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How the government shutdown is making the U.S. immigration system even worse

"The irony is not lost on us that immigration court is shut down over immigration."

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Over two weeks into the partial federal government shutdown and with no end in sight, the fight over \$5 billion for a border wall along the U.S.-Mexico border wall has put the federal immigration system at standstill.

While cases for immigrants in government custody are proceeding, immigration courts are not holding hearings for non-detained immigrants during the shutdown, meaning immigrants re-authorizing work visas, applying for permanent residency, or contesting government charges on deportability are in a precarious situation.

Missing even a single day of hearings could add hundreds to the current backlog of 800,000 cases — over a million if you include the ones the U.S. Attorney General wants on the docket.

"If I were to walk into court asking for a final decision before the the shutdown even happened, I would have to wait until 2021," Ava Benach, an immigration attorney at Benach Collopy told ThinkProgress in an interview. "I have a client who was supposed to have a hearing on January 3 where we were going to resolve a number of issues and create a plan going forward, and now who knows when that will happen?"

A longer backlog poses more difficulties for the vast majority immigrants who scheduled their hearings years in advance, and have waited patiently for their day in court.

Claimants could lose witnesses or the evidence could get stale. A child could turn 21 between when the government shutdown and when it re-open, resulting the parent to lose their claim. For a simple adjustment of status, like a green card, the individual must submit a medical exam as part of the application. Those medical exams expire after a year. There are also people who, because of the shutdown, will have to resubmit a new medical exam or update their tax returns.

All of these are additional expenses, time, and emotional hardships that are imposed on individuals without any good cause.

“It’s a tremendous burden on clients,” Benach said.

Some asylum seekers are becoming suicidal at the thought of waiting even longer to finally have their day in court, according to [The Daily Beast](#)

“It’s almost like another traumatic event in that person’s life,” Jason Dzubow, an immigration lawyer specializing in asylum, told the outlet. “For them, they’ve already suffered a trauma which is the basis of their claim for asylum, but then they suffer a second trauma—the process of seeking asylum in the United States.”

Immigration judges are similarly struggling through the chaos caused by the shutdown. Since December 22, when the Justice Department ran out funding, [approximately 400 immigration judges](#) have been furloughed.

“We are at a complete standstill,” Ashley Trabbador, president of the National Association of Immigration Judges, the judges union, told ThinkProgress. “This has been a huge disruption.”

“Our judges’ dockets are booked up two to four years in advance. Some have 5,000 cases,” she added.

With 2019 dockets at capacity, these cases, which where initially scheduled for late 2018 and early 2019, won’t be heard until at least 2020.

When a hearing day is cancelled, the cases scheduled for that date don’t just roll over. The judge has to either put the cases to the back of the line or bump up some other cases. As of now, cases have not yet been rescheduled. Staffing is thin and nobody is allowed to volunteer their time to work.

“There is no benefit that is gained here,” Trabbador said. “The irony is not lost on us that immigration court is shut down over immigration.”

“The parties who have good claims are missing out, the government that has an interest in a good and fair process is missing out, and the judges have their hands tied behind their back and are stressed. Nobody wins here.”

Over the last two weeks, there has been virtually zero progress toward re-opening the federal government. President Trump has suggested a shutdown lasting [months or even years](#) if he does not secure \$5 billion in funding for his border wall. During a meeting with reporters at the White House Sunday, Trump threatened to wield his presidential power to declare a state of emergency in order to bypass Congress and build the wall.

“We’re looking at a national emergency because we have a national emergency — just read the papers,” Trump said.

As ThinkProgress has previously reported, the “crisis” at the border has [largely been manufactured by the administration](#). Border crossings between ports of entry have decreased over the last decade, nearly 700 miles of border wall already exists, and undocumented immigrants are no more likely to commit crimes than native-born Americans.

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