

# THE ASYLUM BAN (2023)

## WHAT IS ASYLUM?

Asylum is a form of immigration protection given to people fleeing persecution who arrive at or are already in the United States. **The U.S. has a legal obligation to protect asylum seekers.**

## WHAT IS HAPPENING NOW WITH ASYLUM, AND WHY?

In March 2020, the Trump Administration implemented a rarely used section of U.S. health law called Title 42, which limited migration to “stop the spread of disease.” There was no valid scientific or public health reason for limiting migration along the U.S.-Mexico border. Once the COVID-19 public health emergency ended on May 11, 2023, Title 42 expired and the Biden Administration announced a new rule: **Circumvention of Lawful Pathways (often referred to as “The Asylum Ban”).**

Under the Asylum Ban, asylum-seekers must use “lawful pathways” to enter the United States in order to be eligible for asylum. Those who do not use “lawful pathways” face harsh consequences. These policies continue to effectively bar most asylum seekers from entry. **The Asylum Ban has faced legal challenges since its inception. Currently, the Ninth Circuit is deciding whether to uphold the Asylum Ban, or to end it and remove existing restrictions on asylum eligibility.**

## WHAT ARE THE NEW POLICIES?

Under the Asylum Ban, an asylum-seeker must use a “lawful pathway” to arrive at the southern U.S. border of adjacent coastal areas:

(1) you previously applied for, and were denied, asylum in one or more countries that you traveled through to get to the U.S.

The centerpiece of the new set of policies is the **Travel Ban**.

Under the Travel Ban, anyone who arrives at the southern U.S. border or adjacent coastal areas is ineligible for asylum **unless they previously applied for, and were denied, asylum in a third country** (one of the countries they traveled through to get to the U.S.).

This policy is illegal under U.S. law: the U.S. cannot deny someone asylum on the basis they did not seek asylum in a third country if that country is unsafe and does not have a functioning asylum system.

(2) you were granted prior permission to come to the U.S. under a DHS-approved Parole Process

There are certain limited parole programs in the U.S., including: (1) Family Reunification Parole for nationals of Haiti, Cuba, El Salvador, Guatemala, Honduras, and Colombia; and (2) Parole for Nationals of Cuba, Haiti, Nicaragua and Venezuela.

These parole programs require people to apply and be approved for parole before coming to the U.S.

In addition, people have been barred if they previously crossed into Mexico or Panama without authorization:

- After July 10, 2023 for Colombians, Salvadorans, Guatemalans and Hondurans seeking Family Reunification Parole.
- After January 9, 2023 for Cubans, Haitians, Nicaraguans seeking Parole.
- After October 19, 2022 for Venezuelans seeking Parole.

(3) you made an appointment via the CBP One App

Under the Asylum Ban, an asylum-seeker who does not use the CBP One App will be turned away, unless they can demonstrate an “exceptionally compelling circumstances”:

(1) They faced an imminent and extreme threat to life or safety at the time they entered the United States,

(2) They suffered a medical emergency at the time of entry,

(3) They were a victim of a severe form of trafficking **at any point in their life.**

(4) They faced a serious and ongoing obstacle to accessing CBP One, such as a language or technological bar.

*An individual must prove that an exception applies during a quick screening process.*

**Without a CBP One appointment**, some people may still choose to approach the U.S.-Mexico Border, or “walk up” to a port of entry. However, in certain regions like Tijuana, Matamoros, and Reynosa there have been reports of Mexican Immigration officials or INM restricting access to the border or ports of entry. In Nuevo Laredo, there have been no CBP One appointments since June 16, 2023 due to “security reasons.” It is unclear if any walk-ups are being processed.

## REGIONAL PROCESSING CENTERS

Another disturbing new plan from the Biden Administration is the creation of **Regional Processing Centers (RPCs)** in Colombia, Guatemala, and Costa Rica. Under this new process, people can make an appointment at a RPC before traveling (using the CBP One app). At RPCs, they will be interviewed and processed for any eligible relief. While this may appear to be a step in the right direction, **it is unacceptable that the administration is presenting RPCs, alongside CBP One and other measures, as a replacement for regular asylum processing at the U.S. border.**

## WHAT DOES THIS ALL MEAN?

So long as the Asylum Ban is in effect, asylum-seekers will be unjustly and illegally denied due process protections and the right to petition for asylum. **Under the Ban, far fewer people have been found eligible for asylum and expedited removal numbers are hitting record highs.** The credible fear pass rate is down to 59% from 85% pre-pandemic.

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