Side Highway, for example, were all carried out by individuals radicalized abroad who applied for—and received—visas to enter the United States. Gangs, cartels, and traffickers are constantly seeking to grow their trade and influence in the United States by circumventing immigration procedures to move individuals and illegal goods across the border.

None of these considerations, however, should overshadow the reality that the immigration system, like all US government policy, should treat each individual with dignity and compassion. The overwhelming majority of travelers to the United States come seeking legitimate opportunities, including to do business, reunite with family, or find protection from harm, and should not be treated as a threat. In fact, pro-immigrant policies enhance our national security in many ways.

Immigrants make enormous contributions to economic development and US global competitiveness, strengthening national security via economic security. Immigrants fill

critical labor shortages around the country,2 and universities and research institutions have noted the need to recruit foreign students to support global competitiveness by increasing the diversity and cultural richness of the student body and ensuring the “best of the best” study and remain in the United States.

As the United States’ population ages, immigrants will be more needed than ever to bolster the workforce3 and to drive the innovation necessary to maintain America’s economic edge, from which it derives global influence and power.4 A report by the Pew Institute found that, as a “large generation heads into retirement, the increase in the potential labor force will slow markedly, and immigrants will play the primary role in the future growth of the working-age population.”5 What’s more, almost 45% of Fortune 500 companies were founded by immigrants or children of immigrants6 and more than half of US-billion-dollar startups as of 2016 were founded by immigrants.7 The need to tap into immigrant talent is a significant factor in the United States’ ability to drive innovation and growth and maintain a global economic edge.

But too often, immigration policy is counterproductive. At home, law enforcement operations targeting immigrant communities have backfired, sowing distrust between community members who could provide valuable assistance to local and federal law enforcement authorities and isolating already marginalized communities. Policies targeting Muslim communities, from the National Security Entry-Exit Registration System (NSEERS) that followed the 9/11 attacks to the “resettlement initiatives help advance US national security interests by supporting the stability of our allies and partners that are struggling to host large numbers of refugees.”12 Such efforts also help counter radicalization by promoting American values of compassion and welcoming, in contrast to the hate-filled rhetoric of terrorist groups.13 The United

Overseas, immigration policy has created distrust of US commitments to respond to migration crises, diminished American soft power, and impaired the United States’ ability to recruit critical partners to security initiatives. One of the clearest examples of this is the refugee admission system. A 2015 letter to Congress signed by over twenty national security experts, including Henry Kissinger, General David Petraeus (retired), Michael Chertoff, Madeleine Albright, and Leon Panetta, noted that “resettlement initiatives help advance US national security interests by supporting the stability of our allies and partners that are struggling to host large numbers of refugees.”12 Such efforts also help counter radicalization by promoting American values of compassion and welcoming, in contrast to the hate-filled rhetoric of terrorist groups.13 The United

7 Ibid.
10 Ibid.
11 Ibid.
States’ ability to exert influence on the global stage was further called into question during the 2022 Summit of the Americas, where US government officials excluded Nicaragua, Cuba, and Venezuela from the invitation list. The omission of three of the largest contributors to migration flows in the Western Hemisphere from a summit in which a principal goal was to achieve a regional compact on migration highlighted for many the US’ declining influence in world affairs.14

Beyond would-be refugees, soft networks, broadly defined as local partners working with US military, diplomatic, intelligence, and law enforcement operations, are often critical to the success of US operations abroad. These local allies act as fact finders and cultural translators for military forces and diplomatic missions and help protect American lives abroad while also providing critical intelligence that shape US diplomatic and military efforts. According to a white paper published by the Pacific Council on International Policy, “failing to protect soft networks weakens local national confidence in ongoing U.S. military and diplomatic efforts, damages host-nation military relationships with U.S. forces, and dilutes U.S. narratives regarding objectives in conflict zones.”15 One of the key protections the US can offer these soft network allies is relocation and protection if their involvement with US efforts places them at risk. Yet the one currently active program, the Special Immigrant Visa (SIV), is available only to certain Afghan interpreters and is mired in bureaucratic backlogs and inefficiencies.16 The SIV program also ignores the crucial role played by individuals beyond interpreters, and in places other than Afghanistan where the US has security operations underway.17

Immigration policy highlights the nexus between local and foreign policy and how the former can be a driver of the latter when properly leveraged. Welcoming policies can better integrate immigrants into local economic life, increase economic stability, and encourage diasporas to create stronger bonds between the United States and home countries.18

By promoting such policies at the national level, the federal government can help make the connection between national and sub-national policies and engage all residents in its efforts.

