

Saving Lives, Ending Inefficiencies

Steps to Strengthen the U.S. Asylum Adjudication System

Overview

People seeking asylum in the United States now face multi-year delays as they wait for their asylum interviews and hearings. After filing asylum applications with U.S. Citizenship and Immigration Services (USCIS), people often wait over six years for an interview with an asylum officer, [according to a 2023 survey](#) by the American Immigration Lawyers Association (AILA). The experience of Human Rights First pro bono clients confirms these findings, with those scheduled for interviews over the past year in many cases having waited six to eight years. The same AILA survey concluded that people seeking asylum in immigration court wait an average of [four years](#) for their final hearing before an immigration judge. At the start of 2024, both the USCIS [asylum office](#) and the [immigration courts](#) had backlogs of over one million asylum applications each.

Long wait times for asylum adjudications are traumatizing and debilitating, and can be catastrophic, for people seeking asylum and their families. People stuck waiting in the asylum office and immigration court backlogs are trapped in legal limbo without permanent status and left to live in fear that they could be deported to persecution or torture, as Human Rights First has detailed in prior [reports](#). Refugee families also suffer prolonged separations, as they must wait years for the asylum grants necessary to petition to bring spouses and children to U.S. safety. Due to these lengthy wait times, family members are left stranded in often dangerous and difficult situations. Many people seeking asylum are also unable to pursue educational opportunities or secure employment while waiting. Medical and torture treatment experts have urged steps to end these delays due to the [trauma](#) they inflict on an often already traumatized population.

Some politicians have attempted to use the asylum backlogs and delays to justify steps to deprive asylum seekers of due process or impose deadlines that deny people seeking asylum the time they need to gather evidence, prepare their legal submissions, and secure legal representation. The reality though is that due process, realistic timelines, and the small portion of cases that seek judicial review from federal courts did not cause these backlogs. These backlogs have grown, notwithstanding statutory and regulatory deadlines that require asylum interviews within [45 days](#) of the filing of the asylum application and immigration court hearing completion within [180 days](#).

In reality, the massive asylum delays and backlogs are caused by:

- The chronic failure over many years to adequately staff and fund asylum adjudications before USCIS and the immigration court;
- Round after round of added barriers and requirements that have complicated, lengthened, and delayed asylum adjudications over the years;
- The [redeployment](#) of an [overwhelming majority](#) of asylum officers away from conducting actual asylum adjudications to perform expedited removal and other screening processes instead; and

- The increase in people fleeing their countries in search of refuge — a global and regional development, though the overwhelming [majority](#) are hosted in other countries.

Rather than denying people seeking refuge due process and access to life-saving asylum, the Biden administration and Congress should take steps to address the actual causes of asylum backlogs and delays and to remedy system-wide inefficiencies. Critically, the Biden administration should overhaul the asylum system so that more cases that are eligible for asylum are resolved at the asylum office level rather than unnecessarily added to the immigration court backlog. As the USCIS Ombudsman flagged in a [June 2022 report](#), “most asylum cases referred from USCIS are ultimately granted by an immigration judge.” By resolving more eligible 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 the asylum office does not grant them relief.

In addition, the Biden administration must focus more on working with Congress to remedy the resource gaps that impede timely and fair asylum adjudications, and end and reject policies that impose counterproductive, unnecessary barriers that complicate and delay adjudications.

Summary of recommendations

The steps outlined in these recommendations will lead to a more accurate, efficient, timely, and fair asylum system. The Biden administration should:

1. Resolve more asylum-eligible cases at the USCIS asylum office level, so they are not unnecessarily and inefficiently added—or “punted”—to already backlogged immigration courts. Steps include:

- Additional asylum officer and supervisor training on the USCIS Asylum Division's role in the adjudication system's overall efficiency and steps to address patterns of unnecessary referrals; and
- [Strengthen](#) the Biden administration's [asylum processing rule](#) by fixing unworkable counterproductive timelines so that the process leads to increased efficiency, rather than rushed, mistaken decisions that add to court backlogs and inefficiency.

