



2019

Trump restricts immigration amid the pandemic. Critics see it as an excuse to push his own agenda

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As the nation continues to grapple with a pandemic and a growing movement for racial justice and police reform, President Donald Trump's administration has been implementing new immigration policies blocking many legal pathways to enter the country.

Since March, nearly 20 policy changes have affected potential tourists, refugees, asylum seekers, foreign workers and international students. The administration says the measures are meant to maintain public health by significantly restricting border crossings, as well as reserve jobs for American workers during the economic crisis by suspending visas for international workers.

"When you are talking about a pandemic, and you overlay that on a border crisis ... we do not have facilities that can quarantine tens, scores, hundreds, thousands of people. This creates a new wrinkle to the crisis where we have to look at ways to bar entry," **Ken Cuccinelli**, acting deputy secretary for the Department of Homeland Security, said in February.

But the Trump administration's string of new actions have created hurdles for many non-citizens and confusion for those who do not know whether they will be affected, said Jennifer Minear, president of the American Immigration Lawyers Association.

"There's a lot of gray area," Minear said. "I don't think the administration really has a sense of the full ramifications of the actions that they're taking. But they do them anyway, and then we had just a big mess as a result."

A number of the immigration restrictions will remain in place through the end of the year, or until health officials determine the public health threat of the virus has lessened. The administration has also moved to make long-term changes to how the country evaluates cases for asylum seekers.

The U.S. implements broad restrictions blocking asylum seekers, refugees and some travelers

On January 21, the U.S. confirmed **its first case of COVID-19** in a person who had recently traveled to Wuhan, China. Ten days later, the U.S. began implementing a series of restrictions on travelers coming from countries deemed to have significant COVID-19 outbreaks. On January 31, the U.S. **banned entry of people from China**, but had a list of exceptions that included U.S. citizens and their spouses, legal permanent residents and their spouses, members of U.S. armed

forces and foreign government officials. The U.S. also **required flights** with passengers who had traveled to China within two weeks to undergo screenings. And in February, the U.S. stopped issuing visas at its **embassy and consulates throughout China**.

As coronavirus cases began to rise in other countries, the Trump administration implemented other travel bans and flight screening requirements. In February, **entry from Iran was banned** with the same exceptions as the order for China. In March, the administration barred entry from **31 European countries** with the same exceptions, and put new limits on cross-border travel between the U.S. and **Mexico** and **Canada**, permitting travel only for work, health care, school and other activities deemed essential. **Restrictions on travelers from Brazil** followed in May.

Many other countries also implemented entry restrictions amid the pandemic, and health officials across the globe widely encouraged people to limit nonessential travel to mitigate virus spread. A tracker compiled by the University of Oxford assessed the **stringency of government coronavirus policies** in different countries based on nine indicators: school closings, workplace closings, cancellation of public events, restrictions on gatherings, closure of public transportation, stay-at-home requirements, public information campaigns, restrictions on intra-country movement and international travel controls.

By mid-April, the U.S. scored a 72.69 on a scale from 0 to 100, with the latter being the most stringent. During the same time, Canada also scored 72.69, the United Kingdom scored 75.93, Norway scored 79.63, South Korea scored 82.41, France scored 90.74, Italy scored 93.52 and New Zealand scored 96.3.

The indices are not meant to show whether a country's response is better or more effective, the Oxford report notes, but rather how strict are their measures.

The World Health Organization determined that **strict international travel measures** may work temporarily to delay introduction of the virus into a particular country for up to two months and delay spread by three to four months. But "evidence shows that restricting the movement of people and goods during public health emergencies is ineffective in most situations," the WHO said.

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In March, the U.S. paused refugee resettlement after the International Organization for Migration and the U.N. Refugee Agency also announced **suspension of resettlement travel**. But some fear the Trump administration will use the pandemic to implement long-term reductions on refugees, said Yael Schacher, a senior U.S. advocate at Refugees International.

Since Trump took office, the State Department has decreased the maximum number of refugees that can be resettled into the country per year. In his final year in office, President Barack Obama raised the annual cap from 85,000 refugees to 110,000. Trump reduced the number to 45,000 for Fiscal Year 2018, 30,000 for Fiscal Year 2019 and 18,000 for Fiscal Year 2020, which already would have been the lowest number in a single year since Congress created the nation's refugee resettlement program in 1980. Amid the pandemic and the temporary suspension of resettlements, that actual number will likely be far lower than 18,000, Schacher said.

At the U.S.-Mexico border, the administration has bypassed established protocols for handling unaccompanied minors and allowing migrants to make a case for asylum, Schacher said. Instead, border security is now quickly **expelling asylum seekers and children** without going through the standard legal channels by using an emergency order issued in March by the Centers for Disease Control and Prevention. The order, issued by CDC Director Robert Redfield, **invokes a public health law** dating back to 1944 allowing the U.S. to block entry of people from countries where a communicable disease exists.

