
Correcting the Record: The Reality of U.S. Asylum Process and Outcomes

Human Rights First has researched and documented the impacts of the asylum ban, heightened screening standards, and deportation in reports from [July and October 2023](#). The current discussion of U.S. asylum processes and outcomes demands an investigation of the facts:

People seeking protection are granted asylum at far higher rates than the Biden administration claims

- The Biden administration has relied on [misleading statistics](#) to claim that “most” people who pass their credible fear interviews “ultimately are not granted asylum.” The Trump administration used the same calculation method to mislead the public about asylum eligibility, as fact-checkers previously [explained](#).
- In reality, the majority of people who establish a credible fear of persecution are granted asylum if their case is decided on the basis of their asylum claims. In Fiscal Years 2022 and 2023 thus far, [55 percent](#) of people seeking asylum whose cases were decided on the basis of their asylum claims after positive credible fear determinations were granted asylum.

Use of the asylum ban in expedited removal has unlawfully heightened the credible fear standard, led to refoulement, and failed to achieve the administration’s goal of deterrence

- In violation of the credible fear standard created by Congress, the asylum ban imposes a higher screening standard in credible fear screenings. Compared to those who have a regular credible fear screening, people subject to the asylum ban and its higher screening standard are **more than [three times as likely to fail](#)** their screenings **and be ordered deported** without a chance to apply for asylum.
- This rigged process has already resulted in **deportation orders against [nearly 23,000 people](#)** subjected to the ban between May 12 and September 30, 2023.
- [Studies](#) and [history](#) have shown that harsh and punitive deterrence-based policies do not work to stop people from seeking refugee protection in the United States. Overwhelmingly, people in Mexico who plan to seek protection in the United States [are unaware of the asylum ban and its penalties](#) and so are not guided by the ban in determining their next steps in seeking protection. Instead, policies that block access to asylum [spur chaos](#) and [dysfunction](#), and harm people seeking safety.

Administration escalates mass detention of asylum seekers despite very high appearance rates for those released from custody

- In FY 2023, [99.5 percent of all people whose asylum cases were decided by immigration judges appeared for their hearings](#), with only .5 percent *in absentia* (i.e. failing to appear for their hearing). For those released from detention and placed on “Alternatives to Detention” programs in FY 2023, [99.1 percent](#) appeared for scheduled immigration court hearings. ICE’s Alternatives to Detention program, which includes the use of ankle monitors, home curfews, and other invasive surveillance, is punitive and unnecessary, as [data](#) reflects similarly high appearance rates for people not subjected to these kinds of surveillance measures.
- ICE has recently **detained over [39,000 people](#)**, an alarming and unprecedented number of people behind bars, under the Biden administration. The vast majority are transferred from custody at the border. Many of these people are seeking asylum who are forced to pursue their entire case in jails and without counsel. Detention is both [cruel and inhumane](#) and also unnecessary because the vast majority of people seeking asylum not in detention appear for their hearings.