
Assessment: U.S. Compliance with the Refugee Convention at its 70th Anniversary

As the world marks the 70th Anniversary of the [1951 Refugee Convention](#) on July 28, 2021, the United States continues to flout its legal obligations under the Convention, endangering lives, failing to lead by example in upholding human rights and undermining refugee law globally. While the Biden administration has taken steps towards ending some Trump administration policies that endangered people seeking refuge, over six months after President Biden took office, his administration has failed to overturn – and in some cases chosen to use – other harmful policies that blatantly violate the Refugee Convention, its Protocol and refugee law enacted by Congress. Gravely concerning, the Biden administration continues to block refugees from seeking asylum at ports of entry and expels refugees to danger at the southern border, while the [President](#) and other [officials](#) have made public statements that undermine the right to seek asylum. Overall, this assessment concludes that the Biden administration is using or maintaining policies that flagrantly violate the Refugee Convention and, despite steps towards ending some policies, has made insufficient progress to comply with U.S. legal requirements to protect refugees.

The Biden administration has taken some important steps in the past six months towards bringing the United States into compliance with the Refugee Convention and other treaty obligations, including:

- Officially [terminating](#) the “Remain in Mexico” program or Migrant Protection Protocols (MPP) and processing into safety over [12,000](#) people subjected to MPP to await their court proceedings in the United States, but [further steps](#) are necessary to bring to safety all individuals subjected to this horrific policy;
- [Vacating](#) flawed and illegal rulings of former Attorney General Jeff Sessions, including [Matter of A-B-](#), [Matter of A-C-A-A-](#), and [Matter of L-E-A-](#), in an important step to restore protections for countless refugees, including those persecuted by deadly gangs and perpetrators of gender-based violence;
- [Suspending and initiating the process](#) to terminate the Asylum Cooperative Agreements, which the Trump administration used to summarily deport nearly a thousand asylum seekers to Guatemala without access to U.S. protections, though further steps are needed to rescind the [regulation](#) authorizing these agreements and to [bring to safety](#) asylum seekers sent to danger under this policy; and
- [Issuing](#) Executive Order 14013 to rebuild the U.S. resettlement program, rescinding the anti-refugee orders of the previous administration, taking steps to improve equities and efficiencies in processing refugees and Afghan allies, [increasing](#) the fiscal year (FY) 2021 refugee admissions goal to [62,500](#) (after widespread criticism), restoring [regional allocations](#) and resettlement based on vulnerability, and exploring opportunities to respond to climate-induced migration.

Despite these important steps, the Biden administration continues to endanger refugees and violate core requirements of the Refugee Convention and Protocol, including:

- The administration continues to wield the [Trump administration's Title 42 policy](#) to block and expel asylum seekers to life-threatening dangers in violation of U.S. refugee law and Articles 3, 31 and 33 of the Convention, failing to restart asylum processing at ports of entry over six months after taking office. Human Rights First has tracked over [3,276](#) kidnappings and attacks against

asylum seekers and migrants expelled or stranded at the border since the Biden administration took office. Rather than restoring asylum processing in compliance with U.S. and international law, President Biden and other administration officials continue to make public [statements](#) that undermine asylum and [discourage](#) refugees from exercising their legal right to seek protection in the United States.

- The Department of Homeland Security (DHS) and the Department of Justice (DOJ) have not rescinded regulations authorizing the [asylum entry ban](#) and [third country transit ban](#), which violate Articles 31, 33 and 34 of the Refugee Convention. While President Biden's [Executive Order](#) directed agencies to review these regulations and the Spring 2021 Unified Regulatory Agenda [confirmed](#) U.S. agencies will take action to modify or rescind these rules in November, these illegal and dangerous bans – which endanger refugee lives, separate their families and undermine integration – remain on the books at this time.
- Since President Biden took office, DHS has nearly [doubled](#) the number of immigrants jailed in ICE custody, drastically increased the detention of adult asylum seekers, and essentially [designated](#) asylum seekers as a detention and deportation priority, flouting Article 31 of the [Refugee Convention](#) and Article 9 of the [International Covenant on Civil and Political Rights](#). Though the administration has made efforts to reduce prolonged detention of families, its jailing of adults, including asylum seekers, is inhumane and violates international law.
- DHS has not yet launched effective and proven community-based case support [initiatives](#) for asylum seekers awaiting court hearings, instead subjecting them to detention and invasive [ankle shackles](#).
- The administration has made insufficient progress in improving the significant operational, vetting, and processing reforms that [merit urgent attention](#) to enable the administration to resettle as many refugees as possible this year and next. In particular, family reunification cases, including Priority 3 and I-730 (follow-to-join) caseloads, face years-long delays.