2. Improve USCIS Asylum Division adjudication efficiency:

- Develop and leverage efficiency tools such as country conditions analyses applicable to persecuted religious, ethnic or other groups, focused interview guidance for specific caseloads as the USCIS Ombudsman [recommended](#), and “pattern and practice” analysis for persecuted religious, ethnic, political, or other groups in a particular country that would generally have well-founded fears of persecution;
- Identify factors contributing to unduly long interviews, and develop interview tools, trainings, mentoring, and other steps to conduct more efficient interviews;

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- Replicate relevant technological, country-of-origin research or other efficiencies and streamlining tools employed in Refugee Corps and Afghan asylum case adjudications, as well as Afghan support center model for other populations;
 - Reduce USCIS Asylum Division asylum officer retention losses; and
 - Create an application process for “cancellation of removal” so such cases are not initiated through asylum filing.

3. Strengthen immigration court effectiveness and efficiency:

- Further ramp up use of prehearing conferences to narrow trial issues, and stipulations on uncontested issues, to reduce the number and length of hearings;
- EOIR should create an electronic scheduling system to allow asylum seekers and their counsel to easily request to schedule merits hearings in available slots on immigration court judges’ dockets;
- Continue to 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 exacerbate backlogs and [undermine](#) accurate decision-making, efficiency, access to counsel, and [due process](#).

4. Work with Congress to fund necessary capacity for merits asylum adjudications:

- Secure robust and sustainable funding to ensure the timely adjudication of asylum cases. These capacities should include immigration court staff, interpreters, immigration judges, and USCIS asylum officers to conduct full asylum adjudications, as well as funding for legal representation for indigent immigrants.
- Ensure asylum officers conduct asylum interviews. The massive deployment of asylum officers away from asylum adjudications to instead conduct the USCIS screening component of expedited removal cases must be remedied, ideally by ending or limiting the use of due process deficient expedited removal. To the extent expedited removal is employed, USCIS should be funded for its portion of that process to guard against it continuing to create new or exacerbate existing backlogs and delays.

5. Tackle the Backlogs:

- Secure appropriations, dedicate staff to backlog reductions, and use adjudication efficiencies outlined above to more quickly resolve caseloads;
- At the Asylum Division, prioritize applications pending the longest for interview while also scheduling interviews for child applicants and other recently filed applications; and

- Create an effective process to advance asylum interviews for applicants with medical, humanitarian, or other pressing concerns, including family members in dangerous or difficult situations abroad, and ensure access to advance parole for applicants with emergent reasons to travel abroad temporarily.

6. Reject counterproductive requirements and barriers in the asylum system:

- Support reforms to end and reject additional legislative or administration policies that erect unjust and unnecessary barriers to asylum that compound complexity, delays, and backlogs.

7. Advance efficiency, fairness, and consistency with international law through long-necessary regulatory action:

- Initiate rulemaking to safeguard the protection of persecuted social groups and ensure compliance with international refugee law – a critical step that will reduce mistaken rulings, unnecessary litigation, inconsistencies, and inefficiencies; and
- Rescind counterproductive policies that punish and block people seeking refuge as well as deny them a path to citizenship.

Detailed Recommendations

I. Resolve more asylum-eligible cases at the USCIS Asylum Division

Many asylum cases are granted at the USCIS Asylum Division, while others are properly found ineligible. However, other cases are rejected by the Asylum Division and referred to immigration court even though they meet the criteria for asylum eligibility. As the USCIS Ombudsman flagged in a [June 2022 report](#), “most asylum cases referred from USCIS are ultimately granted by an immigration judge.” Attorneys and legal non-profits routinely identify, and take on for legal representation, [many](#) asylum-eligible cases that could have been granted by the Asylum Division in the first instance. Cases that often fall into this category, include asylum-eligible cases that meet the exceptions to the one-year asylum filing deadline which are routinely [referred](#) to the immigration courts instead of being granted at the Asylum Division when they qualify for an exception to the deadline. The failure to grant eligible cases at the Asylum Division is inefficient, leads to otherwise unnecessary referrals to immigration court, and adds to the court’s backlogs and wait times.

In addition to addressing the issue of unnecessary immigration court referrals, more asylum cases could be resolved at the Asylum Division by maximizing the use of and making improvements to the Biden administration’s [Asylum Processing Interim Final Rule](#) (Asylum Processing IFR). The rule has the potential to resolve more cases at the Asylum Division and avoid the need for more resource-intensive removal hearings in immigration courts. However, due to the mass deployment of asylum officers to expedited removal screening and eligibility issues created by the Circumvention of Lawful Pathways rule, the process has only been used in a small portion of cases. Moreover, as government data and Human Rights First analysis [have confirmed](#), the very short timelines currently imposed by the process limit both access to counsel and the time available to gather necessary evidence and prepare cases. Unduly

short timelines, in turn, lead to inaccurate decisions and otherwise unnecessary referrals to immigration court. The Biden administration should fix the approach taken in the interim final asylum processing rule by removing unrealistic and counterproductive deadlines, so the process leads to increased efficiency, rather than rushed, mistaken decisions that add to court backlogs.