“Due to their lack of legal immigration status, there is significant uncertainty that covered aliens would be able to effectively self-quarantine, self-isolate, or otherwise comply with existing social distancing guidelines, if they were conditionally released,” the CDC order reads. “CDC and local public health jurisdictions simply lack the resources and personnel necessary to effectively monitor covered aliens who would otherwise be conditionally released into the United States but for the Order.”

But other individuals are free to cross U.S. borders for essential trade, education, business or medical purposes. And the current order only remains in place until Redfield determines that “the danger of further introduction of COVID-19 into the United States has ceased to be a serious danger to the public health.” But the administration this month proposed a regulation to use that public health authority to keep in place the restrictions after the **CDC emergency order has been lifted**, said Theresa Cardinal Brown, director of immigration at the Bipartisan Policy Center.

A number of immigration experts argued the president appears to be using the current crisis to **further his political agenda**. “I think the president and his administration have been disturbingly opportunistic,” said Sarah Pierce, a policy analyst with the Migration Policy Institute. “You would expect during this dire public health and economic crisis that their immigration agenda would be sidelined, but rather it’s been turbocharged.”

The policies pursued by the Trump administration before and during the pandemic have been shaped and discussed by immigration hardliners long before the president took office, said Maunica Sthanki, former counsel to the House Judiciary Committee’s Subcommittee on Immigration and Border Security from 2014 to 2018.

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Marc Lipsitch, a professor of epidemiology with Harvard University, was an early supporter of tight entry regulations into the United States because he felt they would help the U.S. prepare its defense strategies.

“I really wondered what I was missing because all my friends were saying this is just xenophobia,” Lipsitch said. “I was supportive not because I thought it would stop the pandemic from entering this country, but because I thought it would slow it down.”

But, he added, “while the border controls probably did buy us a little bit of time, we frittered that time away by not building up our defense.” And now with the high rate of COVID-19 cases in the country, continued border restrictions likely will not make a big difference, Lipsitch said.

Some experts have argued it is possible for the U.S. to continue accepting asylum seekers and refugees while maintaining public health guidelines, Medha D. Makhoul, an assistant professor

of law and public health sciences at Pennsylvania State University, told the NewsHour. These can include mandating precautions like social distancing and face coverings, as well as providing hand sanitizer at the border.

In a May letter addressed to the CDC and the Department of Health and Human Services, 40 health experts from 19 different universities **urged the agencies to withdraw the restrictions** on asylum seekers, refugees and unaccompanied minors, and to take alternative health measures that would safely allow the U.S. to help these groups.

Separate from these public health concerns, the Justice and Homeland Security Departments in June proposed rules that would significantly raise the standards to **qualify for asylum** even after the pandemic. A statement from the **DOJ said the proposed rule** “would allow the Departments to more effectively separate baseless claims from meritorious ones. This would better ensure groundless claims do not delay or divert resources from deserving claims.”

Among the changes, claims made on the basis of gender persecution without strong evidence “will generally be insufficient” grounds for asylum, the order states, affecting individuals fleeing domestic violence and sexual abuse, among others. New rules would also allow judges to deny asylum claims without allowing an applicant to testify in court, and would more heavily scrutinize the cases of people who travel through more than one country before reaching the U.S. border.

Overseas green card applicants and foreign workers are shut out

The Trump administration has also attempted to use immigration restrictions to address the country’s growing economic crisis. The unemployment rate reached about 14.7 percent in April amid widespread shutdowns due to the pandemic — the highest since the Great Depression— but fell to 11.1 percent in June as many workplaces began to reopen.

In March, the **State Department suspended routine** visa processing, the Justice Department postponed immigration hearings and the United States Citizenship and Immigration Services **paused in-person operations**. Each has slowly resumed services, though USCIS said this month it may have to **furlough up to 70 percent** of its staff due to a drop in revenue from fewer processing fees.

On April 22, Trump issued a 60-day order suspending the issuance of green cards for people currently outside the U.S. “In the administration of our Nation’s immigration system, we must be mindful of the impact of foreign workers on the United States labor market, particularly in an environment of high domestic unemployment and depressed demand for labor,” **the announcement read**. The Migration Policy Institute estimated that the order blocked about 52,000 green cards in those two months, 80 percent of which were for people joining family members in the U.S. and 7 percent of which were employment-based green cards.

Two months later, the White House issued a new mandate **extending the green card suspensions** and barring people outside the U.S. from obtaining certain classes of nonimmigrant visas, including H-1B visas for workers in specialty jobs, H-4s for their spouses, H-2Bs for temporary non-agricultural workers, J-1s for exchange visitors and L-1 visas for intracompany transfers.

