

LEADING BY EXAMPLE, HONORING COMMITMENTS:

Recommendations for the Biden Administration to Uphold Refugee Law at Home

Two years since President Biden took office, his administration has taken some important initial steps toward ending Trump administration policies that subvert refugee law and endanger the lives of people seeking asylum. These steps include President Biden's February 2021 [executive order](#) directing review of Trump administration policies, the Secretary of Homeland Security's [termination](#) and [re-termination](#) of the notorious Remain in Mexico (RMX) policy, and the Centers for Disease Control and Prevention's (CDC) April 2022 [order](#) directing an end to the Title 42 "public health" order used to expel and block people seeking refugee protection at the border.

Despite these steps forward, some of the most damaging and dysfunctional Trump administration policies have continued in force or on the books due to lawsuits filed by state politicians aligned with the prior administration, slow-paced U.S. agency regulatory action, and damaging steps backward by the Biden administration to expand and propose use of Trump policies in the face of border arrivals and orchestrated, politically driven anti-immigrant rhetoric. In advance of the November 2022 mid-term elections, the Biden administration [expanded](#) its use of the Trump-initiated Title 42 policy to turn away Venezuelans and used its creation of a new parole initiative for Venezuelans to try to justify this denial of access to asylum — a move that promptly triggered [condemnation](#) by the U.N. Refugee Agency (UNHCR), the International Organization for Migration (IOM), and UNICEF. On January 5, 2023, the Biden administration [announced](#) a new parole initiative for nationals of Cuba, Haiti, Nicaragua and Venezuela but — again — improperly accompanied this positive initiative with the expansion of use of Title 42 to expel nationals of all four countries without allowing them to seek asylum.

Simultaneously, the Biden administration announced alarming plans to propose an asylum ban — an approach [repeatedly initiated by](#) the Trump administration and [repeatedly found unlawful by](#) the [courts](#). During the year that the Trump administration's transit ban was in effect, it [resulted](#) in the denial of asylum to refugees with well-founded fears of persecution, the separation of families, and deprivation of a path to citizenship for refugees left only with withholding of removal due to the transit ban. Moving ahead with this misguided approach would breach President Biden's [campaign promise](#) to end restrictions on asylum seekers traveling through other countries, and [endanger](#) many Black, Brown, Indigenous, LGBTQ+ and other asylum seekers. More broadly, the Biden administration's approach of inflicting

“[consequences](#)” or using a “[stick](#)” (in addition to the “carrot” of parole) on people who cross the border to seek asylum is both deeply dehumanizing and a blatant subversion of human rights and refugee law prohibitions against such penalties.

There is a better way.

Contrary to the misimpressions painted by anti-immigrant rhetoric, the overwhelming majority of the world’s refugees are actually [hosted](#) by other nations and often by nations that have far less capacity than the United States. In the [Americas](#), Colombia, Costa Rica, Ecuador, Mexico, and other countries collectively host millions of refugees. About [6 million](#) of the 7.1 million people who have fled Venezuela in search of safety and stability are hosted in Colombia, Ecuador, Peru, and other countries in Latin America and the Caribbean.

The Biden administration should, working with Congress, redouble U.S. support to help strengthen refugee hosting capacities in other countries, build and improve upon its positive steps of providing parole and other safe migration pathways for some people from these countries, while upholding asylum and refugee law at home — a more humane, effective and legal approach. By taking these steps, and restoring access to asylum at U.S. ports of entry, the Biden administration can help ensure that large numbers of refugees can continue to be hosted by other countries and that those who do seek asylum in the United States have a real opportunity to do so that complies with, rather than subverts, refugee law. The Biden administration must immediately correct course and end attempts to use the creation of parole initiatives, or any other pathways to the United States, to attempt to deny or justify denials of access to asylum — an approach that will inflict deep damage to refugee law and the refugee protection system globally. Indeed, within days of the President’s January 5th announcement, the UN High Commissioner for Human Rights publicly [warned](#) that the Biden administration’s approach threatened human rights and international refugee law.

The U.S. response to people seeking refuge at its borders has long been hampered by the lack of dedicated humanitarian and refugee protection structures, and in recent years by the Title 42 policy used to expel people seeking refuge and block them from requesting asylum at ports of entry. Despite the CDC’s [order](#) directing termination of that [widely criticized](#) “public health” policy, the policy is still in place due to a [lawsuit](#) filed by Trump-aligned states, and as the Supreme Court [considers](#) the request of those Trump allies to intervene in separate litigation where a federal court [vacated](#) the policy. The failed Title 42 policy, used for two years now by the Biden administration, has [disparately denied](#) access to asylum to Black, Brown, and Indigenous asylum seekers, led to over [13,480 reports](#) of torture, kidnappings, and other attacks against the policy’s victims including many brutal attacks against [Black](#), [Indigenous](#), and [LGBTQ+](#) asylum seekers who face a high [risk](#) of bias-motivated violence and pervasive discrimination in Mexico, and inflicted [massive dysfunction](#), pushing dangerous crossings between official border posts and inflating border apprehension statistics by spurring repeat crossings.

The Biden administration’s recent decisions to expand use of the Title 42 policy to additional nationalities are hardly a “success” given the grave [human rights abuses](#) and systemic dysfunction inflicted by Title 42. A more humane and effective approach would be to strengthen parole and other safe pathways, without

the imposition or use of deeply damaging, counterproductive policies — like Title 42 and asylum bans. Indeed, while the Biden administration is now [touting](#) its actions given the recent decline in arrivals, the provision of pathways and the restoration of access to asylum are the decisive and durable drivers in discouraging irregular crossings — as [confirmed](#), for example, by the drop in border crossings by Haitians that followed last year's [increase](#) in humanitarian exemptions to Title 42 for Haitians (which, while not a restoration of asylum, was a step toward access for some). A recent [lawsuit](#) filed by Trump-aligned states appears aimed at preventing use of parole to provide legal humanitarian pathways to the United States that help decrease irregular migration, in addition to advancing the former Trump administration's xenophobic, racist agenda of denying entry to people from the Americas.

The last thing the Biden administration should be doing is advancing the Trump administration's agenda — or attempting to replace one failed, illegal, and inhumane Trump policy with another. Round after round of border policies aimed at punishing or deterring people seeking protection have proven [counterproductive](#), costly, and [ineffective](#), as well as [cruel](#), [inhumane](#), and often illegal. Draconian policies will not appease the perpetrators of xenophobic, racist rhetoric, but such policies do inflict massive human suffering, create more dysfunction, and subvert refugee law globally. Instead, the Biden administration should lead by example, countering the orchestrated fearmongering with narratives focused on values and policies that uphold U.S. refugee law and human rights.

