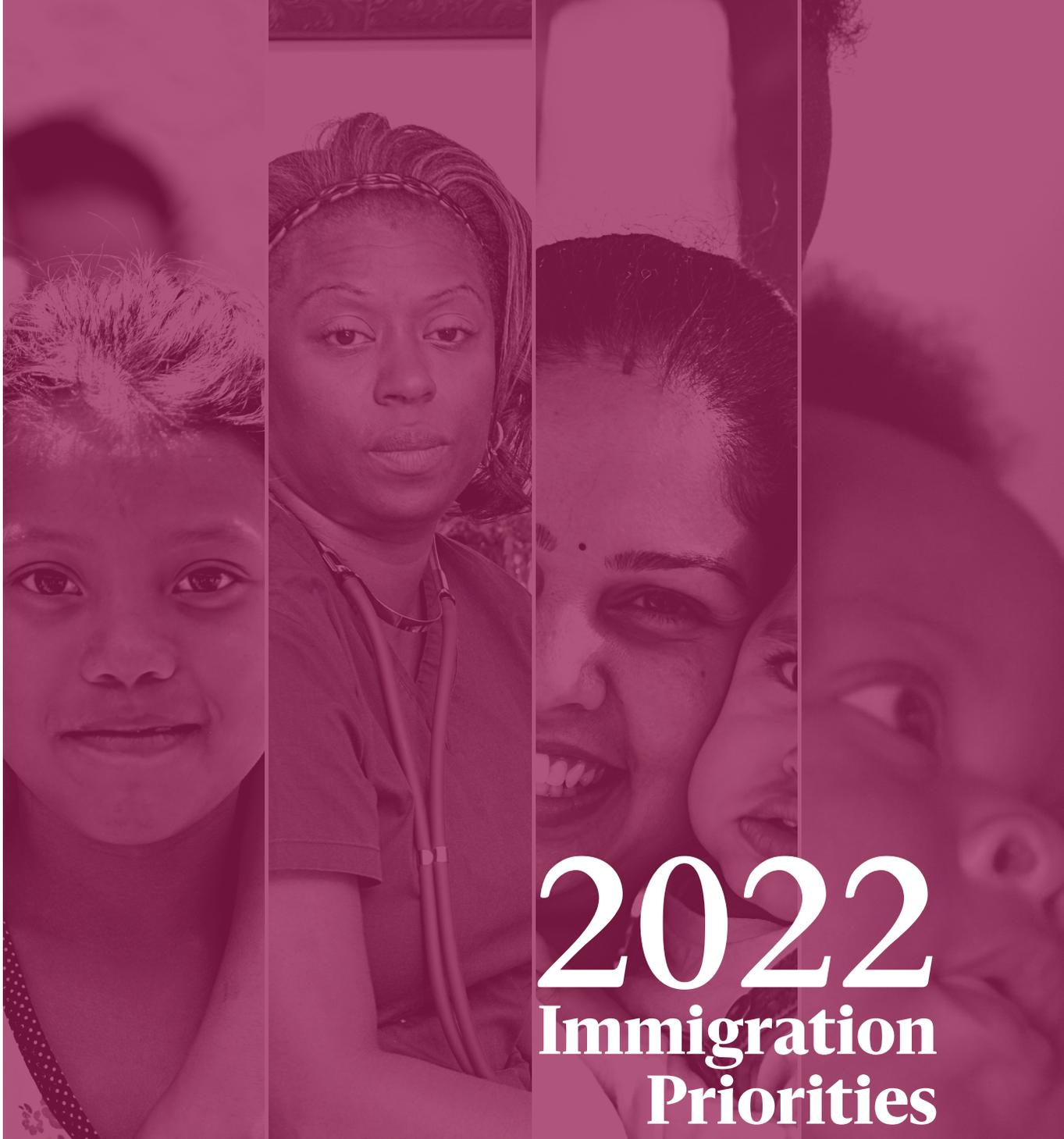


22 Feb. 2022



2022

Immigration
Priorities

A Blueprint for the Biden-Harris Administration



EXECUTIVE SUMMARY

The Biden administration started with an ambitious immigration plan and an experienced team, and although there was some modest success in reversing or terminating certain immigration policies, there is deep disappointment in the speed and substance of the planning for, and investing in, the restoration and expansion of access to asylum and other protections at the border, to deliver lasting protections for immigrant families in the United States, and to take decisive action to reimagine and reform our immigration and militarized enforcement systems.

This year, the administration must double down on efforts to pass a reconciliation bill with immigration provisions, designate all countries eligible for Temporary Protected Status (TPS), increase current programs that respond to regional development and humanitarian challenges, introduce new safe pathways to the United States, restore asylum access at the border, and more aggressively shift the immigration system toward a model that prioritizes safe and humane migration.

By December 2021, the administration had terminated or revoked 235 of the over 1,000 anti-immigrant Trump policies and implemented dozens of new immigration policies consistent with a safe and humane immigration system. Successes included lifting the Muslim, African, wealth, and health bans, ending worksite raids, protection for over 477,000 people from removal to countries in strife through Temporary Protected Status (TPS) and Deferred Enforced Departure (DED) (among notable exceptions), and creating the Family Reunification Task Force.

Many of the actions by the administration thus far were identified as priorities in the [2021 Immigration Action Plan](#) issued by 235 organizations in August 2020 to guide the new administration, and much of the progress in 2021 was the result of arduous work over many years by immigrants and refugees, immigration and civil rights advocates, non-governmental organizations, and many others working at the national and state levels, including local efforts to terminate detention contracts, close detention centers, and end local law enforcement cooperation with ICE.

Despite their progress, the Biden administration fell short in its first year towards fulfilling the promise of a safe, just, and humane immigration system. Some of the previous administration's most egregious policies remain in place, and bolder action is needed in critical areas. The border remains closed to asylum seekers due to the continuation and expansion of two major Trump-era policies: Remain in Mexico (Migrant Protection Protocols, MPP) and Title 42. After reinstating the MPP under court order, the administration [expanded the criteria](#) for who would be covered under the program, applying it to all nationals of the Western Hemisphere despite its own arguments that the program is inhumane.

The Biden administration continues to implement Title 42 restrictions, which disproportionately affect Haitian asylum seekers, despite condemnation from [human rights groups](#) and [public health professionals](#). Immigration detention also [grew by over 50%](#), from roughly 15,000 at the beginning of the Biden presidency to over 22,000 in January 2022. Despite moves to reunify formerly separated families, the Department of Justice was arguing against reparations for these deeply traumatized parents by December of last year. While some of the administration's efforts were stymied by anti-immigrant Attorneys General, other measures were either not pursued or abandoned, including TPS designations and re-designations for a myriad of eligible countries and meaningful efforts to address the growing adjudication backlog at U.S. Citizenship and Immigration Services (USCIS).

With COVID-19 still raging, the pandemic has highlighted the contributions and sacrifices of essential immigrant workers. A majority of Americans continue to [support](#) a pathway to citizenship for these workers and others. Despite this, Congress has still not passed such legislation even as essential immigrant workers continue risking their lives to care for America's communities amid severe labor supply shortages across the country.

This report identifies where the administration has succeeded, and where it has not, in six core immigration policy areas. In 2022, the Biden administration should honor its commitment to revoke Trump-era policies, eliminate and decrease the criminalization and incarceration of immigrants, prioritize family reunification through the use of Temporary Protected Status and other statutory avenues, and pursue policies that promote a safe, just, and humane immigration system. It should lean into the commitments made to immigrants and their families by implementing policies that recognize their essential contributions, put them on stable legal ground while they await a legislative pathway to citizenship, and resolve the increasingly backlogged system. Finally, the administration should prioritize affirmative, pro-immigrant policies that go beyond returning to the status quo, which has long been untenable. This will help renew the trust of non-governmental organizations (NGOs) and other allies who support the ambitious vision for a restored, humane, and just immigration system.

President Biden inherited a broken immigration system usurped and weaponized to advance the Trump administration's racist and xenophobic governing agenda. Biden's Day One plan included actions to: 1) establish a pathway to citizenship for our 11 million undocumented friends and families through sweeping legislative proposals; 2) reverse the cruelty and chaos of Trump's anti-immigrant agenda; and 3) reorient every immigration agency, policy, and practice toward fairness. As certain Republican leaders continue to embrace the nativist politics of Donald Trump to stoke fear and division and block needed reforms at every turn, strong leadership on immigration is critically needed.

As we begin 2022, the administration enters a pivotal period: President Biden must deliver on his commitment to a more fair, humane, and functional immigration system—or risk political fallout, ongoing harm to families, and undermining American values and competitiveness.

The 2022 Immigration Priorities: A Blueprint for the Biden-Harris Administration has been endorsed by the following organizations:

African Communities Together (ACT)
Alianza Americas
American Immigration Lawyers Association (AILA)
America's Voice (AV)
Asian Americans Advancing Justice | AAJC
Asian Pacific Institute on Gender-Based Violence (API-GBV)
ASISTA
Cameroon Advocacy Network (CAN)
Catholic Legal Immigration Network, Inc. (CLINIC)
Center for Law and Social Policy (CLASP)
Central American Resource Center of Northern CA - CARECEN SF
Church World Service (CWS)
First Focus
Haitian Bridge Alliance (HBA)
Human Rights First (HRF)
Immigration Hub
International Refugee Assistance Project (IRAP)
National Partnership for New Americans (NPNA)
Refugee and Immigrant Center for Education and Legal Services (RAICES)
Refugees International
Robert F. Kennedy Human Rights Center
Save the Children
Southern Border Communities Coalition (SBCC)
UndocuBlack Network (UBN)
United Stateless (USL)
Witness at the Border

Note: Sarnata Reynolds, Director of Policy for the Immigration Hub, originated, led and co-authored the 2022 Immigration Blueprint with Taisha Saintil, the Immigration Hub's Advocacy Fellow. We are grateful to all of our NGO partners who contributed to making the 2022 Blueprint a comprehensive policy document, and for the support of Lora Adams, Senior Policy Associate at Masa Group.

