

# Human Rights First

## Discrimination, Detention, and Deportation: Immigration & Refugees

<https://www.humanrightsfirst.org/resource/fair-timely-and-less-traumatizing-asylum-process>

### Policy Issue Resources

Work With Asylum Seekers

If you are seeking asylum, we can help

Areas of Focus

Current Initiatives

The backlogs and delays at the U.S. Citizenship and Immigration Services (USCIS) Asylum Office and the immigration courts have reached new record highs, as long-standing challenges and pandemic-related adjournments continue, leaving refugees waiting years to have their asylum applications resolved and reunite their separated families.

The backlogs and delays at the U.S. Citizenship and Immigration Services (USCIS) [Asylum Office](#) and the [immigration courts](#) have reached new record highs, as long-standing challenges and pandemic-related adjournments continue, leaving refugees waiting years to have their asylum applications resolved and reunite their separated families. Over the course of its four years, the Trump administration [decimated](#) the U.S. asylum system through policies that rigged adjudications against asylum seekers and [exacerbated backlogs](#) and [delays](#) that had grown over many years. The Biden administration must take urgent action to address these escalating challenges.

As Human Rights First has detailed in a [series of reports](#), the delays and backlogs at the [Asylum Office](#) and immigration courts create enormous suffering for asylum seekers, often subjecting them to prolonged separation from their families and leaving their children and spouses in danger abroad. Many asylum seekers are unable to secure employment or pursue educational opportunities, all the while living in fear that they could be deported to persecution or torture because their asylum cases have not yet been resolved.

Over the last year, Human Rights First has repeatedly detailed, and shared with the Biden administration, recommendations for addressing these backlogs and strengthening asylum processing so that it is more fair, timely, humane, and orderly. These recommendations have been outlined in [blueprints](#), a [report](#) on Asylum Office backlogs, a [paper](#) on improving fairness in immigration courts, public health [measures](#) for processing cases during the pandemic, and in January 2022 [recommendations](#) to the Biden administration at its one-year anniversary. This paper updates prior recommendations, taking into account steps already taken by the Biden administration as well as missteps that thwart due process and refugee protection.

#### Background: Backlog Growth and Exacerbation

While delays and backlogs in the Asylum Office and immigration courts have slightly different causes, both were prompted by [failures](#) over multiple administrations and Congresses to properly staff adjudicatory functions while staffing and funding for enforcement actions skyrocketed and as adjudicatory agencies adopted [policies](#) aimed at sending deterrent messages to asylum seekers.

The Asylum Office backlog exploded under the Obama administration, which increased the use of expedited removal and redirected Asylum Officers from adjudicating asylum cases to instead conduct fear screenings. This backlog continued to grow as the Trump administration diverted Asylum Division resources to block and turn back refugees seeking U.S. asylum protection at the U.S.-Mexico border. In addition, long backlogs and delays in the adjudication of [employment authorization](#) applications and asylee family reunification [petitions](#) have had devastating impacts on individuals and families seeking protection in the United States.

The backlog in the immigration courts was initially triggered by lagging resources, a chronic imbalance in funding for adjudicatory (as opposed to enforcement) functions and a three-year hiring freeze, as Human Rights First detailed in reports issued in [2016](#) and [2017](#), and logjams grew further as incoming cases rose. The backlog was exacerbated by both Obama and [Trump](#) administration policies that sought to send a deterrent message by imposing expedited dockets and other policies that actually increased delays and undermined the ability of judges to efficiently manage their dockets. Studies conducted by the [Marshall Project](#) and the [Migration Policy Institute](#) detailed how the Trump administration repeatedly limited immigration judges' ability to manage their dockets and further complicated adjudications with rulings that sought to limit asylum eligibility. Also contributing to the immigration court backlog is the Asylum Offices referrals of thousands of cases that could have been granted by asylum officers (and ultimately were granted by immigration judges). For instance, by Fiscal Year (FY) 2018 and 2019, asylum cases [referred](#) from the Asylum Office to immigration court had grown to nearly 30 percent of new [asylum filings](#) in immigration court in those years.

The backlogs and delays in both the Asylum Office and immigration courts have grown even larger as more people seek asylum in the United States and due to pandemic-related closings. People seeking refugee protection in the United States [include](#) asylum seekers from China, Cuba, Haiti, Nicaragua, and Venezuela in addition to the Central American countries of El Salvador, Guatemala, and Honduras. Many have also sought refuge in Colombia, Costa Rica, Panama, and other countries in the Americas including Mexico, which received

a [record](#) number of asylum applications in 2021. In addition, [hundreds of thousands](#) of [interviews](#) and [hearings](#) were canceled, rescheduled, and/or delayed over the last two years due to the pandemic.

Attempts to create fast-track adjudication processes and impose additional deadlines and timelines have repeatedly had the counterproductive effect of exacerbating and increasing delays. Despite this reality, some proposals proffered under the Biden administration to address backlogs and delays in the Asylum Office and immigration court systems are fixated on timelines requiring fast processing. The reality is that these backlogs and delays have emerged and grown, despite the existence of such requirements. Creating even shorter timelines will not cure delays, it will only lead to mistaken decisions that need to be corrected, exacerbating delays in rendering final decisions.

Instead, the Biden administration should overhaul USCIS asylum adjudications and upgrade immigration courts to provide more timely, humane, effective, and fair decisions.

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Joint Letter to President Biden, Secretary Mayorkas & AG Garland on Title 42

Letter

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Amicus Briefs

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A Shameful Record: Biden Administrations Use of Trump Policies Endangers People Seeking Asylum

Reports

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A Sordid Scheme: The Trump Administrations Illegal Return of Asylum Seekers to Mexico

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A Year After Del Rio, Haitian Asylum Seekers Expelled Under Title 42 Are Still Suffering

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After Appeals Court Stay, Human Rights First Renews Call for Biden Administration to End Trump Expulsion Policy

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After Two Years, Biden Must End Migrant Protection Protocols and Bring Asylum Seekers Swiftly to Safety

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Amicus brief: Louisiana v. CDC

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Amicus Brief Wolf v. Innovation Law Lab

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Any Version of Remain in Mexico Policy Would Be Unlawful, Inhumane, and Deadly

Fact Sheets

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

Fact Sheets

Urge Congress to pass the Afghan Adjustment Act

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