At this critical juncture, the Biden administration should recommit to rejecting — rather than resurrecting — the cruel and counterproductive Trump agenda, abandon its misguided pursuit of an asylum ban or similar policies that punish people seeking asylum, redouble efforts to fulfill the President's commitment to restore asylum, stand up to orchestrated anti-immigrant fearmongering, and strongly reject Congressional proposals that advance Trump policies or otherwise gut asylum. The Biden administration should quickly complete the steps outlined in President Biden's February 2021 [Executive Order](#) and work with Congress to build humanitarian response structures and systems, led by humanitarian agencies, that uphold refugee laws. Critically, the U.S. government must, as stressed above, increase support for refugee hosting capacities regionally, ramp up and strengthen safe pathways and regional refugee resettlement — and also take steps to effectively plan, manage, oversee, and resource U.S. refugee reception and protection in a coordinated, sustained manner that is not hampered by operating only on an "emergency" response basis.

The recommendations below [follow multiple prior sets](#) of [blueprints](#) and [recommendations previously issued](#) for the [Biden administration](#) and outline critical steps for the administration including:

- **Ramp up, speed up and strengthen regional refugee resettlement, parole and other safe migration pathways in the Americas**, never coupling such initiatives with the denial of access to asylum, while respecting and centering human rights — including the right to seek asylum and protection from violence — in regional discussions, and redoubling U.S. efforts to support the development of refugee hosting capacity in other countries in the Americas to also [ensure access](#) to asylum.

- **Uphold and comply with refugee law at U.S. borders without discrimination**, including to restart and maximize (rather than restrict or “meter”) asylum at ports of entry, take all steps consistent with court rulings to end the Title 42 policy, and ensure people seeking asylum have prompt access to ports of entry — access which should not be limited to [CBP One](#), but assured to people approaching ports of entry to seek asylum. Restoring asylum at ports of entry after years of blockage is essential not only to uphold refugee law, but also to end the counterproductive consequences of Trump policies that, by restricting and blocking access to asylum at ports of entry, have long pushed [populations](#) that previously sought asylum at ports of entry to instead attempt to cross the border.
- **Implement effective and humane refugee reception structures, coordination, funding mechanisms, and case support**, including to enhance efforts to communicate, plan, coordinate with and resource the network of faith-based groups, shelters, legal, refugee aid and non-profit humanitarian organizations along the border and across the country that are essential to an effective reception and case support system, create a White House Task Force to improve coordination including with humanitarian organizations and destination communities, develop the new Shelter and Services grant program to [remedy](#) some of the limitations of FEMA ESFP-H funding, launch and support public-private asylum reception and orientation initiatives by such humanitarian organizations, ensure prompt provision of work authorization for asylum seekers — a top need identified by both asylum seekers themselves as well as local communities hosting refugees, and ultimately ensure a focused humanitarian and refugee reception agency rather than just “emergency” responses.
- **Upgrade asylum adjudication processes so that they are prompt, accurate, and fair**, improve the new asylum rule process so it leads to efficiency rather than rushed and counterproductive inaccurate adjudications, work with Congress to fund sufficient asylum adjudication capacities to address asylum backlogs, as well as ensuring timely adjudication of new cases, and support and champion funding for legal representation.
- **Rescind — and do not resurrect — other Trump policies**, including the asylum [entry](#) and [transit](#) bans (or versions of them) and other fatally [flawed policies of the last administration](#) that punish or block refugees from protection — and abandon the harmful [plan](#) to propose another transit ban.
- **Stand firm against the anti-immigrant rhetoric and efforts** of politicians aligned with the former Trump administration to force continuation and/or codification into law of the former Trump administration’s cruel, racist, and counterproductive policies or other policies that deny refugees access to asylum —and clearly and firmly reject any such Congressional proposals.

Ramp up Regional Refugee Resettlement and Safe Migration Pathways

Some politicians and pundits routinely discuss refugee and migration issues in ways that refuse to acknowledge the factors pushing people to flee their countries in search of refuge, or the fact that the vast majority of the world’s refugees are hosted by countries other than the United States. In reality, the human rights situations in many countries in the Americas — including those associated with arrivals at the U.S.

border — have deteriorated in recent years, pushing people to flee in search of protection, safety and stability. For example:

- In Cuba, where freedom of expression, association and other basic human rights are sharply restricted, repression has [increased](#) over the last few years, as security forces responded [violently](#) to the country's largest protest in over 20 years in July 2021 against economic difficulties and lack of fundamental freedoms with an extended wave of brutal repression.
- In Haiti, violence and political instability [escalated](#) after the 2021 assassination of the president, and in late 2022 the [UN High Commissioner for Human Rights](#), [UN High Commissioner for Refugees](#) and the [UN Humanitarian Coordinator](#) for Haiti all warned that people should not be returned to the country due to the dire and dangerous conditions there.
- In Nicaragua, over the last year, political persecution continued to [escalate](#) against civil society, journalists, activists, church leaders, nuns, and ordinary people — who live in fear and cannot safely engage in public assembly or religious worship — and further [intensified](#) during the year with a [crackdown](#) against civil society in connection with November 2022 elections — a situation that UNHCR stated “may be characterized as a massive violation of human rights” in January 2023 [guidance](#).
- In Venezuela, in recent years, the human rights situation has grown [significantly worse](#) due to harsh crackdowns on political opposition, the ruling party's reliance on widely condemned elections to control all branches of the government, horrific use of [torture](#), and a severe humanitarian crisis.
- Human rights violations have continued or escalated in other countries as well, including in Guatemala where the rule of law has [deteriorated](#), concerns of [authoritarianism](#) are rising, and the [persecution](#) of [journalists, Indigenous and human rights](#) activists, as well as judicial officials combatting impunity for human rights violations has [escalated](#), as well as in Honduras, El Salvador, and other countries, as Human Rights Watch documented in its recent annual [report](#).

Many people fleeing these and other places have fled to other countries in the Americas. In fact, of the 7.1 million people who have fled Venezuela in search of safety and stability, about [6 million](#) are hosted in Colombia, Ecuador, Peru and other countries in Latin America and the Caribbean. Costa Rica is hosting about [200,000](#) or more Nicaraguans, and experienced a [five-fold increase](#) in total asylum claims in the first six months of 2022, as compared to the year before. Mexico [hosts](#) about 500,000 refugees and asylum seekers, though many face grave [threats](#) to their safety there. The United States is more than capable of humanely receiving at its borders the portion of people seeking refuge here from repression, persecution, and violence in places like Cuba, Guatemala, Haiti, Honduras, Nicaragua, and Venezuela.

