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Recommendations for Biden Administration: Welcoming the Persecuted, Restoring Order, and Upholding Asylum Law, Refugee Treaties and Values

The Trump administration destroyed the U.S. asylum system, trampled on refugee laws and treaties, and spurred chaos and disorder at the border. Through that administration's final days, the Department of Homeland Security (DHS) continued to turn away people seeking humanitarian protection at the U.S.-Mexico border, illegally returning them to persecution, torture and horrific harms, flouting U.S. law and treaty obligations.

The Biden administration must [restore U.S. leadership](#) in protecting the persecuted and transform the U.S. approach to refugee protection, shifting the paradigm from one driven by detention, and attempts to deter and turn away refugees seeking asylum, to a genuine humanitarian response, led by humanitarian agencies, that upholds refugee laws and effectively manages asylum cases. The Biden administration should immediately take steps to end illegal Trump administration asylum policies, launch a major regional initiative to expand access to protection in the Americas, implement orderly, fair, and timely processes for U.S. asylum claims, and employ effective and humane case management strategies, rejecting costly mass detention that violates human rights.

The Biden administration should take steps, detailed in Human Rights First's [blueprint](#), which include:

1. End Trump administration policies that endanger refugees, create chaos, and violate law and treaties – including [Remain in Mexico](#), policies that [misuse public health](#) to expel or deny asylum, the asylum [entry](#) and [transit](#) bans and their variations, the unsafe “[asylum cooperative agreements](#)” to return refugees to dangerous places, and [other](#) rules, [rulings](#) and policies that deny and block refugees from asylum and other protections, as detailed in Human Rights First's [blueprint](#) and other recommendations. The Biden administration should, in contrast, direct agencies to uphold refugee laws passed by Congress and treaty legal obligations.

2. Shift to humanitarian structures and systems at home, convening a White House Humanitarian Protection Task Force that includes government agencies, U.N. bodies and civil society groups with refugee protection and management expertise and capacities, managed by a White House Coordinator or Senior Advisor to the President for Refugee and Humanitarian Protection, and leveraging humanitarian organizations to support a public-private asylum initiative that includes faith-based organizations, legal non-profits, shelters, and refugee assistance agencies with offices across the country and expertise managing refugee situations around the world.

3. Bring into safety asylum seekers stranded in dangerous Remain in Mexico and harmed by other illegal Trump administration programs. The Biden administration should direct DHS to parole asylum seekers in MPP – who have already been processed by CBP, have immigration court cases, and can be swiftly transited through ports of entry – to safety in the United States where they can shelter with [family in the United States](#) while their cases are adjudicated. The MPP wind-down can be conducted in an orderly manner, communicating with attorneys, shelters, medical and humanitarian organizations that assist asylum seekers, slating cases for swift transfer based, for instance, on the month they were put into MPP. Additional redress should be implemented to restore access to U.S. protection to asylum seekers denied a fair opportunity to pursue their requests for refugee protection under Trump administration policies that blocked, turned back and expelled them to danger.

4. Direct evidence-based public health measures. The Biden administration should direct use of [public health measures](#) to safeguard people seeking asylum, border officers, and public health. It should end - *not* adopt - discredited Trump policies that misuse public health authority to [turn away people seeking protection](#) - policies opposed by senior CDC experts, epidemiologists and other health experts. Instead, as health [experts recommend](#), the Biden administration should direct use of measures such as social distancing, masks, outdoor

areas and locations repurposed to maximize distancing and ventilation, reduced processing times, testing, health screening, transport safeguards, and legal parole authority rather than congregate detention – steps DHS should already be taking.

5. Manage cases effectively via case management with legal representation. A Biden administration should shift to effective and fiscally prudent [case management](#) and legal support strategies and end use of inhumane, unnecessary, and wasteful migration jails. Adults and families with children seeking refuge should be swiftly referred to a reception/orientation site run by a shelter, refugee assistance provider, or other humanitarian organization and placed into a community-based case management program with offices in the location where they will be staying while their cases proceed, referred to legal representation in those locations, and provided appearance and legal orientation information. Congressional funding for universal legal orientation presentations and representation should include families and others placed into case management.

6. Overhaul USCIS asylum adjudications to provide more timely, efficient, fair decisions. The Biden administration should provide initial decision-making authority to the asylum office in cases originating along the border and at ports of entry and ramp up asylum officer hires to conduct full asylum interviews (rather than diverting resources through expedited removal, which should not be used). By resolving more cases through asylum office interviews, resources will be saved and the number referred to removal proceedings reduced, while preserving the right of (the reduced number) to hearings. Agencies should also create an application process for “cancellation of removal” and for asylum seekers stuck in the backlog to request prompt interviews.

7. Upgrade immigration courts. Trump Administration policies have rigged immigration court hearings against asylum seekers, [exacerbated](#) backlogs and confirmed the need for an [independent immigration court](#). While working with Congress to enact legislation making the courts independent, the Biden administration should implement [safeguards](#) against politicized hiring and interference, terminate policies that pressure judges to rush cases and deny asylum, and [reduce the court docket](#) by restoring and using administrative closure, terminating cases that can be resolved via pending USCIS petition, grants of TPS or through referral to the asylum office.

8. Launch a major regional protection initiative. The Biden administration should prioritize a [major initiative](#) to uphold [human rights](#) in Central America and Mexico (so families, adults, and children are not forced to seek protection outside their home countries), seeking input from human rights defenders and leveraging U.S. diplomacy, development, and humanitarian aid to support systems that combat corruption, mitigate climate displacement, and help people secure human rights protections, as well as jobs, in their home countries. At the same time, the United States should direct diplomacy and aid to expand the capacity of Mexico, Belize, Costa Rica, Panama, Colombia, and other countries to host, protect and provide asylum to refugees.

9. Strengthen and rebuild U.S. resettlement. In addition to the welcome rescission of the discriminatory Muslim and African [bans](#), the Biden administration should issue an order increasing FY 2021 admissions to 100,000, restore regional allocations based on need and notify Congress; restore UNHCR referrals of at-risk refugees; ramp up pre-screening, processing, and refugee corps interviews, and build capacity to resettle 125,000 in FY 2022; request Congressional funds for rebuilding; reduce security check/other processing delays; improve support and integration, expand community support, encourage co-sponsorship initiatives, and explore potential private sponsorship over and above annual level. As outlined in this [blueprint](#), the Biden administration should launch resettlement in the Americas, prepare for resettlement for refugees from Hong Kong and strengthen systems for bringing to safety Iraqis and Afghans at risk due to their work with the U.S. military or other U.S. entities.

10. Support complementary humanitarian protection, working with Congress to protect people facing serious harms not covered by U.S. refugee law, such as people facing [cruel, inhuman, or degrading treatment or punishment](#), or in need of [protection](#) due to [climate displacement](#). TPS should be [strengthened](#) to [include](#) families, provide a route to legal residence, and assure designation determinations based on objective country conditions.