Recommendations: Overhaul USCIS Asylum Division adjudications to resolve more asylum-eligible cases at the asylum office level. USCIS should take steps including:

- **Providing additional training for asylum officers and supervisors.** This should include training on the Asylum Division's role in contributing to the overall functioning and efficiency of the adjudication system and the types of cases that tend to be unnecessarily referred or “punted” to the immigration courts — i.e., not granted at the Asylum Division even when they are eligible for asylum — such as asylum-eligible filing deadline referrals that meet filing deadline exceptions.
- **Identifying any other factors contributing to unnecessary referrals,** including practices at the [New York](#), [Houston](#), and [Boston](#) asylum offices, that refer an unduly high number of cases that are ultimately granted asylum.
- **Strengthening and restarting the use of the Asylum Processing Rule** which provides initial decision-making authority to the asylum office in cases originating from the southwest border. Swift action should be taken to [improve the rule in its final form](#), by removing unrealistic and counterproductive deadlines that [undermine accuracy and efficiency](#). These include steps to ensure:
 - Asylum Merits Interviews are scheduled at least 90 days after credible fear determinations;
 - Interview rescheduling and evidentiary filing extensions within the first year of entry and under the “good cause” and “exceptional circumstances” standards are in line with U.S. law and existing USCIS policy;
 - Immigration court hearings under the Asylum Processing IFR are governed by existing timelines for regular removal proceedings;
 - Initial referrals to the Asylum Division are not limited to cases initially placed in expedited removal; and
 - Removal of the unjust limits on the ability to request reconsideration of credible fear denials.
- **Securing qualified and competent interpreters for Asylum Division interviews.**
 - Provide qualified interpreters to asylum applicants unable to provide their own, to minimize mistaken, inefficient referrals to immigration court removal proceedings;

- Permit asylum seekers to bring their own interpreters, and allow interpreters, when any necessary pre-interview clearances have been obtained, to join by video; and
- Permanently codify the necessary [regulatory change](#) to provide interpreters for asylum interviews unless applicants can provide their own.

II. Improve USCIS Asylum Division adjudication efficiency

The Asylum Division's adjudication processes should also be made more streamlined and less bureaucratic and onerous. Human Rights First's asylum clients, legal staff, and pro bono attorneys have observed several inefficiencies relating to asylum interviews. These inefficiencies have included unduly long interviews that sometimes exceed four or five hours, as well as long periods devoted to interviews in areas that are not necessary or relevant to the adjudication of the case.

USCIS has initiated some important improvements in various areas of its operations that can be replicated in asylum adjudications. For example, USCIS recently implemented technological, logistical, country-of-origin, and other improvements to the refugee resettlement program (USRAP)—including to USCIS adjudication of whether an individual qualifies as a “refugee” under U.S. law—to reduce bureaucratic impediments and inefficiencies that long hampered the efficient operation of that system. These improvements have led to the ability to adjudicate many cases more quickly and without unnecessary delays. USCIS also appears to have developed country condition analysis or other processing tools to help address Afghan cases more efficiently.

Earlier this year, the Asylum Division announced the creation of an office dedicated to increasing efficiency and recently created an interview checklist tool that may help improve the pace of adjudications.

Recommendations:

- **Develop and leverage country of origin and other analysis tools to reduce efficiencies**, including:
 - Update country conditions analyses applicable to persecuted religious, ethnic, or other groups;
 - Focus interview guidance for specific caseloads, as the USCIS Ombudsman [recommended](#);
 - Use “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; and
 - Identify and address, through training, checklist, and other tools, factors that lead to excessive interview lengths and inefficient questioning.
- **Replicate relevant efficiencies in faster Refugee Corps** adjudications such as effective use of focused country of origin information and focused questioning relating to past and/or future persecution that avoids long lines of questioning that are not legally or factually relevant, as well as any technological or logistical

efficiencies.

