

Human Rights Watch

Children's Rights

<https://www.hrw.org/news/2021/02/13/more-action-needed-end-family-separations-and-protect-children-border>

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As attorneys who met with hungry, dirty, desperate children separated from their families at the southern border during the height of the kids-in-cages calamity in 2019, we had hoped [President Biden](#) would quickly fix the problem. So far, we've been disappointed.

America needs a fundamental shift away from [President Trump's](#) border policy. The Biden administration should prioritize asylum seekers humanitarian needs, rather than treating them, including children, as security threats.

On Feb. 2, the Biden administration promised important first steps, including creating a task force to reunify separated families and rolling back some of the worst of the Trump administrations assaults on the U.S. asylum system. But these changes are not enough.

The biggest gap is the failure to immediately rescind an order that gives border agents the authority to summarily expel migrants, including children. Although this order by the Centers for Disease Control and Prevention (CDC) purports to be a response to the COVID-19 pandemic, the CDC's [own doctors](#) said the decision had no basis in public health.

Since last March, the order, known as Title 42 for its place in the U.S. code, has allowed agents to expel nearly [400,000 people](#) and deny border crossers the right to seek protection in the United States, in violation of both the United Nations Refugee Convention and domestic law. This includes more than [13,000 unaccompanied children](#), many of whom came here in search of parents and other separated family members or to find refuge from threats to their lives.

Title 42, like the Remain in Mexico program, strands asylum seekers in [dangerous Mexican border cities](#) where they have no meaningful access to due process or legal representation. Many end up in crowded, filthy camps and shelters in the midst of the pandemic. The new executive orders only direct an agency review of whether and how to end this program.

We have spoken with asylum seeking children and adults in Tijuana, Ciudad Juarez, Nuevo Laredo and Matamoros who described being sexually assaulted, abducted for ransom, extorted, robbed at gunpoint and subjected to other crimes. One organization has [counted](#) at least 1,314 reports of murder, torture, rape, kidnapping and other violent attacks against asylum seekers and migrants returned to Mexico.

The Biden administration should swiftly give these asylum seekers and children the chance to join families or others eager to shelter them in the United States. It should minimize the time people spend in government custody, and ensure that they are provided with due process as their cases are heard all while protecting public health.

Public health and medical experts at leading public health schools, medical schools, hospitals and other institutions issued [a letter](#) in late January urging the CDC to rescind the [current order](#), which the experts concluded has no scientific basis as a public health measure, and to adopt rational science-based measures to safeguard public health while processing asylum seekers and children at the border during the pandemic. These measures include the use of masks, personal protective equipment, ventilation, testing and social distancing and avoiding detention.

The Biden administration may be choosing to drag its feet on ending Trump border abuses because it doesn't want to encourage more people to come. This isn't new. For decades, the United States has justified cruelty at the border with the canard that such treatment will deter future migrants from coming. But after months of mass separations of parents from their children in 2018 the cruelest policy ever rolled out in the name of deterrence border apprehensions surged in 2019.

Even after litigation and public pressure brought an end to thousands of parent-child separations in 2018, we interviewed children who were detained for weeks in border jails in inhumane and abominable conditions. They were held alone because [agents separated them](#) from non-parent caregivers.

There is nothing in the Biden administrations actions so far that will stop that from happening. In fact, CNN [reported](#) that the

administration is readying an overflow shelter for children in Carrizo Springs, Texas. We worry that most of the children sent there will be separated from their caregivers, just as they were before.

If the U.S. government's goal was humanitarian reception, not cruel deterrence, children would stay with trusted caregivers throughout their short time in government custody and then be released into supportive community alternatives. And there's no reason to worry about asylum seekers absconding. With access to an [attorney](#) or a [social worker](#), asylum seeking families appear at their immigration court hearings most of the time. As the Department of Homeland Security concluded in 2016, detention is neither appropriate nor necessary for [families](#).

We think back to 2019 when three sisters ages 4, 8, and 12 told one of us that after crossing the border, they were detained in a Customs and Border Patrol facility in a cage with their grandmother. At 3 a.m., officers came and separated these young girls from their grandmother, even though she showed the officers a document signed by their parents saying that she had been entrusted to care for them. Days later, when we met them, the sisters still cried for their grandmother. They did not know if they would ever see her again.

Agencies such as the Federal Emergency Management Agency (FEMA) can help to meet the basic needs of asylum seekers and children, a less costly and more humane option than detaining them in border patrol and immigration custody. FEMA has expertise in coordinating with and assigning federal assets to local partners, both individuals and nonprofits. The trick is to do this quickly.

Luckily, along the border, community-based organizations, faith-based groups, and other non-governmental organizations have been providing simple and volunteer-driven responses to people in need: cooking food, providing access to medical care, and ensuring babies have diapers. A coordinated approach could harness these community initiatives to meet children and families' basic needs while their asylum claims are processed.

Ensuring that the government never again inflicts this harm on children and their families requires a full, public accounting of what happened and how. But without deeper reforms aimed at truly meeting humanitarian needs with humanitarian responses, we will not have put the era of kids in cages behind us.

Children and Families Sent to Harm by the US Remain in Mexico Program

Failure of Protection under the US-Guatemala Asylum Cooperative Agreement

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