As explained at length in the Truman Center’s Report “Broadening Diplomatic Engagement Across America: Report of the Truman Center City & State Diplomacy Task Force”, “with more mechanisms for communication and collaboration between federal, state, and city governments, all levels of government can contribute to U.S. foreign policy.”19

Case Study: Customs and Border Protection

CBP is the result of the merger of parts of several principal agencies—immigration enforcement (including Border Patrol), which was a part of legacy INS that addressed the crossing of people outside ports of entry, and Inspections, also a part of legacy INS that met travelers at ports of entry—with Customs, which, until 2003, was part of the Treasury Department and concerned itself with the goods entering the United States.

Today, the fact that CBP’s workforce is a combination of two different agencies with very different recruiting goals and tools—between legacy Customs and legacy INS—influences how day-to-day work is prioritized and makes it harder to achieve consensus on what the agency’s priorities should be, pitting the facilitation of legitimate immigration against border and, by extension, national security policy.

No agency has suffered mission creep more than CBP. Many agents believe they signed up for a career protecting the country, but find themselves managing humanitarian crises. This is particularly true at the southwestern border, where federal agents not only process arriving asylum seekers, but also intercept and provide care to people attempting to cross the border, often at the hands of smugglers and other criminal organizations. Furthermore, the demographics of arrivals at the border, particularly the southern border, have shifted toward much higher numbers of women, children, and families, and are largely responsible for turning this de facto mission shift into a humanitarian crisis. CBP agents are not trained to provide trauma-informed care or manage the humanitarian needs they are confronted with on a daily basis. CBP facilities have not been built to hold individuals long-term and are often geared toward promoting deterrence policies rather than humanitarian aid.

The politicization of immigration has made fulfilling these dual roles of “protection” and crisis management even more difficult, with agents’ roles and mandates constantly changing. The distrust between the public and law enforcement agencies, the often false narrative of the impact and origins of migration, and the changing positions taken by each successive administration in Washington create a rift between government and law enforcement agencies and between government and the public. This, in turn, interferes with CBP agents’ responsibilities for intelligence gathering and countering violent extremism.
Creating Equitable Pathways

Before examining DHS and other government structures that interpret and implement immigration law and policy, it is important to provide an overview of the current system so as to place such analysis within the legal and political framework in which it operates.

Immigration is a defining feature of the United States’ history and part of its competitive edge. The choice to come and share ownership in the American Experiment reaffirms core American values and bolsters the country’s aspirations to be a model and beacon to the world. But its immigration system has long been outdated and reactive, in desperate need of reshaping. A proactive immigration strategy would illuminate that choice migration can be regularized through better management, and forced migration can be reduced by addressing upstream push factors, like violence and armed conflict, endemic poverty and economic insecurity, and climate change.

The Anachronism of the Current Systems

The network of laws and regulations that determine how non-citizens can travel to, and settle in, the United States has always been extraordinarily complex. In fact, the Immigration and Naturalization Act (INA) language and requirements are so convoluted that the Federal Court of Appeals for the Second Circuit once compared its statutory interpretation to King Minos’s labyrinth in Crete.21

The vast majority of the immigration laws were created in the mid-1900s, and Congress gave the power to interpret and enforce the laws almost exclusively to the Executive Branch. The INA, signed by President Lyndon Johnson in 1965, forms the basis for the immigration system as we know it today. The few major changes to it in the last five decades have focused on restricting migration flows into the United States and creating a more punitive system by increasing penalties for immigration violations. This was especially true in the 1990s, during nationwide “Tough on Crime” reforms, and in the early 2000s, in response to 9/11.

The modern-day immigration system was born of the American civil rights movement, yet immigration laws are inextricably rooted in national and economic discrimination. The first attempts at controlling migration, begun in 1924, were meant to limit the number of so-called undesirables and exclude, specifically, Chinese day laborers. The 1965 INA was meant to root out these preferences based on national origins and eliminate de facto discrimination written expressly into the law. In so doing, it reoriented access to immigration benefits around three main goals: meeting economic needs, facilitating family reunification, and protecting refugees.

