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DONALD TRUMP'S BORDER WALL GOVERNMENT SHUTDOWN WILL MEAN SOME IMMIGRANTS GET TO STAY IN AMERICA LONGERBY **CRISTINA MAZA** AND **JEFF STEIN** ON 12/29/18 AT 11:11 AMSHARE        

WORLD

DONALD TRUMP

President Donald Trump has shut down the government to pressure Democrats to fund his border wall and keep out migrants. But that means that immigration judges are not being paid and courts have been forced to postpone court hearings, according to the Department of Justice. And that, experts have told *Newsweek*, will mean that many migrants with unresolved immigration statuses will remain in the country longer as they wait for hearings.

“Introducing a pause in the progress of a case is going to make the case last longer. Obviously people have a right to have their cases heard fully, so one effect is going to be to increase the length of cases and exacerbate the backlogs, which is ironic because the administration has decried these backlogs and the length of proceedings time and again. But here they are insisting on a shutdown that will simply lengthen the process,” Omar Jadwat, Director of the American Civil Liberties Union’s immigrants’ rights project, said in an interview.

On December 26, the Department of Justice released a statement confirming that during the lapse in government appropriations only court cases for detained migrants will be held as scheduled. Those who have been released from detention facilities and are consequently moving freely in the U.S. will have their court cases postponed, according to the DoJ.

“Detained docket cases will proceed as scheduled. Non-detained docket cases will be reset for a later date after funding resumes,” the statement notes.

The White House is shown during a partial shutdown of the federal government on December 24, 2018 in Washington, DC. The partial shutdown will continue for at least a few more days as lawmakers head home for the holidays as Democrats and the Trump administration cannot agree on an amount of funding for border security.

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Experts, meanwhile, point out that immigration courts are already backlogged, and the government shutdown will only lengthen the delay for migrants who are often forced to wait several years before their cases are heard.

“It’s important to note the irony of having immigration judges and courts go on furlough when it’s caused by a border issue,” Ashley Tabaddor, President of the National Association of Immigration Judges, said in an interview. “The Judges are really backlogged by several years. We have judges in Maryland that have thousands of cases on their docket. Those cases are not just rolled over, so every day lost is precious court time.”

Tabaddor says that it is unclear whether judges who have been furloughed will be paid retroactively when the government shutdown is over. “There is a lot of anxiety associated with that,” she noted.

Meanwhile, there are currently 809,041 backlogged immigration cases in the U.S., according to data from the TRAC Immigration project out of the University of Syracuse.

It is unclear exactly how many of these cases are for detained versus non-detained cases, but Immigration and Customs Enforcement held a little over 42,000 people in custody every day throughout the 2018 fiscal year, according to the agency's official data.

David Botherton, a professor at the John Jay School of Criminal Justice, argues that the backlog is profitable for some of the private companies running the detention facilities.

"The companies that run these centers like Core Civic, which is a massive global corporation, see immigration detention as a highly profitable growth industry which is reflected in the stock values which have increased rapidly during the last few years of the immigration and deportation crisis," Botherton told *Newsweek*.

It is also unclear whether the Trump administration's proposed deal with Mexico, which would see some asylum seekers return to Mexico for months or years while their claims are processed, will be impacted by the shutdown. Immigration judges say they are in the dark about how the deal will potentially affect their work.

"We have not been given formal guidance on the impact on the courts. We end up finding out about these policies through the media or on the date it's been announced and there hasn't been logistical coordination. This administration has been particularly closed lipped," Tabaddor said.

The policy is expected to face legal challenges.

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The ACLU's Jadwat argues that the shutdown could make the plans for immigration cases even murkier than they already are.

"With or without a shutdown there are huge concerns for the people involved and the Mexican government in terms of taking responsibility for these people for years while their cases proceed. At least publicly, there is no plan. There's a press release and contradictory statements from some Mexican officials, but there's certainly nothing approaching the kind of clarity from the American government that you would expect or require before something like this can move forward," Jadwat said.

"The immediate effect of the shutdown is that's it's further complicating any effort to transform that press release into a real policy."

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