

Human Rights on the Southern Border: What Does the US Asylum Process Look Like?

“US law is crystal clear that asylum seekers have the right to lodge asylum claims regardless of where they enter the country...” said Bill Frelick, Refugee Rights director at Human Rights Watch. “The US government should absolutely be encouraging the safe, orderly and efficient processing of asylum claims at ports of entry, but the way to do that is by providing sufficient resources to receive and process asylum seekers in a fair and humane manner. Under current practice, border agents are repeatedly turning asylum-seekers away and telling them to come back another day.” ([HRW](#))

Asylum Seeker: Someone who is seeking international protection from dangers in his/her home country but whose claim for refugee status hasn't been determined legally. They must apply for protection in the country of destination, meaning they must arrive at or cross a border in order to apply. ([IRC](#))

International Humanitarian Laws and Standards:

- Universal Declaration of Human Rights ([UDHR](#)):
 - Article 10: Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.
 - Article 14: (1) Everyone has the right to seek and to enjoy in other countries asylum from persecution. (2) This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.
- 1951 Convention Relating to the Status of Refugees and the 1967 Protocol to the Convention ([UNHCR](#)):
 - It defines the term “refugee” and outlines the rights of the displaced, as well as the legal obligations of States to protect them.
 - The core principle is non-refoulement, which asserts that a refugee should not be returned to a country where they face serious threats to their life or freedom.
 - States are expected to cooperate in ensuring that the rights of refugees are respected and protected.

US Laws:

- Immigration and Nationality Act: In general, any alien who is physically present in the United States or who arrives in the United States (whether or not at a designated port of arrival and including an alien who is brought to the United States after having been interdicted in international or United States waters), irrespective of such alien's status, may apply for asylum in accordance with this section... ([US House of Representatives](#))

How to apply for asylum: ([USCIS](#))

- Complete Form I-589, Application for Asylum and for Withholding of Removal: www.uscis.gov/i-589
- The initial interview should take place within 45 days after the date the application is filed. A decision should be made on the asylum application within 180 days after the date the application is filed, unless there are exceptional circumstances.
- You may only apply for asylum if you are arriving in or already physically present in the United States. To apply for asylum in the United States, you may ask for asylum at a port-of-entry (airport, seaport, or border crossing), or, if you are already in the United States, you may file Form I-589 at the appropriate Service Center. You may apply for asylum regardless of your immigration status, whether you are here legally or illegally. You must apply for asylum within one year of your last arrival in the United States, unless you can demonstrate that there are changed circumstances that materially affect your eligibility for asylum or extraordinary circumstances directly related to your failure to file within one year.