Since the INA was originally enacted, however, successive administrations have narrowly interpreted these goals. Coupled with a series of increasingly restrictive

21 Lok v. Immigration and Naturalization Service, 548 F.2d 37 (2d Cir. 1976). Describing the INA, that court found that “Congress, pursuant to its virtually unflettered power to exclude or deport natives of other countries, and apparently confident of the aphorism that human skill, properly applied, can resolve any enigma that human inventiveness can create, has enacted a baffling skein of provisions for the INS and courts to disentangle.”
reforms that criminalized immigration violations, limited legal migration pathways, increased the use of detention, and reduced federal court oversight, the system that exists today simply does not meet twenty-first-century needs.

Legal migration, for the most part, is now limited and requires either personal wealth or specific family connections. Temporary and permanent residency visas are premised for the most part on sponsorship by employers, academic institutions, or some family members. Temporary visas that do not allow for work in the United States require a showing of sufficient funds to support oneself without work. The overwhelming majority of work-based visas require—at a minimum—the equivalent of an undergraduate university degree, or other significant professional experience. The major exceptions are the H-2A and H-2B categories that provide temporary permission to travel to the United States to work in agricultural or hospitality industries during their respective high seasons. Because a university-level education in and of itself requires money, most pathways to migrate to the United States end up being available to only the economically well-off. Family-based pathways are similarly limited, including potential sponsorship for immigration benefits for immediate family members but not other relatives most would consider part of their close family, including grandparents, aunts or uncles, nieces, nephews, or cousins. In fact, US citizens can only sponsor spouses, parents, children, and siblings, while permanent residents (“green card holders”) can only sponsor spouses and unmarried children.

The diversity visa program, established in the 1980s to remedy perceived imbalances in the immigration system, is the one program available to individuals without sponsorship. But the so-called green card lottery for the 50,000 visas that it creates is open only to individuals from countries with historically low immigration rates to the United States. For example, this program has been one of the few ways in which people from Africa have accessed the US immigration system. The frequent threats to its existence, which arise every time an immigration reform bill is considered, show that national-origin discrimination remains prominent in the political dialogue on immigration.

Despite being largely excluded from our current system, immigrants without high levels of formal education are vital to our economic strength. According to a report by the Center for American Progress (CAP), unauthorized immigrants—meaning immigrants who do not qualify or have not been able to apply for immigration status—make up 3.2% of the total US population but 4.4% of the workforce. Among many vital industries, unauthorized immigrants account for 25% of the farming, fishing, and forestry industry workforce, 13% of the construction industry, 8.4% of the food services industry, 15% of grounds and building maintenance workforce, and 20% of personal home services such as landscaping and house cleaning. An estimated five million undocumented immigrants were considered essential workers during the pandemic. Nearly 1.7 million unauthorized immigrants work in the American food supply chain, and nearly a quarter million work in the healthcare sector, which has seen a significant shortage of American workers in recent years.

Simply put, the current immigration system does not provide appropriate pathways for those displaced by conflict or suffering and does not meet workforce needs; also it discriminates against immigrants from poorer countries and immigrants of color and frames migration as a national security and economic threat.

Overreliance on Protection Pathways to Correct Gaps

Because temporary and permanent visas are so difficult to obtain, require a certain level of personal wealth, and are usually limited to those who have pre-existing relationships with people in the United States, many seeking to come to the United States from poorer countries rely on protection pathways.

24 Ibid.
25 Ibid.
Simply put, the current immigration system does not provide appropriate pathways for those displaced by conflict or suffering and does not meet workforce needs; also it discriminates against immigrants from poorer countries and immigrants of color and frames migration as a national security and economic threat.

such as the refugee and asylum system to either enter or remain. In other words, humanitarian protections have become a catchall for most people seeking the ability to remain permanently in the United States.

The demand to fill gaps in the US workforce has exacerbated reliance on these humanitarian pathways for immigration. Multiple overlapping factors in countries of origin—armed conflicts, economic hardship and climate change, to name a few—have dramatically increased demand for migration to the United States. Meanwhile, the lack of available options for employers needing large-scale manual labor, particularly in the agricultural, construction, and industrial sectors, has caused labor shortages. The scarcity of options for legal status has also led people to rely on humanitarian protections, such as asylum when available, but also to push for Temporary Protected Status (TPS) designations when warranted, or to use visa options available to victims of domestic violence or crime.