On May 19, 2021, the U.N. Refugee Agency's (UNHCR) Assistant High Commissioner for Protection [warned](#) that attempts to deny asylum seekers access to territory at a country's borders ... jeopardize the safety of those in need of international protection and "threaten the long-respected refugee protection regime," noting that: "It is ironic, that, as we celebrate the 70th anniversary of the Refugee Convention, attempts are being made to weaken its principles and spirit." The very next day, in a rare public statement explicitly directed at the United States, the U.N. High Commissioner for Refugees [urged](#) the United States to "swiftly lift the public health-related asylum restrictions that remain in effect at the border and to restore access to asylum for the people whose lives depend on it, in line with international legal and human rights obligations."

The Biden administration must swiftly restore U.S. adherence to the Convention and its Protocol. Compliance with refugee law is not an option that can be evaded in the face of political fears of xenophobic, racist rhetoric. Instead, the administration should ensure the United States welcomes people seeking refuge with dignity, upholding both U.S. refugee law and humanitarian values. In addition, the Biden administration must sharply step up its efforts to restore the U.S. refugee resettlement program by welcoming as many refugees as possible this fiscal year under the new refugee admissions goal and honoring President Biden's promise to rebuild the program. In prior [blueprints](#), [papers](#), and public [letters](#), Human Rights First and other organizations have detailed [recommendations](#) for a humane, fair and effective asylum system.

Background

In the wake of World War II, the United States played a lead role in drafting the Refugee Convention, which specifies key protections for people forced to flee persecution. By later acceding to the [Refugee Protocol](#), the United States promised to abide by the Convention's legal requirements, including its *non-refoulement* prohibition against returning refugees to places where their lives or freedom are at risk.

The U.S. Congress subsequently enacted the [Refugee Act of 1980](#), incorporating the Convention's definition of a refugee and creating asylum and resettlement in U.S. law to protect refugees. But beginning in 2017, the Trump administration launched a [barrage](#) of policies that blatantly violated U.S. legal obligations under both the Refugee Convention and U.S. refugee law. As a candidate, President Biden promised to [uphold](#) the right to seek asylum and end the Trump administration's detrimental asylum policies within his first 100 days in office. In a February 2, 2021 [executive order](#), President Biden affirmed that his administration would "restore and strengthen" the U.S. asylum system. However, the Biden administration has continued to use, and failed to rescind, Trump-era policies that eviscerate protections for refugees and violate the Refugee Convention.

Metrics to Measure Compliance with Refugee Convention

As Human Rights First outlined in its May 2021 [paper](#), in order to report on the Biden administration's progress or failure to uphold US legal commitments under the Convention, the organization has been monitoring key metrics including whether the Biden administration has taken steps to:

- Restart U.S. asylum protections at the southern border consistent with refugee law and end the use of Title 42 public health authority to block and expel asylum seekers;
- Fully end the Remain in Mexico program, implementing additional wind-down steps and bringing asylum seekers – including those denied protection under the flawed policy – into the United States;
- Rescind the asylum transit and entry bans which will, if not ended, return refugees to persecution and life-threatening dangers, separate families, and undermine integration;
- Restore protections the Trump administration sought to end for refugees persecuted by deadly gangs and perpetrators of domestic violence, vacating Trump administration Attorney General rulings and making progress towards issuing new regulations;
- Launch legal representation, case support initiatives, and improvements that ensure fair and accurate asylum adjudication, rejecting use of rights-violating detention and barriers to asylum;
- Rescind regulations that [curtail](#) access of asylum seekers to [work authorization](#), which prevents asylum seekers from supporting themselves and their families; and
- Increase the number of refugees resettled, expand processing, address backlogs and logjams delaying family reunification and other refugee resettlement, and formally propose a goal of resettling 125,000 refugees for fiscal year 2022.

Outlined below is our assessment of the Biden administration's progress and lack of progress in upholding U.S. commitments under the Refugee Convention and its key provisions. We have measured the administration's progress with the following metric:



Steps taken toward upholding Refugee Convention



Insufficient improvement to comply with Refugee Convention



Continuing serious violations of Refugee Convention

In addition to policies addressed in this assessment, there are additional Trump administration [policies](#) that violate or undermine U.S. compliance with the Refugee Convention, its Protocol and U.S. refugee law, and Human Rights First has urged the Biden administration to end all of these policies.