Protection and Relief to Keep Immigrant Families Together

- ▶ **Continue** to support and promote a pathway to citizenship for all undocumented immigrants.
- ▶ **Exercise** discretion for individuals with meaningful ties to the United States and those who are stateless so that they are protected from removal and can maintain their residence.
- ▶ **Designate** countries for TPS or DED when conditions prevent them from being able to care for or protect their nationals.
- ▶ **Continue** to take all necessary steps to protect the Deferred Action for Childhood Arrivals (DACA) program for immigrant youth.
- ▶ **Allow** individuals to apply for cancellation of removal affirmatively by creating a joint process between USCIS and the Executive Office for Immigration Review (EOIR).
- ▶ **Continue** to pursue and expand a robust humanitarian parole program for Afghans, Central Americans, and Haitians in danger overseas and at the U.S. border.
- ▶ **Establish** a statelessness status determination. Extend parole or deferred departure to stateless individuals and do not place them in post-removal detention because they do not have a nationality and therefore cannot be removed.
- ▶ **End** family separation and prevent it in the future. End policies that separate children from their parents, adult family members, and trusted caregivers. Require agencies to consider the “best interests of the child” in every decision.
- ▶ **Reunify** all children separated from their families by the previous administration and formally end family detention.
- ▶ **Reduce** immigration backlogs by streamlining the adjudication process and terminating all policies and practices that are not required by law to address the millions of USCIS applications and petitions pending for years.
- ▶ **Process** immigrant visas up to the categorical limits on family-based, employment-based, and diversity visas in Fiscal Year (FY) 2022, and apply any unused visas to the next fiscal year.

Routing Out Discrimination and Anti-Blackness in the Immigration System

- ▶ **Immediately issue** invitations to Haitians qualified for the Haitian Family Reunification Parole Program.
- ▶ **Review** all immigration-related law, policy, practice, and processes to determine whether they disproportionately impact BIPOC communities, consistent with President Biden’s [executive order](#) on advancing racial equity.
- ▶ **Protect** and support an increase to the diversity visa program, withdraw [Department of Justice’s appeal](#) of *Gomez v. Biden*, and recapture the remaining approximately 40,000 unused diversity visas.

Rebuilding the U.S. Economy and Supporting Our Immigrant Essential Workers

- ▶ **Extend** prosecutorial discretion to essential immigrant workers.
- ▶ **Provide** prompt access to employment authorization documents for eligible applicants.

Reducing Harm By Limiting Interior Enforcement and Improving Due Process Protections in Removal Proceedings

- **Suspend** and phase out entirely the prosecution of migration-related offenses, including unlawful entry and charges against family members and humanitarians for providing assistance and lifesaving support to immigrants in border areas.
- **Formally end** the 287(g) and Secure Communities programs and phase out cooperation programs between federal immigration enforcement and local law enforcement, consistent with the conclusions of legal experts and [164](#) immigration, civil rights, and human rights organizations.
- **Phase out** the use of detention and begin shutting down facilities in coordination with impacted families and local NGOs. End all contracts with private detention contractors, and place a moratorium on all expansion.
- **Commit** to providing legal counsel at no cost to every *pro se* individual and all vulnerable people, including unaccompanied children, people with a mental disability, and others who need legal support to ensure a fair hearing.
- **Review** the current roster of EOIR and Board of Immigration Appeals (BIA) judges to determine if they are sufficiently qualified and committed to fairness for immigrants.
- **Review** current immigration litigation and settlement negotiations before the federal circuit courts and EOIR to determine if Office of Immigration Litigation (OIL) and Immigration and Customs Enforcement (ICE) attorneys are taking positions consistent with the Biden administration. If not, direct OIL and ICE attorneys to settle cases favorably for immigrants or pursue administrative closure or termination of removal proceedings to keep families together.
- **Reduce** the immigration court backlog by removing large numbers of non-priority cases from the court dockets to alleviate unnecessary pressure on hundreds of thousands of families and individuals threatened with deportation.

Efforts and Challenges to Restoring the Asylum System and Humanitarian Protection at the Border

- **Terminate** the Title 42 expulsions policy and the Migrant Protection Protocols and permanently reopen the Customs and Border Protection (CBP) Ports of Entry to asylum seekers.
- **Resettle** 125,000 refugees in FY2022, consistent with the Presidential Determination on Refugee Admissions, and increase the Western Hemisphere regional allotment by adding at least 5,000 of the unassigned resettlement spots there.
- **Improve** asylum processes so that they are fair and timely.

Addressing the Root Causes of Migration and Promoting Regional Collaboration

- **Take** a whole-of-government approach to the region and pursue a hemispheric “Americas Migration Accord” built around a set of agreed-upon principles for regional responsibility sharing.



Protection & Relief to Keep Immigrant Families Together

Immigrants and their families are deeply embedded in the fabric of our nation, and relief for the undocumented is long overdue, particularly given that thousands of undocumented immigrants have served on the front lines of a deadly pandemic. Currently, there are over [10 million](#) undocumented immigrants in the country who make up our families, neighborhoods, communities, and workplaces. There are also [10.2 million](#) U.S. citizens, including 6.1 million U.S. citizen children, who live with at least one undocumented family member. The average undocumented immigrant has lived in the United States for [16 years](#), and undocumented immigrants and their households pay [\\$79.7 billion in federal taxes and \\$41 billion in state and local taxes](#) on an annual basis. Undocumented immigrants are critical members our country and deserve to be protected.

Affirmative relief, be it through a pathway to citizenship or existing programs such as Temporary Protected Status (TPS), would provide lasting protections for undocumented individuals and their families. Protection from deportation and work permits would allow undocumented individuals to live freely without fear of separation from their families, while also enabling them to further contribute economically and socially to the country. **In the absence of securing a pathway to citizenship through legislation in Congress, the administration has an opportunity—and an obligation—to use all the tools at its disposal to protect as many undocumented immigrants as possible.**

Actions in Review

Secured **Temporary Protected Status for over 477,000 immigrants.** The Biden administration designated Burma and Venezuela for Temporary Protected Status (TPS) and redesignated TPS for Haiti, Somalia, and Yemen, as conditions in these countries prevented the safe return of their nationals or residents consistent with the TPS [statute](#) due to ongoing armed conflict, earthquakes, pandemics, climate-related extreme weather, or other environmental disasters or extraordinary and temporary conditions. Currently, individuals from Haiti, El Salvador, Syria, Nepal, Honduras, Yemen, Somalia, Sudan, Nicaragua, Myanmar, South Sudan, and Venezuela are protected under TPS. However, there are still many countries that are

eligible for designation under the statute that the administration has failed to act on, instead continuing to deport individuals to unsafe conditions. The Department of Homeland Security (DHS) should designate or redesignate TPS for all qualifying countries, [including](#) the Bahamas, Cameroon, El Salvador, Ethiopia, Guatemala, Guinea, Honduras, Hong Kong, Lebanon, Mauritania, Nepal, Nicaragua, Sierra Leone, South Sudan, and Sudan. In addition, the [court cases](#) over the termination of TPS for El Salvador, Haiti, Honduras, Nepal, and Nicaragua continue, though an injunction has prohibited their termination for the duration of the case. The administration should settle all outstanding cases attempting to terminate TPS designations.

Announced Deferred Enforced Departure (DED) for Liberians and Hong Kongers. The administration protected an additional estimated 5,600 [Liberians](#) and [Hong Kong residents](#) from removal through the issuance of DED. The DED designations came after China [approved](#) a national security law infringing on the rights of Hong Kong citizens to exercise their rights, and as Liberia continued to suffer conditions that prevented safe return.

Repealed Trump Policy Targeting the Parents and Sponsors of Children. The Biden administration officially rescinded a cruel Trump policy that [directed](#) the Department of Health and Human Services (HHS) Office of Refugee Resettlement to disclose the legal status of parents and potential sponsors of unaccompanied children to ICE before releasing children to their caretakers. ICE could then use the information provided by sponsors to arrest and place them in removal proceedings. This understandably resulted in parents and guardians not coming forward for their children because they were afraid of being deported.

Rescinded Trump's Zero Tolerance Policy that Cruelly Separated Children from their Parents. In April 2018, the Trump administration directed U.S. attorneys' offices along the southwest border to criminally prosecute all cases involving illegal entry—that is, entering the U.S. without authorization—referred to them by U.S. Customs and Border Protection (CBP). The Trump administration knew that

children could not be put in jail with their parents under the zero tolerance policy and orchestrated the forced separation of children from their parents or legal guardians. There was no process to collect and retain data that would have allowed CBP, DHS, or the HHS to track children and parents so that they could be reunited at a later date. As a result, at least [3,951 children](#) were separated from their families for months and years—some as young as a few months old. President Biden signed an [executive order](#) (EO) establishing an [Interagency Task Force on the Reunification of Families](#) to identify children who remain separated from their families and reunify them as swiftly as possible. The EO also directed the Task Force to issue recommendations for additional services and support for the reunified families, including behavioral health services with a focus on trauma-informed care. With the support of NGOs and pursuant to court orders, a total of [2,187 children](#) have been reunited with their parents in the United States. The Task Force has reunited approximately [61 additional children](#) as of November 2021 and is in the process of reunifying [206](#) more, though roughly [280 parents](#) have still not been located. In addition, the administration has excluded parents with criminal records, including records obtained under zero tolerance. It is also important to note that the administration continues to prosecute migrants for unlawful entry, including asylum seekers—a policy that inevitably results in the separation of families outside of a formal "zero tolerance" program.

Walked Away from Settlement Negotiations with Formerly Separated Parents. Despite efforts to reunify families, the Biden administration broke off negotiations in December 2021 to pay monetary damages to families who were forcibly separated at the border during the Trump administration. The DOJ [continues](#) to argue in court that these families do not deserve compensation for the actions of U.S. officials, demonstrating an extremely troubling lack of accountability for the damage incurred. In addition to the rightful efforts to reunite parents with their children, the administration must make equal effort to hold itself accountable for trauma imparted by the hands of U.S. officials, which includes engaging in negotiations with the plaintiffs in the multiple lawsuits brought by forcibly separated parents.



