

A NEW BORDER VISION

Creating 21st century border governance by expanding public safety, protecting human rights, and welcoming residents and newcomers.

MAY 2019



INTRODUCTION

We need a New Border Vision.

A New Border Vision is a path forward. It is a guiding light and a chance to move with common purpose to unite us, rather than divide us. It is our opportunity to lead with our values, address our needs, and adhere to good governance to generate well-functioning and rights-respecting borders for the 21st century.

The United States was founded on the belief that all people have the inalienable human rights to life, liberty, and the pursuit of happiness – regardless of where they come from. As a nation formed by indigenous communities and immigrants, some of whom came involuntarily, we still strive to build a more perfect union that protects these rights for all people including new migrants and refugees.

Migration has helped define this country and the global community, making every country a place of origin, transit, and destination. But the widespread failure to protect migrants, exposing them to abuse, exploitation, and harm, recently led the world of nations in December 2018 to adopt the Global Compact on Migration to reduce the vulnerabilities to migrants everywhere by respecting, protecting, and fulfilling their human rights. Our national belief in human rights – inalienable rights – can similarly inspire us now.

Over the years, the United States helped give shape to a human rights movement that drew inspiration from our founding principles. But our current border policy turns away from this proud history. For years, this country has forgotten our commitment to human rights, choosing instead to criminalize migrants and engage in deadly and unaccountable border enforcement, undermining public safety. This administration has gone further, eroding the very human rights this country was founded upon.

Border communities and the people who live in, arrive to, or travel through them have suffered as a result. Our voices should be paramount in the national debate about the border. Instead, the border region – the place we call home – has repeatedly been used as a proving ground by politicians wanting to demonstrate their iron will while exploiting people's fears about immigrants. These politicians have only hurt our humanity. To this, we say 'No More.' We offer a new vision that decriminalizes migration and sets us on a new path to act with our values and fulfill our moral and legal obligations to uphold human rights.

A New Border Vision is a framework for positive and compassionate action. It is our chance to create responsive and responsible border governance for the 21st century. This New Border Vision focuses on three priorities for creating good border governance:

- 1. Expanding Public Safety**
- 2. Protecting Human Rights**
- 3. Welcoming Residents & Newcomers**

VALUES FOR A NEW BORDER VISION

Uphold the inalienable human rights of life, liberty, and the pursuit of happiness.

In our Declaration of Independence, life, liberty, and the pursuit of happiness are described as inalienable rights. They are the most fundamental human rights and are endowed to migrants just as they are endowed to citizens. In fact, migration is the pursuit of these rights. The protection of these universal human rights must be given primacy in all border governance measures.

Partner with border communities in decision-making about the border.

Border communities in the United States are economically vibrant, naturally beautiful, and culturally diverse. They are places of encounter, opportunity and hope, and they are home to millions of border residents who are our nation's chief ambassadors and welcomers. Border residents are directly affected by border governance and must be taken into account in a central way. Border communities know the border region better than anyone else and must be consulted about their priorities.

Recognize the dignity and humanity of people who are migrating.

Migration is a human phenomenon as old as time and a part of nearly every family's story. It is a defining feature of our globalized world, making every country, including the United States, a country of origin, transit, and destination. If governed well, migration is a source of prosperity, innovation, and sustainable development. Thoughtful border governance helps to increase opportunities for safe, orderly, and regular migration and to minimize the need for dangerous and irregular migration. Migration should never be criminalized. Good border governance recognizes our common humanity and shared potential.

Honor the principle of non-discrimination.

The principle of non-discrimination is a cherished constitutional value found in the equal protection clause of the 14th amendment. Border governance measures must not exclude or mistreat people based on race, ethnicity, gender, national origin, religion, sexual orientation, gender identity or expression, disability or any other human trait. Our traits are what make us human and should not imperil us or be cause for exclusion or mistreatment.

Strive for social cohesion and inclusion.

As a country, we have long aspired to find unity in diversity, with the words *E Pluribus Unum* (out of many, one) emblazoned on the nation's seal. We are a democracy inspired by indigenous people, forged by diverse immigrants and freed people, and continuously rejuvenated by newcomers from around the world. Our policies and public statements must recognize that diversity is our strength and, with our words and our deeds, we must strive to foster social cohesion and avoid stigmatizing, xenophobic, racist, alarmist, or inaccurate language.