Refugee Convention Article 3: Non-Discrimination

The Refugee Convention, like other human rights treaties, contains a provision prohibiting discrimination, specifying that “[t]he Contracting States shall apply the provisions of this Convention to refugees without discrimination as to race, religion or country of origin.” Promptly after taking office, the Biden administration [rescinded](#) the Trump administration’s ban on entry into the United States from certain African and Muslim-majority countries and, after some delay, ended discriminatory regional allocations that had been imposed by the Trump administration’s presidential determination. Following significant public outcry, the Biden administration subsequently raised the annual allocation of refugee admissions from 15,000 to [62,500](#) for fiscal year 2021, though the administration will need to significantly step up its efforts to build back the resettlement system.

The Biden administration has still, however, not undone other discriminatory policies. It continues to use the Trump administration’s racist and xenophobic [public health ban](#) to expel [Haitian](#) and other asylum seekers to [danger in Mexico](#) – despite the administration’s designation of Haiti for Temporary Protected Status – while also using the policy to block asylum seekers requesting protection at ports of entry. A recently created [process](#) that exempts a limited number of individuals on a case-by-case basis from Title 42 expulsions and permits them to request U.S. protection does not comply with U.S. asylum law or treaty obligations, as [confirmed](#) by UNHCR.

To assess compliance with Article 3 of the Refugee Convention, Human Rights First committed in a May 2021 [paper](#) to report on the Biden administration’s progress – and lack of progress – to end the three discriminatory policies outlined directly below.



End expulsions of asylum seekers and misuse of Title 42 “public health” authority to block and expel asylum seekers. The Biden administration’s decision to continue to block and expel asylum seekers, discussed below, has disproportionately [affected](#) Black asylum seekers, as Human Rights First and other organizations have explained in [letters](#) and [reports](#). Reported plans to continue Title 42 expulsions for single adults would also have a disparate impact on LGBTQ and Black asylum seekers, including those from [Haiti](#).



End migration detention policies and practices that [lock up](#) Black and other asylum seekers of color and deny them parole or other release, which also violates Article 31 of the Convention. As discussed below, the Biden administration has nearly [doubled](#) the number of people detained in ICE custody, sharply [escalated](#) the detention of adult asylum seekers, and designated asylum seekers as [enforcement priorities](#). Black immigrants in detention are six times more likely to be sent to [solitary confinement](#) than other detainees and are forced to pay higher [bond](#) amounts to be released.



End or limit criminal prosecutions for entry and re-entry, under criminal statutes with a [long racist history](#) that are overwhelmingly used to prosecute people of color. While the number of entry prosecutions sharply declined during the pandemic, as discussed below, the

Biden administration has [continued](#) re-entry prosecutions and not issued directives to end prosecutions of asylum seekers and other migrants (aside from some parents). These prosecutions have “a [discriminatory](#) impact on Black and Latinx communities.”

Refugee Convention Article 31(1): Non-Penalization

Article 31(1) of the Refugee Convention forbids States from [penalizing refugees](#) for illegal entry or presence in most cases. This protection applies to asylum seekers who are present after crossing a border without authorization, including those who are detained or apprehended before they are reasonably able to make a claim for asylum.

But despite this legal prohibition, the United States has imposed punitive policies on asylum seekers who crossed into the United States seeking asylum. These impermissible penalties included the notorious Trump administration zero tolerance policy – the criminal prosecution of asylum seekers for improper entry or re-entry and the separation of children from parents subjected to these prosecutions – and a ban to deny asylum to refugees who had crossed into the country between ports of entry. This asylum entry ban would, if implemented, deliver refugees back to their country of persecution, separate them from their families, and prevent refugees from integrating. Its implementation was temporarily averted due to [court orders](#).

While some of these policies have been suspended or ended in part, many remain on the books and require additional action to ensure they are firmly ended. The Biden campaign pledged to end the separation of families, the [prosecution](#) of parents for minor immigration violations, and the systematic [prosecution](#) of adult asylum seekers for “misdemeanor illegal entry.”

The Biden administration has made the reunification of families separated by the Trump administration zero tolerance prosecutions a top priority and begun to reunite some of the many families still separated, though many still [remain separated](#).

