



Insight

New Changes to Asylum Laws

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Earlier this week, President Trump issued a [memo](#) to the acting Secretary of Homeland Security outlining changes to the [asylum admissions process](#) in the United States. These new policy changes come in response to an influx of families from Central America fleeing violence in their home countries that led to the number of unauthorized border crossings [last March](#) reaching over 100,000, the highest monthly total since 2006. The president's memo attempts to respond to the changing conditions at the border by discouraging illegitimate claims of asylum and accelerating the current adjudication process for asylum claims. In practice, it is unlikely to resolve these challenges.

The president's new policy guidance has three parts. First, it seeks to prevent certain asylum seekers from legally working in the United States. Currently, asylum seekers are permitted to apply for employment authorization 150 days after submitting an asylum application. The new regulation would bar individuals who previously entered the United States illegally from the right to work, which would apply to all defensive applicants for asylum – over 10,500 individuals in 2017. Of all individuals granted asylum, roughly [40 percent](#) apply defensively.

The second policy change is to require fees for both asylum applications and applications for work authorization (for asylum seekers with pending applications that did not enter the country illegally). While no fee is specified, the order stipulates that it must not exceed the cost of adjudicating the asylum claim. Any fee, however, will likely be a huge deterrent: The definition of an asylum seeker is someone fleeing their home country due to a credible fear of persecution or torture. Often, these individuals do not have many resources and arrive with nothing but their families.

Finally, the order attempts to shorten the adjudication process for asylum by mandating all claims be resolved within 180 days. This policy would, in theory, enhance the efficiency of the asylum process. The current capacity of the U.S. immigration system, however, cannot meet the demand of individuals defending themselves against removal – both asylum seekers and other undocumented immigrants. The order does not direct any more resources for hiring additional immigration officers at the Department of Homeland Security (DHS) or Department of Justice (DOJ) who work with immigration judges to evaluate asylum claims and determine their legitimacy. Given the current backlog of over [820,000 pending immigration court cases](#), it is unlikely President Trump's order will have a significant impact without directing more resources to DHS and DOJ.

This memo is not the first time President Trump has attempted to overcome new challenges at the border via executive action. Before his latest memo, President Trump instituted a “remain in Mexico” policy, allowing certain asylum seekers to be returned to Mexico pending a decision on their applications. He also issued an [executive order](#) barring individuals who previously entered the country illegally from seeking asylum. Both policies have since been blocked by federal judges due to questions of legality, yet the remain-in-Mexico policy was [temporarily reinstated](#) after a successful appeal. Finally, President Trump [threatened to close](#) the U.S.-Mexico border earlier this year to stop the flow of asylum seekers, an action that would have [significant negative ramifications](#) for the U.S. economy. Such a move would also not be an effective solution, as it would only delay the United States’ obligation to hear the cases of individuals fleeing violence or persecution.