EXPANDING PUBLIC SAFETY



Our communities are safe when everyone is supported to pursue their full potential in an environment of harmony, safety, equality, and justice. We are safe when everyone can access quality education, healthcare, homes, and jobs. We are safe when we are protected from flooding, fires, and other disasters. We are safe when we can call first responders for help without the threat of violence or deportation. In short, we are safe when everyone can thrive. The role of government is to invest in the things that keep us safe and help us thrive.

That is not currently happening in the border region. Instead of investing in revitalizing border communities, the current administration is doubling down on militarizing them. Instead of contributing to our safety, unaccountable border authorities engage in abuse and corruption while the administration continues to push for deadly walls that exacerbate flooding and

devastate our cultural and natural heritage. Public safety depends on public trust, but there can be no trust when the administration is unwilling to hold itself accountable and is fixated on policies that are harmful and out of touch with reality.

Despite the rhetoric, no known terrorist has entered via our southern border, and the best way to ensure no one ever does is to provide humane and orderly processes at our border, which we currently lack. According to the FBI, border cities are among the safest in the country, with the lowest rates of violent crime and property crime. On an annual basis, less than a fraction of one percent of people entering the country arrive without prior authorization, and an even smaller fraction demonstrate intent to commit crimes or do harm. In that context, the militarization of border communities does not make sense and does not expand our safety. On the contrary, it makes us far less safe. What does increase our safety is creating border policies that are responsive to our needs and responsible to the communities they are intended to serve.

Responsive border policies focus on actual needs in border communities that ensure families feel safe and thrive. Such policies also focus on genuine threats and recognize that migration, in and of itself, is not a threat. Nor is it a crime. Migration is the human experience of seeking life, liberty, and the pursuit of happiness. Facilitating the humane and orderly movement of people across the border increases public safety.

Responsible policies train border authorities in global best practices, including in limiting the use of force, and train them to prioritize saving people and to avoid tactics that endanger them. Such policies require border authorities to protect the human rights of everyone, everywhere in the United States, including in border communities that are often wrongly viewed as exempt from these protections.

Expanding the notion of public safety is in everyone's interest. Responsible border management means that families – residents and migrants alike – feel safe in their well being and do not have reason to fear border authorities. It means border authorities are trained, supervised, and recognized for adhering to best practices that build trust and help keep us all safe. It also means that people who suffer from the abuse by border authorities have meaningful access to justice, and border authorities are held accountable.

GOALS FOR EXPANDING PUBLIC SAFETY

Engage in strategic planning to focus border authorities and resources

- » Engage in evidence-based strategic planning to identify true threats and appropriate responses to organized crime and terrorism: this means focusing on these threats, not migration. Programs such as Zero Tolerance and Operation Streamline that criminalize migrants and separate families should end.
- » Focus border authorities at the border: this means deploying them at the borders, proportionate to true threats, and eliminating interior checkpoints, roving patrols, and collaboration with local police. These practices erode trust in law enforcement and restrict freedom inside the United States.
- » Focus resources on detection of true criminal and terrorist threats: this means investing in tools that work, such as ground sensors, vehicle scanners and technologies with privacy protections, not expensive, harmful, and ineffective walls.

Employ best practices for effective and professional policing

- » Adhere to best practices: this means implementing the highest policing standards from the Police Executive Research Forum (PERF) and the International Association of Chiefs of Police (IACP), to reward professionalism, prevent abuse and corruption, and create a culture of accountability.
- » Provide ongoing training, especially on the use of force: this means considering human life as paramount and training authorities on de-escalation and non-lethal responses, such as for rock throwers; limiting force to a proportionate response; using lethal force only when proportionate and absolutely necessary to prevent death or serious injury; and establishing clear consequences for abuse of power.
- » Prioritize and protect life, avoiding tactics that endanger life: this means border authorities embrace a role as preservers of life; assessing risks associated with a tactic; and ending tactics that potentially harm people, such as scatter tactics that disorient migrants, high-speed car chases, and “prevention through deterrence” strategies such as barriers that funnel people into dangerous corridors.

Respect human rights

- » Enforce the protection of human rights fully: this means law enforcement should investigate and prosecute persons that violate these rights, including border authorities. Establish firewalls to protect personal data and enable migrants to effectively seek help, report crime, and participate in judicial proceedings.
- » End unreasonable searches, seizures, and surveillance in the border region: this means requiring border authorities to have probable cause or a warrant to board and search vehicles and boats or enter private land, without exception; it also means limiting the use of drones, intercept equipment, facial recognition, and other surveillance in order to ensure protection of civil liberties.
- » End mass incarceration of migrants at the border: this means ending the current practice of detention; detention should only be used as a last resort after community-based alternatives and should be limited in scope and duration, be necessary and proportionate, and based on individual assessment. Children and families should never be detained. Ever.