Because of this, USCIS has been overwhelmed with applications for humanitarian relief since it opened its doors in 2002, with humanitarian relief visa categories often the most backlogged. Asylum cases can take years to adjudicate, particularly those filed in the immigration court system. Applications filed before 2018 have been stuck in endless limbo as the administration moved to a “Last In First Out” policy for prioritizing adjudications, meaning that most asylum offices rarely get to the volume of cases filed before 2018. The average processing time for U Visas, for victims of certain crimes, is ten years. When a country is designated for TPS, offering its citizens present in the United States an opportunity to remain, work, and travel abroad for eighteen months at a time, it can take nearly a year for the application to be processed.

Policy choices and legislative fixes intended to reduce the volume of requests for relief under the humanitarian pathways have focused on punitive measures and deterrence—first approaches without including expansion of non-humanitarian pathways. This has exacerbated the dysfunction of the immigration system and led to a growth of the undocumented population in the United States.

26 TPS is a temporary protection from deportation and eligibility for work authorization for nationals of certain countries that have been designated by the secretary of Homeland Security. Countries are designated for TPS when there is a temporary reason why nationals of that country could not be reasonably expected to return, usually because of a natural disaster or civil conflict.

27 For example, the expansion of the INA’s Expedited Removal provisions in the Illegal Immigration Reform and Immigrant Responsibility Act (IRRA) (1996), which significantly broadened the circumstances under which the US government can remove someone without a hearing in front of the judge if they are caught entering the country without proper documentation, were originally intended to facilitate border enforcement. Almost immediately, however, the Expedited Removal provisions were transformed by Congress into a deterrence mechanism that was used to turn away asylum seekers and prevent them from reentering the country without stiffer penalties. Under the Trump administration, the provisions became the basis for the criminal prosecution of individuals unable to remain in their home countries and who had no other option but to seek safety across the US border and apply for asylum. US detention center populations and immigration court dockets ballooned, forcing the system to take on more cases than it was already equipped to handle, and causing serious violations of due process that continue to be litigated to this day.

More recently, the dual impact of COVID-era protectionist policies and the Afghan and Ukrainian crises have created new strains on the system. Afghans left behind after the withdrawal of the United States from Afghanistan in August 2021 filed tens of thousands of applications for humanitarian parole—essentially a request to be allowed to enter the United States without being eligible to apply for a visa because of humanitarian concerns. USCIS
quickly announced they would be unable to process most cases, even as they established a streamlined process for Ukrainians to apply. At the same time, a prolonged COVID pandemic–related closure of the US border under Title 42 Public Health provisions of the US Code has put the United States on pace for record-breaking numbers of arrivals at the southwest border, because individuals who have waited over two years to exercise their right to ask for asylum are finally now doing so.

Finally, the security and vetting systems initiated in the mid-1990s and ramped up in the early 2000s have created additional hurdles that otherwise eligible immigrants frequently cannot overcome. Gang-related investigations and enforcement have been used as an excuse to deny benefits to and deport young Latinx immigrants and, especially under the Trump administration, were a pretext for racial profiling and targeting of these communities. Allegations of terrorist ties, or of support for terrorist organizations, have led to profiling Arabs at the border and in their communities, and have often been used as an excuse to deny their applications, even if the support was given under duress (for example, Afghans forced to pay or cooperate with the Taliban to survive in the wake of the US troops’ withdrawal).

CREATING MORE EQUITABLE PATHWAYS

Recommendations

The following are recommendations for law makers and policy leaders on how to restructure the current system to respond to our 21st Century needs and to protect our national security without compromising our values.

