



A Better Way on Immigration

Policy Brief: Modernizing America's Asylum System

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The U.S. asylum system reached a breaking point in 2025 as the Trump Administration closed access to asylum in nearly all settings: at U.S. borders, from abroad and within the country. The Administration also detained asylum seekers who were living in the United States and complying with the law while waiting for decisions. Now, it is poised to block asylum seekers from obtaining work permits, depriving them of a means to a livelihood. The Administration has justified its policies as necessary to stop fraudulent claims, but it has effectively choked off asylum access cruelly turning its back on those in need of protection.

In the wake of World War II, the United States took on a global humanitarian leadership role, providing shelter for religious minorities and people fleeing Communist and repressive regimes. Since then, Americans have continually [supported U.S. humanitarian programs](#) to aid those in need and to [protect U.S. interests abroad](#). While the President campaigned in 2024 to shut down the border, since then public support for asylum has increased. By early 2026, [66% of Americans disapproved](#) of the blanket ban on asylum.

The United States needs a modernized asylum system that not only protects people at risk of persecution but also keeps the border secure. That begins with streamlining the process to quickly determine who is eligible for protection and who is not. Decisions that are both fast and fair will rebuild public confidence in the asylum system and reduce fraudulent claims. To achieve this, asylum officers should be authorized to decide all asylum claims, including those handled by immigration courts. Officers can decide cases faster than courts while ensuring fairness and accuracy. The government can manage border arrivals by expanding programs that enable people to apply for protection before they embark on dangerous travel. These and other reforms will create a better system to protect asylum seekers and ensure an orderly process at the U.S. border.

The Administration Ended Access to Asylum at the Southern Border

In January 2025, President Trump declared a national emergency and issued [directives](#) that [ended access to asylum at the southern border](#). Those policies remain in force, and as a result, U.S. border officials are ignoring requests for asylum and expelling asylum seekers. The Administration also plans to [reinstitute its](#)

[first term plan that forces people to wait in Mexico](#) for decisions on their U.S. asylum cases. Called Remain in Mexico, the plan has exposed highly vulnerable people to [kidnapping, assault, and extortion](#) by criminal groups operating in Mexico.

The total shutdown of asylum access at the border is an extreme measure that cannot be legally justified given the right established in [U.S. law](#) for asylum seekers to seek asylum at the border. With the recent [reduced border flows](#), the Administration should reopen ports of entry to asylum applicants. To manage a potential increase in the volume of arrivals, the Department of Homeland Security (DHS) should set up more programs enabling migrants to obtain permission under existing legal pathways before coming to the border. That can be done by lifting the travel bans that currently apply to people from 75 countries and restarting programs to safely screen people in other countries, as described in the sections below. Other measures that streamline the asylum process, as set forth below, will further ensure the orderly screening of applicants at the border.

USCIS Halted All Asylum Adjudications and Stopped Nearly All Refugee Resettlement

In late 2025, the executive branch took the unprecedented action of ordering U.S. Citizenship and Immigration Services (USCIS) to stop issuing decisions in asylum cases until it reexamines hundreds of thousands of *previously approved* immigration cases. [The directive](#) instructed staff to re-review cases from 75 countries that USCIS already approved if the person from a banned country entered the United States during the Biden Administration. The review covers not just asylum, but other immigration applications.

Meanwhile, earlier in 2025, the Administration cut off the resettlement of refugees from nearly all countries except South Africa and a few others, reducing the annual goal to 7,500 resettled refugees. This was a drastic reduction compared to the average annual total of approximately 98,000 resettled refugees over the previous 46 years, excluding the atypical lows of both terms of this Administration. Reducing refugee resettlement is contrary to national interests as it will increase backlogs for other immigration applicants, force families to wait longer to reunify with their spouses and children, and push more people to come to the U.S. border to request asylum.

In addition to its humanitarian benefits, the U.S. refugee program has long been recognized as an effective tool for reducing migration to the border and unlawful border crossings. Rather than decrease refugee resettlement, lawmakers should expand the program and explore similar methods that enable people to apply for protection before they travel to the United States to [alleviate pressure at the border](#). Under the Uniting for Ukraine program, the use of humanitarian parole resulted in a [99% decrease in arrivals of Ukrainians](#) at the U.S. border. Humanitarian parole was also used successfully to [reduce illegal border entries](#) for nationals of several other countries.