- **Implement improvements to caseload management** including to use the country-of-origin strategies outlined above, 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 to expedite their interviews, create an application process for “[cancellation of removal](#)” so such cases are not initiated via asylum filing when the individual is not seeking asylum, facilitate resolution of cases that have alternate forms of relief — and avoid use of expedited removal, which diverts asylum officers and immigration courts from actual eligibility adjudications.
- **Address asylum officer retention challenges:** The Asylum Division must tackle—and reduce—its difficulties retaining staff as the loss of officers contributes to inefficiencies. These staff losses sap resources for hiring and training more new staff, contribute to a lack of supervisory officers with significant adjudicatory experience, and lead to wasted time at interviews due to the natural tendency of less experienced officers to devote significant time to asking questions that are not legally or factually relevant. Steps that can help reduce staff losses include improved officer and supervisory training, measures to address secondary trauma, and salary commensurate to the nature of these complex, inherently traumatic interviews.
- **Adopt and Adapt Innovations Employed with Afghan Cases.** USCIS should replicate case adjudication efficiencies, including those that leverage country of origin information, used to assist in adjudicating Afghan cases and replicate the successful [Afghan Support Center](#) model for asylum seekers of all nationalities. The USCIS-led Afghan Support Centers have been an excellent example of co-located services, bringing together USCIS officers, field offices, asylum offices, and other stakeholders from the Department of State and the Office of Refugee Resettlement, as well as community legal and humanitarian support organizations. Afghans and their legal service providers have been able to inquire about their asylum case status, solve common application issues like change of address, undergo biometrics collection, learn of their options for family reunification, and in a handful of instances learn of their asylum grants in real-time at the Support Centers. Attendees often receive critical information, updates, or support they were unable to get through following up with USCIS over the phone or by email. Scaling up and making such community-based events available to other asylum-seeking populations, would give people seeking asylum more agency in their application process and alleviate pressure on other self-service tools.
- **Restore focus on asylum adjudications, rather than deploying officers to screening interviews.** The use of expedited removal should generally be avoided given its diversion of limited governmental resources, as well as its due process and refugee protection deficiencies. These due process and refugee protection deficiencies are only multiplied when the policy is combined with the unlawful asylum ban, detention, inadequate timelines, lack of access to counsel, the conduct of its screening interviews in CBP custody, and other harsh policies.

III. Upgrade immigration courts

The delays and backlogs in the immigration courts have escalated sharply. The number of pending immigration court cases grew from [half a million in 2016](#) to over [about 3.5 million](#) in 2024. Of these immigration court cases, at least [approximately 1 million](#) involve applications for asylum. The immigration court backlogs and delays were—as Human Rights First detailed in a series of [reports](#) and [analyses](#) issued [since 2016](#) urging action to address these escalating problems—caused by a combination of factors including:

- The chronic failure over the years to properly fund and staff the immigration court system, while at the same time funding for the immigration enforcement agencies that refer people into immigration court proceedings skyrocketed;
- Increases in asylum and other cases referred into removal proceedings;
- Bottlenecks resulting from the lack of sufficient adjudication staffing and the continued addition of new immigration court cases;
- Delays in the hiring of new immigration court judges;
- Government shut-downs and 2011 sequestration which slowed hiring and delayed immigration court hearings;
- The COVID-19 pandemic which led to hearing cancellations, delays, and rescheduling years down the road; and
- Counterproductive attempts to create “rocket dockets” or similar fast-track dockets that disrupted dockets and adjudications and exacerbated backlogs.

Since President Biden took office, the Department of Justice and the immigration courts have taken a number of steps to restore the ability of immigration judges to manage their dockets, encourage the use of preliminary conferences, and improve the pace of immigration court hiring. The Biden administration has also requested appropriations for the immigration courts. At the same time though, the Biden administration initiated so-called “dedicated dockets” that resulted in [due process](#) deficiencies, diverted immigration court resources to the conduct of expedited removal, and in May 2024 initiated a new “[recent arrivals](#)” docket. Dockets that move unduly quickly [undermine](#) accurate decision-making and [due process](#), limit access to counsel, [exacerbate](#) backlogs, have repeatedly proven [counterproductive](#), and leave many asylum seekers waiting years longer for their asylum hearings.

The Biden administration should take a number of key steps to rectify the backlogs and delays in adjudicating asylum cases in the immigration courts.