Effort to Return Deported Military Veterans. In July 2021, DHS Secretary Mayorkas and Veterans Affairs Secretary McDonough [announced steps](#) to help deported veterans return to the United States, providing these individuals and their direct family members with a way to legally remain in the country. A new [military resource center](#) was also launched to help veterans and their families fill out necessary paperwork. Government attorneys are required to terminate or administratively close removal proceedings for veterans currently ensnared in them. While promising, few veterans have been reunited with their families thus far and progress toward making these returns a reality has been slow and halting. During the Trump administration, there was very little hope for veterans who had been removed or for those in removal proceedings to be protected, despite their service to the United States, and there was no effort to follow up with veterans after deportation. Even so, progress on this initiative has been slow: Of the estimated [1,000 military deportees](#), Secretary Mayorkas testified in November 2021 that they had thus far returned only [five veterans](#) to the U.S.

Expansion of Work Permits for Crime Victims. A new U.S. immigration [policy](#) expands access to work permits and deportation relief to some immigrants who are crime victims while their visa cases are pending. U nonimmigrant status, commonly known as the “U visa,” is provided to victims of certain crimes,

including physical and mental abuse, if they aid law enforcement officials in the investigation or prosecution of criminal offenses. Due to a [backlog of 285,255 cases](#) in an annual program that only grants 10,000 visas, victims are forced to wait years for their cases to be adjudicated, and most do not have access to work permits in the interim. This expansion creates a process that could allow tens of thousands of eligible U visa applicants to receive work permits if their claims are concluded to be valid and made in good faith. The administration should also provide parole for derivatives of those separated to join family members or those awaiting U-visas.

Task Force on New Americans to Promote Immigrant Inclusion and Naturalization. Through a February 2021 [executive order](#) on “Restoring Faith in Our Legal Immigration Systems and Strengthening Integration and Inclusion Efforts for New Americans,” President Biden directed the Domestic Policy Council (DPC) to convene a Task Force on New Americans. The Task Force promotes immigrant integration and inclusion and works alongside an Interagency Working Group tasked with developing a national strategy to promote naturalization. Focusing on the nine million lawful permanent residents in the United States who may be eligible to apply for citizenship, [the administration’s government-wide strategy includes](#) holding naturalization ceremonies at national parks, displaying promotional posters about naturalization at U.S. Postal Service facilities, and partnering with the U.S. Department of Veterans Affairs and veteran service organizations to find ways to educate service members and veterans on accessing citizenship.

Committed to Enhancing Protections for Stateless Individuals in the United States. In December 2021, DHS [committed to pursuing](#) initiatives to enhance recognition and protection of stateless individuals within the United States. As an initial step, DHS will adopt a definition of statelessness for immigration purposes and establish a process for making statelessness determinations. In coordination with the U.S. Department of State, DHS will also work

to better identify barriers faced by stateless persons and ways to protect these individuals. It is estimated that up to [218,000 people](#) in the U.S. are stateless or at risk of statelessness. As it currently stands, there are no protections under U.S. law for these individuals. While some stateless individuals are able to obtain protection as asylees, refugees, trafficking victims, unaccompanied minors, or through Temporary Protected Status, many do not qualify for any of these legal immigration statuses. Thus stateless individuals are also at risk of prolonged immigration detention since no country will accept them for deportation.

Dismantled Trump's Racist "Extreme Vetting" Policy. In an [executive order](#) to rebuild and enhance the refugee resettlement program, the Biden administration revoked racist Trump policies that presumed, without evidence, that every Black and Muslim refugee presented a threat to the United States, thereby needlessly subjecting refugees to years of vetting. Trump's "extreme vetting" policy emboldened DHS agents to [monitor personal social media accounts](#) for the purpose of denying refugee resettlement and visas to eligible individuals overseas, and to find deportation grounds for individuals already here.

Challenges to Process Immigrant Visas and Clear Backlogs. The administration failed to process immigrant visas up to the numerical limits for FY 2021 and resolve the growing visa backlog. At the end of FY2021, there were over [3.5 million](#) pending family- and employment-based visa applications. Only [13,741 family preference](#) green cards and 6,642 diversity visas were issued in the first two quarters of FY 2021 out of the annual 226,000 family preference floor and the 50,000 diversity limit. Because of this, families have remained separated and the trust in existing pathways for green cards, which already are so limited, has become further eroded. The administration faced an uphill battle; the unfortunate effects of COVID-related shutdowns, limited staffing, full or partial closures of embassies and consulates abroad, and inherited Trump travel bans, all contributed to the growing backlog and posed challenges to process up to the annual limits. USCIS Director Jaddou recently [acknowledged](#) there is more work to do.

Currently, USCIS requires unnecessary evidence and testing that is not required by law or regulation and adds months and years to the adjudication of applications and petitions. Over many years, politics and bureaucratic processes have jammed up USCIS, and streamlining the adjudication process by terminating all policies and practices that are not required by law or regulation will be a key part of clearing backlogs. This should include automatic employment authorization document (EAD) extensions for individuals who are in a valid immigration status. This step alone could result in significantly fewer applications to adjudicate each year. In 2020, for example, USCIS processed [2 million applications](#), hundreds of thousands of which were for people already in status. Months would be cut off case processing times by requiring biometrics only upon the filing of a new petition or application, instead of requiring biometrics multiple times without any need. Currently, biometric appointments are being scheduled up to a year out, meaning many people with EADs have to quit their jobs while awaiting an EAD extension that may well be almost expired by the time it is received. USCIS is already taking this approach for the spouses and partners of H-1B and L-1 business visa recipients. The same approach should be implemented across all applications because it is not required nor needed to reach decisions. USCIS should prioritize DACA renewals and extension or change of status applications, as well as employment authorization documents, so individuals don't fall out of status and become undocumented or lose employment authorization, by reusing biometrics, encouraging electronic processing by allowing represented parties use it, and shortening the I-765 Form

Moving forward, the Department of Homeland Security and the Department of State should do everything in their power to process immigrant visas up to the categorical limits on family-based, employment-based, and diversity visas in FY 2022, as well as roll over any unused temporary visas into the next fiscal year.

Routing Out Discrimination & Anti- Blackness in the Immigration System



The Biden administration inherited a broken, racist immigration system that continues to disproportionately discriminate against people of color, especially Black, indigenous, and brown migrants. The Trump administration implemented immigration policies based on racist immigrant tropes, anti-Black and anti-Asian discrimination, and Islamophobia, including the destruction of the infrastructure for refugee resettlement. However, the U.S. immigration system was built on the principle of exclusion from its beginning, and the Biden administration must do more than return to the status quo to route out discrimination. For example, Black immigrants continue to pay disproportionately more bond than other immigrants—as much as [54% percent more](#) in the case of Haitians—and they suffer disproportionately higher deportation rates, with a 1700% increase in deportations against Haitians between 2016-2017 and mass expulsions and deportations continuing unabated. **While the Biden administration has taken important actions to dismantle or roll back some of the egregious policies of the previous administration, much work remains to be done to ensure the immigration system is safe, just, and humane for BIPOC communities.**

Actions in Review

Mismanagement of the Haitian Refugee Crisis. A series of devastating economic, climate, and political crises—including the assassination of President Jovenel Moïse in July 2021 and deadly earthquakes—resulted in a Haitian refugee crisis at the U.S. southern border that continues into 2022. The Biden administration redesignated Haiti for TPS, a sound policy choice rooted in law, and restarted the [Haitian Family Reunification Parole Program](#). Yet, it has not invited any Haitians to apply to this program—a necessary and urgent first step in the process.

Additionally, there has been no meaningful oversight, investigation, or accountability for the [excessive use of force and dehumanization](#) of Haitians attempting to apply for protection through Del Rio, Texas. While DHS Secretary Mayorkas promised lawmakers a swift investigation, months later no report exists

and the administration has yet to announce any disciplinary action. Instead, the administration [announced](#) that the Office of the Inspector General will not be investigating the matter and referred it back to the CBP Office of Professional Responsibility (OPR). As CBP officers themselves, CBP's OPR is unlikely to issue an accurate report given the results of [past OPR investigations](#), the fact that OPR has no disciplinary power, and that egregious rights violations in the past have occurred without accountability.

From September 19, 2021, to January 31, 2022, the administration sent 152 deportation flights to Haiti, expelling approximately 15,800 asylum seekers—including pregnant women, children, and infants as young as nine days old. Since the beginning of the administration, there have been 189 removal flights to Haiti despite conditions so dangerous that they warranted a TPS redesignation in May 2021 and resulted in a Department of State Level 4 "Do Not Travel" Advisory that remains in effect. Many of these expulsions were carried out under [Title 42](#), a policy that has disproportionately affected Black migrants, especially Haitian asylum seekers.

R epealed the Muslim and African Bans. On day one of his administration, President Biden began the process of [repealing](#) Trump's racist and discriminatory Muslim and African bans. Trump's orders had targeted and stranded hundreds of thousands of migrants and refugees from majority Muslim and Black countries, and suspended the [Diversity Visa Program](#)—still one of the only migration avenues available to Africans who want to enter the United States. Although the Biden administration withdrew Trump's suspension of the diversity visa, the U.S. Department of State will not renew visa availability to applicants who were previously denied under the Trump administration's discriminatory Muslim and African bans. This decision unjustly prevents the immigration of thousands of Africans and Muslims who gave up jobs and sold property with the expectation of immigrating to the United States and raises serious concerns about the administration's commitment to the Diversity Visa Program overall. Although a [federal judge ordered](#) the U.S. State Department to reserve 9,095 diversity visas that were subjected to the immigration ban for future processing pending final resolution of the case, the administration announced that it will challenge that order. While this revocation was a needed first step, the administration should redress the harm done to applicants and direct the State Department to reconsider, reopen, and expedite all immigrant and non-immigrant visa applications subject to the bans that remain ungranted. The administration should withdraw the [DOJ's appeal of Gomez v. Biden](#) so that eligible individuals can immigrate to the United States as the law provides and recapture the remaining approximately 40,000 unused diversity visas so that lottery winners over the last five years have an opportunity to apply.