USCIS Began Rapidly Dismissing Affirmative Asylum Cases Unlawfully

USCIS, which decides “affirmative” asylum cases for people who are not in immigration court removal proceedings, is [dismissing cases](#) without processing them. USCIS began baselessly alleging that asylum applicants were subject to the rapid deportation process called expedited removal (ER). Last summer, in 133 cases reported by AILA members, USCIS dismissed people’s cases based on ER but provided no evidence that ER applied. In more than 40% of those cases, the asylum seekers had proof that they could

not even be subject to ER because they had been legally paroled into the United States or entered on a visa.

If USCIS dismisses a case based on ER, the law requires USCIS to conduct an asylum screening interview and refer cases that pass the screening to immigration court for a hearing. Through these unlawful dismissals, the Administration is shifting significant workload to the courts, exacerbating the already massive court backlog. Moreover, it is far less efficient and more costly for courts to decide asylum cases due to the adversarial judicial process, which requires an ICE attorney to prosecute and a judge to make a decision. For more detail, read this [AILA policy brief](#).

The better approach for speeding up asylum cases is to delegate more responsibility to USCIS asylum officers to decide asylum cases. Historically, asylum officers have been well-trained on asylum law, country conditions, and other factors to properly and efficiently distinguish meritorious cases from those ineligible for relief. It bears noting, however, that newly hired asylum officers will be less qualified under new Administration policies that have downgraded the position by no longer requiring a college degree and lowering the pay scale to GS-07 with a starting salary of \$43,000. In the past, asylum officers often had graduate or law degrees and experience directly relevant to asylum processing and could potentially enter at level [GS-12 with a starting salary of \\$75,000](#).

Asylum Seekers Are Being Denied a Fair Day in Court

In the spring of 2025, U.S. Immigration and Customs Enforcement (ICE) along with other federal agencies began conducting large-scale arrest operations at immigration court hearings, breaking longstanding standards restricting enforcement at courts. Asylum applicants are permitted by law to live and work safely in the United States while their cases are pending. Courts dismissed pending asylum cases for applicants with no criminal or other public safety issues, while federal agents waited for them outside courtrooms and immediately detained them. Asylum seekers and their attorneys were misled into thinking that judges were dismissing their cases so they could apply affirmatively with USCIS. Once news spread that arrests were happening at immigration courts, people became afraid to come to court. Many [failed to appear for court dates](#) resulting in them being ordered removed without the opportunity to present their cases.

Another policy that blocks asylum seekers' access to courts is an April 2025 immigration court policy that encourages immigration judges [to summarily dismiss \(or "pretermite"\) asylum cases](#) before they are ever heard, denying a full and fair hearing. Judges began dismissing applications citing trivial reasons, such as failing to answer every question on the 12-page asylum form, labeling them "legally insufficient." These exacting standards stack the odds dramatically against asylum seekers who often lack legal training or facility with English, making it more difficult to complete the lengthy and complex compound questions on the form. About three out of four asylum applicants apply [without legal representation](#).

The Administration claims its dismissal policy will eliminate fraudulent cases, but this approach compromises the courts' ability to thoroughly review each case and sacrifices fairness in decision-making. To expedite review of asylum cases while still ensuring careful consideration in each case, AILA recommends shifting review from the courts to USCIS asylum officers. To further increase efficiency and fairness, people who are indigent and whose cases go to immigration courts should have attorneys provided by the government. Attorneys can ensure applications meet legal requirements and help reduce court costs by avoiding delays that result when someone does not understand the legal process. A more

efficient process will quickly approve meritorious cases while denying ineligible claims and moving them toward repatriation.

ICE Is Deporting Asylum Seekers to Dangerous Countries to Face Imprisonment and Return to Their Home Countries

In 2025, ICE began circumventing the legal process by [deporting asylum seekers to third countries](#) where they had no previous contact. Under this procedure, ICE ask the immigration courts to summarily dismiss their asylum case and order the person removed to third countries thereby depriving them of the opportunity to seek asylum in the United States. The Administration has made agreements (some are called Asylum Cooperative Agreements) with at least [25 other countries](#) that have agreed to admit asylum seekers and review their claims. Many countries that accepted deportees from the United States quickly [deported them to their home countries](#). The number of times DHS used this process increased exponentially from [133 in April 2025 to over 12,000 by December 2025](#). Earlier this year, a [federal court ruled](#) that the third-country removal process violates immigration law and the Constitution.

Third countries often lack asylum systems that are [equipped to handle the cases](#) or are wracked by violence or political instability. Notoriously, the Administration sent hundreds of Venezuelans, including [asylum seekers](#), to El Salvador's CECOT prison. Eswatini held asylum seekers [in solitary confinement](#). The [UN Refugee Agency](#) reported that Honduras faces persistent "violence perpetrated by gangs, manifested through extortion, forced recruitment of children, violence against women and girls." Last year, asylum cases quadrupled in Honduras compared to the year before further straining limited national capacities.