Recommendations:

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- **Reduce hearing time and increase immigration court capacity.** The Biden administration should continue to request, and strongly pursue, Congressional appropriations sufficient to address the immigration court backlog and conduct most new hearings in a timely manner, while also implementing additional efficiencies including:
 - EOIR and ICE should take steps to **further capitalize on the use of prehearing conferences** to narrow issues for trial and enter into, and/or encourage, stipulations on uncontested issues to reduce the number of hearings conducted and the length of hearings; and
 - EOIR, ICE, and USCIS should work together to **strengthen the use of administrative closures, initial adjudication by the USCIS Asylum Division, and termination of cases** that can be resolved through pending USCIS petition, grants of Temporary Protected Status, or referral to the Asylum Division. However, neither the immigration judge nor ICE should pursue immigration court dismissals where the asylum seeker or counsel object, including for instance due to concerns that further wait time will delay family reunification or case resolution.
 - **ICE OPLA should ensure ICE Attorneys contribute to efficient and fair adjudications:**
 - Ensure ICE attorneys receive both updated country condition and refugee law training, as well as training on their role in the efficient identification and resolution of eligible refugee cases (in addition to contesting in cases where they identify ineligibility);
 - Aim as a matter of routine practice across OPLA offices to assign the same ICE attorney to the master calendar, conference, and final hearing or otherwise ensure that ICE honors conference agreements and stipulations;
 - Ensure that ICE attorneys review asylum applications and supporting submissions in advance; and
 - Focus on immigration court hearings on contesting particular issues or cases where they determine that there are questions regarding eligibility for asylum.
 - **Reject counterproductive “rocket dockets” or “dedicated dockets”** such as those created by the Trump administration, [the Asylum Processing IFR](#), and the **“dedicated dockets”** initiated by the Biden administration.
 - Instead, the immigration courts should create a process for asylum seekers to schedule and advance their backlogged cases, as many have been long separated from family or face other humanitarian difficulties due to years-long waits for adjudication; and
 - 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.

- **Promote efficiency through strengthened immigration court training** and leveraging of updated factual and legal analysis that:
 - Addresses evolving legal issues, country conditions, legal issues, and trauma-informed questioning including training from external experts; and
 - Leverages the USCIS asylum office country-of-origin and other analysis (recommended above) as well as UNHCR protection consideration analyses.

IV. Ensure robust and sustainable Congressional appropriations to provide timely and efficient adjudication

The primary impediment to prompt asylum adjudications is the long-term failure to adequately fund and staff the immigration courts and the USCIS Asylum Division to enable them to conduct interviews and hearings within the timelines already required by the [law](#). Compounding these challenges is the massive deployment of USCIS asylum officers away from actual asylum adjudications, to instead conduct expedited removal and other fear-screening interviews.

In a 2017 [report](#), Human Rights First detailed how the chronic underfunding of the immigration courts, in conjunction with massive increases in enforcement resources and a three-year hiring freeze, helped create the immigration court backlog. That backlog, and the resulting delays, has only grown over the intervening years as Congress has continued to allow immigration court funding to lag.

Meanwhile, Congressional appropriations for U.S. immigration enforcement agencies have [skyrocketed](#). In 2023, the Congressional Research Service [estimated](#) that “it would take 300 or more additional IJs to begin to reduce the backlog,” and that “an additional 700 [immigration judges] would be needed to fully clear the backlog by fiscal year 2032.”

The USCIS Asylum Division is, like most USCIS operations, primarily funded through [USCIS fees](#). In [2016](#) and over the [years](#) since, Human Rights First warned that the diversion of asylum officers away from conducting asylum interviews was leading to delays and backlogs at the asylum office. The USCIS fees that were initially used to fund asylum adjudications have essentially been rerouted to fund the USCIS component of expedited removal. Despite the authorization and expansions of the use of expedited removal, and the massive funding of immigration enforcement agencies, Congress has not only failed to adequately fund immigration court and asylum office adjudications, it has also failed to fund USCIS to conduct the screening component of expedited removal.

