

Five Opinion Writers on What Biden Should Do in His Final Days as President

Michelle Goldberg: Pardon and Commute

My name is Michelle Goldberg and I'm an Opinion columnist at The New York Times. Lame-duck presidents are limited in what they're able to do, but one power they do have is the power of the pardon, as well as the power to commute criminal sentences. And typically they use this to pardon individuals, but you can also use it to pardon whole classes of people, and that's something that I hope that Joe Biden will consider. Biden should pardon everyone who could be prosecuted under the Comstock Act by the Trump administration. The Comstock Act is an 1873 anti-vice law that, among other things, banned the mailing of contraceptives and tools used to perform abortion. And for decades now, the Comstock Act was considered a dead letter. But it was never fully repealed.

When *Roe v. Wade* was overturned, you started to see conservatives agitating for its enforcement, especially around the mailing of abortion pills. So last year, JD Vance and about 40 other Republicans signed a letter demanding that the Justice Department start enforcing Comstock.

While Donald Trump has said that he's not interested in enforcing Comstock, it's not very clear whether he really knows what it is, and whether he would notice if people in the Justice Department decided to take it up.

So there's a fair amount of fear that this could be used to prosecute not just doctors in blue states who were sending abortion pills to women in states with abortion bans, but also abortion funds, pharmacists and many other people who are involved with the distribution and provision of abortion through the mail.

And so one of the ways that Joe Biden could not just protect people who could be threatened if the right makes good on its threats to enforce the Comstock Act, but also

just highlight its salience in a way that might make it harder for the right to engage in these really unpopular prosecutions, would be to pardon anyone who might be subject to these kinds of investigations and prosecutions.

In some ways, the effect of such a pardon will be limited because you can't pardon someone for quote-unquote "crimes" that they could commit in the future. But you could remove any potential liability for them, and also just ensure that no investigation gets a head start.

I also think that Joe Biden should commute the sentence of Charles Littlejohn, a former contractor for the I.R.S. who leaked the tax documents of many different billionaires, including Donald Trump, Elon Musk and Jeff Bezos, to show just how obscenely little many of them were paying in income taxes.

The New York Times relied on the documents that Littlejohn leaked to show that in 2016, Donald Trump had paid just \$750 in federal income tax, and that in 10 of the previous 15 years he hadn't paid any income tax at all.

ProPublica used the documents to show that there were years where Jeff Bezos paid zero income taxes. It showed that Elon Musk had paid no federal income taxes in 2018. It revealed the obscene inequality built into our tax system.

The judge in the case sentenced Charles Littlejohn to five years in prison, even though the sentencing guidelines recommended four to 10 months. So he has now served time, and Joe Biden could commute his sentence, and by doing that make a statement about the importance of journalism in trying to shed some light on the affairs of a class of people who are going to be both more powerful and more unconstrained than ever.

Joe Biden right now stands atop a party that is unbelievably dispirited, often terrified, racked with feelings of futility. I think that giving the people who supported him a win on his way out the door would both mean a lot substantively, but could also inject a little bit of energy and hope back into parts of the Democratic coalition.

David French: Help Protect Ukraine

I'm David French. I'm a columnist for New York Times Opinion.

I was in Kyiv in 2023, and I was there when the Russian missiles were coming in. I saw the courage of the Ukrainian people. I saw the lines of ambulances of casualties coming in from the front. I saw the damage and the destruction all around Kyiv from Russian aggression.

There is a lot of concern that after Donald Trump is sworn in, he's essentially going to cut off Ukraine, and that he'll be cutting off Ukraine at a particularly dangerous time in the war. And so here's where President Biden has an opportunity to exert some real leadership.

From the beginning of the war, Western powers froze more than \$200 billion in Russian assets. That is a sum of money that could really assist in propping up the Ukrainian economy, propping up Ukrainian arms purchases. It would be a tremendous assistance to the Ukrainian war effort, plus a real blow to Russia if it were permanently deprived of those assets.

And so, the proposal is that President Biden spend at least some of his remaining time in office trying to persuade our Western allies to not just freeze the assets but seize the assets for the use of the Ukrainian war effort, thus dealing an immense financial blow to Russia and providing a financial windfall to Ukraine that Ukraine could use to continue its war.

