
LEADING BY EXAMPLE, HONORING COMMITMENTS

Recommendations for the Biden Administration to Uphold Refugee Law

While it has taken some important steps toward ending several Trump administration policies that trampled on asylum, including Remain in Mexico, the Biden administration has not yet ended some of the most inhumane and dysfunctional Trump administration policies due to lawsuits filed by Trump-aligned state politicians aligned with the prior administration, slow-paced U.S. agency regulatory action, and highly damaging steps backward. The Biden administration [recently expanded](#) use of the [much-criticized](#) Title 42 policy to additional nationalities and [announced](#) plans to propose an asylum ban — an approach [repeatedly initiated by](#) the Trump administration and [repeatedly found unlawful by](#) the [courts](#). These announcements sparked [public criticism](#) from the U.N. High Commissioner for Human Rights, UNHCR, IOM and UNICEF, given the violations of human rights and refugee law.

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. **There is a better way.** The Biden administration should, working with Congress, redouble support to strengthen refugee hosting capacities in other countries, ramp up refugee resettlement, build and improve upon steps to provide parole and other pathways that help reduce irregular migration — but without imposing deeply damaging, counterproductive policies, like Title 42 and asylum bans, that are the opposite of “success” as they inflict grave [human rights abuses](#), systemic [dysfunction](#) at the border, and lasting damage to human rights and refugee law globally. Upholding President Biden’s February 2021 [Executive Order](#), his administration should, as detailed in our full January 2023 [recommendations](#):

- **Enhance support for human rights, and refugee hosting capacity, in other countries in the Americas.** While perpetrators of anti-immigrant rhetoric paint border arrivals as the result of U.S. immigration policy, the reality is that persecution and human rights abuses have escalated in many countries in the Americas, pushing people to flee [Cuba](#), [Guatemala](#), [Haiti](#), [Nicaragua](#), [Venezuela](#) and other places. The vast majority of the world’s refugees are hosted by front-line and other countries with less capacity than the United States. About [6 million](#) of the 7.1 million people who have fled Venezuela are hosted in Colombia, Ecuador, Peru, and other countries in Latin America and the Caribbean. In addition to prioritizing sustained strategies to protect people’s rights in their home countries, the Biden administration should redouble efforts to support development of strong asylum systems, reception capacities, access to employment, and protection of rights and safety of refugees and migrants in Mexico and other countries in the Americas.
- **Ramp up, speed up, strengthen regional refugee resettlement, parole and other safe migration pathways in the Americas, never using them to deny access to asylum.** The administration should build on its use of parole, jettisoning the improper effort to misuse these initiatives to deny refugees access to asylum, while improving scale and access for people without resources, family ties, passports, and for Black, Indigenous or other people disparately denied access. Such pathways provide critical alternatives to irregular migration. The Biden administration should strive to come close to meeting its FY 2023 [goal](#) of resettling 20,000 refugees from the Americas, sharply increase regional resettlement in FY 2024 (as an *addition* to overall resettlement

goals, not a reduction for other regions), and redouble efforts to improve the pace and speed of resettlement so it can be a meaningful route to protection for the small portion of refugees who are afforded access.

- **Uphold 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 possible to end the Title 42 policy (which, as Human Rights First has tracked, has led to over [13,480](#) reports of torture, kidnappings and brutal attacks), ensure people seeking asylum have prompt access to ports of entry — not 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, humane refugee reception structures, coordination, funding mechanisms, and case support** to address the lack of dedicated humanitarian and refugee protection structures that has long hampered the U.S. response to people seeking refuge at its own borders, including to:
 - enhance communication, planning, coordination with, and resourcing for the network of faith-based groups, shelters, legal, refugee aid, non-profit humanitarian organizations along the border and across the country that are essential to effective reception and case support;
 - create a White House Task Force to improve coordination internally, and externally with humanitarian organizations and destination communities, while ultimately ensuring creation of a focused humanitarian and refugee reception agency, rather than just “emergency” responses;
 - develop Shelter and Services grant program to [remedy](#) some FEMA ESFP-H funding limitations;
 - launch and support public-private asylum reception and orientation initiatives by non-profit humanitarian organizations; and
 - ensure prompt work authorization for asylum seekers, as both [asylum seekers](#) and [local communities](#) urge.
- **Upgrade asylum adjudication processes so they are accurate, fair, properly staffed, and prompt**, including: improve the new [asylum rule process](#) so it leads to efficiency rather than [rushed and counterproductive](#) inaccurate adjudications, and 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 — do not resurrect — Trump policies**, including the asylum [entry](#) and [transit](#) bans, and other fatally [flawed policies of the last administration](#) that punish or block refugees from protection, **abandoning the harmful asylum ban plan**. While the Trump administration transit ban was in effect, it [resulted](#) in the denial of asylum to refugees with well-founded fears of persecution, separation of families, and deprivation of a path to citizenship for refugees left only with withholding of removal. 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.
- **Stand firm against anti-immigrant rhetoric and efforts, and firmly reject anti-asylum Congressional proposals** including efforts to force continuation or enactment into law of the Trump administration’s cruel, racist, and counterproductive policies. Draconian policies will not appease perpetrators of xenophobic, racist rhetoric, but will inflict massive human suffering, create more dysfunction, and subvert refugee law globally.