



# **PROMISES KEPT AND PROMISES BROKEN: AN ASSESSMENT OF BIDEN'S FIRST YEAR**

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# INTRODUCTION AND OVERVIEW

As a candidate, President Biden spoke out forcefully against the cruelty, xenophobia, and racism against immigrants and other communities of color stirred by President Trump and other leaders. Voters responded to this dramatic change in tone and elected President Biden with the most votes for a president in U.S. history. Millions of Black, Latinx, AAPI, Indigenous, and other voters of color, including voters from immigrant families, helped put the President in the White House and ensured Democratic majorities in both House and Senate, albeit with a slim majority.

As president, President Biden from Day One made bold commitments to build an immigration system that is fair, humane, and that **“welcomes immigrants, keeps families together, and allows people across the country - both newly arrived immigrants and people who have lived here for generations - to more fully contribute to this country.”**

The President has kept and made progress on some commitments, including ending the Muslim and Africa bans, ending mass worksite raids, and rescinding the public charge rule. Even with more work to do to fully address the harm of these policies, these are accomplishments for the Administration and a testament to the power of organizing and advocacy among immigrant communities.

However, the President has not delivered real substantive change on his boldest, most urgent promises, including a pathway to citizenship, an end to for-profit detention, and restoration of meaningful access to asylum for those fleeing danger.

And in a major disappointment, the President has reversed course and doubled down on Trump-era asylum policies, with horrific consequences to tens of thousands of vulnerable migrants, particularly Black migrants. The Biden-Harris Administration has also failed to even begin to address immigration policy with a racial equity lens, allowing the continuation of policies that systematically harm Black, Brown, and Indigenous immigrants and their families.

This report assesses Biden's Year One on immigration by looking at his most high-profile promises and longstanding priorities for the We Are Home coalition.

As we end the first year, We Are Home calls on the Biden-Harris Administration to prioritize its commitments to creating a path to citizenship and building a fair and humane immigration system. As a country, we are fighting on many fronts to create a just, equitable society with access to the opportunities our communities need to thrive. Action on immigration is a crucial part of this fight.

**The Administration can and must do more.**

# OUR GRADING SYSTEM

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We assessed the Biden-Harris Administration's progress on its immigration promises using the following rubric:

PROMISE STATUS	EXPLANATION
<b>Kept</b>	The Administration fulfilled its promise.
<b>Kept, More Action Needed</b>	The Administration took action and fulfilled its promise, but more action is needed to fully address the needs of impacted community members.
<b>In Progress, Incomplete</b>	The Administration has started to make progress, but more action is needed to fulfill its promise.
<b>No Progress</b>	The Administration has either not acted or done very little to fulfill its promise.
<b>Broken</b>	The Administration's actions have undermined its promise and harmed communities.

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# PROMISES KEPT

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## 1) END WORKPLACE RAIDS.

Workplace immigration raids harm workers' rights and have long-lasting, devastating impacts on communities. The Department of Homeland Security announced an end to mass worksite enforcement operations in October, and no workplace raids have been reported during this Administration.





# PROMISES KEPT, MORE ACTION NEEDED

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## **2) REVERSE TRUMP'S PUBLIC CHARGE RULE.**

The Trump Administration's effort to install a new rule on public charge created widespread fear and confusion among immigrant communities, jeopardizing the health and well-being of children and families. The Biden-Harris Administration declined to defend the rule in court and removed it from use, reinstating long-standing policy guidance from 1999. The administration is taking steps to promulgate new rules through DHS and DOS. In addition to finalizing the rulemaking process as swiftly as possible, the Administration must also prioritize robust community outreach to address the continued impacts of the chilling effect caused by the Trump rule.

## **3) RESCIND THE UN-AMERICAN TRAVEL AND REFUGEE BANS, ALSO REFERRED TO AS 'MUSLIM BANS.'**

Millions of Americans stood together in opposition to the Trump Administration Muslim and African bans. The Biden-Harris Administration rescinded these discriminatory, anti-Muslim and anti-Black policies that affected tens of thousands of families and people seeking safety.

However, the U.S. Department of State (DOS) must also redress the harm for those denied before January 20, 2020. Previously denied applications should not constitute final denials and the DOS should automatically reconsider, reopen, and expedite all immigrant and non-immigrant visa applications subject to the Muslim and African Bans that have not yet been granted, including those placed into Administrative Processing pursuant to the Ban, as well as including those denied during Fiscal Year (FY) 2017 - FY 2020. New applications and/or fees should not be required for this process.

# PROMISES IN PROGRESS, INCOMPLETE

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## **4) EXPAND PROTECTIONS FOR UNDOCUMENTED IMMIGRANTS WHO REPORT LABOR VIOLATIONS.**

Protecting the rights of immigrant workers, regardless of status, strengthens the rights of all workers, including the right to organize and improve wages and working conditions. The Biden-Harris Administration has recognized this reality in policies adopted in the first year. To facilitate robust enforcement of labor and civil rights laws and to ensure that immigration enforcement does not impede the assertion of these rights, the Administration must now follow through by establishing a clear process for immigrant workers asserting their rights to request immigration protections.