AILA attorneys have also reported that ICE attorneys are approaching asylum seekers before their court date and threatening that they will be deported to a third country if they do not give up their asylum claims. For many asylum seekers, the risk of being sent to an unknown and unsafe country may be worse than being returned to their home country. As a result, they accept deportation to their home country despite their fear of persecution.

The Administration Plans to Deny Asylum Seekers the Opportunity to Work

DHS is implementing a [new rule](#) that will block future asylum seekers from working while their cases are pending. The regulation will halt the processing of work permits for all asylum seekers when USCIS is taking more than 180 days to process asylum cases. Currently, the wait time far exceeds 180 days, meaning work permits will be stopped as soon as the rule takes effect. Moreover, with 1.4 million affirmative asylum cases in USCIS's backlog, the government estimates it will take between 14 and 173 years to reduce processing to 180 days. As a result, this regulation will end asylum applicants' ability to work lawfully in the United States.

In addition, the new rule will require asylum seekers to wait a full year before they can apply to work in the United States. This more than doubles the current 5-month waiting period. The 12-month period will impose significant hardship on a highly vulnerable population.

The better approach would be to reform the system to rapidly determine which cases are ineligible for asylum instead of punishing bona fide applicants by forbidding them from working legally. Asylum

seekers sometimes flee their countries with little more than the clothes on their backs, and the new rule provides no viable option for them to sustain themselves and their families while they await decisions.

Mass Detention Has Swept in Many Asylum Seekers

The Administration rapidly implemented quotas to arrest people, including asylum seekers. Of those detained, the vast majority have [no criminal charges](#). Detention is costly and harmful, especially for asylum seekers who frequently struggle with trauma and other mental health challenges. Detention is being used punitively, [in violation of the law](#), to compel people to give up their cases. The government is not justifying detention based on whether the person is a flight or safety risk or considering the option of highly effective and less costly alternatives to detention.

A 2024 [international study](#) of the impact of detention on asylum seekers found they have high rates of pre-migration trauma from exposure to war, genocide, or imprisonment. The research concluded that their experiences make them exceptionally vulnerable to health problems and detaining them worsens the effects of the trauma.

A Better Way Forward on Asylum and Border Management

- **Shift cases to USCIS to ensure fair and fast asylum decisions.** USCIS should be authorized to adjudicate all asylum applications, including those that would otherwise be heard by immigration courts. This will eliminate [half of all](#) newly filed cases from the courts' docket and accelerate the overall pace of asylum case reviews. To increase its capacity, USCIS should hire more asylum officers while maintaining high-level qualification requirements, pay grades, and training programs. The process can be further streamlined by separating cases into faster or slower processing tracks based on the complexity of the case and the current conditions and geopolitical factors in countries of origin. The agency should offer incentives for people with expertise in certain languages and countries or regions and provide specialized training to recognize fraud or misrepresentation patterns.
- **Expand Legal Pathways to Reduce Border Pressure.** A key strategy to reduce irregular migration to the border is to increase legal pathways for those seeking protection so they do not undertake dangerous journeys to the United States. The U.S. government should expand the refugee program and develop other programs that provide a safer and more orderly alternative that allows them to remain in their current location while U.S. officials process their applications. Those approved are then resettled in the United States in a safe, coordinated manner. This not only relieves pressure on the southern border but also reduces asylum applications in the United States.
- **Re-establish orderly asylum processing at the U.S. border.** With the current lower border arrival numbers, DHS should restart processing asylum cases at ports of entry. The complete closure of access to asylum at the border violates U.S. law, and there is no legal or policy justification for it. The addition of more asylum officers to screen cases will prevent overcrowding at ports of entry. A better run and better resourced asylum system can ensure legally accurate eligibility determinations and at the same time ensure order is maintained at the U.S. border.

- **Guarantee Legal Representation for Asylum Seekers.** The government should fund legal counsel for asylum seekers in immigration court as it has been shown to increase efficiency, fairness, and accuracy. People represented by counsel have exceptionally high rates of appearing in court, at [over 94%](#), according to research spanning 2013 to 2024. Expanding access to counsel will make immigration courts proceedings fairer and more efficient.

The U.S. asylum system is being deliberately dismantled. Rebuilding it is both possible and necessary to manage the border and the flow of migrants in an orderly way. The nation will remain committed to protecting asylum seekers so long as the public is confident the system will reach decisions expeditiously and prevent people who are ineligible from staying in the United States for extended periods while their cases are stuck in the backlog. A fair and efficient asylum system will strengthen the rule of law, reduce chaos at the border, and restore the United States as a leader in humanitarian protection.