R evoked the "Wealth" and "Health" Tests that Intentionally Precluded Immigration of Primarily Black and Brown People. The [public charge rule](#) is no longer in effect after the U.S. Supreme Court agreed to dismiss related litigation at the request of the Biden administration. This policy, which impacted over [4 million noncitizens](#), prevented family members from immigrating if they could not meet the Trump administration's elevated demands when demonstrating they would not rely on public services at any point in their lives. The administration also revoked a Trump [proclamation](#) requiring family members to prove that they had health insurance before being reunited, even if they were traveling from countries that did not have health insurance available.

S wiftly Filed Lawsuit Against Texas Governor Greg Abbott's Racist Executive Order. In response to Texas Governor Greg Abbot's racist [executive order](#) that criminalized child welfare and humanitarian service providers who work with immigrants, the U.S. Department of Justice (DOJ) sued the state of Texas and was granted [a preliminary injunction](#) temporarily stopping the executive order, citing that it violates the U.S. Constitution. The executive order was part of a multi-million dollar initiative known as "Operation Lone Star," designed by Gov. Abbott to criminally prosecute and rapidly deport immigrants. This operation also uses state law enforcement to enforce immigration law by arresting migrants for trespassing. As of July 2021, [just 3% of the estimated 1,500 people](#) arrested on misdemeanor trespassing charges have been convicted, and dozens of cases were [ultimately dropped](#) after local county attorneys failed to identify the allegedly trespassed properties. As of November 2021, [roughly 70%](#) of resolved cases



had been dropped. Most recently, Gov. Abbott deployed [10,000 state troopers](#) and National Guard units to the Texas border as he continues to extend a steel curtain along the Texas-Mexico border. On January 13, 2022, a [Texas county judge ruled](#) the arrest of an Ecuadorian asylum seeker under Operation Lone Star to be unconstitutional as a violation of the Supremacy Clause. The Department of Justice should [initiate a formal Title VI investigation](#) into civil rights abuses endemic to Operation Lonestar and terminate federal funding for Texas agencies and counties engaged in the harmful and discriminatory operation. Such an investigation was [requested](#) by over fifty Texas lawmakers on January 27, 2022. As other states work to replicate or modify Gov. Abbot's attacks on immigrant communities, the administration must continue to address discriminatory and retaliatory actions by states against immigrants, including children.

Supported Applications for Liberian Adjustment to Permanent Residence and Deferral of Removal. The FY 2020 National Defense Authorization Act included the "[Liberian Refugee Immigration Fairness](#)" (LRIF) provision, which provided certain Liberian refugees and their families the opportunity to apply for a green card. However, many eligible Liberians were unable to file in time because the Trump administration intentionally created obstacles and slowdowns. The Biden administration extended the filing period from one to two years, clarified what documents were necessary to demonstrate

eligibility, and provided applicants with some flexibility when demonstrating their Liberian nationality. These changes were essential because, as refugees, many Liberians never had government-issued nationality documents or fled Liberia without them. President Biden also directed DHS to reinstate and extend [Deferred Enforced Departure](#) (DED) and employment authorization to Liberians through June 30, 2022, so that they would have time to file an LRIF application for permanent residence. This DED designation was estimated to benefit up to [3,600 Liberians](#) who had resided and thrived in the United States for more than 20 years. Despite these changes, out of 10,000 Liberians who are likely eligible for LRIF, only 3,000 have filed—and most of these applications are still being processed by USCIS. The administration should immediately extend the eligibility period for filing and take further steps to support Liberians in the preparation and adjudication of their applications.

Revoked a Trump Executive Order on "Recalcitrant Countries." President Biden [revoked](#) a Trump executive order that forced asylum seekers to return to countries known for committing widespread human rights abuses, [including Eritrea](#), because the countries could not or would not cooperate with certain demands of the Trump administration. The Trump executive order also [ordered](#) DHS and the State Department not to issue visas to nationals of countries that the Trump administration deemed to be uncooperative on the return of nationals.



This policy [disproportionately affected nationals of Asian countries](#), including India, Pakistan, China, and Vietnam, as well as Cuba.

Ended the “No Blank Space” Policy that Unfairly Denied Thousands of Asylum Applications and U Visa Petitions. The Biden administration withdrew the [Trump-era policy](#) that denied humanitarian protection to an individual if any part of their application or petition included a blank space, regardless of whether the blank space was material to the petition or even required. This policy led to the denial of over [60,000 asylum applications and U visa petitions](#) during the final period of the Trump administration. Now, USCIS issues a Request for Evidence (RFE) and/or a Notice of Intent to Deny (NOID) if there are any deficiencies in applications or petitions, giving an individual the opportunity to respond to any concerns before a decision is issued. This was normal practice prior to the Trump administration. Pursuant to a decision in [Yangala v. USCIS](#), individuals whose applications were denied as a result of this policy may be able to recapture their original filing date, an important date for purposes of employment eligibility and applying for permanent residence.

Suspended Use of Biometrics for Spouses and Children of Green Card Holders. The Biden administration [revoked](#) a Trump policy that required the spouses and children of immigrants legally employed in the United States to re-submit their fingerprints every time they renewed their U.S. visas. This obstacle to visa

renewals led to major delays in visa-processing and [disproportionately impacted women](#), many of whom left stable jobs to join their spouses in the United States but were then prevented from doing so due to months-long biometric delays.

Eliminated the Investigations Threat Management Service (ITMS). After an internal [review](#) by the U.S. Department of Commerce’s (DOC) Office of the General Counsel, the DOC [eliminated](#) the 20-year-old Investigations and Threat Management Service (ITMS) because it used [race and ethnicity-based investigations](#) to target federal government departments with comparably high proportions of Asian Americans, ostensibly to counter attempts of espionage by individuals with Chinese ancestry. ITMS was also found to have engaged in serious misconduct, such as targeting and punishing former and current employees for challenging the lawfulness of the unit’s practices. Originally authorized to investigate a narrow set of situations after 9/11, ITMS [abused its authority for years without repercussions](#).

Continued Use of the China Initiative. While the administration has made strides to eliminate several racist policies by the previous administration, the China Initiative persists. Originally a Trump-era policy ostensibly created to prevent cases of espionage from the Chinese government, the program has been and continues to be wielded with prejudice against Asian Americans and immigrants, particularly scientists and researchers of Chinese descent. While national security is of course a major facet of international policy, evidence continues to mount against the effectiveness of the program and its continued harm. The DOJ has yet to define what constitutes a case for the initiative, and the Massachusetts Institute of Technology (MIT) [reports](#) that the initiative [has strayed](#) from charges of espionage and is now applied to cases with nearly any connection to China. Over [50% of scientists](#) surveyed of Chinese ancestry working in the United States fear they are under surveillance by the U.S. government, regardless of citizenship. To date, only [a quarter](#) of the roughly 150 individuals and organizations charged under the initiative have been convicted.



Rebuilding the U.S. Economy & Supporting Our Immigrant Essential Workers

Immigrants make up [one in five](#) essential workers in the industries keeping the nation healthy, fed, and safe during an unprecedented global pandemic, including the healthcare, agriculture, and food service industries. Foreign-born workers [represent](#) over a quarter of all healthcare workers in New York, California, New Jersey, Florida, Nevada, and Maryland, and roughly a fifth of healthcare workers in Hawaii, Massachusetts, and Texas. Nearly one third of essential agriculture and farm jobs are held by foreign-born workers, [over half](#) of whom are estimated to be undocumented.

More than [five million](#) essential workers are undocumented. These individuals have contributed to our economy, taken on a disproportionate number of essential jobs during the pandemic, exposed themselves to dangerous work conditions, and filled critical roles in our labor market. The Biden administration is counting on immigrants to expand the economy and tackle an ongoing labor shortage, but this must come with continued support. **In 2022 and beyond, the Biden administration needs to strengthen its commitment to protect and expand new opportunities for immigrant communities. The Biden administration should extend prosecutorial discretion to immigrant essential workers.**

Actions in Review

Extension of the Visa Interview Waiver Program and Reopening of Consulates. The Trump administration [took numerous actions](#) to prevent the arrival of visa-approved individuals from overseas. This included closing consulate offices worldwide, which left millions of individuals stranded and unable to reunite with their families, and prevented highly-skilled workers from taking jobs that would strengthen U.S. competitiveness and the economy. The Biden administration strengthened U.S. diplomatic and political presence overseas by reopening dozens of consulates and extending the U.S. visa interview waiver policy until December 31, 2021. This allowed consular officers to approve a visa request without first interviewing an applicant, an action intended to decrease years-long consular backlogs.

Employment Authorization While Individuals Await Decisions on their Green Card Applications. USCIS updated its [policy guidance](#) in June 2021 to increase the duration of employment authorization for individuals seeking to adjust to permanent resident status. This time extension protects workers from losing work authorization due to bureaucratic processing delays. As designed under the Trump administration, employment authorization documents issued in one-year increments could take almost as long to be adjudicated, leading to lapses in work authorization, disruptions in business projects and plans, and an individual's heightened vulnerability to arrest, detention, and deportation.

Fixed Time Limits Revoked for International Students. The Biden administration restored normal processing times for international student visas by [revoking](#) a Trump-era proposed rule that would have attached fixed time limits to certain student visas, even if the student needed more time to complete a degree. The Trump rule would have purposefully put international students at risk of overstaying their legal status, not by intent, but because they had not yet completed their studies or Optional Practical Training (OPT).

H-1B Salary Rule Withdrawn. After lawsuits and continued advocacy, the Biden administration [withdrew](#) the Trump-era rule that would have ended the H1-B lottery and awarded H-1B visas according to salary, which would have made it very difficult for recently graduating international students to obtain an H1-B visa. The administration should not issue any additional rules with a wage prioritization system that disadvantages recent graduates.

