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Policy Brief: Chaotic Policy Changes Are Ending Access to Asylum in America

October 9, 2025

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In less than a year, the Trump Administration has implemented sweeping policies that severely restrict access to asylum and shut America's doors to people fleeing persecution. These policies violate federal law, erode constitutionally protected due process, harm domestic violence survivors, and create bureaucratic inefficiencies that exacerbate the backlog of asylum cases. Asylum seekers now face an increasingly narrow, nearly impossible path to protection that disregards the law and endangers people's lives.

It is possible to expedite asylum processing and alleviate backlogs without sacrificing fairness, accuracy, or adherence to the law. This can be accomplished by hiring and training more asylum officers, streamlining the legal process to decide cases faster, ensuring access to legal representation, and coordinating more effectively with relevant agencies. These and other reforms would establish a safe, orderly, and humane asylum system.

Left unchecked by Congress, these policies will have dire consequences for both asylum seekers and the integrity of our legal system. Asylum seekers—especially those without access to counsel—are at grave risk and may never see justice.

The Trump Administration is deporting people to countries—and sometimes continents—where they have no connections and face dire human rights abuses.

Through the unprecedented use of “third country removals,” the Administration is deporting people to countries where their safety cannot be assured and they are subjected to gross human rights abuses, making the United States complicit with these human rights violations. Third country removals are deportations of individuals to countries other than their country of origin. One such country is El Salvador, where the United States sent hundreds of people to the infamous CECOT prison that forces prisoners to sleep on metal planks and subjects them to brutal beatings and horrific conditions. So far, more than 700 people—many of whom still have pending asylum cases or have been found eligible for other forms of protection—have been removed to third countries. Multiple times, government officials directly violated court orders blocking these deportations, blatantly disregarding the rule of law.

In many cases, the Administration is violating U.S. and international law by deporting people who fear persecution or torture in their home countries first to a third country, which then sends the person to their home country. In September 2025, a federal court heard the case of a man whom a U.S. immigration judge ruled could not be sent back to his home country due to the likelihood he would be tortured. Despite the judge's ruling, the U.S. sent him to Ghana, which promptly returned him to his home country—he now lives there in hiding.

An executive order has blocked all access to asylum at the border.

Since January 20 of this year, asylum seekers at the U.S. southern border have been turned away without being allowed to apply for asylum. In an executive order, the Trump Administration suspended the ability to request asylum at the southern border, citing an “invasion.” While the U.S. has a right to control its borders, it is possible to do so in line with the statute while maintaining a meaningful opportunity for persecuted people to apply for asylum. A report from [Human Rights First](#) found those turned away at the border include people fleeing persecution due to their religion or political opinion, anti-LGBT attacks, and death threats.

Sealing the border exceeds the executive branch’s power and conflicts with federal statute. The executive order relies heavily on Immigration and Nationality Act (INA) section [212\(f\)](#) to justify closing the border. This section gives the executive branch authority to “suspend” entry for certain people. However, the 9th Circuit Court of Appeals concluded that Section 212(f) [cannot override](#) other immigration laws. Specifically, the new policy directly conflicts with [federal law](#) guaranteeing people the right to apply for asylum. Furthermore, in the past nine months the Administration has taken no steps to re-evaluate whether keeping the border closed is necessary—even as border entries have declined. By the Administration’s own account, [border numbers are at historic lows](#), yet this [suspension remains in place](#) and has been renewed twice.

Presidential actions have gutted the bipartisan U.S. refugee program.

For decades, Republicans and Democrats have supported the U.S. program that resettles refugees from other countries to the United States after they qualify under the law and pass [rigorous security and background checks](#). Resettling refugees is an effective way for the U.S. to pre-screen and manage who enters the country for humanitarian protection. Once in the United States, refugees contribute [billions of dollars](#) to the economy. On inauguration day, President Trump signed an [executive order](#) banning refugees that was later partly blocked in [litigation](#). Since then, the U.S. has resettled few refugees aside from white South Africans, a newly identified group. The Administration refused to meet with Congress by the legally required September 30 deadline to determine how many refugees to admit in the coming fiscal year, immediately blocking any refugees from arriving. [Reportedly](#), the Administration plans to set the refugee ceiling at 7,500—a record low and a steep drop from the 125,000-refugee cap for fiscal year 2025.

New DOJ policies block domestic violence survivors and other victims of violence from asylum.

Recent Attorney General (AG) and Board of Immigration Appeals (BIA) decisions block asylum eligibility for domestic violence survivors,¹ gang violence survivors, and those targeted for their family relationships² or gender. Courts had granted protections to these groups after years of careful review and development of legal precedent. The new policies will roll back these protections. Without asylum, these survivors face deportation back to the very abuse they fled, often in countries that fail to protect them or hold abusers accountable.