Predictably, with many asylum officers deployed away from conducting actual asylum adjudications, along with the increase in people seeking refuge from persecution, repression, and violence, the Asylum Division’s backlog has risen sharply. Between fiscal years 2016 and 2019, 89 percent of asylum officers employed on average each year were temporarily reassigned from adjudicating asylum applications to carry out fear screenings at the border, based on government data published by the USCIS Ombudsman. The USCIS Ombudsman [noted](#) that this massive diversion of resources “inhibit[s] the agency’s ability to reduce the affirmative asylum backlog.” After its [May 2023](#) Circumvention of Lawful Pathways Rule (CLP asylum ban) was implemented, the Biden administration confirmed that the overwhelming [majority](#) of asylum officers were deployed away from full asylum interviews to instead

conduct expedited removal credible fear interviews. In his June 4, 2023, Presidential Proclamation, President Biden reported that DHS had, during the year since the CLP asylum ban went into effect, “maximized the use of expedited removal,” and conducted a record high of 152,000 credible fear interviews.” In a November 2023 report to Congress, USCIS [explained](#) that:

The ongoing growth in the credible fear caseload at times requires an overwhelming majority of USCIS asylum officers to conduct those screening determinations, thus reducing the number of officers available to conduct affirmative asylum interviews and complete affirmative asylum adjudications.

The diversion of asylum office staff from affirmative asylum processing to other critical and urgent humanitarian caseloads has been a continuing challenge to addressing the full scope of pending affirmative asylum applications and is exacerbated by the fact that USCIS is not appropriated funding generally for its congressionally mandated humanitarian mission

... Without staff funded specifically for the completion of the longest pending asylum cases, much of these staffing resources are instead prioritized for the screening of detained individuals and newly filed asylum applications by Operation Allies Welcome Afghan parolees.

As of April 2024, the USCIS Asylum Division backlog stood at [1,206,980](#) pending applications for asylum. The immigration court backlog, as noted earlier, stood at approximately [1 million](#) asylum cases pending as of December 2023.

Beginning in fiscal year 2022, Congress has provided some limited funding for asylum backlog reduction in addition to fee-funded processing. Most recently, Congress provided [\\$34,373,000](#) for affirmative asylum backlog reduction in fiscal year 2024. While the border bill negotiated by Senators Lankford, Murphy, and Sinema included some funding for USCIS, the bill did not direct that funding to full asylum adjudications or asylum backlog reduction, raising concerns that it would have again been used only or primarily to conduct screening interviews in expedited removal and other enforcement procedures, rather than to conduct full asylum adjudications.

The President’s Budget for fiscal year 2025 [requested](#) some discretionary funding for USCIS, including its Refugee and International Operations Programs Directorate, in which the asylum office is located. The budget does not specifically request funding to conduct actual asylum adjudications or to address the asylum backlogs, raising concern that any appropriated funds will simply be rerouted away from conducting asylum interviews to instead fund the USCIS component of expedited removal and other enforcement procedures. The administration’s budget also requested [\\$981,133,000](#) for the Executive Office for Immigration Review, which contains the immigration courts, a step in the right direction that falls far short of providing the necessary level of funding for immigration court staff and judges.

Recommendations:

- **Congress should robustly and sustainably appropriate funds for asylum adjudications** including increased immigration court staff, immigration judges, and interpreters so that the immigration courts can

address both incoming and backlogged removal cases; for USCIS to hire additional staff to provide more timely asylum interviews and decisions for asylum applicants and to address and decide cases stuck in the asylum office backlog; and to resource USCIS staffing to address long delays in pending work permit applications and renewal applications for asylum seekers.

- **The Biden administration should champion these necessary appropriations.** As they continue to advocate with Congress in connection with the administration's Fiscal Year 2025 budget request, administration officials at DHS, CBP, and ICE should strongly and publicly press the need for funding for asylum, immigration court, and work authorization adjudications, and push strongly for Congress to appropriate these crucial funds. Instead of continuing to push the highly flawed border bill that denies asylum seekers due process and access to asylum, the President and DHS leaders should publicly and repeatedly call on Congress to properly fund asylum and immigration court adjudications so that asylum cases are adjudicated in a timely manner.
- **Request and support funding for legal representation:** The Biden administration should champion and support government-funded legal representation for indigent immigrants and legal orientation programs to improve access to due process and increase accuracy in decisions. Funding legal representation will [ensure](#) bona fide asylum claims are presented properly, reducing the risk of refoulement, and will ensure the entire immigration system functions more efficiently.

V. Reject counterproductive requirements and barriers

Over the last twenty-five years, round after round of legislative and executive changes have imposed a barrage of additional barriers and requirements that have rendered asylum adjudications increasingly complex and time-consuming. These barriers impact the time devoted to individual cases as people seeking asylum, their attorneys, and asylum adjudicators themselves are, as a result, required to provide legal analysis and factual research on these new technicalities and impediments. These include, for example, the one-year asylum filing [deadline](#), [expedited removal](#), the legally convoluted "[Terrorism Related Inadmissibility Grounds \(TRIG\)](#)" bars (that mislabel victims of armed groups as threats), the evidentiary requirements of the REAL ID Act, and the [CLP transit and entry asylum bans](#). In recent years, both the Trump and Biden administrations imposed additional bars on asylum in connection with asylum seekers' transit routes and entries.