» **Align immigration policies with economic realities:** New pathways for legal migration must align with contemporary economic needs, including addressing shortfalls in the labor market created by the depopulation of rural areas. National and local governments should have the ability to set their own immigration levels necessary to their respective labor markets and economic success as well as to encourage economic migration. Family reunification should be generous and structured in a way to eliminate current backlogs to provide stability to immigrant households and allow them to fully participate in civic and economic life instead of remaining split between two countries. Finally, legislators should create pathways for individuals who may lack the formal education and professional experience required for most visas, but have the labor skills necessary to build and sustain America’s current and emerging infrastructures, agricultural fields, and health care sectors;

» **Rebalance vetting versus humanitarian concerns:** Refugees and asylum seekers are the most vetted groups of individuals in the United States. The Refugee Assistance Program alone takes two years of security checks before individuals are able to travel to the United States. These delays, fueled by destructive narratives around migration, keep individuals in dangerous conditions and contradict the United States’ assurances to assist those fleeing persecution. Technology and clearer information-sharing can streamline these processes to make them more efficient and minimize human suffering, but the extent and nature of use of screening tools must be reasonably related to the risks the government seeks to avoid, should be narrowly tailored to the security objective being pursued and designed to avoid undue intrusion into private activities, and should not be based on stereotypes or political opposition to resettlement activities; and

» **Frame reform in the context of racial justice:** The national reckoning on racial justice that was triggered by the murder of George Floyd in June 2020 must extend to any conversation on immigration reform. The damage caused by country-of-origin based immigration laws that existed until 1965 has not been rectified, and the current system is biased in favor of European and wealthier migration while further marginalizing and harming Black and Brown migrants. Immigration reform must be situated within broader cross-movement collaborations that center racial justice and advance principles of equity and inclusiveness.
Reforming the Department of Homeland Security

The myriad of concerns described above all collide within DHS, which, since 2003, has overseen most of the adjudication and enforcement of immigration law and policy. After the terror attacks of September 11, 2001, US government structures underwent a seismic change, ultimately leading to the creation of DHS. The newly created department, which opened its doors on March 1, 2003, took on a massive mandate to protect the homeland and folded nearly all immigration processes into its mission. The Department of Justice—previously the home of many immigration-related agencies—retained only the immigration court system, with new agencies such as USCIS, Immigration and Customs Enforcement (ICE), CBP, working alongside the Transportation Safety Administration (TSA), FEMA, and the Coast Guard in an effort to bring many homeland security initiatives under one roof.

From the outset, the design of DHS was reactionary and short-sighted. The creation of DHS irrevocably set the United States on the path that defined immigration enforcement as a matter of national security and justified treating migrants as a danger to the homeland.

The creation of DHS irrevocably set the United States on the path that defined immigration enforcement as a matter of national security and justified treating migrants as a danger to the homeland.

While DHS includes twenty-four sub-agencies and has a broad mandate, immigration remains one of its central and most visible foci. Twenty years since its creation, an unsparing assessment of how DHS executes its immigration functions is overdue. The department must adapt and respond to current threats while rearticulating its mandate in a way that promotes security and respects American laws and values.

Flawed at the Inception

The merger of agencies from across multiple departments was rushed and clumsily done. The sub-agencies of DHS, whether moved from other parts of government or created as part of the new department, have suffered from forcing their individual missions and functions to match DHS’s overall mandate. As immigration policy has shifted repeatedly over the last twenty years, tensions have emerged between political appointees who rotate with every administration, and career employees who feel the scope and expectations of their jobs fluctuate at the whims of political Washington, without much regard for their operational capabilities or priorities. These tensions are

Case Study: US Citizenship and Immigration Services

USCIS is the benefits-adjudicating branch of DHS. Although its primary purpose is to evaluate applications of immigration benefits and approve them when they meet legal requirements, as part of the DHS its overall mission is also necessarily one of national security. In fact, in an Obama-era effort to unify all sub-agencies under one DHS-wide mission, USCIS’s primary purposes—to promote national security but also to create economic development, to support humanitarian protections, to facilitate family reunification, and to uphold national values—were lost, a fact steadily exploited by the subsequent Trump administration. As the focus of the agency during the Trump Administration’s tenure meant to reduce rates of immigration in the name of national security, changes to the adjudications process designed to slow down decision making and discourage new applications caused the total backlog of cases to grow from about eight million in 2016 to over ten million at the start of 2022. This has left millions of applicants in limbo, even as the agency returns to a more welcoming and generous mindset as it tries to catch up from pandemic-induced delays.