PROTECTING HUMAN RIGHTS



Every day, millions of people cross borders in pursuit of their inalienable rights. Our borders should be a model to the world on how to protect and uphold human rights. Instead, we have endangered people with policies that create lawlessness and impunity, undermining good border governance. Border regions are often treated as zones of exception for human rights. That should never be the case. Good border governance depends on the full defense of human rights.

Our border communities recognize and respect the reality of families with mixed immigration status. The people without status who live in our homes, worship in our churches, volunteer at our schools, and in so many other ways enrich our communities are not threats to our national security. To the contrary, they demonstrate how border communities practice *convivencia* (living together) in vibrant ways. Migration control and border enforcement tactics that target and victimize these families and our communities must be discarded. Migration is not a crime and the migrants living among us should not be treated as if it were.

The protection of human rights is of particular concern for the border residents who live inside the United States in the spaces between ports of entry. We often must pass through checkpoints as far away as 100 miles into the interior. In these zones, border authorities assert excessive power, beyond the power of other law enforcement agencies, which leads to harassment, abuse, racial profiling and intimidation of border residents and travelers. If human rights are to mean something, they must be fully protected in border communities, without exception.

Migrants in distress at our borders are also particularly vulnerable to human rights abuses. These include families who are seeking protection from danger they face in their home countries. We are obligated to respect the right to asylum and must offer other protections to keep people out of imminent danger.

Vulnerable migrants also include those who are blocked from safe migration channels. Unable to access the ports of entry because of turnbacks or lack of information, these migrants are forced to cross between the ports, often relying on smugglers. They pass through remote and treacherous areas leading hundreds of migrants to die in transit each year in our southern border region.

Good border governance requires the protection of human rights and respect of human dignity of every person. It also requires providing more avenues for safe migration, including expanding the pathways for legal immigration and expanding protections for people in danger. It also includes protecting children and other vulnerable individuals arriving at the border, prioritizing human rights in the processing of asylum seekers and others seeking protection, and preserving life through immediate aid and rescue.

GOALS FOR PROTECTING HUMAN RIGHTS

Prioritize human rights in border governance

- » Prioritize human rights in policy and practice to facilitate effective border governance: this means shifting away from an enforcement-at-any-cost perspective that threatens human rights, harms community well-being, creates zones of impunity, erodes trust, and is ultimately ineffective.
- » Protect individuals from return or expulsion to countries where they face the risk of persecution and torture: this means providing a safe and effective process for people to seek available protections. People should never be returned to countries where they will be exposed to human rights violations.
- » Ensure that the return of migrants with no legal right to stay is safe, dignified and follows due process: this means returning people only after an individual assessment and exhaustion of remedies; returning them with their families (who are not eligible for protections) and with identity documents and belongings; and ending returns at night, to dangerous places, or remote areas far from apprehension.

Provide immediate aid, rescue, and recovery

- » Provide immediate humanitarian aid to ensure human dignity: this means, border authorities should be trained and equipped to provide first aid, water, food, blankets, sanitary items, and rest to individuals who present themselves or are encountered. The government should provide support to organizations that provide aid to migrants in their communities and help family members reunite.
- » Prioritize rescue and recovery: this means increasing search and rescue capacity, locating rescue beacons with 911 cell-relay along remote routes, and making every effort to rescue, recover, identify, and repatriate remains through international multi-stakeholder collaborations that include the effective participation of and regular communication with families of the disappeared.
- » Recognize the ancient, moral, and sacred duty of individuals to help others in distress: this means ensuring that people who provide humanitarian aid, rescue, and recovery are not penalized for or obstructed from doing so, and their aid provisions are never destroyed. Instead they should be supported to fill gaps the government is unable to fill.

Protect children and other vulnerable individuals

- » Protect the best interests of children at all times regardless of their migration status or that of their parents: this means treating children as children first, maintaining family unity, locating children in the community, and having child welfare specialists play a primary role with children, not border authorities.
- » Increase sensitivities to vulnerable populations: this means border authorities (who are mostly male) should be regularly trained to communicate with people they encounter who are female, indigenous, ethnic minorities, religious minorities, LGBTQ, traumatized, or otherwise vulnerable.
- » Provide support and pursue justice for families impacted by border militarization: this means providing federal and state victim support services for families who have been harmed or killed; and fully investigating and prosecuting border authorities alleged to be responsible.