If you're going to be talking to historians 100 years from now, it is certain that they're going to be talking about the war between Russia and Ukraine as one of the hinge moments in our history, if an aggressor like Vladimir Putin is granted a victory in circumstances like this.

This is a direct threat to the security relationships that have kept the world safe from a great-power war for so long. What may well happen when Donald Trump takes power is he just cuts off Ukraine. If we cut off Ukraine, not only will Ukraine be financially crippled, it could also be militarily crippled in some very important ways. But the thing that is not as obvious is actually: The Russians are under pressure, too. A lot of people forget this. The Russian military is taking extraordinary losses right now, both in men and equipment. And so both Ukraine and Russia could be theoretically reaching near the limit of their ability to prosecute this war.

Right now, the danger has been that Ukraine would be reaching the critical point before Russia. If you could get Ukraine sufficient support in these last couple of months before the Trump administration takes power, they might be in a position of greater strength if and when cease-fire or armistice negotiations take place.

One final note on this. I think that seizing the Russian assets for the use of the Ukrainian war effort would be a very tangible way of saying to a people who are exhibiting extraordinary courage under fire, who are laying everything on the line to defend their nation against Russian aggression, it is a tangible way of saying the American people are still with you, and we're doing everything that our political process allows, that the law allows, that our strategic interests permit, to keep you and support you in this fight.

David Firestone: Appoint Judges

I'm David Firestone. I'm deputy editor of the editorial board.

The big arena for stopping a lot of what Trump wants to do is not going to be Congress, but it's going to be the courts. The most important thing that Biden and the Senate can do from now till Jan. 3 is to appoint as many federal judges as possible — both to the district level and to the appellate level.

If they leave any vacancies open on the federal courts, those are going to be filled by Donald Trump once he gets into office. He's going to use every one of those openings to appoint one of his judges, and they're probably going to be even more extreme than they were during his first term.

There are still some senators in the Democratic caucus who are raising objections to some potential nominees that are getting in the way of full confirmation, and it's unfortunate because this is going to be the most important battleground going forward once Trump takes over. Virtually all of his plans are going to be immediately challenged by lawyers from around the country in the federal courts.

People understandably look at the Supreme Court because those are the most prominent judges in the country, but really, they should be taking a closer look at lower court judges, both at the district and the circuit court level, because in many cases those are the judges who make decisions that affect people most closely.

Only a tiny fraction of the big cases go to the Supreme Court. A lot of the decisions that affect people's lives are made at the lower levels and stick because the Supreme Court can't take them all.

Trump appointed about 231 district and circuit court judges, depending on how you count them. Many of them were mainstream conservative judges. But many of them were also very extreme. They even veered from standard mainstream conservatism toward a definition of executive power for Trump that went beyond conventional thinking.

It looks like the people who are going to be advising Trump in the second term are pushing even more extreme judges than the first term. That's why it's a great concern, and why so many Democrats are urging their party to get as many judges on the bench as possible before that can happen.

Biden and the Senate have done an admirable job of filling the vacancies. But there are still many vacancies that haven't been filled, and I would really like Biden and the Senate to do whatever it takes, even if that means working holidays and working nights and working weekends, just to make sure that as many judges get appointed as possible.

Nicholas Kristof: Take a Stand on Gaza and Sudan

I'm Nick Kristof. I'm a columnist for The New York Times. For decades I've reported about humanitarian crises around the world, and in recent months I've reported both from the Middle East and from Sudan.

In the final weeks of President Biden's term in office, I'm thinking about how he can best use his influence and his political capital to advance American interests around the globe.

President Biden came into office with a reputation as a real foreign policy expert. To my surprise, I've actually been somewhat disappointed with where Biden has left foreign policy.

Overall, there's a series of historic lapses, including the growing atrocities in Sudan and a looming famine there. And maybe above all the war in Gaza, perpetuated with

American weaponry, so that conflict, I think, has become the albatross around President Biden's neck.