DHS and DOJ are dismissing asylum cases without fully reviewing them.

The Trump Administration is dismissing asylum applications filed with the [immigration courts](#) and [USCIS](#) without even looking at the merits of their cases. This practice deprives asylum seekers of the due

process to present the merits of their cases guaranteed in the Constitution.³ Notably, AILA members report that judges are dismissing asylum cases for minor clerical omissions such as leaving a subpart of the complex application unanswered. In addition, USCIS is [dismissing cases](#) of people who entered the United States legally, applied properly, and never got a fair shot to make their case.

DHS is singling out people from Spanish-speaking countries for rapid asylum dismissals.

As of September 25, 2025, DHS attorneys are saying in court that the White House has instructed them to seek dismissals in all asylum applications filed by Spanish-speaking nationals from South and Central America, except for Venezuelans and Cubans. The Administration has issued no clear policy to explain this dramatic shift that will result in dismissals of many eligible asylum cases without due process. While not everyone should be granted asylum, the U.S. government can establish a fair mechanism to ensure asylum seekers have a fair opportunity to present their claims.

EOIR is directing immigration judges to decide cases before asylum seekers can find attorneys.

[Legal representation](#) is essential to ensuring a fair court process and improves speed, [efficiency](#), and [compliance](#) with the law in asylum processing. The federal government, however, does not guarantee asylum seekers an attorney even if they cannot afford one. Every effort should be made to support asylum seekers in finding and securing counsel. Toward this end, courts have repeatedly held that it is a violation of due process to deny respondents sufficient time to obtain counsel.⁴ Despite this, a new Administration policy does not give people adequate time to obtain counsel and [compels](#) courts to move forward in an asylum case even if the asylum seeker is unable to obtain an attorney.

Conclusion

Polls consistently show that Americans want a system that ensures order at the border and maintains the rule of law while also [keeping the nation's doors open](#) to those fleeing violence and persecution. The United States can accomplish this by improving the asylum screening process to reach final decisions faster without sacrificing fairness or accuracy. Humanitarian protections can remain available for people arriving at the border by dedicating more trained personnel and resources to screening people's cases. The government can improve efficiency and fairness by providing legal representation for asylum seekers who cannot afford attorneys. These measures should be accompanied by steps that ensure the border is safe and orderly, including boosting law enforcement operations to combat cartel trafficking and better resourcing Customs and Border Protection to manage the high volume at ports of entry. Border and asylum reforms should also be paired with comprehensive strategies to reduce migration to the U.S. borders through the expansion of legal pathways for people to apply for asylum outside of the United States, including through the U.S. refugee resettlement program. These strategies will meet America's national interests, protect those fleeing danger, and maintain the integrity of the U.S. legal system.

¹ *Matter of S-S-F-M-*, 29 I&N Dec. 207 (A.G. 2025), reinstates harmful language from the 2018 AG decision, *Matter of A-B-*.

² *Matter of R-E-R-M- & J-D-R-M-*, 29 I&N Dec. 202 (A.G. 2025), reinstates the 2019 AG decision *Matter of L-E-A-II*.

³ See Erica Bryant, "What Does 'Due Process' Mean for Immigrants and Why Is It Important?," *Vera*, Jun 4, 2025, <https://www.vera.org/news/what-does-due-process-mean-for-immigrants-and-why-is-it-important>; see also *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976) ("The fundamental requirement of due process is the opportunity to be heard 'at a meaningful time and in a meaningful manner.'")

⁴ See, e.g., *Hernandez Lara v. Barr*, 962 F.3d 45, 55 (1st Cir. 2020) (violation of right to counsel where immigration judge denied continuance 14 business days after the time respondent became aware her prior counsel on a bond hearing would not be representing her); *Rios-Berrios v. I.N.S.*, 776 F.2d 859 (9th Cir. 1985) (violation of right to counsel where immigration judge granted two continuances of 24 hours each and proceeded without counsel 10 days after the Order to Show Cause was issued); *Castaneda-Delgado v. Immig. and Naturalization Serv.*, 525 F.2d 1295, 1300 (7th Cir. 1975) (violation of right to counsel where immigration judge only granted a single continuance of two business days, even where initial hearing occurred 15 days after Order to Show Cause); *Jiang v. Houseman*, 904 F. Supp. 971 (D. Minn. 1995) (overturning removal order on collateral attack after finding that a denial of a continuance 23 days after the Order to Show Cause was a violation of the right to counsel).