To assess compliance with Article 31(1) of the Refugee Convention, Human Rights First committed to report on the Biden administration’s progress – and lack of progress - to end the three punitive policies outlined directly below.



Firmly end the Trump administration’s asylum [entry ban](#), which would, if implemented, **punish asylum seekers** with return to persecution, family separation, and other deprivations by barring access to asylum for those who seek protection between ports of entry, in [violation](#) of Article 31 of the Convention. President Biden’s February 2021 [executive order](#) rescinded the proclamation barring asylum seekers crossing the southern border and directed the Attorney General and Secretary of Homeland Security to “promptly review and determine whether to rescind” the underlying asylum entry ban. While the entry ban (codified at 8 C.F.R. §§ 208.13(c)(3), 208.30(e)(5), 1208.13(c)(3), 1208.13(e)(5), and 1003.42(d)) is currently [vacated](#) and [enjoined](#), the regulation authorizing it is still in effect. In the Spring 2021 Unified Regulatory Agenda, DHS and DOJ [confirmed](#) they would take action on this rule in November 2021, but have not indicated whether they will rescind the policy.



End referrals and prosecutions for improper entry and re-entry and support legislation to eliminate or limit such prosecutions so there can be no repeat of the Trump administration’s zero tolerance family separation policy. While the [Attorney General](#) rescinded the memorandum that authorized the Zero Tolerance policy and Customs and Border Protection (CBP) [issued](#) a memorandum “banning the referral of parents for prosecution exclusively on the grounds of illegal entry,” during his campaign, President Biden [promised](#) to end prosecutions for minor immigration

violations. While entry prosecutions drastically declined in 2020 during the [pandemic](#), the Biden administration has [continued](#) re-entry prosecutions. These entry and re-entry prosecutions [punish](#) asylum seekers and [violate](#) Article 31(1) of the Refugee Convention, [divert](#) prosecutorial resources, and thwart due process. Neither the administration nor U.S. agencies appear to have issued directives to end or limit such prosecutions against asylum seekers and/or other migrants (aside from parents).



Continue to reunite families separated under these punitive policies. The administration's Reunification Task Force has already [identified](#) over 5,600 family-child separations under the Trump administration, with over 3,900 children falling under the task force's scope, but only 36 parents had been granted parole to be reunified with their children as of June 2021. [Thousands](#) of children remain separated from their parents.

Refugee Convention Article 31(2): Prohibitions on Restrictions on Movement

Article 31(2) of the Refugee Convention prohibits unnecessary restrictions on the movement of refugees, and Article 9 of the International Covenant on Civil and Political Rights [prohibits](#) detention that is unnecessary, disproportionate or otherwise arbitrary. The UNHCR Executive Committee, of which the United States is a member, has [concluded](#) that the detention of asylum seekers should normally be avoided. As UNHCR Guidelines [explain](#), detention is not necessary when other measures can be employed to achieve the government's objective – for instance, when the provision of legal representation, case management or other alternative measures can support the asylum seeker's appearance for immigration appointments.

During his campaign, President Biden [pledged](#) to end for-profit and prolonged detention and invest in non-profit case management as the best way to ensure migrants attend required immigration appointments while also enabling them to live in dignity and safety while awaiting court hearings. In May 2021, the President signed an [executive order](#) directing the Attorney General to take steps to expand access to legal representation and creating a White House initiative to increase access to justice "regardless of wealth or status" across agencies.

To track compliance with Article 31(2) of the Refugee Convention, Human Rights First committed to report on the steps the Biden administration has taken to end and shift the policies identified below.



End and reduce use of migration detention, including releasing asylum seekers from detention and quickly transferring new asylum seekers out of Customs and Border Protection custody to shelters or other humanitarian reception locations operated by non-profit organizations with humanitarian expertise. The administration has sharply [escalated](#) its detention of adult asylum seekers and essentially [designated](#) asylum seekers as a detention and enforcement priority, in violation of its obligations under the Convention, even as it has reduced its detention of families. As Human Rights First and other organizations detailed in a July 2021 [letter](#) to DHS Sec Mayorkas, immigration detention numbers have skyrocketed since President Biden took office, with most of the people detained being recent arrivals and likely asylum seekers. ICE has increased the number of people in its facilities by nearly 90 percent, from 14,195 individuals at the start of the Biden administration to 26,771 as of July 22, 2021. The vast majority of individuals – approximately [83 percent](#) – detained by ICE in July 2021 were transferred from CBP custody, which means that the administration continues to target asylum

seekers and migrants at the border for detention and removal based on flawed enforcement priorities.