The decision came after four Republican senators wrote a letter in May **urging Trump to suspend guest worker visas**. “Given the extreme lack of available jobs for American job seekers as portions of our economy begin to reopen, it defies common sense to admit additional foreign guest workers to compete for such limited employment,” the letter stated.

Between February and May, the monthly issuance of immigrant visas issued to people abroad dropped from 37,658 to 697, according to State Department data. In the same period, the monthly number of nonimmigrant visas from abroad decreased from 578,893 to 40,939.

The administration continued to issue visas for some medical and agricultural workers deemed essential during the pandemic.

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This is not the first time the Trump administration has proposed limitations on foreign workers. In 2017, Trump issued a “**Buy American and Hire American**” order that promised to rigorously regulate the entry of new foreign workers. Additionally, concern over corporate exploitation of the H-1B visa system has been a bipartisan concern for years, said Rachel Bovard, senior director of policy for the Conservative Partnership Institute and former legislative director for Kentucky Sen. Rand Paul.

In May, a **bipartisan group of lawmakers** led by Sens. Chuck Grassley, R-Iowa, and Dick Durbin, D-Ill., introduced legislation to reform loopholes in the H-1B and L-1 visa programs to prioritize American workers.

Bovard said one clear example of the loopholes is a 2015 scandal in which Disney fired 250 IT workers in order to replace them with foreign workers on H-1B visas.

But some immigration experts argue that the Trump administration’s latest focus on job losses from the pandemic likely won’t result in companies finding U.S. workers with the necessary skills to fill the positions typically offered to foreign workers.

“It is really administratively difficult and costly to file an H-1B petition on behalf of someone and get them into the country to start doing the job,” Minear of the American Immigration Lawyers Association said. “I don’t know any employer I represent who would do that if they could hire a U.S. worker who is equally qualified to do the same job.”

“I just think it’s a total misunderstanding of our immigration system, the types of jobs that immigrants are taking, a fundamental misunderstanding of economics,” David Bier, an immigration policy analyst at libertarian think tank the Cato Institute, said of the administration’s visa suspensions

An analysis by the Bipartisan Policy Center determined that industries with a prevalence of green card applications do not match up with those **hardest hit by the pandemic**. Though the country’s economic crisis saw **job losses in a range of industries**, leisure and hospitality as well as the mining, gas and oil industries **experienced the most significant downturn**.

International student status keeps changing

The Trump administration’s most recent attempt to restrict visas hit the academic world. International students living in the U.S. are typically prohibited from taking more than 3 credits

online, but the administration issued an exemption for this rule in March, as colleges moved to remote learning.

On July 6, however, ICE said the agency would revert back to the rule **restricting online course work** for the fall semester. But facing mounting public pressure and a lawsuit brought by more than 200 universities, the administration quickly rescinded the requirements and returned to the more flexible policy, allowing existing international students to stay in or return to the U.S., but clarifying that newly enrolled students whose classes would be entirely online this fall won't be allowed to enter the U.S.

Officials have not commented on the sudden shift back to allowing students to take more online classes, but some immigration experts said it was likely the result of public and economic pressure. International students **contributed \$45 billion to the U.S. economy in 2018**, according to the U.S. Department of Commerce

The move earlier this month to bar them was meant to “encourage” schools to reopen, acting Deputy Secretary of Homeland Security Ken Cuccinelli later said.

In recent weeks, the Trump administration has been ramping up pressure on governors, universities and school districts to reopen for the fall semester, though coronavirus cases and hospitalizations are rising in a number of states.

“Get open in the fall. We want your schools open,” Trump **said during a roundtable discussion** the day after ICE announced its policy change.

“Ultimately, it’s not a matter of if schools need to open, it’s a matter of how. Schools must reopen, they must be fully operational. And how that happens is best left to education and community leaders,” Education Secretary Betsy DeVos told governors that same day.

In the days following the ICE change, **international students expressed worries** about the prospect of returning home, and despite the reversal, international students who may have left for their home countries during the pandemic still face challenges to returning to the U.S. this fall.

Though the U.S. implemented a **“national interest” exception** in late July that would allow students and academics in European countries to bypass current pandemic-related travel bans and reenter the U.S., it has not done so for continuing international students who may be currently abroad in China, Iran or Brazil. Those individuals could try to return to the U.S. through a country that is not restricted, but would first need to stay there for two weeks.

From international students to asylum seekers, the sheer number of policies either proposed or implemented since March have helped to further the Trump administration’s long-term immigration agenda, said Sthanki, the former House Judiciary counsel. “One of the successes of this administration has been they have managed to overwhelm the American public, the media and the immigrant rights movement to the point that it all blends together as noise.”