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Policy Brief: What Would Be the Impact of Capping Asylum?

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The idea of limiting or “capping” the number of people who could receive asylum has been proposed as a way to reduce or limit migration at the U.S. southern border. A cap intended to block or limit asylum seekers from entering the United States is not an effective solution to managing border migration and will do nothing to keep our borders safe. In fact, a cap will likely bolster cartel activity and make the border region in northern Mexico more violent and dangerous. A cap could slow down migrant processing and further exacerbate delays for travelers and migrants alike at the border. It will also violate U.S. and international law. Finally, a cap would force people fleeing persecution back into life-threatening conditions.

- **A cap on asylum would be a boon to cartels and smugglers and make the border region in northern Mexico more dangerous. The United States should not contemplate blocking entry to asylum seekers and forcing them wait outside the U.S.** until their asylum cases are decided. The Trump Administration’s Migrant Protection Protocols (MPP) attempted to force people to remain in Mexico while their claims were adjudicated with disastrous consequences. Under MPP, cartels and smugglers preyed upon asylum seekers who had nowhere to stay but in camps with dangerous conditions.
 - Cartels’ [business](#) models include preying on, harming, and kidnapping migrants for ransom and profit.
 - [Rival](#) cartels also fight for territory along the border to gain profits for their businesses, which leads to violence and turf wars between cartels along the border. This puts asylum seekers and U.S. border officials in harm’s way.
 - The Mexican government would likely reject a U.S. plan forcing asylum seekers to wait in Mexico. MPP was implemented only with the Mexican government’s agreement and the Mexican Supreme Court is currently [litigating](#) its constitutionality.
- **Capping asylum (like other limits on access to safe and humane pathways for seeking protection) and forcing people to wait in Mexico will increase irregular migration between ports of entries along the southern border.**
 - The DHS Office of Inspector General [twice found](#) that under MPP “metering or turnbacks have been a direct cause of some asylum seekers choosing to cross between ports of entry, rather than wait months in Mexico in limbo with no guarantee of ever being permitted to access asylum at ports of entry.”
 - Capping asylum will incentivize asylum seekers to enter between points of entry, because the conditions in Mexico would be too dangerous for them to wait and they would be at risk of the Mexican government deporting them to their countries of origin.
- **There is no reason to believe that a cap on asylum seekers would deter significant numbers of people from presenting at the border.** People will still come to the U.S. border seeking asylum because it is still available and they think they have a chance. A cap on numbers would not change that. [Research shows](#) that asylum seekers at the border are unaware of policy changes,

even major changes such as the Biden administration's May 2023 Circumventing Lawful Pathways asylum ban.

- **Capping asylum would arbitrarily deny life-saving protection to legitimate asylum seekers and violate U.S [domestic](#) and [international](#) laws.** These laws establish a right for a person to seek asylum at the border and they prevent people from being sent back to dangerous and violent conditions.
- **A cap on the number of people who could qualify for asylum would not limit asylum seekers from being granted entry at the border.** Because decisions on asylum cases cannot be made in a matter of minutes, people who arrive at the border and are subject to an asylum cap will either be allowed in on a preliminary basis while their cases are decided or will be forced to wait in Mexico. The only practical and humane way to implement a cap would be to allow people to enter the U.S. while their cases are decided. Under this method, the cap would not limit asylum seekers from being granted entry. For these reasons, it would also be extremely difficult to administer a cap on a daily basis.
- **A cap on asylum will complicate and slow down the asylum review process – not make it more efficient.** Administering a cap, which has been done on other immigration visas, is complicated and time consuming. The resources required to review cases and determine whether there are remaining slots in a given year will undermine USCIS and immigration court efficiency in deciding cases and increase extensive backlogs plaguing both agencies.