Religious Workers. Immigrant religious workers provide vital social and spiritual services to underserved American communities. Despite this essential work, especially during the COVID-19 pandemic, many foreign-born religious workers are forced to stop work or depart the United States due to USCIS delays and other problematic policies. To provide immediate relief to immigrant religious workers and the American communities they service, USCIS should move the automatic extension for EAD applications from 180 days to a minimum of 240 days and take other key steps as can be found in the Catholic Legal Immigration Network's [policy brief](#).

Reducing Harm By Limiting Interior Enforcement & Improving Due Process Protections in Removal Proceedings



The Biden administration has worked to end and replace the Trump administration's cruellest interior enforcement policies by narrowing the guidelines for which individuals should be [prioritized for arrest, detention, and deportation](#) and limiting [where ICE may take enforcement actions](#). ICE also implemented a "victim-centered" approach when dealing with non-citizen victims of crimes. However, detention numbers are rising and ICE continues to rely on racist and faulty databases to criminalize immigrants. LGBTQ individuals are at particular risk, and [97 times more likely to be sexually assaulted](#) than other immigrants in detention. While the administration has not expanded the 287(g) program, they also have not ended it. This program incentivizes racial profiling and other unlawful police practices by entangling federal immigration enforcement with local law enforcement agencies. Until these policies are reversed, the immigration enforcement system will continue to prioritize deportation over decency, wreaking havoc on families and communities.

The administration should pursue meaningful and critical enhancements of due process, particularly regarding access to legal representation. Trump-appointed individuals remain in DOJ immigration leadership positions, and the rapid hiring of immigration judges is leading to an immigration judge bench that is disproportionately made up of OIL and ICE attorneys or other former prosecutors. While the immigration court backlog requires a substantial increase in resources, DOJ's fixation on the rapid hiring of judges rather than the quality and diversity of the bench is a mistake that may have unintended consequences for decades to come. Greater attention to language access for BIPOC communities—particularly indigenous, Haitian, African, and other immigrant communities—is critically needed to ensure fairness and effectiveness in removal proceedings, and the Director of EOIR should establish a path forward consistent with the [DOJ Language Access Plan](#).

Actions in Review

Atttempted a **100-Day Deportation Moratorium**. The same day President Biden took office, his administration fulfilled a campaign promise by releasing a [policy memo announcing a 100-day deportation moratorium](#) on removals to review the policies and practices of ICE under the previous administration. The 100-day moratorium would have shielded [up to 25,000](#) qualifying immigrants from removal as long as they

entered the United States before November 1, 2020. Texas sued the administration and a U.S. District Court judge indefinitely banned the moratorium's enforcement. Disappointingly, DOJ did not seek review of the decision.

Issuance of Final Enforcement Priorities Without a Reliance on Categorical Bars Due to Involvement in the Criminal System.

Instead of fighting the moratorium injunction, DHS issued new [interim enforcement priorities](#) in February 2021. While not as expansive as the moratorium, the interim guidelines still protected millions of "low priority" individuals from being arrested, detained, or removed if implemented correctly by ICE agents. When DHS issued final [enforcement guidelines](#) in September 2021, we welcomed their emphasis on the exercise of prosecutorial discretion in enforcement, detention, and deportation decisions and the reduction of criminal convictions that would trigger automatic enforcement action. Unfortunately, the final priorities memo continued to embrace a binary framework that identifies "bad" immigrants for enforcement action based on prior convictions, thereby perpetuating systemic racism built into the criminal system instead of focusing on individuals who should not be prioritized for enforcement action based on their equities. Each enforcement priority memo has been [subject to litigation](#) by several states, though the September guidance has not been enjoined.

While these enforcement priorities should be a reprieve for millions of individuals and family members who do not fall under the priorities, this is only true if ICE agents and officers exercise their discretion consistent with the final memo, which is already proving to be a significant problem across jurisdictions. Diligent oversight of implementation must be a priority for the administration to ensure that officers are acting consistent with the final memo and the Biden administration's overall commitment to an immigration system that is rooted in safe and humane policies. DHS should regularly release public data on enforcement actions, including factors relied on to pursue action against an individual, as well as the location of action, nationality, and gender of the immigrant targeted, at a minimum. ICE should also institute a screening process for subjects of enforcement to identify survivors of crime,

consistent with "victim centered approach."

New Guidance for Enforcement Action in Protected Areas. The Biden

administration issued a [memorandum](#) in October 2021 updating and improving civil immigration enforcement guidelines. DHS agents and officers will now be required to consider the type of location prior to enforcement, allowing undocumented immigrants greater access to critical services without fear of being arrested. The [new expanded list](#) of locations, now considered "protected areas," includes hospitals, schools, places of worship, school bus stops, social services establishments (such as domestic violence shelters), and disaster and emergency services locations, among others. The memo requires that ICE agents and officers consider the proposed location of an enforcement action and ensure that detention occurs without denying or limiting individuals' access to needed medical care, children's access to their schools, access to food and shelter, access to places of worship, and more.

Worksite Enforcement Strategy to Protect Workers, Worksite Conditions, and the U.S. Labor

Market. In October 2021, DHS [directed](#) ICE, CBP, and USCIS to develop and update policies to enhance enforcement of employment and labor standards and to protect the participation of vulnerable workers in labor standards investigations. DHS also [ceased mass worksite operations](#) and provided guidance to decide whether or how to enforce the law against an individual. Recognizing how ICE enforcement can undermine workers' rights, DHS rightfully ended the destructive and cruel practice of mass worksite raids, while acknowledging the leadership of immigrant workers and the importance of providing protections from deportation to those who speak out against unscrupulous employers that threaten deportation and employ exploitative labor practices.

Addressing the Court Backlog. The immigration courts require urgent attention to address the 1.6 million case backlog that is severely delaying resolution on all cases—with an average wait time exceeding four years—including cases that require urgent

attention, such as those seeking asylum and humanitarian relief. Of those cases in the backlog, 700,000 are nonpriority matters that do not need to be heard because the cases are also pending before USCIS, or are older than 5 years, or for other reasons. This solution would improve court efficiency and processing goals while also providing some relief to people to know their case will not go forward for an extended period of time.

Restored Immigration Judges' Ability to Administratively Close Cases. Attorney General Merrick Garland [overruled](#) *Matter of Castro-Tum*, which made it significantly harder for immigration judges to manage their own court docket by preventing them from administratively closing cases, which ensures a well-functioning court system. Immigration judges' ability to manage their own dockets is critical to the effective functioning of a court and due process. Nonetheless, immigration judges remain constrained by [Matter of S-O-G- and F-D-B-](#) and [Matter of L-A-B-R-](#). DOJ should complete the necessary steps to fully restore docket management tools to immigration judges.

Recognizing the Union for Immigration Judges. [Settling a case](#) between the administration and immigration judges' union (National Association of Immigration Judges, NAIJ), the DOJ consented to recognize the union as the exclusive representative for the nation's immigration judges. Further, the [settlement](#) reversed a Trump-era decision to strip immigration judges of their collective bargaining rights. In 2018, the Trump administration moved to [decertify the union](#) and argued that immigration judges are ineligible to collectively bargain since they directly influence agency policy through their decisions. NAIJ has been a key voice in the fight for judicial independence and against case completion quotas.

Restoring Immigration Court Integrity. EOIR should immediately terminate or modify Trump-era policies that fast-track cases, including the EOIR "[no dark courtrooms](#)" policy. Steps must be taken to restrict and set standards for the use of virtual hearings by limiting



their use to procedural matters. For all virtual hearings, EOIR should ensure that there is adequate training in the use of technology and safeguards when technology fails. The use of Immigration Adjudication Centers (IAC) which operate in near secrecy with little public transparency should be suspended.

Continued Deputization of Local Law Enforcement for Immigration Enforcement. [287\(g\) agreements](#) and other policies that turn local law enforcement into ICE agents and/or incentivize or require focused cooperation between federal immigration enforcement and local law enforcement remain in effect across the United States. Although the Biden administration is not using [Secure Communities](#) in enforcement actions, pursuant to an [executive order](#), it could be revived at any time by subsequent presidents.

The DHS secretary should direct ICE to terminate Secure Communities, similar to the Obama administration's [termination memo](#) in November 2014. 287(g) agreements erode community trust in law enforcement and other local institutions of governance, lead to lower crime reporting, and have resulted in numerous instances of racial profiling and civil rights violations. Local officials harass people of color under the guise of checking immigration status and isolate communities by requiring them to withdraw from public events and spaces where law enforcement might be

present. The Biden Administration should terminate 287(g) agreements, formally end the Secure Communities program, and end ICE's detainer practice that requires local law enforcement to hold individuals for civil immigration enforcement purposes.

Increased Detention Rates and Use of Private Detention Centers. Though the number of detained individuals had decreased during the pandemic, the number has increased substantially in President Biden's first year in office, returning to pre-2020 rates. This is particularly troubling during the continuing COVID-19 pandemic, as ICE has struggled to stop the spread of the virus in the crowded conditions of detention centers with over 35,000 positive cases since February 2020. The administration also continues to contract with private prisons for immigration detention, even as it is terminating private prison contracts in the criminal system.

Immigration detention settings continue to be sites of abuse and neglect. If the Biden administration wants to create a just and humane immigration system, it must phase out the use of detention in immigration enforcement, starting with ending contracts with private prison companies and county jails and instead allowing individuals to remain in their communities while navigating their immigration cases.

The administration should also ensure the Executive Order (No. 14006,) issued by President Biden which banned the renewal of contracts by DOJ/Bureau of Prison with private prisons also applies to DHS and ICE by making it explicit that DHS will not enter into new contracts for any facilities closed by DOJ/BOP. Ensure adequate protection, vaccinations, and necessary equipment to prevent the spread of COVID for people detained and staff working in facilities. Order DHS to publish a nation-wide policy to provide COVID-19 vaccination and booster for individuals they are unwilling to release despite their clear authority to do so.