# PROMISES IN PROGRESS, INCOMPLETE

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## 5) RESET IMMIGRATION ENFORCEMENT.

The Department of Homeland Security has issued a series of memos on immigration enforcement, including on civil enforcement priorities, worksite enforcement, and protected (aka sensitive) locations. These policies represent a positive shift from the prior administration towards a more holistic approach, as urged by advocates. Interior enforcement activity has been reduced, a change that is also in part attributable to the pandemic and state and local sanctuary policies. How DHS's new policies are implemented remains a deep concern, however, particularly as the policies continue to rely on flawed priorities that have racially disparate impacts and perpetuate harmful enforcement. Under a number of these memos, ICE and CBP operate with significant discretion without clear mechanisms for consistency, supervision, and accountability.



## 6) PROTECT DREAMERS AND THEIR FAMILIES.



The Biden-Harris Administration continues to defend the DACA program in court and has proposed regulations codifying the DACA program, as well as expansion of financial assistance for students with DACA. However, the proposed rule for the DACA program is limited, as it fails to expand access to the program and endangers access to work permits for DACA holders. Without a pathway to citizenship, the future for immigrant youth, including but not limited to DACA recipients, remains deeply uncertain.



# PROMISES IN PROGRESS, INCOMPLETE

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## **7) CREATE A PROCESS FOR DEPORTED VETERANS TO COME HOME AND REUNITE WITH FAMILIES IN THE U.S.**

The Departments of Homeland Security and Veterans Affairs announced an initiative which seemed to create a process for unjustly deported veterans to return home. However, no process has been established for deported veterans to seek return or identify if they may be eligible to do so. Statements in the press also indicated a commitment to bringing others home, but the Administration has not announced any policies or processes. Some veterans and other unjustly deported people have been able to return, but through individualized, highly ad hoc means.

## **8) STOP THE INHUMANE PRACTICE OF SEPARATING CHILDREN FROM THEIR PARENTS AND WORK TO REUNITE FAMILIES.**

The Family Reunification Task Force has facilitated the reunification of 100 children who had been separated due to the Trump Administration's border policies, with an additional 350 reunifications in process. Approximately 1,150 children's whereabouts have not been confirmed.

Despite this progress, in December, the Administration ended negotiations to settle compensation claims by separated families, choosing instead to continue litigating individual cases in court. Additionally, the continuation of several Trump border policies by the Biden-Harris Administration, including closure under Title 42 for adults and families and the restart of the Remain in Mexico policy, has resulted in de facto separations for thousands as families fleeing violence and other threats are forced to send their children to the U.S. alone. The Biden-Harris Administration continues to hold children in large, unlicensed emergency intake sites. Within the U.S., DHS immigration policies do not sufficiently center the best interests of children and families. Detention and deportation separate families every day.



# PROMISES IN PROGRESS, INCOMPLETE

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## 9) **"AGGRESSIVELY ADVOCATE" FOR A PATHWAY TO CITIZENSHIP.**

Despite overwhelming public support, the Biden-Harris Administration and Democrats in Congress have yet to deliver a pathway to citizenship for millions of undocumented immigrants who play an indispensable role in keeping our communities safe, healthy, and thriving. On Day One, the President introduced the U.S. Citizenship Act, but without a clear legislative strategy to secure success. The President and First Lady met with directly impacted immigrants, and the White House organized Cabinet and White House leadership to meet with directly impacted immigrants. Public comments in support of legislation with a pathway to citizenship were elevated. At the same time, it remains clear that more efforts are needed. The President must use the full weight of the White House to secure a legislative win that so many families and communities are counting on. With the Administration racing to get its Build Back Better reconciliation bill across the finish line, President Biden and Vice President Harris must work with Democratic leadership to ensure this legislative package is enacted with citizenship included. And it must clearly lend its support to disregarding the opinion of the parliamentarian.

## 10) **REVIEW TEMPORARY PROTECTED STATUS (TPS) AND DEFERRED ENFORCED DEPARTURE (DED) DECISIONS FOR VULNERABLE PEOPLE IN THE U.S. "TO ENSURE THAT NO ONE IS RETURNED TO A COUNTRY THAT IS NOT SAFE."**

Through TPS and DED designations, the Biden-Harris Administration has used its executive authority to protect some people in the U.S. from forced return to countries that are unsafe due to conflict, natural disaster, and other emergency, temporary conditions, including Venezuela, Syria, Burma, Haiti, Yemen, and Somalia.

