

US attorney general orders denial of bond, indefinite detention of asylum seekers

By Patrick Martin
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In the latest outrage against the human rights of asylum seekers, US Attorney General William Barr ordered immigration judges to deny bond to all asylum seekers who are not part of family groups that include children. These asylum seekers, who have committed no crime and have passed the initial test that they have a “credible fear” of persecution if returned to their home countries, would potentially face indefinite detention while awaiting a final decision on their asylum requests.

The decision takes effect in 90 days, so that the Department of Homeland Security (DHS) “may conduct the necessary operational planning for additional detention and parole decisions,” Barr wrote. The order could affect tens of thousands of asylum seekers a month, according to figures released by Customs and Border Protection. Of the more than 100,000 immigrants detained in March, some 60,000 were unaccompanied minors or family groups. Of the remaining 40,000, the majority were asylum seekers without children who are targeted by the attorney general’s order.

The order also suggests the direction of administration policy for all asylum seekers, including children and families, who under current procedure cannot be held in custody longer than 20 days. The Trump administration is discussing how to overturn this limit, established by the *Flores* decision, a court-supervised consent agreement that has been in effect for two decades. The *Flores* case was the basis for court rulings last summer that compelled the administration to abandon its policy of family separation for asylum seekers, imprisoning the parents while sending the children into juvenile detention or foster care.

Immigrant rights group said they would make use of the 90-day period to file legal actions challenging Barr’s order, which they called grossly illegal because it effectively criminalizes the act of seeking asylum, which is protected under both US and international law.

“Seeking asylum is a human right, not a crime, and families forced to flee for their lives shouldn’t be treated like criminals,” said Charanya Krishnaswami, advocacy director for the Americas at Amnesty International USA.

Jeremy McKinney, treasurer of the American Immigration Lawyers Association (AILA) said in a statement: “This is a devastating blow to those seeking protection from persecution at the US border, since far more will be held in detention. This decision further expands mandatory and prolonged detention of people who are neither dangerous nor flight risks, practices which are constitutionally suspect and a waste of taxpayer money. This administration is using detention as a sword against both due process and the humanitarian principles our nation was founded upon.”

Omar Jadwat, director of the Immigrants’ Rights Project of the American Civil Liberties Union, said in a statement: “This is the Trump administration’s latest assault on people fleeing persecution and seeking refuge in the United States. Our Constitution does not allow the government to lock up asylum seekers without basic due process. We’ll see the administration in court.”

Whether the Constitution permits it or not, the US Supreme Court could well back the Trump administration’s anti-democratic action. A Supreme Court ruling last year upheld a modified version of the evidently unconstitutional Muslim ban, barring visitors and refugees from seven mainly Muslim countries.

The Ninth Circuit Court of Appeals, which had been the most liberal appeals panel, ruling against the Muslim ban among other decisions, has been shifted to the right by the addition of several Trump nominees. The appeals court issued an order last Friday allowing the administration’s policy of forcing asylum seekers who present themselves at ports of entry along the US-Mexico border to wait in Mexico while their claims are adjudicated.

More than a thousand asylum seekers from Central

America had been sent back to Mexico under this policy, initiated in late January, until it was halted by a federal district judge on April 8. The Ninth Circuit action stayed the lower court order, allowing the “Remain in Mexico” policy to go back into effect while legal proceedings continue.

The order from Attorney General Barr is part of the wholesale reshaping of immigration law enforcement as Trump demands the effective end to the entry of refugees seeking asylum in the United States, defying international law in order to make a fascistic appeal to his core base of anti-immigrant bigots and nationalists.

Last week, Trump forced out his Homeland Security secretary and several other officials in the agency. The White House is now reportedly targeting the United States Citizenship and Immigration Services unit of DHS, which is under the direction of a Trump loyalist, Lee Francis Cissna, but which has failed, in the view of Trump and his chief anti-immigrant adviser Stephen Miller, to crack down sufficiently.

USCIS officers conduct the interviews of asylum seekers and make the initial determination about whether the applicant has a “credible fear” of persecution if returned to his or her home country. About 75 percent of applicants pass that initial test. The White House is pressing for a sharp reduction in this rate, but this would require overturning standards set in law by Congress.

Congressional Democrats have mounted no serious opposition to the latest crackdown on immigrants. After a two-day conference of House Democrats in Leesburg, Virginia, House Speaker Nancy Pelosi emerged to brush aside Trump’s tweet calling the Democrats “treasonous” on border policy and declaring herself still committed to an “overarching” immigration deal with Trump. “I’m not giving up on the president on this,” she said.

She complained that despite his talk of a national emergency, Trump “has not utilized what is in that specifically to the border” in the bipartisan spending bill approved in February.

The right wing of the House Democrats, the New Democrat Coalition, told reporters they would support additional funding to detain larger numbers of immigrants and hire additional immigration judges to speed hearings and mass deportations.

The only significant Democratic objection to Trump’s immigration policy has come in response to his talk of shipping undocumented immigrants whose cases are awaiting processing to so-called “sanctuary cities,” which restrict local police cooperation with federal immigration

agencies. Virtually all of these cities are controlled by Democratic officials.

Three Democratic committee chairmen sent a joint letter Tuesday to the White House and the Department of Homeland Security seeking information on the proposal and threatening to subpoena Stephen Miller to testify about it. The letter was sent by Bennie Thompson, chairman of the Homeland Security Committee, Jerrold Nadler, chairman of the Judiciary Committee, and Elijah Cummings, chairman of the Oversight and Reform Committee.

“Not only does the administration lack the legal authority to transfer detainees in this manner, it is shocking that the president and senior administration officials are even considering manipulating release decisions for purely political reasons,” they wrote.

Such pathetic queries only encourage the vicious anti-democratic policies of the Trump administration, directed at both legal and undocumented immigrants. According to a report Monday in the *Wall Street Journal*, the White House is now considering collective punishment against countries whose citizens have a high rate of overstaying short-term visitor visas, beginning by reducing the number of such visas and escalating to a complete ban on nationals of the targeted countries, which include the African nations of Nigeria, Chad, Eritrea, Liberia and Sierra Leone.

The same article reported that the administration “is expected to publish a rule pulling work authorization for the spouses of some high skilled H-1B visa holders.” It continued: “And the administration is considering setting a maximum length of authorized stay for student visas. The moves show the Trump administration is looking to tighten the legal framework around immigration, a core issue for the president, well beyond the much-discussed southern border.”

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