Humanitarian needs are a particular concern, and migration crises have put significant strains on USCIS’s operations. As a fee-funded agency that overwhelmingly relies on fees paid by those seeking immigration benefits to operate and as an agency that receives very little federal appropriations, USCIS’s needs are constantly pitted against each other. For example, the enormous costs created by managing non-fee-generating applications for protections such as asylum take resources away from other types of applicants and forces prioritization of which kinds of applications get the most attention. Moments like the response to the Afghan crisis in the summer of 2021 show how one unplanned event can quickly turn into disaster. In that instance, tens of thousands of people, desperate to be included in evacuation efforts, filed applications for Humanitarian Parole with the United States. USCIS responded with a statement that it had no ability to adjudicate them without also significantly impacting other application streams such as family reunification, work-based green card, or citizenship applications.

These compounded crises as well as failures to forecast the upcoming workload and to invest federal funds in the agency’s financial future have created significant structural challenges. Case-flow management initiatives, such as prioritizing only certain types of cases for in-person interviews, narrowing the scope of issues that require follow-up document requests, and utilizing technological and customer-engagement tools to streamline communications, have been too slowly implemented, resulting in frustration and distrust on the part of the public, who continue to be stymied when looking for answers to immigration questions.
Today, policymakers consistently fail to recognize that immigration serves many functions, including national security, economic development, and upholding national values. The result is that humanitarian obligations and economic opportunity are transformed into secondary issues.

a cause of systemic dysfunction at the heart of the push for immigration reform.

The creation of three new sub-agencies, each dedicated to distinct facets of the immigration system, were meant to correct historical tensions between how immigration benefits are granted and how immigration laws are enforced. In the legacy Immigration and Naturalization Service (INS), the same leadership structure oversaw the administration of immigration benefits and enforcement of immigration law violations. This coexistence of operations that were meant to welcome with law enforcement activities whose goal was to exclude people from the United States colored policy decisions. Priorities often depended on who was in charge and what their career path through the agency had been. However, the division of responsibilities between three totally distinct agencies with different oversight mechanisms has created new imbalances.

At the outset, because the overarching goal of DHS was security, immigration was increasingly seen through a security lens, and Congress funded ICE and CBP well beyond USCIS, which derives most of its budget from the income it generates through application fees. In fact, immigration enforcement funding reached such high levels that in 2013 the budgets of CBP and ICE exceeded the total budgets for the Federal Bureau of Investigations (FBI), Drug Enforcement Administration (DEA), Secret Service, and the US Marshals Service and Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) combined. Budget allocations to meet statutory enforcement requirements—such as the so-called bed mandate, which sets a minimum number of beds that must be filled in immigration detention facilities every night—also fed into the perception and narrative that immigrants pose a security risk. Information gathering on immigrants grew to encompass not just federal-level actions, but state and local law enforcement efforts as well. The result is that DHS is now the nation’s largest federal law enforcement agency, primarily focused on investigating and enforcing immigration law, and is subject to insufficient accountability and oversight.

Today, policymakers consistently fail to recognize that immigration serves many functions, including national security, economic development, and upholding national values. Focusing solely on security concerns creates a narrative that immigrants are a security risk. The result is that humanitarian obligations and economic opportunity are transformed into secondary issues. The tensions within DHS are most pronounced in the intermingling of the political dialogue between border security and national security. The creation of DHS was a response to the worst terror attacks on US soil, but it is incumbent on political leaders to acknowledge that nearly twenty years later, the United States is in a different threat environment. The politicization of surges of arrivals at the border and responses based on heavy deterrence and enforcement tactics lead to a dangerous distortion in public perception of the role of immigrants and of immigration enforcement.

Additionally, and as discussed at length in the section above, it is imperative to recognize that DHS is being asked to enforce laws and policies that are no longer responsive to the geopolitical

realities America faces: record interest in migration to the United States, the economic and labor needs of a post-pandemic workforce, and the reality of over twenty-five million displaced persons outside their countries of residence needing protection. Ultimately, the work of DHS must be viewed within the context of a whole-of-government approach to national security, ensuring the United States offers a comprehensive solution to existing and future migration crises and is able to fully benefit from immigration.