WELCOMING RESIDENTS & NEWCOMERS



Our borders are places of encounter, opportunity, and hope, but our current policy has undermined their potential and growth. The nearly one million people who arrive in the United States daily include border residents, visitors, merchants, and migrants. They are strengthening connections with our global neighbors, building goodwill, and fueling our economy so that we can all thrive.

Over 99 percent of people arriving have prior authorization to enter the country. Less than one percent come without prior authorization and most of them seek protection in the form of asylum or other assistance. A smaller number arrive seeking a better life like generations of migrants before them. Our welcoming system must respond to all of them in an effective, humane, and efficient way.

Given the volume and variety of people arriving, responsible border governance requires that we have sufficient channels for people with prior authorization (visas, passports) to cross the border. It is also essential that we have adequate and accountable personnel to staff those crossings. The country loses billions of dollars and thousands of jobs every year due to the long wait times at our southern border crossings. The cost is felt across the nation, which depends on trade with Mexico, now our largest trading partner. Long lines at the border also impact local businesses, degrade air quality, and imperil the well being of elderly, pregnant and disabled individuals who cannot withstand long waits.

We must ensure clear processes and sufficient access for migrants without prior authorization to approach the ports of entry to seek asylum, protection, or other assistance. Migration should never be criminalized. To do so is to criminalize a fundamental human experience. In order for the United States to engage in managing migration in a manner consistent with our values, our policies must reflect our humanity.

The welcoming of migrants necessitates a whole-of-government and whole-of-society approach that begins before migrants arrive at the border. It begins with the cooperation and coordination of local, state, national and international governments and nongovernmental organizations on both sides of the border to respond to the human rights concerns and needs of migrants. The role of border authorities with regard to migrants is to identify newcomers in a professional manner, identify their reason for entry, and make appropriate and timely referrals. That's it. Referrals include child welfare specialists, asylum officers, trauma counselors, medical teams, humanitarian aid organizations, and other partnering community organizations to assist migrants.

To facilitate the welcoming of migrants, it's imperative that border authorities and others coordinating with them on both sides of the border provide migrants access to interpretation in a language they understand, access to information about their rights, freedoms, and available protections, and access to other relevant assistance including cultural liaisons and legal counsel to communicate effectively and exercise their human rights fully. All of this should be done in a cage-free environment that honors the dignity of migrants. This will facilitate expeditious processing in conformance with national and international obligations.

GOALS FOR WELCOMING RESIDENTS & NEWCOMERS

Expand channels to welcome people at ports of entry

- » Respect international obligations to asylum seekers and others seeking protection, ensuring entry systems provide migrants the opportunity to present themselves expeditiously: this means sufficient staffing and facilities to avoid turnbacks and eliminate prolonged waits outside the country.
- » Increase channels for entry of border residents, visitors, merchants, and migrants: this means adequate and accountable staff, more lanes at ports, more open hours, and more opportunity to approach and be processed so that no one is deterred and compelled to pursue irregular entry.
- » Provide accommodation for elderly, pregnant, disabled, and others in need to physically access channels safely: this means assisting with mobility, providing seating, providing access to shade and water, and providing expeditious processing when necessary.

Expedite interviews to identify and refer arrivals

- » Conduct interviews in an efficient, professional, confidential, non-threatening, non-coercive way: this means a clear standard for treating everyone with dignity and respect; it also means extending full due process for credible fear interviews that should only be conducted by asylum officers, not border agents.
- » Identify the reason for entry without engaging in discrimination: this means no profiling based on race, ethnicity, gender, national origin, religion, sexual orientation, gender identity and expression, disability or other identity traits. Human traits should never be cause for exclusion or mistreatment.
- » Make appropriate and timely referrals for people who are at particular risk: this means referrals to governmental or nongovernmental entities to address the needs of children, asylum seekers, victims of trafficking or violence, and those with medical concerns. People waiting should have adequate water, food, sanitation, and a comfortable temperature in a humane, cage-free environment.

Provide access to interpretation, information and assistance

- » Provide access to interpretation for arrivals who need help with communication: this means language or sign interpretation, or verbal explanation for those who are not literate.
- » Provide access to information about rights, freedoms, and available protections: this means proactively giving this information to arrivals subject to enforcement measures and possible return, and distributing widely in countries of origin.
- » Provide access to assistance in a whole-of-government approach: this means having sufficient trained personnel, other than border authorities, to provide medical and psychological assistance, trauma response, cultural liaison, child guardianship, legal assistance and other assistance in cooperation with nongovernmental service providers as needed.

RULES FOR GOOD BORDER GOVERNANCE

Drive decision-making with accurate and unbiased data.