Unavailability of Legal Representation for Immigrants in the Immigration Court System. In May 2021, President Biden issued a memorandum directing the Attorney General to "consider expanding DOJ's planning, development, and coordination of access-to-justice policy initiatives," and reviving the White House Legal Aid Interagency Roundtable. Attorney General Garland responded that DOJ would develop a plan to do so, but meaningful progress toward an appointed counsel program is not yet evident. For FY 2022, the White House should immediately convey to congressional appropriators that it is a top priority to include the \$50 million in the House CJS bill for legal representation programs. For FY 2023, the President should request substantially more funding for DOJ and no less than \$400 million

Over 40% of immigrants in removal proceedings do not have a lawyer, which undermines due process and leads to lengthy court cases because most don't understand immigration law or practice. For unaccompanied children and vulnerable individuals who need support to meaningfully engage in the removal process, the unavailability of counsel can result in orders of deportation to countries where they are likely to be killed or seriously harmed. The American Immigration Council found that immigrants were five times more likely to obtain legal relief if they were represented by counsel—over ten times more likely if the person was detained—but over 40% of non-detained people go through proceedings with no counsel at all, a rate that increases to approximately 86% for those in detention.

Increasing Access to Accredited Representation Program. As Afghan evacuees and other vulnerable populations add to legal services demands in 2022 and beyond, increasing the capacity of nonprofit legal services organizations through the Recognition & Accreditation (R&A) program is critical to ensure that those populations have access to counsel and access to justice. The program is currently severely underfunded and under-resourced, bringing the credentialing of new legal representatives (and therefore building the field's capacity) to a virtual standstill. The program should be sufficiently funded and other immediate actions taken as can be found in the Catholic Legal Immigration Network's policy brief.

L **unched Access EOIR Initiative and Piloted a Government-Funded Program for Unaccompanied Minors.** In September 2021, EOIR launched the “Access EOIR Initiative” to improve access to information and increase the level of legal representation for individuals appearing in removal proceedings, including government-funded [representation for children](#) in eight cities. This initiative is an important first step but does not cover the vast majority of people in removal proceedings and excludes unaccompanied children who are applying for asylum through USCIS or special juvenile status through USCIS and family court. While the Department of Health and Human Services (HHS) funds programs to match unaccompanied children with legal counsel, there is a significant gap between the services they require and the funding available. The FY 2023 appropriations bill should include no less than \$300 million for legal services for unaccompanied children, \$8 million for child advocates, and \$250 million for post-release services.

C **ontinued Employment of Problematic Trump-Era Personnel in the Immigration Court System.** Despite some efforts at reform, the Biden administration’s attempts at improvement are inherently threatened by the presence of holdover personnel and policies from the prior administration—a period defined by politicized and unqualified hiring practices, particularly of immigration judges, and the subsequent mismanagement of our country’s internal enforcement system and immigration courts. Concerns about Trump’s politicization of immigration courts were great enough during the prior administration to prompt a [GAO investigation](#), but the current DOJ [continues to rely](#) on Trump-era hires and hiring practices that bias the system in favor of the prosecution. To ensure fairness and impartiality of our immigration court system, the Biden administration must make [immediate and fundamental changes](#), including the removal of problematic and abusive personnel from positions of power in the DOJ and Executive Office for Immigration Review (EOIR).



Restoring the Asylum & Refugee System & Ensuring Humanitarian Treatment & Protection at the Border

A host of intersecting factors—including targeted gang violence, sexual- and gender-based violence, corruption, poverty, natural disasters, and other dangers—led to a record high number of individuals, families, and unaccompanied children seeking humanitarian protection at the southern U.S.-Mexico border. Many arrived from northern Central America and Haiti, with growing numbers of Venezuelans, Cubans, and Nicaraguans. The COVID-19 pandemic and the destruction caused by Hurricanes Iota and Eta intensified these perils, prompting even more individuals to make the devastating decision to leave their families in order to secure safety abroad and send remittances home. Much more can be done to protect asylum seekers in the region and restore and strengthen the U.S. asylum system.

The Biden administration made progress towards ending cruel and racist Trump policies that targeted children and families as a deterrence method by stopping the use of family detention. **Still, dozens of harmful policies remain in effect, including the use of Title 42, the Migrant Protection Protocols (MPP), and emergency intake facilities for unaccompanied minors.**

Actions in Review

Continued Use of Title 42 to Block Asylum Seekers. While the administration attempted to terminate MPP twice, [Title 42](#) remains in effect and access to asylum is still largely unavailable at the border, just as it was under the Trump administration. The Biden administration must stop weaponizing the COVID-19 pandemic to turn away asylum seekers under Title 42, which is inconsistent with broader border-crossing policies, in violation of U.S and international law, and [widely condemned](#) by public health experts. This policy has also disproportionately impacted Haitians fleeing deteriorating conditions in Haiti and served as a major catalyst to the Haitian refugee crisis.

Last October, the Centers for Disease Control and Prevention (CDC) [ordered](#) a resumption of travel for “nonessential” travelers who are fully vaccinated against COVID-19 to enter the U.S. from Mexico and Canada via land and ferry ports of entry, but continued Title 42 expulsions. Public health experts oppose Title 42 expulsions and have [outlined steps](#) that the United States must take to safely process asylum seekers.

Since President Biden took office in January 2021, the administration has turned away [over one million](#) migrants and asylum seekers pursuant to Title 42, although most unaccompanied children have been spared. It is important to note, however, that many of these children are unaccompanied due to Title 42 and MPP, as their parents are either stranded under dangerous conditions in Mexico or deported—another driver of family separation. After being expelled, [many of these migrants reported](#) suffering kidnappings, rape, human trafficking and violent armed assault in Mexico.

A [ttempts to Terminate the Migration Protection Protocols \(“Remain in Mexico”\).](#) [In a case](#) brought by Texas and Missouri, both southern states asked the District Court of Texas to [permanently enjoin](#) a June 2021 DHS [memo that ended](#) the Migrant Protection Protocols (MPP). In his [August 2021 ruling](#), Trump-appointed U.S. District Judge Matthew Kacsmaryk ordered DHS to enforce and implement the policy. The Biden administration filed an emergency request for a stay, which Judge Kacsmaryk denied. The administration then appealed to the U.S. Supreme Court, where it was again [denied](#). As DHS worked in “good faith” to comply with the district court’s order, [a second termination memo](#) was issued by DHS citing the inherent problems with MPP that no amount of resources can sufficiently fix. In December 2021, DHS [restarted](#) MPP at the southern border under court orders after finalizing an [agreement with the Mexican government](#). Though not required by the court order, the renewed MPP program covers an [even wider](#) number of people and is now applied to all Western Hemisphere nationals (excluding Mexicans), though with more individual exemptions.

MPP reimplementation has started in El Paso, San Diego, Laredo, and Brownsville and will continue to be rolled out to other ports. The ports of entries where MPP will be implemented are San Diego, Calexico, Nogales, El Paso, Eagle Pass, Laredo, and Brownsville. The Department of State will be providing transportation to/from ports of entry and shelters.

In addition, Mexico has demanded a number of humanitarian improvements as conditions for accepting enrollees, including guarantees that asylum seekers will have access to legal counsel and that their humanitarian claims will be processed within 180 days. El Paso was the first port of entry to implement MPP 2.0, and in its first week of implementation alone, human rights investigators [reported](#) cases of vulnerable individuals expressing fear of return to Mexico.

It is also clear that service providers in Mexico are [unequipped](#) to receive those subjected to the program. In the midst of MPP 2.0’s implementation, the Fifth Circuit Court of Appeals [issued](#) a decision on December 13, 2021, upholding a lower court injunction that ordered the Biden administration to reinstate the Migrant Protection Protocols. This decision once again rejected President Biden’s attempt to end the program. Of the [267 people](#) initially enrolled in MPP in December 2021, DHS reports that roughly 60% of initial MPP enrollments were individuals from Nicaragua, followed by 22% from Venezuela and 12% from Cuba. In the December 2021 cohort, [91% of individuals in MPP indicated a fear of return to Mexico](#) in their initial screening and were given a non-refoulement interview (NRI) by USCIS. [Less than 5%](#) of those individuals were accompanied by an attorney during their NRI interviews. [Of the individuals accompanied by attorneys](#), 36% had a positive fear determination, compared to 10% of those without an attorney.

Doubled the Number of Refugees to be Resettled in FY2022. In October 2021, President Biden committed to resettling [125,000 refugees in FY 2022](#), an important pledge that returned the United States to its leadership position on refugee resettlement among nations—if the U.S. succeeds in reaching this commitment. This is also double the number of refugees pledged by the administration in FY 2021, although fewer than 12,000 refugees were ultimately resettled due to a slow start and complications in rebuilding the refugee resettlement program.

Ensure Safe Treatment of Unaccompanied Minors. The Department of Health and Human Services (HHS) shelter system received a record 122,000 unaccompanied children from the U.S.-Mexico border in 2021—roughly double the previous record. Of these, 1,300 were Afghan children evacuated after the U.S. military withdrawal from Afghanistan. After significant effort, the Biden administration was able to ramp up transfer times to minimize a child’s time in CBP custody.

In January 2022, the number of migrant children in custody fell [below 10,000](#) for the first time since March 2021. However, the government relied and continues to rely heavily on “emergency intake sites” (EIS), which have lower standards of care for children. One such facility was in Fort Bliss, Texas, where NGOs advocated to reduce the number of migrant children from thousands to zero. As of December 2021, about 600 children remained housed at the Fort Bliss EIS, though the administration has considered expanding such facilities, even [doubling capacity](#) in the case of the largest site at Fort Bliss.

[Texas Gov. Abbot](#), [Florida Gov. DeSantis](#), and other state leaders also continue to institute policies that expose children to unnecessary danger. Given the cyclical nature of child migration and to prevent the reliance of inappropriate unlicensed placements in the future, the administration should work to reform its reception system for children, expand its home- and community-based placements, and ensure children’s safe and prompt release to family.

