

# The Washington Post

The Post's View

## America's immigration courts are a diorama of dysfunction



An ICE officer watches protesters in front of the U.S. Citizenship and Immigration Services building in Fairfax, Va. (Marlon Correa/The Washington Post)

By Editorial Board   The Post's View   January 9 at 7:34 PM

THE UNITED STATES' immigration courts are a diorama of dysfunction, staggering under a crushing caseload.

The backlog, which has doubled in the past six years, now exceeds half a million cases ; thousands more are added each month. Immigration judges, who number just 300, schedule hearings two or three years in the future, or even more in some venues. Their workloads, on average more than 700 cases annually, are twice what federal district court judges face.

Under those circumstances, due process — the idea that each immigrant seeking asylum or charged with overstaying their visa or entering the country illegally will be granted a fair hearing with the law's full protection — is a fading ideal.

It's no more than a pipe dream when it comes to the tens of thousands of children whose cases come before immigration judges each year. Many of them have no lawyers, and little if any understanding of the procedures, question and stakes they face. Frightened and intimidated,

they are compelled to represent themselves, facing government attorneys. Under those circumstances, the idea that justice will be rendered impartially is a fantasy.

The nation's 58 immigration courts, administered not by the judiciary but by the Justice Department, are places of Dickensian impenetrability, operating under comically antiquated conditions. Case files are scarcely digitized. Clerks are outmatched by mountains of paper files. Translators struggle to convey evidence and legal concepts across linguistic and cultural barriers.

Disgracefully, wild disparities in outcomes and legal standards characterize the various courts, meaning that asylum seekers who appear before immigration judges in Atlanta face almost impossibly long odds and are generally ordered deported, while those in New York are usually granted relief and allowed to remain in the country.

In these courts, the idea of justice itself is so degraded, and the burnout rate so high, that some immigration lawyers have simply thrown in the towel. One of them, movingly profiled by The Post's Chico Harlan, got sick of the charade and finally quit. "I genuinely believed these people could die if they're sent back" to their home countries, said Elizabeth Matherne, who once represented asylum seekers. "And you're talking to somebody" — the judge — "who is not listening."

Little wonder that Ms. Matherne gave up. In Atlanta, where she practiced, the handful of immigration judges granted asylum in just 2 percent of cases in the 2015 fiscal year, despite a surge in drug and gang violence in Central America, which drive thousands to flee to the United States. Nationally, the average grant rate in fiscal 2015 was 48 percent, according to government figures.

The Obama administration, which contributed to the logjam by ordering judges in 2014 to prioritize Central American families and unaccompanied children who flooded across the southern border, has hired new judges, a painstakingly slow process. In order to clear the backlog, though, at least 200 more are needed.

President-elect Donald Trump says he'll freeze federal hiring. Doing so would also impede his own plans to accelerate deportations, many of which must be ordered by a deportation judge. In immigration courts, reality and rhetoric are on a collision course for the new administration.

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