Recommendations: The Biden administration must make it a higher priority to do what it can to reduce the rights abuses pushing people to leave their countries, strengthen refugee hosting capacities across the Americas and the Caribbean, and provide more safe routes to the United States, while upholding asylum, refugee law and human rights. For instance, the Biden administration should:

- **Encourage protection of rights in home countries:** Given the repression, human rights abuses, violence, severe economic deprivations, climate displacement and other factors pushing people to leave their countries, the U.S. government must redouble, and consistently prioritize, steps that support and encourage the protection of human rights in countries in the Americas from which people are fleeing. This effort, which is beyond the scope of these recommendations, will require advocacy, diplomacy, attention and targeted aid that is sustained and continued over the years, and should always be informed by steady communication with civil society and human rights advocates in the relevant countries. While the Biden administration, early on, outlined [steps](#) to address some factors spurring people to flee from El Salvador, Guatemala, and Honduras, and announced additional [actions](#) in connection with the [Los Angeles Declaration on Migration and Protection](#) last year, regional human rights challenges are ever-evolving — including in countries where rights abuses are inflicted by authoritarian or authoritarian-leaning governments. If people’s rights are protected in their home countries, the number of people fleeing to seek asylum will plummet.
- **Increase support for capacity of other countries to host large numbers:** Given the challenges caused by escalations in human rights abuses, it is more important than ever for the United States to redouble its efforts to support the development of strong asylum systems and broader protection of rights and safety in Mexico and other countries in the Americas. Human Rights First and other groups have previously recommended that the Biden administration take steps to increase support for regional refugee hosting and asylum capacities, and additional support is critical — especially given the deficiencies and gaps in many regional asylum and refugee receptions systems. While the Biden administration has taken some important steps to support asylum and refugee hosting capacities in Mexico and other countries, including in connection with the Los Angeles Declaration, the Biden administration should strengthen and escalate these efforts, including through increased support for UNHCR’s work to strengthen these capacities and support local humanitarian, legal and other NGOs that assist asylum seekers in these countries. Sustained and enhanced support for regional refugee operations is particularly [crucial](#) as refugee and displacement crises become prolonged, and many refugees face discrimination, xenophobia, and inadequate protection of their rights in countries where they have been staying initially. Most urgently, the United States must also, in its bilateral engagements with Mexico and other countries, prioritize the protection of the human rights and physical safety of refugees, migrants and asylum seekers — a crucial step given the widespread and systemic lack of state protection for these populations in a number of countries in the region.
- **Boost the scale and pace of regional refugee resettlement plans:** Human Rights First and other organizations have, for many years, urged the U.S. government to launch substantial refugee resettlement initiatives in the Americas. The Biden administration announced a goal of resettling 15,000 refugees from the Americas during fiscal year 2023, and subsequently [increased](#) that goal to 20,000 in connection with U.S. commitments relating to the Los Angeles Declaration. For fiscal year 2024, the Biden administration announced a goal of [resettling](#) 20,000 refugees from Latin America and the Caribbean. While those goals are steps forward given the dearth of prior U.S.

resettlement from the region, those goals fall far short of regional [refugee resettlement needs](#). Indeed, globally, less than 1 percent of the world's refugees have typically had access to resettlement. Moreover, despite these new goals, the Biden administration is not expected to reach its overall goal of resettling 125,000 refugees in fiscal year 2023. The administration is taking important steps to improve the pace and timeliness of U.S. resettlement processing, in addition to bringing in significant numbers of nationals of Afghanistan and Ukraine — as well as some people from Cuba, Haiti, Nicaragua, and Venezuela — to the United States through use of parole. During the remainder of fiscal year 2023, the Biden administration should do all it can to come close to meeting the 2023 goal of resettling 20,000 refugees from the Americas (as well as its broader refugee resettlement goals). The administration should also request sufficient funding for a sharp increase in resettlement from the Americas in fiscal year 2024 — over and above its previously announced goal of resettling 20,000 refugees from the region in fiscal year 2024. This increase should reflect an *addition* to overall resettlement goals, rather than a decrease in U.S. resettlement from other regions. The Biden administration, the Department of Homeland Security (DHS) and the State Department must also work together to ensure that the pace of resettlement is swift. Substantial numbers and swift speeds are essential to demonstrating that resettlement can be a credible and meaningful route to protection for the limited number of refugees who can safely wait for the process and are actually referred for resettlement.

- **Safe pathways for migration:** The Biden administration should continue to take steps to increase the availability of safe and swift migration pathways to the United States, including through visa initiatives and the improved use of parole. The Biden administration should strengthen, improve, expand and build on its use of parole to provide safe migration pathways for eligible persons, improving the pace, scale and accessibility of such initiatives. In particular, the administration should take steps to end the disparate and discriminatory availability and accessibility of parole to various nationalities and populations, including Black and Indigenous asylum seekers, as well as those without financial resources or, like many refugees, without valid passports. Parole or other safe pathways for migration are not asylum, nor are they a substitute for asylum, and they should not and must not be misused to attempt to deny people seeking refuge the right to seek asylum. Moreover, as outlined above, swift and significant refugee resettlement initiatives are critical, and parole — with its myriad deficiencies — is no substitute for an effective and robust refugee resettlement system. On January 24, 2023, state leaders aligned with the former Trump administration filed a [lawsuit](#) to stop the Biden administration's creation of parole initiatives for people from Cuba, Haiti, Nicaragua, and Venezuela, seeking in effect to deprive the Biden administration of the ability to use parole to provide meaningful alternatives to irregular migration for some people. Lastly, while recommendations regarding visas are beyond the scope of this set of recommendations, any such initiatives should be designed to not leave recipients vulnerable to human rights abuses and should not be used to encourage states to prevent refugees from reaching the United States to seek asylum.

More broadly, the United States must champion asylum and refugee law globally, not subvert it. By upholding asylum, the Biden administration will encourage other countries — including those that host the vast majority of the world’s refugees — to continue to welcome and host large numbers. By contrast, if other countries follow the U.S. example and impose restrictions on asylum and asylum seekers, refugees will be pushed to leave those countries and instead search for asylum elsewhere — including in the United States. Late in 2022, the government of Costa Rica [imposed](#) new [restrictions](#) on asylum which, along with long asylum wait times there, appears to be pushing some refugees to seek asylum elsewhere. While some U.S. politicians paint increases in arrivals as the result of U.S. “border” policies, the reality is that escalating repression and human rights abuses in home countries, insufficient protection of rights, lack of access to work and support in front-line refugee hosting communities, and the initiation of anti-asylum restrictions and xenophobic rhetoric and policies in host countries, are drivers of the search for protection.

