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# Upholding And Upgrading Asylum

## Summary Recommendations for the Biden Administration

Nearly three years after President Biden took office, his administration should double down on effective and humane strategies that are essential to adherence to refugee law and an orderly approach to managing migration. As detailed in Human Rights First's full set of recommendations, the administration should:

- strengthen its initiatives to build regular pathways and regional refugee resettlement to the United States;
- increase humanitarian aid to address gaps in regional refugee protection that push people north;
- maximize access to U.S. ports of entry;
- upgrade asylum adjudications so they are prompt, fair and efficient; and
- improve coordination, resources and swift access to work permits.

Policies that ban, block, or punish people seeking asylum are neither humane nor effective. They [inflict disorder](#) and [massive human rights abuses](#). The president should honor the commitment he made during his campaign to restore asylum—a life-saving protection that many Americans [value](#) deeply -- and swiftly end his administration's [temporary asylum ban](#) and other policies that endanger, punish, and deny a path to citizenship to people who qualify for asylum under our laws.

In July 2023, a federal court [ruled](#) that the asylum ban is unlawful, but the policy remains in place on appeal. In the months it has been in use, it has [inflicted terrible human suffering](#). A course correction will bring the United States into compliance with its legal obligations to refugees while ending the asylum ban's undermining of effective refugee protection, migration management, and integration objectives.

Recent increases in irregular crossings at the southwest border require solutions that respond to realities. These crossings are [driven](#) by factors that include deteriorating conditions and protection deficiencies in other refugee-hosting countries; rampant misinformation; escalating kidnappings, torture, and assaults targeting migrants and asylum seekers who wait in Mexico; and the abysmal conditions and lack of safe shelter facing those who wait there. Also spurring these crossings is the lack of proper access to U.S. ports of entry – including the wait times for appointments, inequities and numerical limits on appointments, and the lack of sufficient access to ports of entry for at-risk people without appointments.

The Biden administration must counter racist narratives and reject dehumanizing and divisive rhetoric. Over the last few years, public discourse relating to asylum has been plagued by orchestrated, politically-driven, anti-immigrant rhetoric that portrays migrants and people seeking asylum as threats and invaders. This invasion rhetoric is rooted in, and fans, anti-democratic extremist conspiracy narratives embraced by far-right white supremacists, including by the perpetrators of mass killings in El Paso, Texas, and the Tree of Life Synagogue in Pittsburgh.

Along with the rejection of this rhetoric, the administration must depart from policies that inflict punishments on people seeking protection. Touting the use of a "stick" against people seeking refuge will not appease the perpetrators of xenophobic, racist rhetoric, but instead bolsters their dangerous narratives while creating more dysfunction and suffering, as well as damage to refugee law globally.

Our recommendations will help the Biden administration address those realities and strengthen the asylum system. Congressional support is critical to a functioning, rights-respecting asylum system. By contrast, efforts to deprive humane and effective policies of necessary funding, or to shut down government operations, are sure to thwart orderly processes and spur disorder.

At this pivotal juncture, the Biden administration should:

- **Strengthen and quickly ramp up its critical regional refugee resettlement plans and parole programs**, improving their speed, scale and access. These initiatives must never be coupled with denial of access to asylum.
- **Strengthen support for regional refugee hosting, asylum capacity, and regularization efforts in other countries in the Americas, urge regional governments to provide permanent status and protection from violence, and help address the urgent safety, shelter, and dire humanitarian needs facing at-risk people in Mexico as they wait to seek asylum at U.S. ports of entry**. While other countries host the vast majority of refugees (for example, 6.5 million of the 7.7 million Venezuelans who fled that country), deficiencies in regional refugee protection including the lack of more lasting status, underfunded asylum systems (in places such as Mexico and Costa Rica), xenophobia, political instability, and violence are pushing some people in search of protection to the United States. Many are Venezuelans, fleeing political repression and the dire humanitarian disaster in their country. Human rights, including the right to seek asylum and protection from violence, must be central to regional discussions and engagements.
- **At U.S. borders, uphold and comply with refugee law** without discrimination.

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- **Ensure prompt entry for people seeking asylum at U.S. ports of entry, both for those with and without CBP One appointments, maximize port access, allocate sufficient staff to processing at more ports of entry, and press Mexico to stop its officers from blocking people without appointments from accessing U.S. ports of entry.** People struggling to access U.S. ports of entry without appointments are often among the most at risk. Limited appointments, prolonged wait times, and barriers to port access for people without appointments spur irregular crossings. Port access should not be restricted through metering, the asylum ban, or other counterproductive policies that push irregular crossings.
  - **End the asylum ban and stop defending it in court.** The policy violates U.S. and international law. It endangers lives, wastes government resources by diverting already overstretched governmental asylum adjudicators, and denies many a path to family reunification, stability, integration, and citizenship. It is strongly opposed by faith groups, Holocaust survivors, unions, civil rights and LGBTQ+ organizations, members of the president's political party, and other key Biden administration allies.
  - **Provide trained child and refugee protection officers** for the U.S. response to, identification, and oversight of refugee and other humanitarian populations at the border.
  - **End credible fear interviews in CBP custody** where conditions are deficient, representation is impeded, and the asylum ban is used to improperly alter the credible fear standard.
- **Better structure, coordinate and resource humane refugee reception. Provide sufficient case support and funding at the border, in U.S. cities, and in interior communities:**
- **Enhance communication, planning, and coordination** with the network of faith-based, refugee aid, legal and non-profit humanitarian groups and shelters at the border and across the country that are essential to an effective reception and case support system. The administration should create a White House Task Force to improve coordination with federal agencies, humanitarian organizations, and U.S. communities. The governor of Illinois recently called for one White House official or office tasked with coordination. Ultimately, an agency focused on humanitarian and refugee reception should be created, as Human Rights First has long recommended.
  - **Increase Shelter and Services (SSP) funding**, administered by FEMA, to disburse funds as needed, rather than on a reimbursement model. The administration should lift limitations on using funds for transportation and shelter, and safeguard its humanitarian funding structure. The administration should work with Congress to increase funding to all cities—border and