Invest in alternative measures – such as case support services and legal counsel – to support court appearance. The administration’s continued use of mass detention and invasive ankle shackles limits freedom of movement in violation of Article 31(2) and impedes access to counsel.

Refugee Convention Article 33: “*Non-Refoulement*” Prohibition on Return to Persecution








Pursuant to Article 33 of the Refugee Convention, the United States and other countries are prohibited from returning refugees “in any manner whatsoever” to places where their lives or freedom would be threatened on account of race, religion, nationality, membership in a particular social group, or political opinion. The requirement to protect refugees from such returns is considered the cornerstone of the Refugee Convention and is also recognized as a requirement of [customary](#) international law. The U.S. Congress has enacted [laws](#) so that refugees can apply for asylum, be formally recognized as refugees, and be protected from improper return to persecution.

Despite these legal protections, the Trump administration initiated and implemented a series of policies that returned refugees to danger in violation of the Refugee Convention’s prohibition on *refoulement*. The Biden campaign [committed](#) to “restore our asylum laws so that they do what they should be designed to do – protect people fleeing persecution and who cannot return home safely,” As outlined below, the Biden administration has taken meaningful steps to end or wind down several of these policies, but continues to use other policies that return people seeking refuge to danger.

To assess whether the United States is complying with its legal obligations under Article 33 of the Refugee Convention, Human Rights First committed to report on whether the Biden administration has taken steps to restart asylum and end the policies listed below.



Restart the asylum system consistent with U.S. refugee laws and the Refugee Convention and end [use](#) of public health authority under Title 42 to block and expel asylum seekers. In his February 2, 2021 [executive order](#), President Biden directed prompt review of the use of Title 42 public health authority to expel asylum seekers. Despite [3,276](#) documented attacks and kidnappings against migrants stranded at the border under the Biden administration and the U.N. High Commissioner for Refugees’ public [appeal](#) to the U.S. government in May to “swiftly lift the [Title 42] public health-related asylum restrictions that remain in effect at the border,” the Biden administration has continued expelling many adults and families under the policy and is [reportedly](#) planning to expel and block single adult asylum seekers even after it exempts families from the policy. While unaccompanied children have been exempted from these expulsions, the continued use of Title 42 is [driving family separations](#) by forcing desperate families to make the impossible choice between sending their children alone across the border for their safety or risking harm to their children in dangerous Mexican border regions. The Biden administration has not yet restarted asylum processing at U.S. ports of entry, continuing to maintain policies and practices that largely prevent people from seeking asylum at these ports of entry despite refugee law. Only a small fraction of asylum seekers are allowed to approach the port to seek asylum, but these cases are processed under an exception to the illegal Title 42 policy, rather than under, and in compliance with, U.S. refugee law and the Refugee Convention.

