

POLICY & REGULATORY ATTACKS ON ASYLUM THAT ARE SUBJECT TO PENDING LITIGATION						
<u>EWI Ban</u> Nov. 8, 2018	<u>Remain in Mexico</u> Jan. 24, 2019	<u>Transit Ban</u> July 15, 2019	<u>ACAs</u> Nov. 19, 2019	<u>Work Permits</u> Aug. 21 and 25, 2020	<u>COVID-19 Bar</u> Mar. 20, 2020	<u>Criminal Bars</u> Nov. 20, 2020
WHAT DOES THE NEW POLICY/ REGULATION DO?						
Bars access to asylum to anyone who entered outside a port of entry.	Requires asylum seekers to wait in Mexico for asylum hearing; imposes significant restrictions on access to counsel.	Bars asylum for failing to seek and be denied asylum in a transit country prior to entry via the U.S.-Mexico border.	Designates Northern Triangle “safe third countries” and forces refugees to seek asylum there instead of in the United States.	1 yr. wait to seek work permit; no permit for entry w/o inspection, missing 1yr. deadline, some convictions, and during Fed. Ct. appeal.	Relies on 42 USC 265 to expel asylum seekers (including children) from the U.S. because of COVID-19	No asylum if convicted of some DUIs, drug offenses, DV offenses, and any state felony. Even bars some unconvicted conduct.
WHAT ARE THE RELEVANT LEGAL CHALLENGES?						
<u>East Bay v. Trump</u> 950 F.3d 1242 (9th Cir. 2020) (PI win) <u>OA v. Trump*</u> 19-5272 (D.C. Cir.) (MSJ DCT win)	<u>Innov. Law Lab v. Wolf</u> 951 F.3d 1073 (9th Cir. 2020) (PI win) <i>Supreme Court granted cert. Oct. 19, 2020</i>	<u>East Bay v. Barr</u> 964 F.3d 832 (9th Cir. 2020) (PI win) <u>IA & CAIR v. Barr*</u> 20-5271 (D.C. Cir.) (MSJ DCT win)	<u>U.T. v. Barr*</u> 20-cv-00116 (D.D.C.) (MSJ pend. since 4/20)	<u>Casa de Maryland v. Wolf</u> 20-cv-02118 (D. Md.) (limited PI granted) <i>NIJC working on a second case to be filed given limited relief.</i>	<u>P.J.E.S. v. Wolf</u> 20-cv-02245 (D.D.C.)	<u>Pangea v. DHS</u> 20-cv-07721 (N.D. Cal.) (case just filed Nov. 2, 2020; seeking PI)
WHAT IS THE LITIGATION STATUS?						
9th Cir. issued nat’l prelim. injunction; gov. sought rehearing. The DC Cir. case is on the merits; arg. 12/2020.	The SCT will hear arguments in the case in early 2021, barring out of court settlement.	9th Cir. issued nat’l prelim. injunction; gov. sought rehearing. The DC Cir. case on the merits just starting.	MSJ is briefed as of April 2020, but removals to Guatemala paused in March b/c of COVID-19.	Gov. appeal of limited injunction due Nov. 11.	Magistrate recommended granting the PI (on behalf of a class). DCT has not yet approved the rec.	Rule scheduled to take effect 11/20/2020. Motion for prelim. injunction filed; hearing expected before 11/2020.
WHO IS IMPACTED BY THE RULE?						
No one. Rule was enjoined, later declared illegal.	More than 60,000 people have been sent to wait for their hrg. in Mexico.	Rule vacated in June 2020, but was in place for nearly a year prior.	1100 Hondurans and Salvadorans sent to Guatemala pre. March.	Most asylum seekers; clients can join ASAP to mitigate impact.	Nearly 200K migrants have been expelled from the U.S. since March.	No one yet, b/c not retroactive, Applies to apps filed post 11/2020.
WHAT’S MISSING?	Other proposed rules are likely to be finalized in the next two months, and they may need to be litigated. Impending Rules include the (1) June 2020 Proposed Rule, that eviscerates most access to asylum and creates 14 new discretionary bars to asylum, (2) Proposed Rules that change procedures at the immigration court and before the BIA that eliminate due process protections for asylum seekers, and (3) a Rule that makes it easier for asylum status to be revoked years later. This chart also doesn’t cover changes to the fees for most immigration benefits (not just asylum), but that Rule has been enjoined.					

* Denotes that NIJC is litigating this case in partnership with other nonprofit organizations.

See comprehensive asylum timeline [here](#).