Impact on the Federal Workforce
DHS, and specifically its resiliency and its ability to carry out its ever-expanding mission, also faces threats from within. Immense workloads, constant shifts in immigration policies from one administration to another, and lack of meaningful administrative or legal reform and relief from Congress have caused enormous strain on the government workforce that make immigration agencies run. The USCIS’s financial crisis in late 2020 (caused by the dramatic decrease in processing fees collected due to COVID travel restrictions), and the threat of massive furloughs for nearly a third of its staff, further eroded morale and made recruiting adjudications officers difficult. Quasi-military work cultures, especially within the more aggressive agencies such as Border Patrol, have transformed some agencies into full-blown tactical units more equipped for warfare than migration crisis management.

DHS has more touch points with citizens on a daily basis than most other federal agencies. Because of the nature of its work, which includes not just immigration functions but also cross-border criminal investigations, federal disaster relief management, transportation safety, and other essential safety and security activities, DHS does not have the luxury of waiting for ideal policy solutions or tools. It is always in response mode, trying to mitigate the impacts of the latest crisis. As a result, the DHS workforce is in a constant responsive and defensive posture, often finding itself stuck between satisfying policy makers and responding to political pressure on the one hand, and the operational realities on the ground on the other. Multiple migration crises since the start of the Biden administration, including the collapse of the Afghan government and Russia’s invasion of Ukraine, alongside the ongoing pressures at the US-Mexico border, have only increased the strain on the DHS workforce.

Protecting national security requires functioning and resilient government structures to implement laws passed by Congress and interpreted by the White House. The DHS structures that oversee and implement immigration law and policy have played a significant role in the growing dysfunction and ultimate breakdown of the immigration system. Immigration, at its core, requires a whole-of-government approach. By turning an array of functions into silos within specific agencies in DHS and neglecting the impact of immigrants and immigration policy across the spectrum of the American experience, lawmakers and officials continue to build on a foundation that is irreparably flawed.

34 Brown, Daniel. “US Border Patrol Agents are Carrying these Weapons of War to Stop the Migrant Caravan.” Business Insider, 9 Nov. 2018.
Case Study: Afghanistan and the Whole-of-Government Response

The response to the Afghan crisis in the summer of 2021 provides an illustrative example of how a migration crisis requires a whole-of-government approach. The Truman Center, along with other partners, pushed for reforms to visa programs for Afghan since early 2021. From the moment plans were announced for the withdrawal of American troops in April 2021, advocates began calling for an interagency task force that would align all relevant agencies behind a cohesive response to the imminent refugee crisis. A report by the Evacuate Our Allies coalition assessing the first six months of the response to the Afghan crisis noted that “a lack of a unified approach to the crisis facing vulnerable Afghans has highlighted the lack of authority individual agencies exercise over the effort. Notably, the response has been spread out across multiple agencies with inadequate cross communication and missed opportunities for collaborative problem-solving. This has created and exacerbated deep inefficiencies and, often, gotten in the way of progress and effective and timely execution of proposed solutions.” To address some of these gaps, multiple civilian-led efforts were launched, including the Truman Center’s Afghan Operations Center, which coordinated the efforts of hundreds of Truman Members to respond to the crisis, manifest Afghans onto evacuation flights, and provide policy and humanitarian rapid responses.

In the fall of 2021, DHS finally established a Unified Coordination Group (UCG), named Operation Allies Welcome (OAW). Leadership of the UCG identified the challenges created by the lack of cooperation and interagency dialogue and, in response, created the Resettlement Branch to bring together the Department of State’s Population, Refugee, and Migration Bureau (PRM), the Office for Refugee Resettlement (ORR), and DHS. Each agency has taken turns in leading the Resettlement Branch and inviting other departments into the conversation as needs and priorities have evolved.

While the interagency task force lacked the level of stakeholder involvement of previous interagency task forces, such as the one handling the post-Vietnam War evacuations, it has reached out to partner with non-governmental entities including refugee organizations, non-profit and community based organizations, and other groups. And though deeper integration of these groups would ensure the needs of communities are heard and concrete solutions to meet these needs are proposed, the Resettlement Branch, which is poised to become a more permanent part of the US government structure, has proven to be an effective model for how the government can work as an integrated whole.

Despite the challenges outlined above, the government’s response to the Afghan crisis, and the subsequent response to the Ukrainian crisis, provide opportunities for Washington to reimagine its immigration playbook. This is all the more necessary as the existing departmental components, which have not been reexamined for two decades, have become bloated and opaque, getting in the way of meaningful reform.