-  **End “[metering](#)” [policies](#)**, which block asylum seekers in their country of persecution or risk refoulement to their country of persecution. The Biden campaign [committed](#) to end the policy of “metering” which limits the number of asylum seekers who can seek protection each day. However, more than six months into the administration, it has not terminated this policy, has not taken steps to ensure asylum seekers subjected to this policy can cross into the United States at ports of entry to seek asylum, and appears poised to launch new policies akin to metering – including through use of an [online application](#) that raises security and due process concerns and may force asylum seekers to wait in danger.
-  **End the [currently-enjoyed third-country transit ban](#)** which, as Human Rights First has [detailed](#) led the United States to deny refugees asylum, return people to persecution and torture, and separate refugee families. In his February 2, 2021 [executive order](#), President Biden directed prompt review of the transit ban, which is codified at 8 C.F.R. §§ 208.13(c)(4) and 1208.13(c)(4). In the Spring 2021 Unified Regulatory Agenda, DHS and DOJ [confirmed](#) they would take action on this rule in November, but have not indicated whether they will rescind the policy.
-  **Rescind the asylum entry [ban](#) rule**, discussed above under Article 31(1), which would, like other bans, return refugees to persecution and life-threatening dangers;
-  **Rescind the [rule](#) that authorized illegal agreements to send refugees to unsafe countries** – agreements which the Biden administration [suspended and initiated the process to terminate](#) in February 2021. In the Spring 2021 Unified Regulatory Agenda, the administration [confirmed](#) that it would rescind or modify this rule in September.
-  **Restore protections – that the Trump administration sought to end – to prevent the return to persecution of victims of deadly gangs and perpetrators of gender-based violence**, including vacating the [rulings](#) of former Attorney General Jeff Sessions in [Matter of A-B](#) and [Matter of L-E-A-](#). On June 16, 2021, Attorney General Merrick Garland [vacated](#) [Matter of A-B](#) and [Matter of L-E-A-](#), and on July 26, 2021, he [vacated](#) [Matter of A-C-A-A-](#). The Department of Justice indicated in a [memorandum](#) that, pursuant to [Executive Order 14010](#), it would issue regulations that address key asylum provisions that were eviscerated in these illegal rulings.
-  **[Bring to safety](#) additional asylum seekers subjected to MPP**, including those with *in absentia* removal orders and those whose asylum claims were denied due to the egregious due process violations inherent to MPP. The Biden administration has taken meaningful initial steps towards winding down MPP—the illegal policy that forcibly returned 70,000 asylum seekers and migrants to wait in danger in Mexico for their hearings. It has transited more than [12,000](#) people in MPP to safety in the United States and in June 2021 announced another [phase](#) of the MPP wind-down to include MPP asylum seekers with *in absentia* orders, many of whom were unable to appear for hearings due to kidnappings, dangerous travel routes, or other impediments. But the administration has not yet announced [additional steps](#) to bring to safety asylum seekers who were denied asylum under the rigged program. Moreover, the administration has not conceded the program’s illegality, [opposed](#) in filings to the Supreme Court any restriction on the scope of the contiguous-territory provision used to justify MPP, and [indicated](#) that it continues to return individuals to danger under this provision, raising serious concerns of ongoing and future violations of the Convention.
-  **Rescind the public health [rule](#) banning asylum and other protections based on specious public health grounds**. In March 2021, the Biden administration [delayed](#) implementation of this policy – which puts refugees at risk of return to persecution and has been [de-bunked](#) by public

health experts as “xenophobia masquerading as a public health measure – to examine whether it should be revised or rescinded. The administration should instead adopt science-based public health measures [recommended](#) by public health experts to process asylum seekers and migrants to safety.



Rescind the [currently-enjoined](#) “monster” asylum [regulation](#) that sought to override and undo U.S. asylum law, block refugees from protection, and create insurmountable procedural hurdles in the asylum process. The administration [confirmed](#) in the Spring 2021 Unified Regulatory Agenda that it would propose to modify or rescind this regulation in November. Although currently enjoined, this dangerous and unlawful rule remains on the books and must be rescinded.



End use of the flawed [expedited](#) removal process, which leads to the return of asylum seekers to [persecution](#) without access to asylum hearings. The administration has [continued](#) to detain and subject many adult asylum seekers to expedited removal and announced on July 26, 2021 that it would use [expedited removal](#) against “certain” families not subject to expulsion under Title 42. The language used in the DHS [announcement](#) makes clear that DHS is using expedited removal to penalize people who cross into the United States between ports of entry, a violation of Article 31 of the Refugee Convention with respect to asylum seekers. The Biden administration also reportedly [plans](#) to create new asylum processes at the border which will continue to use expedited removal despite its many deficiencies.

Refugee Convention Article 34: Naturalization and Integration

Article 34 of the Refugee Convention requires that the United States “shall as far as possible facilitate the assimilation and naturalization of refugees.” The U.S. Congress created an asylum system so that people determined to be “refugees” would be granted asylum, with very limited exceptions – and as a result, be able to reunite with their immediate families, apply in one year to become legal permanent residents, and subsequently apply to naturalize.

But the Trump administration tried to prevent refugees from integrating, blocking the path to naturalization for many by issuing bans and bars aimed at denying them asylum so that they would either be returned to their country of persecution or left only with “withholding of removal,” a [deficient](#) form of protection from deportation that leaves them permanently separated from families and barred from stable status and a path to naturalization. The Trump administration also issued multiple policies aimed at depriving asylum seekers of legal permission to work – essential to the very survival of refugees and their families as well as their ability to integrate.