This array of additional requirements, along with various bureaucratic requirements, has massively added to case complexity and adjudication times. They have turned what should be efficient assessments of eligibility for refugee status and legal bars to that protection into a gauntlet of onerous and often insurmountable requirements, technicalities, and barriers that consume the time of adjudicators and can lead to unjust denials of asylum.

Recommendations:

- **Reject efforts to impose more unjust and wasteful requirements.** The Biden administration and Congress should reject any legislative or other proposals that inject more barriers into the asylum system.

- **End and reduce unnecessary inefficiencies.** Instead of continuing or adding more counterproductive, inefficient, and unjust barriers to asylum, the administration and Congress should work to make asylum adjudications more effective and just by eliminating and alleviating unfair, counterproductive barriers. For example, the Biden administration should rescind its CLP asylum ban rule, which it has said would be only temporary. Congress and the Biden administration should look for opportunities to end the counterproductive asylum filing deadline, which both the [Obama](#) and [Biden](#) administrations have concluded should be eliminated. U.S. agencies should take the steps outlined above to improve adjudication efficiency and should reduce rather than add to unnecessary bureaucratic requirements.

VI. Advance efficiency, fairness, and legal consistency through regulatory action

The regulatory actions outlined below will improve the effectiveness and efficiency of asylum adjudication, uphold refugee law, and protect refugees from unjust denials of a path to citizenship that [thwart](#) their integration and impact their families and communities.

Recommendations: The Biden administration must quickly, and without further [delay](#), move ahead with necessary regulatory actions to decisively end various Trump-era policies and initiate rulemaking to ensure compliance with international law. Key steps include:

- **Initiate rulemaking to [safeguard the protection](#)** of persecuted social groups and ensure compliance with international refugee law — a critical step that will reduce mistaken rulings, unnecessary litigation, inconsistencies, and inefficiencies. 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; and
 - 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.
- **End or rescind Trump administration policies** that punish and block refugees from protection and/or counterproductively deny them a path to permanent residence and citizenship. These policies undermine efficiency, fairness, and consistency with international law. They should be fully rescinded so that future administrations cannot rely on the authority they provide. Rules that should be ended or rescinded include:
 - The “[death to asylum rule](#)” (also referred to as the “global asylum rule”) that attempted to illegally rewrite virtually every aspect of asylum law;

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- 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. Alarming, the Biden administration has yet to rescind it, but instead has only delayed its effective date, [scheduling](#) the rule to take effect in January 2025; and
 - An [interim final rule](#) implementing “unsafe third-country agreements” to return refugees to danger.
 - **Rescind the Biden administration Asylum Bans, specifically:**
 - The “temporary” [May 2023 Circumvention of Lawful Pathways](#) “asylum ban” rule which bars people crossing between ports of entry, or arriving at ports of entry without appointments, from asylum or asylum hearings with highly limited exceptions. A wide and diverse [range](#) of faith leaders, legal experts, unions, LGBTQ+ and civil rights organizations, as well as Members of the President’s own political party, opposed the rule. The Biden administration should bring this “temporary” bar to asylum, which has been found unlawful by a [federal court](#), to an immediate end. In addition to [inflicting human suffering](#) and [asylum denials](#), the rule adds to adjudicatory inefficiencies, diverts the time of asylum adjudicators by imposing additional lines of inquiry, and wastes time that could be devoted to instead conducting full asylum adjudications. It also [deprives](#) people determined to be “refugees” under U.S. law of a path to permanent residency, citizenship, and stability – inefficiently leaving them in perpetual limbo and counterproductive to integration;
 - Regulations creating the Trump administration's asylum entry and transit bans must not be inadvertently resurrected when the Biden administration’s temporary asylum ban rule is ended, rescinded, or vacated; and
 - The new June 4 [presidential proclamation](#) and [interim final rule to bar people seeking asylum](#) at the border, which [sparked strong opposition](#), violates refugee law, and endangers people seeking asylum.

In addition, [regulatory improvements](#) to advance efficiency and remedy due process deficiencies in the Biden administration asylum processing rule, which were outlined earlier in this paper, should be implemented.