3 The Long Tail Of Afghan Relocation And Resettlement: Achievements, Obstacles, and Opportunities. Human Rights First, 13 Apr. 2022.
Recommendations

The following are recommendations for lawmakers and policy leaders on how to restructure the Department of Homeland Security to respond to our 21st Century needs and to protect our national security without compromising our values.

» **Prioritize structural reform and pass the DHS Reform Act:** DHS needs urgent structural reform. If DHS prioritizes creating operational structures that focus on humanitarian responses to migration, it can lay the groundwork for a new framing of the national dialogue on immigration that shifts away from viewing immigration as a security threat and, by improving the agency’s public reputation, will help strengthen the rule of law. Additionally, the DHS Reform Act currently pending in Congress includes much needed reforms, creates built-in oversight and accountability mechanisms, protects leadership of the department from political interference, aligns the department’s law enforcement activities with current best practices (including reviewing use-of-force and prioritizing de-escalation), promotes efforts to boost employee morale, streamlines and provides more oversight of financial decisions, and supports added transparency and communication with the public and external stakeholders. The legislation should be a high priority for members committed to an immigration policy that truly bolsters national security;

» **Prioritize coordination:** New systems must be created to strengthen a harmonized approach to immigration processes that does not rely upon DHS alone. Coordination, via an interagency task force, a presidentially appointed “immigration czar” type position, or another overarching mechanism that orchestrates the work of multiple agencies, including the State Department, the Department of Defense, the Department of Health and Human Services, the Department of Education, and the Veterans Administration, can promote a whole-of-government approach, facilitate improved partnerships with states, and encourage partnerships with civil society by all levels of government;

» **Reorient CBP:** CBP’s workforce is recruited and trained to protect the borders but is too often diverted to respond to humanitarian needs, leading to both an ill-defined expansion of CBP’s mission and workforce frustration. CBP should return to its original focus on national security, and another agency such as FEMA or USCIS should be charged with managing the humanitarian needs stemming from migration;

» **Invest in USCIS:** USCIS is largely funded by fees paid by people applying for benefits. The only programs that don’t require fees are for asylum or refugee applicants. Additional funding for USCIS would allow the agency to build more robust systems for timely and fair adjudications of applicant benefits. This should be accompanied by a thorough review and streamlining of administrative processes to increase efficiencies, as well as by new efforts to forecast future needs so that workforce hiring and planning decisions are aligned to those anticipated needs;

» **Refocus on humanitarian programs:** Since the creation of DHS, immigration enforcement budgets have swelled while humanitarian programs’ budgets have stagnated or declined. Robust humanitarian programs advance American values and project a positive image of the United States, and should benefit from greater investment. At the same time, growing enforcement budgets have led to militarized immigration enforcement agencies equipped with seemingly endless resources, reinforcing the notion that migrants are dangerous to the homeland while also allowing for enforcement actions that infringe on human rights within the United States. Congress should reduce enforcement budgets and redirect that funding toward humanitarian programs that respond to the needs of people arriving at America’s doorstep; and

» **Launch a task force to examine a restructure:** On the eve of its twentieth anniversary, DHS needs a thorough examination to ensure that the reactionary, priority pushes that drove its original design continue to be responsive to the geopolitical realities of today. A task force of current and past leadership, stakeholders, academics, and policy experts should invest time and resources in assessing the efficiency and impact of current structures—including those beyond immigration—and make recommendations for how to align the mission and work of DHS with fundamental American values and security needs.
Conclusion

Over the last twenty years, the national discourse on immigration has increasingly prioritized security risks over the benefits of immigration, deeply politicizing the issue and weakening the very structures built to carry out policy priorities. The United States’ immigration policy must reflect the ways we live and work in the 21st Century, uphold core values and human dignity, and welcome the immigrants who are critical to the United States’ continued growth and dynamism. This requires a modernized immigration system, with secure and fair immigration processes that promote justice and equity, have the necessary flexibility to adapt to acute and future needs, and offer plentiful pathways to immigrate to the United States. With these goals in mind, it becomes clear that a generous and welcoming immigration policy that aligns with American values is not at odds with national security, and in fact can be a tool for greater security at home and abroad.
Additional Resources
For more in-depth resources and tools to talk about immigration and national security, please visit the Truman Center’s page on immigration: https://www.trumancenter.org/issues/immigration-and-national-security

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