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interior—receiving migrants and asylum seekers, including by [supporting](#) the [ASPIRE Act](#), which would provide an additional \$10 billion for EFSP and SSP funding, a foundation for the robust coordination that border and interior communities receiving migrants urgently need.

- **Coordinate transportation** from U.S. border cities to assist border and interior governments, non-profits, and people seeking asylum, rather than acquiescing to the flawed and politicized transport provided by the Texas state government.
  - **Ensure prompt work authorization for asylum seekers.** This is a top need identified by both asylum seekers and host communities. Building off recent actions to expedite work permit processing for parolees, the administration and Congress must ensure adequate funding to address work permit backlogs for other applicants, including asylum applicants and renewals, and ensure efficient and timely processing for all. The administration should also permanently extend validity periods through rulemaking, issue appropriate TPS re/designations and extensions, and support [legislation](#) to end six-month delays in initial eligibility for work authorization for asylum applicants.
  - **Employ effective and fiscally prudent [case and legal support strategies](#), avoid [inhumane, unnecessary, and wasteful](#) detention that violates human rights, and do not resurrect the failed policy of sending families with children to detention facilities.**
- **Upgrade asylum adjudication processes so that they are prompt, accurate, fair and fix system-wide inefficiencies:**
- **Resolve more asylum-eligible cases at the USCIS Asylum Office level**, so they are not unnecessarily and inefficiently added to already backlogged immigration courts. Provide additional officer and supervisor training and follow the USCIS Ombudsman’s suggestion to provide a “feedback loop” between the USCIS Asylum Office and the immigration court.
  - **[Improve](#) and restart the use of the new asylum processing rule by fixing unworkable counterproductive timelines** so the process leads to increased efficiency, rather than rushed, mistaken decisions that add to court backlogs. This [includes](#) ensuring that AMIs are scheduled at least 90 days after credible fear determinations; interview rescheduling and evidentiary filing extensions are provided within first year of entry and under good cause/exceptional circumstances standards in line with U.S. law; immigration court hearings are governed by regular removal proceeding timelines; initial referrals are not limited to cases in expedited removal; and unjust limits on reconsideration of credible fear denials are removed.

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- **Avoid use of expedited removal.** It diverts adjudicators' time and is riddled with due process and refugee protection flaws that multiply with the asylum ban or other harsh policies.
  - **Improve adjudication efficiency through USCIS Asylum Division research and analysis:** updated country conditions analyses applicable to persecuted religious, ethnic, or other groups; focused interview guidance for specific caseloads as the USCIS Ombudsman recommended; "pattern and practice" or similar analysis where a persecuted religious, ethnic or other group in a particular country would generally have well-founded fears of persecution (confirming as always that additional requirements must be met); and replicating any efficiencies in swifter refugee corps adjudications.
  - **Strengthen Immigration Court effectiveness and efficiency.** Employ pre-hearing conferences to narrow trial issues and stipulations on uncontested issues to reduce the number and length of hearings; use administrative closures and termination where cases can be resolved by USCIS, but only with consent of the individual or counsel; and avoid counterproductive "rocket dockets," "dedicated dockets," or other rushed dockets that inevitably exacerbate backlogs and undermine accurate decision-making, efficiency, access to counsel, and due process.
  - **Work with Congress to fund sufficient capacity for merits asylum adjudication** to address asylum office and immigration court backlogs, and the timely adjudication of new cases. This capacity includes immigration court staff, interpreters, immigration judges, and asylum officers to conduct full asylum adjudications, as well as funding for legal representation.
  - **Reject counterproductive requirements and barriers** in the asylum system. Over the years, rounds of legislative changes have rendered asylum adjudications unduly complex and time-consuming; the administration should eliminate, alleviate and reject wasteful, unnecessary, and unjust technicalities and hurdles.
- **Rescind Trump administration policies** that punish and block refugees from protection, and deny them a path to citizenship. The administration should also initiate rulemaking to safeguard protection of persecuted social groups and ensure compliance with international refugee law.
  - **Speak out against orchestrated anti-immigrant rhetoric and efforts** that portray people seeking asylum as invaders or threats. This dangerous invasion rhetoric is rooted in anti-democratic extremist conspiracy narratives and has been embraced by perpetrators of mass violence. False rhetoric asserting that "the border is open" should similarly be challenged. This misinformation reaches and influences some migrants, and is a boon to smugglers and cartels that peddle the same false

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information. The administration should firmly reject legislative or administrative proposals and policies that inflict punishment or cruelty. Punishing people seeking asylum is not a solution and will not “stem” migration. Instead, the Biden administration should focus on humane, rights-respecting migration management and properly resourcing asylum and immigration courts.

These recommendations are further detailed in Human Rights First’s full set of October 2023 recommendations and [follow multiple prior sets of recommendations](#) to the administration.