Not only are state actions that undermine asylum counterproductive from a global refugee protection perspective, but policies that turn people seeking refuge away actually aid the agenda of states that are seeking to erode democratic norms and human rights law. As Freedom House [explained](#), after outlining the Biden administration’s continued use of the Title 42 policy to turn asylum seekers away:

As the spread of global authoritarianism diminishes access to political rights and civil liberties around the world, it puts more people in the crosshairs of repression. Democracies that raise indiscriminate obstacles to the process of making asylum claims are excluding people who have been persecuted for exercising or espousing democratic values like freedom of expression, religious freedom, and the rule of law. And by denying people fleeing repression a safe haven from which to continue their advocacy or simply live a life free from systematic human rights violations, democratic governments are aiding the global erosion of democratic norms. As long as democracies work to divert asylum seekers to more dangerous third countries, dissidents, activists, and members of targeted ethnic or religious groups will remain extremely vulnerable to transnational repression.

Uphold Refugee Law and Restart Asylum, Including at Ports of Entry

For years now, refugees have been denied the ability to seek asylum at U.S. ports of entry due to the use of Title 42 and other prior Trump-era policies that evade refugee law. These policies have also been used to prevent many from seeking asylum after crossing into the United States outside of ports of entry. As a result, the ability of refugees to seek asylum at the U.S. southwest border has *not* been determined by U.S. refugee and immigration law, but has instead hinged on a host of other, often discriminatory, factors such as nationality, family status, location of crossing or arrival at the border, the age of children, factors that might label the person as “vulnerable” (and therefore potentially eligible for a Title 42 exemption), decisions of individual border officers, and/or the migration return policies of other countries such as Mexico, Guatemala, Haiti, Cuba, Nicaragua, or Venezuela.

As U.S. [border officials](#) have confirmed, the Title 42 policy is counterproductive from a border management perspective and actually [prevents](#) U.S. agencies from enforcing immigration law, [spurs](#) increased crossings between ports of entry, [inflates](#) border apprehension statistics, and [exacerbates](#) cartel violence and insecurity at the border. Moreover, with respect to people seeking asylum, Title 42 and similar predecessor policies have [pushed many](#) — including Cubans, Haitians, and Venezuelans—who previously mostly approached official border posts to seek asylum, to instead attempt to cross into the United States [between ports of entry](#). The irony is that while some politicians complain that people seeking asylum should come to the United States the “right” way, the Title 42 policy and similar policies that block access to asylum have prevented many from seeking asylum at official border posts (even though U.S. law so [provides](#)) and pushed them to instead attempt to cross the border between ports of entry to reach safety.

The Title 42 policy has moreover inflicted massive human suffering. Since President Biden took office, Human Rights First has tracked over [13,480 reports](#) of kidnappings, brutal assaults, and other attacks suffered by asylum seekers and migrants blocked or expelled due to this policy.

In addition, the Title 42 policy subverts both U.S. and international refugee law, as [former](#) and [current](#) U.S. government officials, [federal courts](#), the [U.N. High Commissioner for Refugees](#), the [Inter-American Commission on Human Rights](#), the [Special Rapporteur on the Human Rights of Migrants](#), and the [DHS Office for Civil Rights and Civil Liberties](#) have warned. The [Committee on the Elimination of Racial Discrimination](#) has [called](#) on the United States to “redouble efforts to swiftly end Title 42,” noting its “disparate impact . . . on migrants of African descent and of Hispanic/Latino origin.” In addition to repeatedly calling on the United States to end Title 42, UNHCR has called on the U.S. government to “[restore](#) access to asylum for the people whose lives depend on it, in line with international legal and human rights obligations.”

Recommendations: The Biden administration must uphold U.S. refugee law along the southwest border, restore access to asylum at all U.S. ports of entry, and end the counterproductive dysfunction caused by the use of Title 42 and other Trump policies that deny and block access to asylum. The Biden administration should:

- **Do all it permissibly can to maximize the restoration of asylum at U.S. ports of entry** and adhere to both U.S. refugee law and international law prohibitions against returning people to persecution and torture;
- **Strongly and clearly oppose any efforts to entrench or further force the continuation of the Title 42 policy or similar policies** through legislative or court action, stop sending mixed signals through its damaging decisions to expand use of Title 42, and issue formal rulemaking to terminate the Title 42 order;
- **Abandon and reject steps to continue or resurrect Trump-era policies**, including any kind of transit or other ban, that deny refugees access to asylum, or turn them away to danger, whether to “replace” or succeed Title 42 or otherwise;

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- **Ensure that, while the Title 42 policy is in place, DHS complies with the [federal court order requiring fear screenings of asylum-seeking families](#), and, given that order's legal reasoning, take steps to ensure those screenings are extended to adults as well, while also using – rather than avoiding – the [standard questions](#) used to identify asylum seekers who require fear screenings; and**
 - **Safeguard asylum seekers from [impermissible penalties](#) through criminal prosecutions, imprisonment or other punishment due to their entry.**

At all ports of entry and Border Patrol locations, DHS should:

- **Swiftly process people seeking refugee protection**, continuing steps to reduce processing times and allocating sufficient officers and, should COVID-19 become prevalent, employ evidence-based public health measures such as masks, ventilation, distancing, outdoor processing, testing, and transport safeguards — and, as [public health experts](#) have repeatedly made clear, U.S. agencies should never misuse public health authority to ban or expel people seeking protection;
- **Maximize asylum processing capacities and allocate sufficient staff at ports of entry** in order to both comply with U.S. refugee law and make clear that the U.S. port of entry process for seeking asylum has finally — after years of blockage — been restored so that people seeking refuge in the United States — including [populations](#) that largely sought asylum at ports of entry (rather than crossing the border) prior to the implementation of Title 42 and its predecessor policies — can see that it is once again a real and meaningful route to protection;
- **Ensure that people seeking asylum at ports of entry are not turned away**, and have prompt access to ports, which should not be limited to CBP One (which will be difficult for many asylum seekers to use for a host of language, technological, and other reasons relating to the urgency or nature of their situations, as well as its likely delays given its broad scope) but also through direct access at ports, and do not use CBP One, limit lines or other policies to “meter,” block or reduce asylum at ports of entry — a counterproductive move given that such policies [have pushed](#) people to attempt to cross the border between ports of entry;
- **Use legal authority to [parole](#) asylum seekers** encountered at or after crossing the border to shelter with family or community members while their cases are adjudicated; and
- **Transit people quickly from Customs and Border Protection (CBP) custody to — and in coordination with — shelters or reception locations** operated by non-profit, non-governmental humanitarian agencies with refugee reception expertise, where immediate needs can be addressed.