Strengthened Asylum Protections for Victims of Gender-Based and Gang Violence. Attorney General Garland vacated [Matter of A-B-](#) and [Matter of L-E-A-](#), two decisions issued by former Attorney General Sessions during the Trump administration that upended decades of asylum law. These decisions almost entirely barred survivors of domestic and other sexual and gender-based violence, persecuted families, and victims of gang violence from gaining asylum protection in the U.S. On July 14, 2021, the Department of Justice finally granted asylum to Ms. A.B., the woman behind [Matter of A-B-](#) who had fought for her protection for years. Although these vacatur were positive steps, regulations addressing asylum claims based on gender and gang violence, as well as other aspects of the refugee definition, are needed to ensure Protection aligned with international standards. The administration should also take regulatory action to firmly end the asylum [entry](#) and [transit](#) bans, as well as other [illegal rules](#) that attempted to rewrite refugee law.”

Ending the Practice of Holding Undocumented Migrant Families in Detention Centers. The United States currently has [zero](#) migrant families in ICE detention facilities and has agreed to end the practice of holding undocumented migrant families in detention centers. The administration is turning to alternatives to detention—though practices include the use of ankle bracelets, which are not recommended as a preferred humane alternative. The Dilley facility in Texas, which was the last and largest facility used for family detention, is now projected to be used for single adults. This step by the Biden administration resulted in the fulfillment of a [campaign promise](#) by then-presidential candidate Joe Biden to release families from Immigration and Customs Enforcement (ICE) detention centers. However, it is important for the administration to cement its position with official policy that permanently closes family detention centers and prevents these facilities from being converted into adult detention centers in the future. The administration should also focus on [community-based alternatives](#) to detention rather than rely on ankle bracelets and GPS monitoring, which can be burdensome and stigmatizing.

Withdrew the Previous Administration's Attempt to Terminate the Flores Agreement.

The Biden administration will discard Trump-era [regulations](#) that would terminate [the long-standing Flores Settlement Agreement](#). This agreement has been governing the care of children in U.S. immigration custody since 1997 through minimum custody standards for government shelters and detention sites. The agreement also allows non-profit lawyers to inspect facilities housing unaccompanied children to ensure they are providing adequate care and services. The administration should now work to codify the Flores Settlement Agreement by raising standards for children's care and ensuring independent oversight of government actions.

Continued Use of "Rocket Dockets" that Rush Asylum Cases. Among actions to consider for 2022, the Biden administration should end the use of [dedicated dockets](#) ("rocket dockets") that quickly shuffle families and individuals through removal proceedings without due process and rush asylum seekers through court proceedings. Both the Obama and Trump administrations ran a similar rocket docket for families, and immigration court officials [later admitted](#) that the docket "coincided with some of the lowest levels of case completion productivity in [the court's] history and, thus, did not produce significant results."

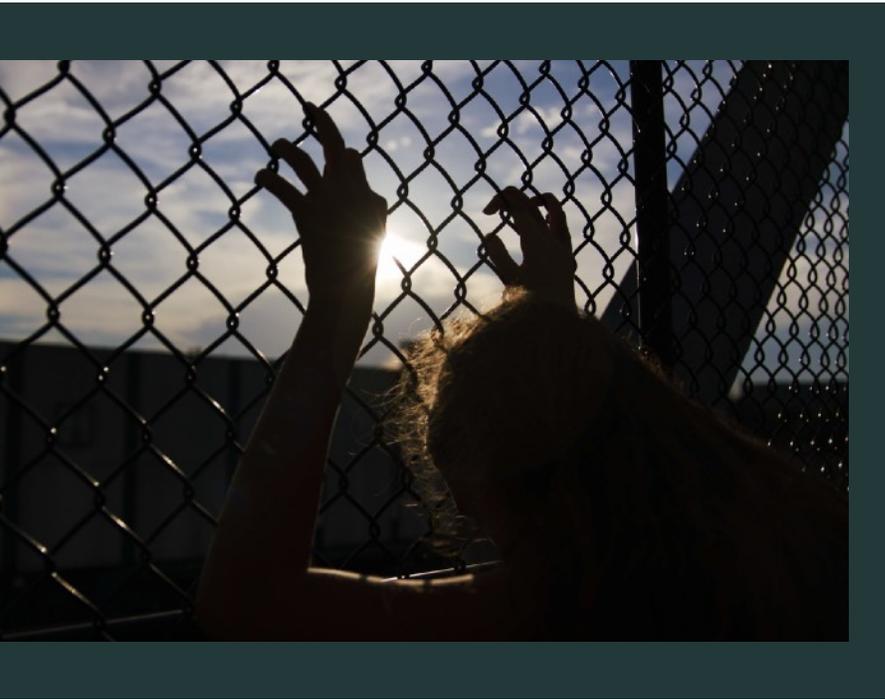
Rescinded Policy That Placed Burdens on Asylum Petitioners. In December 2021, USCIS [rescinded](#) a November 2020 policy memorandum requiring interviews for all refugees and asylum seekers petitioning for family members by filing [Form I-730, Refugee/Asylee Relative Petition](#). Effective immediately, USCIS will return to its prior long-standing practice of making case-by-case determinations on whether to interview Form I-730 petitioners. The Trump-era policy memorandum directing the phased expansion of in-person interviews for I-730 petitioners imposed significant burdens on refugee and asylee populations. In addition, the rescinded policy also decreased adjudicative efficiency by requiring petitioner interviews in addition to routine beneficiary interviews in cases

without any identified deficiencies in the petition or supporting documentation.

Body-Worn Cameras in New Pilot Program. In December 2021, ICE announced a pilot program in select cities where ICE law enforcement officers will begin to wear body-worn cameras for pre-planned operations. The deployment of body-worn cameras in these select cities will occur in phases, beginning with Homeland Security Investigations (HSI) special agents and followed by Enforcement and Removal Operations (ERO) officers. The HSI pilot locations are Houston, New York City, and Newark. According to DHS' [press release](#), the use of body-worn cameras is expected to enhance ICE operations, including at-large arrests and searches incident to arrest, execution of search warrants, and questioning of individuals encountered in the field. Footage can be used for non-investigative purposes, including training and assessing officer performance. The administration must commit to expanding accountability measures for all enforcement activities in 2022.

In August 2021, DHS [announced](#) that CBP has begun outfitting Office of Field Operations officers and Border Patrol agents with body-worn cameras. In 2022, the Biden Administration should engage with privacy experts and directly impacted communities to ensure that the policies and implementation of the body worn camera program build trust, protect privacy and other civil rights and ensure accountability.

Reinstatement and Expansion of the Central American Minors (CAM) Program. After [restarting the CAM Program](#) that was terminated by President Trump, the Biden administration [expanded](#) the program to include parents and legal guardians awaiting adjudication of their asylum and U visa applications if filed before May 15, 2021, among other measures. CAM [reopened cases](#) for parents from Honduras, El Salvador, and Guatemala whose applications were interrupted during the Trump administration, and the program has now started [accepting new applications](#). In 2022, the Biden administration should expedite the processing of new applications, as the process to date has been slow.



Ended the Illegal Trump “Metering” Policy. The Biden administration formally announced the end of the Trump-era “metering” policy at the U.S.-Mexico border. This action follows the District of California’s [decision](#) in *Al Otro Lado v. Mayorkas* in September 2021, where Judge Cynthia Bashant struck down the U.S. government’s cruel turn-back policy that systematically denied asylum seekers access to the asylum process at ports of entry. “Metering” at the border began in 2016 as a reaction to an increase in the number of Haitian asylum seekers approaching the San Ysidro/San Diego port of entry seeking asylum. CBP officers in San Ysidro [coordinated with the Mexican government](#) to prohibit Haitian asylum seekers from entering the port of entry, and CBP eventually expanded metering to other

populations. Notably, the border closure and expulsions under the ongoing [Title 42](#) policies have made the end of metering moot under the current circumstances.

New CBP Policy for Pregnant, Postpartum, Nursing Individuals and Infants in Custody. As it specifically relates to people who are pregnant, postpartum, or nursing, the November 2021 [CBP guidance](#) falls significantly short of the changes needed to avoid the harms that pregnant people and infants face in border detention. It should instead prohibit the detention of people who are pregnant, postpartum, or nursing, as well as infants, children, and their caregivers.

Redirected Funds from Ineffective Border Wall Construction. On his first day in office, President Biden [issued a Proclamation](#) to terminate the redirection of funds for border wall construction. In October 2021, DHS also [issued a memo](#) claiming its intent to cancel the remaining border barrier contracts located within the U.S. Border Patrol’s Laredo Sector and all border barrier contracts located in the Rio Grande Valley Sector. In December 2021, DHS [announced](#) plans to use Congressional funds for border security “to address life, safety, environmental, and remediation requirements for border barrier projects previously undertaken by the Department of Defense (DOD).” Previously, in April 2021, DHS [announced](#) plans to repair and remediate some problems caused by the previous administration’s border wall construction efforts. Yet, some projects presented as “remediation” are, in effect, the same as the previous administration’s wall construction, such as filling the border wall “gaps” in Arizona and most notably the levee-wall construction in the Rio Grande Valley. Texas Gov. Abbott launched a state border wall construction plan using state funds, and the states of [Texas and Missouri are seeking a federal court order](#) to resume border wall construction at the southern border. The administration must firmly halt and reject all wall construction efforts, entrust land management agencies to take the lead in environmental mitigation efforts, and rescind [all previously issued border wall waivers](#) to restore the equal legal protection of public health, environmental and tribal-sovereignty laws to the borderlands.

Continued Efforts to Protect and Receive At-Risk Afghan Nationals. Since the withdrawal of the United States from Afghanistan, conditions in the country have deteriorated into a humanitarian crisis. Among urgent actions needed, the administration must fulfill its [promise](#) to provide safe pathways to the United States for Afghan people at high risk of violence or death under the current country conditions, including those affiliated with the U.S. government and their family members, religious minorities, human rights activists, journalists, women and girls, LGBTQ+ individuals, and others. [UNHCR](#)

[reports](#) that nearly 6 million Afghans have been forcibly displaced from their homes—3.5 million are displaced within Afghanistan, and 2.6 million are refugees living in other countries. At the direction of President Biden, DHS created [Operation Allies Welcome](#) to coordinate support and resettlement for roughly [75,000 Afghans](#), including screening evacuees and working through applications for humanitarian parole and Special Immigrant Visas (SIVs). Despite these efforts, thousands of at-risk Afghans remain in limbo, and even those already in the United States [grapple with uncertainty](#) of their future legal status, [including unaccompanied minors](#). Advocates continue to push for the use of [a variety](#) of humanitarian pathways and safety nets to protect Afghan nationals, such as robust screening for eligibility for humanitarian parole, SIVs, refugee status, and asylum; the creation of an Afghan-specific parole program; and a TPS designation for Afghanistan.