Sudan is probably the world's worst humanitarian crisis right now, and President Biden has been publicly silent about the role of our partner, the United Arab Emirates, in providing weapons to the most brutal of the militias there in ways that perpetuate mass murder, mass rape and the famine there.

So President Biden should publicly speak up about the United Arab Emirates, and I think that speaking up can raise the costs of this deplorable role on the part of the U.A.E. and can lead it to play a more constructive role there.

And in the case of Gaza, it's time for Biden to adhere to American law, which says that offensive weapons can't be shipped to a country as long as it's impeding the flow of humanitarian aid. Every aid worker I've spoken to has no doubt that is what Israel is doing.

I've seen Biden over the decades talk about morality in foreign policy. But in the case of Gaza, he has continued to ship weapons and they have been used as part of an effort that appears to have killed more than 40,000 people in Gaza — that UNICEF says is now the world's worst place to be a child.

The International Criminal Court has issued an arrest warrant for Prime Minister Netanyahu for war crimes and crimes against humanity. But Biden has used American influence in the U.N. to protect Netanyahu's government while continuing to provide him with an endless supply of weaponry.

From my point of view, Biden has been rolled by Netanyahu, and the only way to get his attention again is to use leverage, to withhold offensive weapons. Other presidents have done that, but somehow, Biden has just been too weak.

At the end of the day, I'm unfortunately quite confident that Trump is going to reverse these steps, but Biden would at least end on a note of enforcing American law and pressing to end the war and to recover Israeli hostages rather than endlessly fueling that conflict.

I think the next four years are going to be a really difficult time for those of us who believe that our foreign policy has to reflect values as well as interests. But in truth, the

last four years haven't been so great, either. And this is President Biden's chance to begin, albeit too late, to remedy that.

Binyamin Appelbaum: Protect Lands

My name is Binyamin Appelbaum and I write for the Opinion pages of The New York Times.

A president in his final weeks in office has limited power to do new things, but there is one power that I particularly like to see him use, which is the power of a president to designate new national monuments. What that means is that he has the power to take federal lands and to place them in a protected status that largely precludes their use for commercial purposes, like logging or mining, and reserves them for recreational purposes, and just to be preserved land in a state of nature.

I would particularly like to see President Biden designate three areas of land in California that are in different parts of the state. One is in the northern part of the state, it's a region of volcanic land. The second is adjacent to Joshua Tree National Park. It's called the Chukwalla Mountains. And the third is a stretch of desert down by the Mexican border. All told, this is about 1.2 million acres of land, stretching from north to south in California.

What's special about these three pieces of land is not just that they are beautiful, and not just that they are fairly pristine, but that there is community support for preserving them. In many parts of the West, the designation of lands is extremely controversial. Big fights break out between local politicians and the federal government. But in this case, the California State Legislature has voted unanimously in favor of designating these three tracts of land. The Native American tribes that have lived on these lands for a long time are the leading advocates for preserving these lands. There are always some people who are opposed, but in this case, there aren't as many as you often find. These are easy ones. These are the slam dunks.

It is extremely difficult to remove protections once they're imposed. The law says that once we've made this decision as a nation, through our elected leader, the decision sticks.

It may be the last chance for Biden to do this, but it also may be the last chance for any president. Congress passed a law more than 100 years ago that gives the president the

power to protect public lands, and presidents since then have used it to create our national park system and other forms of protected land. Some Republicans want to get rid of that law. They want to prevent future presidents from protecting land on their own authority.

There would still be a process for doing it, presumably, but it would be much harder. It would probably require a vote of Congress, and that's something that doesn't happen very much these days. So this power that Biden has may not exist the next time we have a president who is interested in preserving public land. So there's an additional urgency here for Biden to exercise this authority while it still exists.

I think that when one looks back on our elected leaders and thinks about their legacy, protecting lands is often a very powerful part of that legacy. It's something that endures and is associated with our leaders for long after they leave office. There just aren't very many instances of people protecting land and us looking back on it and being like, you know, boy, that was a mistake.

In general, when we muster the will to protect portions of this country, we end up feeling pretty good about it. So I think this is just a chance for President Biden, in his closing weeks in office, to do something that will have lasting value for the nation.

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