U.S. agency compliance with refugee law should not be further delayed due to claims that agencies still “need time” to build capacity — a refrain that would be even more questionable at this point given that agencies have had years, and the Biden administration two years, to prepare for the end of Title 42. Agencies and administration officials must comply with asylum law now and simultaneously work to upgrade processing.

Build Stronger Humanitarian and Refugee Protection Functions and Structures

Around the world, the United States funds and supports UNHCR, governmental, and non-governmental humanitarian efforts that help other countries welcome and host refugees. Here in the United States, however, no single U.S. humanitarian or refugee protection agency is charged with long-term and regular planning, coordination, refugee identification, referrals, transportation, welcome, and reception. Refugee arrival functions and initial identification of potential asylum seekers are left largely to CBP, an agency that lacks refugee protection expertise or a humanitarian mission. The adjudication of refugee claims (i.e., asylum), as well as preliminary screenings such as credible fear interviews, are handled by U.S. Citizenship and Immigration Services (USCIS) — another component of DHS — as well as by the immigration courts, which are part of the Executive Office for Immigration Review (EOIR) within the Department of Justice. CBP often sends asylum seekers to Immigration and Customs Enforcement (ICE) detention (yet another DHS component agency), where they are then held unnecessarily and inhumanely in jails that make it even more difficult for them to pursue refugee protection. The role of the Office of Refugee Resettlement (ORR), which sits within the Department of Health and Human Services — has largely been limited to support refugees resettled from abroad, and with respect to people seeking protection at U.S. borders, in assisting unaccompanied children. While the role of the U.S. State Department is limited as well, both agencies must coordinate and weigh in on policies and practices.

Unlike U.S. funding globally, often provided by the State Department or other U.S. agencies to or through UNHCR and other entities, U.S. funding to the shelter, faith-based, and humanitarian organizations attempting to address refugee and migrant needs upon arrival at the U.S. border is largely ad hoc, limited, and often tied to situations that can be labeled an “emergency,” allowing Federal Emergency Management Agency (FEMA) engagement and reimbursement. But humanitarian arrivals and engagement should not be limited to — or left to wait for — an emergency situation to evolve.

Across administrations, DHS has proven — [again](#) and [again](#) — to be unable and/or unwilling to plan for, humanely receive, process, identify, and refer, in accordance with U.S. refugee and asylum law, the cases of people seeking protection. Instead, responses to humanitarian needs at the border have been plagued by severe crowding, [horrific conditions](#), and [failures to identify and refer](#) asylum seekers, including the abhorrent treatment of Haitians families and individuals seeking safety near Del Rio, Texas in 2021. The approach to managing arrivals of asylum seekers as an “emergency” through piecemeal after-the-fact reimbursement of costs for NGOs providing welcome, rather than a sustained proactive planning and funding model, has hampered the ability of NGOs to address immediate humanitarian needs and provide transitional support to asylum seekers as they begin to rebuild their lives in the United States.

When DHS was created, concerns were [raised](#) that the separation of governmental functions across multiple agencies and the lack of structures to ensure refugee protection would threaten adherence to U.S. refugee law and treaties. Indeed, DHS’s mission, which is spelled out in the [Homeland Security Act](#), is to prevent terrorist attacks in the United States, reduce vulnerability to terrorism, and minimize damage from terrorist attacks, as well as to carry out functions of component agencies transferred to DHS. While DHS is now effectively the agency entrusted with U.S. refugee protection decisions, its mission lacks any

mention of ensuring that the United States lives up to its legal and humanitarian obligations to refugees seeking asylum — obligations contained in U.S. law and international treaties. Similarly, neither CBP’s [mission statement nor priorities](#) makes any mention of refugees or upholding U.S. asylum law — and CBP has often treated U.S. asylum law as a diversion from its other responsibilities rather than a law enacted by Congress with which U.S. agencies must comply. The Border Patrol union moreover has purposefully [pushed](#) a narrative that falsely paints asylum as a “scam” and the “vast majority” of asylum applications as “fraudulent.”

Recommendations: The Biden administration and Congress should work together to transform the flawed humanitarian and refugee protection structures, planning, capacities, expertise, and oversight at the U.S. border, and build and strengthen these humanitarian functions and capacities in a sustained manner that is ultimately led by humanitarian organizations with the necessary refugee and humanitarian expertise. While the structural shifts will take time, more immediate action must also be taken — including through the steps outlined below.

- **Create a Refugee and Humanitarian Protection Agency:** The Biden administration should work with Congress to create a new Refugee and Humanitarian Protection Agency, or reconfigure, elevate, and strengthen an existing agency, to manage U.S. asylum, refugee, and humanitarian protection matters — a recommendation outlined in Human Rights First’s 2021 [blueprint](#). In addition to consolidating many activities, and improving coordination between agencies, such an entity could help communicate and coordinate with, and spearhead efforts to assure proactive (rather than just “emergency”) funding for needs of humanitarian organizations, shelters, and local destination communities. Such an agency, preferably independent of DHS given its lack of a protection mission, should be led by an official of cabinet rank. The agency should have relevant rule-making authority relating to U.S. asylum and refugee law and adjudications; house Asylum Office adjudicators; have oversight of case support and case management for asylum seekers; and have authority to intercede in attempts to deprive an asylum seeker of liberty via detention. Additionally, the administration and Congress should take steps to reshape agency missions and responsibilities to make doubly clear to the leaders and staff of the agencies that interact with children, adults, and families seeking asylum that they must uphold U.S. refugee law and treaties — and will be held accountable for refusing or failing to perform these legal responsibilities.
- **Establish a White House Humanitarian Protection Task Force and designate a senior coordinator:** More immediately, the Biden administration should establish and convene a White House Humanitarian Protection Task Force comprised not only of relevant U.S. government agencies, but also U.N. agencies and U.S. civil society organizations with refugee protection and management expertise, shelter and related humanitarian capacities. The Task Force requires high-level White House leadership and should be managed by a new position of White House senior coordinator and senior advisor to the President for refugee and humanitarian protection — an office that must be well-staffed to help ensure effective cooperation between U.S. agencies as they implement actions and responses across multiple agencies, as well as with state and local

governments, and with non-profit non-governmental organizations that provide humanitarian, legal and other critical services to asylum seeker arrivals.