Treatment of Unaccompanied Children. The Department of Health and Human Services (HHS) shelter system received [a record 122,000](#) unaccompanied children from the U.S.-Mexico border in 2021—roughly double the previous record. Of these, [1,300 were Afghan children](#) evacuated after the U.S. military withdrawal from Afghanistan and housed for extended periods on U.S. military bases before being reunited with family in the United States. An over-reliance on “[emergency intake sites](#)” and military bases for these children unfortunately resulted in a lack of critical care and overly long stays at unlicensed and inadequate facilities. Despite the multiple instances [since 2014](#) of record numbers of children arriving in need of assistance at the southern border, we have not yet seen plans for long-term reform of border reception and shelter systems to surge resources and accommodate such numbers. To prevent services from being overwhelmed in the future, to the detriment of the children in custody, the administration should [work to reform](#) the reception system itself to prepare for such times—especially after the decimation of our reception system under the previous administration.

The Victims Engagement and Services Line. ICE replaced the Trump-era Victims of Immigration Crime Engagement (VOICE) Office with the [Victims Engagement and Services Line](#) (VESL). The VESL is designed to be more inclusive and serves as an all-encompassing access point for all victims, regardless of immigration status or the immigration status of the perpetrator. The hotline provides victims the ability to report incidents of sexual or physical assault, abuse, mistreatment, or human trafficking in ICE detention. Further, the VESL provides push notifications about a detainee’s or inmate’s custody status, case outcome, and other basic information to stakeholders. Resources such as assistance for victims of human trafficking and U and T visa information are also available through the hotline, as well as information for law enforcement agencies seeking information about certification processes.

Addressing the Root Causes of Migration & Promoting Regional Collaboration



For decades, U.S. migration policy has often been driven by an approach that prioritizes temporary political or reactive solutions over investing in measures that tackle systemic challenges. This has left refugees, migrants, and their families unable to access protection or family reunification in the United States. After appointing Vice President Kamala Harris to lead on the root causes of migration, the White House issued [a regional plan](#) to address the immediate needs of people in the Northern Triangle region (El Salvador, Guatemala, and Honduras) and begin to tackle the medium- to long-term underlying issues that are forcing children, adults, and families from their homes, including targeted violence, political instability, poverty, sexual and gender-based violence, and the growing impact of climate change.

The administration should take additional steps to bolster regional responsibility sharing, better protect refugees and migrants, and ensure governments in the Northern Triangle region are able to provide safe and humane migration pathways.

Actions in Review

Regional Responsibility Sharing. The Department of State's Bureau of Population, Refugees, and Migration (PRM) announced in October 2021 that it is [providing more than \\$20 million](#) to help meet the urgent humanitarian needs of nearly 700,000 refugees and migrants in Central America and Mexico. This additional funding brings the total U.S. contribution to Central America and Mexico for FY 2021 to more than \$331 million. PRM is funded through the Migration and Refugee Assistance account (MRA) and the Emergency Refugee and Migration Assistance account (ERMA), two appropriations that are separate from the State Department's operating budget.

Leaders Agreement between the U.S., Mexico, and Canada to Increase Migration Coordination and Humanitarian Response. On November 18, 2021, President Biden hosted Canada's Prime Minister Justin Trudeau and Mexico's President Andrés Manuel López Obrador at the White House for the first North American Leaders' Summit (NALS) since 2016. In recognizing the need for a coordinated regional response, the leaders of each country [pledged to](#) strengthen asylum systems and refugee resettlement programs to provide international protection for those fleeing persecution. In his FY 2022 Presidential Determination on Refugee Admissions, President Biden allocated up to 10,000 refugees to be resettled from the Western Hemisphere, which does not come close to meeting the needs of people in danger. During the NALS Summit, each leader made a commitment to increase the number of refugees resettled in 2022.

Collaborative Migration Management Strategy. Soon after Vice President Harris was appointed to lead on the root causes of regional migration, the White House issued the July 2021 [Collaborative Migration Management Strategy](#). By integrating various U.S. government tools, such as sanctions and public diplomacy, the Strategy aims to carry out actions with coordinated efforts from civil society, U.S. Congress, and other institutions to improve human rights and security. On November 4, 2021, USAID announced a five-year \$300 million initiative to empower local organizations in El Salvador, Guatemala, and Honduras. By the end of 2021, State Department and USAID programming had reached millions of citizens in all three countries. In 2022, USAID should use co-creation tools to [engage grassroots](#) civic and faith-based organizations up-front in developing priorities, strategies, and programming rather than seeing these organizations as implementers of USAID ideas and programs.

Anti-Corruption Task Force. The Vice President is also leading the Biden administration's strategy to address the root causes of migration from Guatemala, Honduras, and El Salvador. Her trip to the region in June 2021 and frank conversations with the Presidents of Mexico and Guatemala led to

important new initiatives, including a new anti-corruption task force and a smuggling and trafficking task force; \$40 million to launch the Young Women's Empowerment Initiative; an additional \$48 million in U.S. government resources for affordable housing and small businesses; and agreements on enforcement, economic dialogue, and security dialogue.

Strategic Framework for Addressing Climate Migration. DHS made an important contribution to climate change policy when it issued its [Strategic Framework for Addressing Climate Migration](#) in October 2021. The Framework confirms that tens of millions of people are likely to be displaced over the next two to three decades due to the effects of rising global temperatures (many experts expect hundreds of millions to be displaced). Although the new Framework is an important step, it does not offer specific avenues of migration for individuals and families who need to move urgently due to climate-related disasters, or communities that want to stay home and are adopting adaptation and mitigation strategies, but will ultimately need to move due to slow-onset conditions (e.g., rising sea levels that will eventually lead to their homes being underwater). The U.S. needs to support proactive, long-term strategies to ensure that those who are forced to move are able to do so safely, by choice, and with dignity.

Rebuilding and Enhancing Programs to Resettle Refugees and Planning for the Impact of Climate Change. President Biden's February 2021 [executive order](#) directs applicable governmental agencies to fortify programs to resettle refugees, in addition to examining the impact of climate change on migration. It directs the Secretary of State, Secretary of Defense, Secretary of Homeland Security, Administrator of the United States Agency for International Development, and Director of National Intelligence to assess and prepare a report on climate change and its impact on forced migration. In response to the EO, Refugees International and its Task Force partners [published](#) a July 2021 report on climate-related migration with specific recommendations. The administration should act upon these recommendations in 2022 with concrete policy

changes and funding, moving beyond the task force and planning stage.

D **velopment and Livelihood Programming that Supports Thriving Communities.** In December 2021, the administration announced [Sembrando Oportunidades](#), a collaborative development program led by the United States and Mexico to address the root causes of migration from the Northern Triangle region. Set to begin in Honduras, the program aims to provide youth with skills and experience that will prepare them for long-term employment opportunities. In 2022, the Biden administration should build upon its 2021 efforts by directing significant funds toward livelihood and development programming for the Northern Triangle's region's young people in Central America and strengthening the integration and inclusion of refugees and migrants living in the United States and across the region.

C **all to Action: Private Sector Investments in Central America.** In December 2021, Vice President Harris [announced](#) new private sector investments from businesses such as PepsiCo, PriceSmart, Nespresso, Cargill, Microsoft, Mastercard, Grupo Mariposa, Partnership for Central America, and others totaling more than \$1.2 billion. These commitments were in response to the Vice President's May 2021 [Call to Action](#) for businesses and social enterprises to make new, significant commitments to sustainably address the root causes of migration by promoting economic opportunity and investing in the Northern Triangle region.

E **stablishing Migration as a Regional Priority.** As a follow up to the December 2021 [North American Leaders' Summit](#), the United States should advocate for migration and the protection of migrant refugee rights to be the priority issue at the June 2022 [Ninth Summit of the Americas](#) in Los Angeles. The administration should also advocate for the November 2022 United Nations Climate Change Conference (UNFCCC COP27) in Egypt to focus on climate-related migration throughout the agenda.

A **mericas Migration Accord.** The administration is reportedly considering a potential regional compact spanning countries in Central and South America, according to CNN, to "promote coordination on stemming the flow of migration and work to stabilize the region." Any compacts, accords, agreements or regional arrangements should uphold refugee law, the right to seek asylum and respect for human rights, and should take a whole-of-government approach built around a set of agreed-upon principles for regional responsibility sharing. Such an effort should include meaningful and early consultation with UN agencies, refugee and migrants, humanitarian and civil society organizations. This framework could provide a means of coordinating the disparate activities of individual governments, various UN agencies, multilateral development banks, and major civil society and philanthropic actors. An accord or set of principles for responsibility sharing and upholding human rights could be announced or agreed to at the Summit of the Americas (or a subsequent convening) and include a set of commitments made by each government in support of safe and orderly migration, access to asylum and other protection, local integration, refugee and migrant rights, and refugee resettlement.

C **entral Americorps.** A "Central AmeriCorps" program in each country, modeled after the highly successful AmeriCorps program in the United States, could bring economic and livelihood opportunities for up to 60,000 young people currently excluded from the economy and with very little opportunity to build a future. The community-based work of these young people could initially support COVID-19 response/recovery efforts and help rebuild communities destroyed by hurricanes, among other acute needs.

In the immediate term, this type of investment could create a measurable reduction in migration for directly-engaged young people who are given a tangible incentive to stay. It would also have secondary positive impacts by pushing additional dollars into local economies and providing needed skills training for future employment in businesses in the region with medium- and long-term benefits.