The Biden administration [promised](#) to stop “tearing apart families” and has taken [steps](#) to begin reunifying families ripped apart by the Trump administration’s zero tolerance policy. The administration has also included in its [legislative proposal](#) a provision that would eliminate another unjust ban – the bar on asylum due to the filing deadline – that both risks *refoulement* and thwarts integration.

To track whether the Biden administration has taken critical steps towards upholding the objectives of Article 34, we will report on its steps to:



Rescind the [transit ban](#), discussed above under Article 33, that was used by the Trump administration to deny refugees asylum, prevent refugee families from reuniting, and block them from legal residence and naturalization.



Reverse other Trump administration bans and policies, discussed above, that similarly prevent refugees from integrating and naturalizing including the asylum entry [ban](#) and the public health [rule](#) banning asylum and other protections based on specious public health grounds.



Rescind regulations that [curtail](#) access of asylum seekers to [work authorization](#), which prevents asylum seekers from supporting themselves and their families. DHS has [ratified](#) one of these regulations, which eliminates required processing times for work authorization applications. While the regulations are [partially enjoined](#) for members of certain asylum advocacy organizations, the administration continues to implement both regulations, depriving many asylum seekers of the ability to work and more than doubling the already extremely long wait times – from five months to a year – before they can apply for work authorization. The administration [does not plan](#) to propose to rescind or modify these regulations until December, leaving many asylum seekers without the ability to feed, house, and support themselves and their families.

Refugee Convention Preamble: Cooperation & Resettlement

The Preamble to the Refugee Convention specifically recognizes the importance of international cooperation in addressing refugee situations. International cooperation through resettlement can help support front-line countries that often host large numbers of refugees, encourage their continued respect for *non-refoulement* or other refugee rights, and demonstrate support for the Refugee Convention itself. Under its statute, UNHCR is required to facilitate the resettlement of refugees as one of the three permanent solutions to refugee situations.

To undo the damage wrought by the Trump administration and again lead on refugee resettlement, the Biden administration must sharply step up its efforts to restore the U.S. refugee resettlement program by welcoming as many refugees as possible this fiscal year under the new refugee admissions goal and honoring President Biden's promise to rebuild the program to resettle 125,000 refugees in fiscal year 2022. At the same time, the Biden administration must also take steps to protect and evacuate Afghans at risk due to their work with the United States and prepare to step up support for protection and resettlement to address any additional displacement from Afghanistan.

To assess U.S. progress in facilitating international cooperation relating to resettlement, Human Rights First indicated that it would report on steps the Biden administration takes to:



Improve and expand overseas refugee resettlement processing and invest in rebuilding the infrastructure to enable a swift increase in refugee resettlement. The administration has made insufficient progress in improving the significant operational, vetting, and processing [reforms](#) that [merit urgent attention](#) to enable the administration to resettle as many refugees as possible this year and next. NGOs have also [recommended](#) that DHS restart the Cuban Haitian Entrant Program (CHEP) and [restore and expand](#) it for other nationalities, but the administration has not yet done so.



Address [various backlogs and logjams](#) delaying refugee family reunification. Unfortunately, family reunification cases, including the Priority 3 and I-730 (follow-to-join) caseloads, continue to face years-long delays. In addition, although the administration resumed the Central American Minors (CAM) program, there are [key improvements](#) that should be made to resource U.S. resettlement sites to serve families, remedy prior harms, strengthen processing efficiencies, further expand eligibility, and increase access to safety for children waiting for reunification.



Formally propose an FY 2022 refugee admissions goal of 125,000. President Biden [promised](#) to rebuild the resettlement program and reconfirmed in his May 2021 [statement](#) his intent to set

the stage for a refugee admissions goal of 125,000 in FY 2022, although the formal presidential determination has not yet been issued. The administration's failure to address the delays, backlogs and impediments outlined above also undermine the ability of U.S. agencies to ultimately achieve this goal.



Appoint a senior-level White House coordinator for refugee resettlement.



Address delays in security checks that have operated to restrict entire nationalities with a disproportionate impact on Muslim refugees and that have particularly vulnerable cases in need of meaningful resettlement consideration.



Resettle as many refugees to the United States as possible, ensuring we redress harm caused by the delay in formally revising the FY 2021 refugee admissions goal. While the United States set the FY 2021 refugee admissions goal to [62,500](#) and resettled [1,530](#) refugees in June—more than in the previous three months combined—this number is woefully inadequate, and the administration must significantly ramp up resettlement to come close to meeting its goal for FY 2021.