However, the Administration has not designated or redesignated a number of other countries for TPS or DED, where country conditions amply justify such action, including Cameroon, El Salvador, Ethiopia, Guatemala, Honduras, Nepal, Nicaragua, South Sudan and Sudan. Millions of people in the U.S. remain vulnerable to deportation to countries where it is not currently safe to return.

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# PROMISES WITH NO PROGRESS

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**11) END 287G AGREEMENTS ENTERED INTO BY THE TRUMP ADMINISTRATION AND "AGGRESSIVELY LIMIT" THE USE OF 287G AND SIMILAR PROGRAMS "THAT FORCE LOCAL LAW ENFORCEMENT TO TAKE ON THE ROLE OF IMMIGRATION ENFORCEMENT."**

The Trump Administration rapidly expanded the 287(g) program, disregarding longstanding concerns about discriminatory policing. As of January 2021, ICE had 72 "jail enforcement model" 287(g) agreements and 76 Warrant Service Officer 287(g) agreements. The Biden-Harris Administration has canceled only one 287(g) contract, in Bristol County, MA, and it has kept the Secure Communities program and detainer practices in place which blur lines between local law enforcement and ICE, making communities less safe.

**12) ADVANCE "EQUITY, CIVIL RIGHTS, RACIAL JUSTICE, AND EQUAL OPPORTUNITY" ACROSS THE WHOLE OF THE FEDERAL GOVERNMENT, AS PART OF A COMMITMENT TO HEALING AND RESTORING UNITY.**

DHS has not issued any policies on immigration and racial justice. It has continued policies and practices that exacerbate inequality and have significant disparate impacts based on race, including continued reliance on the criminal legal system as a basis for enforcement and exclusion, continuing to aggressively litigate reform efforts, and continuation of Title 42 and expansion of MPP. Egregiously, the Biden Administration's DOJ has also continued to defend the prosecution of people who cross the border under laws that have a well-documented racist and white supremacist history, and has taken litigation positions that undermine the Biden administration's commitment to racial equity.

# BROKEN PROMISES

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## 13) "END FOR-PROFIT DETENTION" IN THE IMMIGRATION SYSTEM AND "STOP DETAINING PEOPLE INDEFINITELY."

The number of people in immigration detention ballooned from around 15,000 to over 27,000 under the Biden-Harris Administration (before declining to 22,000 in recent months), despite the ongoing pandemic and deaths in detention. Nearly 80 percent of detained immigrants are held in private immigrant detention facilities, and President Biden's executive order instructing the DOJ to phase out the use of private prisons notably excluded DHS.

The Administration did end contracts with two notorious facilities, after years of advocacy and organizing. However, instead of actively reducing mass incarceration and ending for-profit detention, a move that two-thirds of voters support according to recent polling, ICE has not only maintained the status quo, but also expanded the detention system through new contracts with private prison companies to open enormous new detention facilities. The Administration has also dramatically expanded its use of punitive, surveillance-based and misleadingly labeled "alternatives to detention" while failing to invest in the development of community-based support programs.

## 14) "RESTORE OUR ASYLUM SYSTEM SO THAT IT ONCE MORE OFFERS PROTECTION AND SAFE HARBOR TO PEOPLE FLEEING DANGERS."

Instead of treating those seeking protection with dignity, the Biden-Harris Administration has embraced and even expanded the Trump Administration's deadly anti-asylum border policies, including the Remain in Mexico program and border closure under Title 42. Tens of thousands of vulnerable migrants have been summarily expelled and forced into life-threatening circumstances in violation of domestic and international law. These include nearly 14,000 Haitians, including children and infants, who have been expelled without any due process since September to a country struggling with gang violence, a deteriorating security situation, and an ongoing humanitarian and economic crisis. In delivering on its promise to restore fairness and humanity to our asylum system, the Administration must close the growing gap between promise and reality and fully restore access to asylum, without reliance on detention – including at ports of entry – for those seeking protection under the law.



# NEXT STEPS

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**Our communities cannot wait any longer. One year into the Administration, we demand immediate action to protect immigrants who call this country home. The Biden-Harris Administration must keep its promises and work with Congress to deliver a path to citizenship. It must also exercise its executive authority and:**



## **01 — Protect People**

from family and community separation, using existing executive authority to grant protection and work authorization, including through robust application of the Temporary Protected Status statute;



## **02 — Reduce harm and address racial disparities**

through transformation of the enforcement system, including by reversing the expansion of the detention system, closing facilities, and releasing people from detention without over-reliance on punitive, surveillance-based “alternatives” to detention; and



## **03 — End the abuse and deportation of BIPOC and TGNCIQ migrants**

and restore meaningful access to asylum at the southern border.

**Thank you to all our partners and everyone who has joined us in the fight towards a pathway to citizenship for all, an end to the cruelty of the enforcement system, and the building of an immigration system that recognizes our humanity and rights.**