

IMMIGRATION

# The Trump Administration Is Trying To Cancel Asylum. Yes, All Of It.

But you can help stop them.

By LORELEI LAIRD

at 2:47 PM



(MANDEL NGAN/AFP/Getty Images)

Normally, I use this column to try to call people's attention to the immigration-related skullduggery the Trump administration quietly sneaks through while we're all distracted by the latest tweetstorm. Because my only power is to call attention to those things, these columns tend to end with the text equivalent of [that gif of Ilana Glazer screaming](#).

But today, I have a special treat for you: Something you can actually do something about! And you don't even need to put on pants.

Last week, on the same day the left was celebrating [the Supreme Court's decision in \*Bostock\*](#), the Department of Homeland Security announced a proposed rule that effectively guts federal asylum law. The proposal is framed as a series of rules based on United States asylum

rule would deny asylum to:

- Anyone who passed through two or more countries on the way to the United States.
- Anyone who stayed in another country for at least 14 days before arriving in the United States.
- Anyone who has been unlawfully present in the United States for at least a year. This is even though [the statute](#) directly says aliens may apply for asylum “irrespective of such alien’s status.”
- Anyone who claims they were persecuted based on gender (because nobody ever does anything mean to women!)
- Anyone who claims they were persecuted based on opposition to gangs or terrorist organizations.

If you’re familiar with why and how many Central Americans come to this country, it’s difficult not to see these as geographically/racially targeted.

It would also:

- Redefine “persecution,” the basis for an asylum grant, to cover only “extreme” harms. (The rule [literally says](#) that military strife, harassment, and intermittent detentions are not persecution, which is the kind of statement you can only make when you are not subject to any of them.)
- Allow immigration judges to use the fact that someone entered the country without papers as a “significant adverse factor” when deciding whether to grant asylum. Again, this is despite language in the statute directly saying asylum is available irrespective of immigration status or whether the applicant came through a designated port of entry.
- [Broaden the definition](#) of a “frivolous” application for asylum, which makes the applicant ineligible for any other kind of immigration relief.
- Redefine “firmly resettled” in another country to mean “could possibly have resettled” because those are totally the same thing.
- Raise the standards for withholding of removal or protection under the Convention Against Torture, which are fallbacks for asylum applicants.

shunted into a “streamlined” proceeding where the court will consider only asylum, not any other kind of relief the applicant might be eligible for. Furthermore, immigration judges would be permitted to deny asylum applications without a hearing if they don’t think there’s enough evidence in the applications. This will come down hard on *pro se* asylum-seekers, who are the vast majority, because there is no right to a lawyer in immigration court.

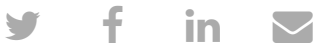
The notice and comment period ends July 15 — that’s half of the usual amount of time for a big rule change — so you will need to do this soon. [You can submit a comment here](#). If you are at a loss for an opinion, you are welcome to borrow mine, although you may be better off with the opinions of [American Immigration Lawyers Association](#), [the American Immigration Council](#), [the Catholic Legal Immigration Network, Inc.](#), or many of the other immigration nonprofits that have been in the trenches on this for years.

Now, I am not saying that the Trump administration will actually do what people suggest. Elie Mystal, in these hallowed pages, [once accurately noted](#) that the agencies “never give a rat’s ass.” And fans of net neutrality know [how that notice and comment period went](#).

But you should still do it, because — as Mystal also noted — the comments do matter when the rule is later challenged in court. The Trump administration’s failure to even pretend to go through this process is [why they lost the DACA case last week](#). When the inevitable Administrative Procedure Act lawsuit is filed, I would love to see the plaintiffs’ counsel well armed with evidence that the people did not want this.

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***Lorelei Laird is a freelance writer specializing in the law, and the only person you know who still has an “I Believe Anita Hill” bumper sticker. Find her at [wordofthelaird.com](http://wordofthelaird.com).***



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