- **Leverage faith-based, shelter, and refugee aid organizations:** To enhance arrival and reception efforts, the administration and DHS should redouble efforts to leverage and coordinate with the network of humanitarian organizations, including faith-based groups, legal nonprofits, and refugee assistance agencies with offices across the country. Many have substantial experience assisting new arrivals and long track records of working with CBP and other U.S. agencies. Some provide refugee assistance and management around the world. The Biden administration should continue to request Congressional appropriations to support this public-private initiative and must communicate and plan in advance with these groups so that agencies and shelters can prepare and recruit staff and volunteers when needed. The administration and Congress should also heed the [recommendations](#) of border, destination and national humanitarian groups on steps to coordinate, strengthen transportation, facilitate housing and work authorization, and more sustainably support reception capacities. The Biden administration should develop the Shelter and Support program, to be administered by FEMA, to disburse funds as needed (rather than on a reimbursement model), remove limitations on the use of funds for transportation and shelter costs and safeguard the program's humanitarian funding structure, as [detailed](#) in recommendations issued by the National Immigrant Justice Center.
- **Provide oversight by humanitarian officers:** In the immediate term, and while longer term structural adjustments are advanced, the Biden administration should [ensure](#) that identification and referral of asylum seekers is overseen by trained humanitarian officers, [rather than CBP](#), followed by swift transit to noncustodial humanitarian locations. These officers could, for instance, be based in ORR, or at least be trained USCIS asylum officers.

Invest in True Humanitarian and Community Reception

The Biden administration and Congress should encourage and support **public-private asylum reception and orientation initiatives that include community and faith-based organizations, legal non-profits, shelters, and refugee assistance agencies with offices across the country that have deep expertise managing refugee situations** along the southwest border and around the world. Asylum seekers should no longer be sent to immigration jails where they suffer [punitive conditions](#) and lack of access to counsel, but instead referred to humanitarian reception and orientation. These agencies can help orient asylum seekers, address urgent needs, assist in onward travel to destination locations and, if properly supported, facilitate access to temporary accommodations for any individuals determined to need public health isolation or quarantine. These organizations should be provided with resources to conduct such services. This reception should include:

- True humanitarian reception – that is noncustodial and operated by humanitarian organizations with refugee protection expertise, as outlined above, not by CBP or ICE – and not detention masquerading as reception;

- Non-mandatory reception stays that will often be limited to hours or one-night stays as many asylum seekers have U.S. family or communities they can quickly transit onwards to join or if not, can be hosted in communities, with proper — and critical — support and coordination with faith groups, NGOs and destination communities; and
- Regular access for visits by members of Congress, attorneys, UNHCR, and human rights monitors.

Asylum adjudications should be conducted after asylum seekers arrive in final community locations, and never during reception at the border, which has been shown to be a recipe for disaster. The due process [deficient expedited removal](#) should not be used against asylum seekers. If expedited removal is utilized, under no circumstances should credible fear or other screenings be conducted in CBP or Border Patrol custody. The Trump administration's [Prompt Asylum Claim Review / Humanitarian Asylum Review Process](#) and RMX "screenings" illustrate the serious due process violations inherent in such a process. A bill introduced by Senators Cornyn and Sinema in 2021 [risks](#) codifying this kind of dangerous, inaccurate, and counterproductive process. If expedited removal is used, credible fear interviews [should only occur after arrival in community locations](#). This would allow asylum seekers time to recover from their journey and secure counsel for these important interviews. In-person legal representation must always be unimpeded and supported.

The Biden administration should take additional [steps](#), and work with Congress to ensure, prompt provision of work authorization for asylum seekers — a key concern to both asylum seekers themselves and the communities hosting asylum seekers. Mayor Eric Adams of New York recently [urged](#) the administration to issue work permits to asylum seekers more quickly, in addition to providing increased federal aid in destination communities. [Key reforms](#) include steps to allow asylum seekers to apply for work authorization earlier, speed up processing of work authorization applications, and extend the validity of work permits, as well as [statutory reforms](#) to eliminate timeline barriers that delay work authorization for asylum seekers, preventing many from working to support themselves and their families.

The Biden administration should also encourage and facilitate the development of initiatives that help orient, welcome and support asylum seekers in U.S. communities — inspired by examples such as the positive aspect of the welcome many provided to Afghan arrivals and to Venezuelan and other asylum seekers in Martha's Vineyard (and other welcoming locations), as well as the [work](#) of a group of Americans to welcome some Russian asylum seekers sent to immigration jails under the Biden administration.

Fully End Trump Policies That Turn People Away to Danger and Evade Refugee Law

It has been almost two years since President Biden issued his February 2, 2021 [Executive Order](#), directing steps to manage migration in North and Central America and to "restore and strengthen our own asylum system." The Biden administration and U.S. agencies took some important initial steps towards ending some of the most notorious Trump administration policies, but many of President Biden's [commitments](#) have not yet been fulfilled — in some cases due to lawsuits filed by allies of the prior administration and in

other cases due to the slow pace of agency action to fulfill the executive order's direction, or the Biden administration's recent backsliding and alarming [announcement](#) that it will pursue an asylum ban — a step that would advance the [Trump agenda](#) and break the President's [campaign promise](#). The Biden administration must move ahead without delay to firmly end policies that punish or turn away asylum seekers to danger in violation of U.S. asylum law and refugee treaties, including:

- Comply with refugee law at the border, including to restore the asylum process at U.S. ports of entry;
- Take all legally permissible steps — consistent with any remaining relevant court rulings — to end the use of the Title 42 travesty, including issuing formal agency rulemaking to terminate the Title 42 order, and while the policy is still in effect, comply with a federal court [decision](#) requiring fear screenings of asylum-seeking families subject to Title 42 that should also be extended to adults given its legal reasoning; and
- Do not use “metering,” which a federal court [ruled](#) unlawful, and take additional [action](#) following DHS's [recession](#) of the Trump-era metering policy to prohibit this illegal limitation on asylum processing.

