



Biden's Immigration Policy Changes Endanger Migrants' Safety—And Violate Human Rights

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While the Biden administration has taken steps to expand legal pathways for individuals seeking asylum in the United States, recently introduced policy changes simultaneously create new barriers for asylum seekers, thereby excluding particularly vulnerable individuals. The expected termination of Title 42—a section of U.S. law that was invoked by the Trump administration during the COVID-19 pandemic to expel migrants without considering their asylum claims, on the pretense of public health concerns—has created a moment for critical assessment of the implications of currently adopted and proposed policies for asylum seekers.

Proposed Policy Changes Could Exclude the Most Vulnerable Asylum Seekers

The new humanitarian parole program, which accepts up to 30,000 eligible migrants per month from Cuba, Haiti, Nicaragua and Venezuela, requires individuals to await travel authorization; this waiting period means individuals for whom it is not safe or viable to remain in their countries of origin during the application process may be excluded from the program. Grantees are required to have a U.S.-based financial sponsor and to travel by air, thereby excluding individuals without ties to States and/or the financial means to purchase airfares.

The CBP One App—a cellphone application that acts as a portal to direct users to appropriate Customs and Border Protection services—is now the official means for asylum seekers to schedule an appointment for a credible fear interview (a singularly crucial step in the asylum process) at an official port of entry. The app relies on individuals' access to a smart phone, battery charging station, and reliable internet: all conditions that are difficult to meet for individuals migrating to the States or staying in migrant camps or temporary shelters. Additionally, requiring appointment scheduling through the CBP One app can pose severe safety risks for migrants who need to travel for stable internet access in Mexican cities where crimes against migrants—including violence and kidnapping—are common. There have even been reports of long wait times and technical issues submitting photos and adding family members to applications, further delaying these critical appointments.

Finally, the proposed expulsion of migrants who did not seek asylum in a country they passed through on their way to the United States—currently scheduled to go into effect upon termination of Title 42 on May 11, 2023—would essentially require that migrants who travelled from anywhere other than Mexico by any means other than a direct flight sought asylum in countries where they did not intend to relocate, and which may not provide the safe harbor they require. In fact, the U.S. state department has reissued a “do not travel” advisory for the border state Tamaulipas and a “reconsider travel” advisory to border states Baja California, Chihuahua and Sonora due to crime and kidnapping; how can the administration justify dangerously long wait times for asylum seekers residing in these border states, and the requirement that migrants seek asylum in places considered unsafe for U.S. citizens?

It remains unclear how migrants can gain access to asylum in the States if they fall outside the parameters established by these new policies.

Implications for Migrants' Health and Safety

The Biden administrations' current immigration policies create avoidable and therefore unjust risks to migrants' health and safety:

- As unaccompanied children are currently exempt from the new asylum requirements, such policies invariably tempt parents to send children to the States by themselves, placing them at high risk of being subject to child labor, exploitation, and unsafe working conditions.
- The administration's potential reinstatement of family detention would expose children to grave mental and physical health risks like re-traumatization, distress, and developmental problems.
- Increased wait times for asylum appointments, especially since the 2019 Migrant Protection Protocol policy, have led to the rise of migrant camps where individuals are subject to violence, lack of access to medical care, and exposure to natural disasters like flooding and extreme heat.
- The fire at the National Migration Institute in Ciudad Juárez on March 27, 2023 which killed at least 39 individuals and seriously injured 29 highlights the safety risks for people in immigration detention facilities and the need for U.S. support for Mexico to ensure safe shelter for migrants.
- Immigration Rights experts have reiterated that limiting options for safe asylum seeking will lead migrants to pursue dangerous routes into the United States or seek help from smugglers, thereby risking their lives, kidnapping, and extortion.
- Lastly, language used by the Biden administration (with statements like: "to reduce the number of individuals crossing unlawfully between ports of entry...") continues to imply that certain forms of asylum seeking are illegal, thereby conflating asylum seeking with criminality and stigmatizing migrants; this rhetoric does not comport with USC Title 8, which states that port of arrival and legal status do not affect a migrant's right to apply for asylum.

Aligning Policies with Human Rights, American Values of Humanity and Fairness

In President Biden's own words, to "ensu[re] the dignity of migrants and upholding their legal right to seek asylum," additional actions and changes to the proposed new policies are a necessity. This administration and the agencies that carry out U.S. immigration policy can:

- Create a mechanism for migrants who are not able to meet the new requirements to safely seek asylum, and clearly communicate that this is migrants' right.
- Use community-based case management programs for families, as President Biden committed to in his written stance on immigration.
- Increase personnel at ports of entry to process asylum claims.
- Better collaborate with Mexican border cities to ensure migrants have access to safe shelters, medical care, and other essentials.
- And finally, discontinue the use of phrases like "illegal" or "border security" in reference to asylum seekers at the U.S. southern border, which uphold racist ideology, fuel fear mongering, and fail to acknowledge our shared human needs for safety, the ability to earn a living, and to see that our lives and those of our families have inherent value.

As became evident during the height of the COVID-19 pandemic, the importance of immigrants for filling essential worker positions can hardly be overstated. But immigrants are so much more than a boon to the U.S. economy: These are human beings seeking safety and a better life. At this two-year mark of the Title 42 policy and its impending termination, it is a critical time to reassess asylum-related policy decisions by the Biden administration and to call for necessary changes to protect migrants' health and safety, and better align policies with international human rights and American values.