Good border governance is driven by data that grounds responsible decision-making in reality, not rhetoric. High-quality data enables research, guides coherent and evidence-based policymaking, informs public discourse, and allows for effective monitoring and evaluation of the implementation of policies.

Partner with affected stakeholders.

The impact of border policies on border residents, visitors, merchants, and migrants should be addressed in the development, implementation, and evaluation of border governance policies. Good border governance responds to the concerns of affected communities and incorporates the input of stakeholders, which include local governments, civil society organizations, and international actors. In a whole-of-government and whole-of-society approach to border governance, stakeholders are partners in responding to challenges and needs, and local border communities do not bear the cost or burden of responding alone.

Be transparent to the public.

Transparency is a cornerstone of good border governance and means that information about policies and their implementation must be freely available and accessible to those affected by them. The public must be informed about the data collected, reports produced, budgets allocated, money spent, policies proposed, decisions made, evaluations completed, evidence collected, and videos recorded, and the location of detainees. Responses to Freedom of Information Act (FOIA) requests should come within weeks, not years.

Ensure meaningful oversight.

Oversight is necessary to ensure compliance with goals, policies, and standards of professionalism. Good border governance must strengthen internal monitoring of the Department of Homeland Security (Office of Civil Rights and Civil Liberties, Office of Inspector General, Office of Professional Responsibility). It must also include external monitoring by independent auditors, civilian review bodies, and international observers.

Hold authorities accountable.

A cornerstone to public trust is accountability. Government officials must be accountable to those they govern and there can be no exceptions, no waivers from compliance with the law. Access to an accountable justice system is key for people pursuing remedies for harm resulting from border governance policies and practices, or from corruption or organized-crime ties. Meaningful justice includes a robust complaint system, independent investigation, fair adjudication, and effective remedy. An effective remedy is responsive, timely, and meaningful. It provides reparation to the victim, guards against repetition, and applies the appropriate sanctions commensurate with the offense including a criminal conviction and/or administrative discipline.



CONCLUSION

A New Border Vision for responsible border management leads with our values, addresses our needs, and adheres to good governance to generate well-functioning borders for the 21st century.

This vision was developed by the Southern Border Communities Coalition (SBCC), a coalition of community organizations spanning the length of the southern border, in collaboration with the Northern Border Coalition (NBC) and in consultation with academics, human rights experts, and law enforcement leaders. This vision draws on national and global perspectives on border governance to create a path forward at a divisive and chaotic time in the United States.

A New Border Vision is intended to set a new tone for dialogue about the border, to offer a template for new policy development, and to encourage us to turn the page to move forward together with common purpose and shared humanity. Let this vision be a guide to fulfill our nation's moral and legal obligations.

“The sacred rights of mankind are not to be rummaged for, among old parchments, or musty records. They are written, as with a sun beam in the whole volume of human nature, by the hand of the divinity itself; and can never be erased or obscured by mortal power.”

Alexander Hamilton, 1775
American Statesman, Founding Father, and Immigrant

SBCC would like to thank the following for contributing their perspective:

Global perspective:

Global Justice Clinic, New York University Law School
Inter American Commission for Human Rights, Office of the Rapporteur on the Rights of Migrants
United Nations Former Vice Chair on the Committee on Migrant Workers
United Nations Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions
United Nations Special Rapporteur on Racism, Racial Discrimination, Xenophobia and Related Intolerance
United Nations High Commissioner for Refugees
Regional Office for the USA and the Caribbean
United Nations Committee on Migrant Workers
University of California Berkeley's International Human Rights Law Clinic

National perspective:

American Civil Liberties Union (ACLU)
Church World Service
National Network for Immigrant and Refugee Rights
Washington Office on Latin America

Southern border perspective:

Alliance San Diego (CA)
American Friends Service Committee - US-Mexico Border Program (CA)
California Immigrant Policy Center (CA)
San Diego Immigrant Rights Consortium (CA)
SEIU United Service Workers West (CA)
Colibrí Center (AZ)
Frontera de Cristo (AZ)
Good Shepherd United Church of Christ (AZ)
ACLU New Mexico (NM)
New Mexico Comunidades en Acción y de Fe (NM)
ACLU Border Rights Center (TX)
La Unión Del Pueblo Entero (TX)
Rio Grande Valley Equal Voice Network (TX)
South Texas Human Rights Center (TX)

Northern border perspective:

New York Immigration Coalition
Northern Borders Coalition



*Produced by Alliance San Diego on behalf of the
Southern Border Communities Coalition.*

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