In addition, the Biden administration must rescind — and never resurrect — other Trump-era policies that deny and block refugees from asylum and separate their families, as detailed in Human Rights First's 2021 [blueprint, recommendations](#) for a fair, timely, and less traumatizing asylum system, January 2022 [recommendations](#), and September 2022 Executive Order [progress report](#), including:

- Regulations creating the asylum [entry](#) and [transit](#) bans, which deny asylum to refugees — as detailed in Human Rights First's 2020 [report](#), the transit ban caused the U.S. to deny refugees asylum including many Black, Indigenous, and LGBTQ+ refugees, separated families, and left others in limbo without a path to stability, legal residence or citizenship;
- The [regulation](#) adopted by the Trump administration in December 2020 imposing asylum bans labeling asylum seekers as threats to the security of the United States based on specious public health grounds, which has been [debunked](#) and opposed by public health experts — and which, alarmingly, the Biden administration has failed to rescind but instead only delayed its effective date, most recently [scheduling](#) the rule to take effect in January 2025;
- The “[death to asylum rule](#)” that attempted to illegally rewrite virtually every aspect of asylum law;
- An interim final rule implementing “[unsafe third-country agreements](#)” to return refugees to danger; and
- [Other](#) rules, court orders, and policies that block refugees from protection.

New regulatory language should ensure that:

- Survivors of gender- and gang-based violence as well as other refugees fleeing persecution due to their membership in a particular social group are not denied U.S. asylum protection when otherwise eligible;
- The definition of a “particular social group” is clarified to make clear that such groups are made up of individuals who share an immutable or fundamental characteristic, past experience, or voluntary

association that cannot be changed, or are perceived as a group by society, and that a particular social group can be cognizable regardless of the number of members who belong to it; and

- Serious due process, unworkable deadlines, and access to counsel concerns with the new [asylum processing rule](#) are addressed through publication of a final rule.

The administration should also work with Congress to adopt a [Refugee Protection Act](#) to bring U.S. law better in line with international refugee protections, further confirm that Trump-era policies violated existing law, and provide redress to refugees wrongfully denied U.S. asylum protections.

A More Fair, Timely, and Less-Traumatizing Process

The Trump administration [decimated](#) the U.S. asylum system through policies that [weaponized](#) adjudications against asylum seekers and [exacerbated backlogs](#) and [delays](#) that had grown over the years (due to logjams caused by [failures](#) to adequately staff adjudications while “enforcement” agency staffing skyrocketed and pursuit of “expedited” processing [added](#) to [backlogs](#)). These backlogs and delays grew further as [interviews](#) and [hearings](#) were postponed due to the pandemic.

In FY 2022, U.S. immigration courts rendered decisions in more than [137,000](#) asylum cases — more than in any fiscal year in the last [26 years](#) and likely a historic high. But in attempting to reduce the backlog, the immigration courts must not substitute speed for fairness and accuracy, which will only add to appellate dockets, lead to additional immigration court hearings in remanded and reopened cases, and further delay decisions for refugees and their families.

As of September 2022, there were more than [605,000](#) asylum cases pending before the USCIS Asylum Office. In the [first nine months](#) of 2022, Cuban, Venezuelan, and Haitian asylum seekers (the three largest nationalities in that order) made up more than 52 percent of new asylum applications to USCIS. However, the [diversion](#) of Asylum Office personnel due to the decision to use expedited removal requires asylum officers to conduct fear screenings and [limits](#) USCIS’s ability to address backlogs and provide timely adjudications.

Human Rights First has repeatedly detailed recommendations for fair, timely, and orderly asylum processing, including in a [blueprint](#), a [report](#) on Asylum Office backlogs, a [paper](#) on improving fairness in USCIS and immigration court adjudications, and in [measures](#) for processing cases during the pandemic. While U.S. agencies issued a [proposed rule](#) on asylum processing, its changes [fell short](#) and instead reflected the flawed and failed paradigm of curtailing [due process safeguards](#). The subsequent [interim final rule](#), issued in March 2022, improved the new asylum process but included [rushed deadlines that lead to inaccurate decisions and inefficiency](#), [inadequate provision](#) for [access to counsel](#), and other due process [deficiencies](#) that should be fixed in the final rule.

Recommendations: The Biden administration should:

- **Overhaul USCIS Asylum Adjudications to Provide More Timely, Efficient, and Fair Decisions**

By resolving more cases through initial Asylum Office interviews, the government will save resources and reduce the number of people referred to removal proceedings, while preserving the right of asylum seekers to full removal hearings in immigration court if they are not granted by the Asylum Office. Non-adversarial interviews are [less traumatizing](#) for asylum seekers and more efficient for the system. In addition to avoiding the use of expedited removal, the Biden administration should:

- **Resolve more asylum-eligible cases at the Asylum Office level**, so they are not unnecessarily and inefficiently referred to already backlogged immigration courts when they should have been resolved at the Asylum Office given their asylum eligibility, including implementing a “feedback loop” between the Asylum Office and the immigration courts, as suggested by the [USCIS Ombudsman](#), to address the fact that “[most](#)” asylum cases referred from USCIS are ultimately granted by an immigration judge”;
- **Improve pace of adjudications at the USCIS Asylum Office**, rejecting legislative, regulatory, or other proposals that compound the already overly onerous requirements, complications and adjudication delays inflicted by the many rounds of additional restrictions imposed on asylum adjudications (which have also made it increasingly difficult for refugees to secure asylum); and instead identify, replicate and/or improve upon adjudication efficiencies such as those employed in Afghan cases, as appropriate, including creation of updated country conditions analyses applicable to persecuted religious, ethnic, and other groups from other countries to facilitate quicker adjudications, as well as analysis recognizing that members of various persecuted groups meet the “refugee” definition (as always, applicants must also not be otherwise ineligible or barred);
- **Provide initial decision-making authority to the Asylum Office in cases originating along the border and at ports of entry**, adjusting the approach taken in the interim final asylum processing [rule](#) by removing unrealistic and counterproductive deadlines that, as [government data](#) and Human Rights First [analysis have](#) confirmed, limit access to counsel and prevent asylum seekers from preparing their cases;
- **Address the backlog of asylum applications, ramp up Asylum Office hiring, and provide qualified and competent interpreters** (preferably certified for Article III courts) to minimize mistaken, inefficient referrals to immigration court removal proceedings, permitting asylum seekers to also bring their own interpreters as well (hiring efforts, following FY 2022 congressional appropriations to address backlogs, had reduced the overall asylum officer vacancy rate from [29 percent](#) in January 2022 to [20 percent](#) in October 2022, according to the Asylum Office);
- **Prioritize applications pending the longest in addition to new cases**, initiate a uniform process for asylum seekers stuck in the backlog who wish to request prompt interviews, and create an application process for “cancellation of removal” so such cases are not initiated via the Asylum Office; and

- **Release urgent guidance on the filing of cases with the Asylum Office that were terminated in immigration court** to ensure that filing deadline issues do not prejudice asylum seekers' applications and result in cases needlessly referred back to immigration court.

The Biden administration should work with Congress to, and Congress should continue to, appropriate funding to USCIS to hire additional staff to provide more timely interviews and decisions for asylum applicants, address and decide cases stuck in the Asylum Office backlog, and [address long delays](#) in pending work permit applications for asylum seekers stuck in the USCIS and immigration court backlogs.

■ Upgrade Immigration Courts

The Biden administration should take additional [steps](#) to improve the fairness and timeliness of hearings in the immigration courts. Trump administration policies rigged hearings against asylum seekers, [exacerbated](#) backlogs, and confirmed the need for an [independent immigration court](#). While the Biden administration should work with Congress to make the courts independent, it should also:

- **Champion and support funded legal representation and legal orientations** to improve access to due process and increase accuracy in decisions;
- **Capitalize on the [use](#) of pre-hearing conferences** in advance of merits hearings to reduce hearing time and increase immigration court capacity, including by narrowing issues for trial and entering into stipulations on uncontested issues to reduce the number of hearings conducted and the length of hearings, not delaying previously scheduled merits hearings, and assigning the same DHS attorney to both the conference and final hearing or otherwise ensuring that DHS honors conference agreements and stipulations;
- **Eliminate [counterproductive](#) "rocket dockets"** created by the asylum processing [interim final rule](#) and **end "dedicated dockets"** that [undermine](#) accurate decision-making and [due process](#), and [limit access to counsel](#), as a recent UCLA study found;
- **[Reduce](#) the court docket and improve hearing efficiencies through administrative closures, initial adjudication by the USCIS Asylum Office** (in the manner recommended above), **and termination of cases** — with the consent of the individual or counsel — that can be resolved via pending USCIS petition, grants of Temporary Protected Status, or through referral to the Asylum Office. In seeking to shift cases from the immigration courts to the USCIS Asylum Office, ICE should not pursue dismissals where the asylum seeker or counsel object, for instance due to concerns that further wait time will delay family reunification or case resolution; and
- **Create a process for asylum seekers to schedule and advance backlogged cases**, as many are separated from family or facing other humanitarian concerns due to years-long waits for adjudication. EOIR should create an electronic scheduling system to allow asylum

seekers and their counsel to schedule merits hearings in available slots on immigration court judges' dockets.

The Biden administration should work with Congress to, and Congress should support appropriations for legal representation for asylum seekers and immigrants as well as increased interpreters, court staff, and immigration judges so that the courts can address both incoming and backlogged cases.

Case Support, Not More Detention

Despite [promises](#) to end prolonged detention, reinvest in case management programs, and eliminate for-profit detention facilities, the Biden administration sharply [increased](#) detention of asylum seekers during the pandemic after designating them as priorities for detention and deportation in February 2021 [interim guidance](#). Subsequent September 2021 DHS [guidance](#) designated recent arrivals, likely including many asylum seekers, as an enforcement priority for apprehension and deportation and continued to fuel the continued widespread detention of asylum seekers. While the guidance is currently [enjoined](#), the administration continues to jail large numbers of asylum seekers rather than exercising its parole authority to release them. As of January 2023, the number of asylum seekers and immigrants in immigration detention is 56.5 percent higher compared to [when](#) President Biden took office, with over [23,000](#) people currently in ICE jails.

DHS has taken steps to [increase](#) detention capacity, including using the Berks County Detention Center, which has a [long-documented history](#) of abuse and neglect of immigrants, to detain adult women in 2022 after ending family detention there. A December 2022 Human Rights First [factsheet](#) documented the use of Berks by the Biden administration to incarcerate hundreds of adult asylum-seeking women and other immigrant women. As of January 2023, DHS has finally [stopped](#) incarcerating immigrants at the jail, as it [plans](#) to terminate its contract with Berks County on January 31, 2023. DHS also entered into a [contract](#) to detain immigrants in a private prison in Moshannon Valley that was emptied out by the Biden administration's [Executive Order](#) instructing the Department of Justice not to renew contracts with private criminal facilities. The Moshannon Valley Processing Center, which was previously used as a federal prison, is now the biggest immigration jail in the Northeast. DHS has also taken steps to dramatically [expand](#) the Folkston ICE Processing Center, a private prison, to jail up to 3,000 immigrants in the facility.

An April 2022 Human Rights First [report](#) documented the administration's widespread detention of asylum seekers for prolonged periods, refusal to release them to pursue their cases while living in U.S. communities, and horrendous conditions in ICE jails including medical neglect, physical, verbal, and sexual abuse, and deprivation of adequate food, water, and other basic necessities. An October 2022 [report](#) by Freedom for Immigrants documented widespread anti-Black violence and abuse in ICE jails and found that Black immigrants were more likely to suffer abuse in detention compared to non-Black immigrants.

Eight immigrants have [died](#) in these dangerous jails under the Biden administration, including a [Nicaraguan asylum seeker](#) who [died](#) in October 2022 and a [Venezuelan asylum seeker diagnosed](#) with

AIDS who died of complications from AIDS and COVID-19 after spending five months incarcerated. In August 2022, a [Brazilian asylum seeker](#) died by suicide while incarcerated in the Torrance County Detention Facility, an ICE jail that the DHS Office of Inspector General (OIG) [warned](#) six months prior posed serious safety risks and had deplorable living conditions and urged the immediate removal of all detained individuals from the facility. In September 2022, the DHS OIG again [urged](#) ICE to immediately stop detaining people at Torrance. Shortly after another migrant [attempted suicide](#) while jailed in Torrance in late-November 2022, ICE [announced](#) that it would continue to operate the facility and detain asylum seekers and migrants in these life-threatening conditions.

In November 2022, the [New York Times](#) documented the prolonged detention of Russian asylum seekers, including a married couple—doctors who were targeted for their anti-war activism—who were separated and detained for around six months when they sought asylum in the United States. ICE demanded they pay a \$15,000 bond each to secure their release, which they could not afford. Facility staff physically assaulted the husband, causing him to hit his head on a cement floor, and ICE refused to release the wife despite urgent medical issues including a neurological condition that caused seizures.

Recommendations: The Biden administration should end the use of [inhumane, unnecessary, and wasteful](#) migration jails and, instead, shift to effective and fiscally prudent [case and legal support strategies](#). Congressional funding for universal legal orientation presentations and representation should include families and single adults placed into case management. A model—based on reception rather than punishment of people seeking refugee protection—is more effective, fiscally prudent, and humane. As outlined above, responsibility for overseeing the cases of people seeking refugee protection should also be shifted to a humanitarian agency with a refugee protection expertise and mission, rather than one focused on detention and deportation.