

Asylum seekers sue Trump administration over prolonged detention

[Alan Gomez](#), USA TODAY Published 11:10 a.m. ET March 15, 2018 | Updated 3:32 p.m. ET March 15, 2018

Fearful they will be deported by the Trump administration, thousands of immigrants are illegally crossing from the U.S. into Canada in hopes of being granted asylum. (Aug. 9) AP



Abelardo Asensio Callol, 30, a software engineer from Cuba, fled to the United States and applied for asylum, but has been held in a prison for months as he awaits a ruling on his case. He is part of a group of asylum seekers suing the Department of Homeland Security over their prolonged detentions.(Photo: Courtesy of Abelardo Asensio Callol)

Asylum seekers who have been held in U.S. detention centers since applying to enter the country filed a class-action lawsuit against the Department of Homeland Security on Thursday in the latest legal attack against President Trump's attempts to limit immigration.

The suit claims that Homeland Security has violated U.S. law by refusing to allow entire groups of asylum seekers to be released on parole from prisons and detention centers while their applications are decided.

[The lawsuit](#), filed by a group of civil rights organizations in federal court in the District of Columbia on behalf of nine plaintiffs, estimates that more than 1,000 asylum seekers are now

facing indefinite detention even though they have passed initial screenings to verify their stories and pose no threat to national security.

"We came to the U.S. seeking freedom, and what we got was a prison," Abelardo Asensio Callol, 30, a software engineer from Cuba, said by phone from the York County, Pa., Prison where he's been held for several months.

Asylum is an immigration status granted to people already in the U.S. who fear they will be persecuted because of their race, religion, nationality or political views if forced to return to their home country. The U.S. has approved an average of 23,668 asylum applications a year over the past decade.

People who present themselves at U.S. borders are allowed to claim asylum. A Homeland Security agent interviews that person and if they determine the applicant has a "credible fear" of returning home, they are allowed to make their case before an immigration judge. In 2009, the Obama administration instituted a policy that made it easier for asylum applicants to be released on parole while their cases are being decided.

The Trump administration has used a variety of measures to limit legal and illegal immigration, from its controversial travel ban mostly targeting majority-Muslim countries to its attempts to limit refugee admissions to the U.S. The asylum program has not been spared.

Attorney General Jeff Sessions has railed against the asylum system because he claims it is fraught with abuse by immigrants coached on what they have to say and "dirty immigration lawyers" who have exploited loopholes in the system. During [an October speech](#), Sessions claimed more than half of asylum applicants released on parole never show up for their court hearings, proving that "their claim of fear was simply a ruse to enter the country illegally."

"The system is being gamed," Sessions said.

Immigration advocates dispute those numbers and say the only ones gaming the system are Homeland Security officials who have started treating asylum seekers as criminals.

Hardy Vieux, legal director for Human Rights First and one of the attorneys who filed the lawsuit, said every presidential administration has the authority to implement its own policies. But he said the Constitution and the 72-year-old Administrative Procedure Act require that new regulations be implemented through a formal process to ensure they are legal and constitutional.

Vieux said the Trump administration has violated those tenets by keeping the 2009 Obama-era memo in place, yet eliminating the possibility of parole for asylum seekers being held in the Detroit, El Paso, Los Angeles, Newark and Philadelphia regions. The lawsuit alleges that from 2010 to 2013, Homeland Security granted parole to asylum seekers in those districts 89% of the time. Since Trump took office, the suit alleges that number has plummeted to 4%.

"It's not about being formalistic, it's about engendering fairness. It's about weaving a narrative so that the American public and others look at America and say, 'These people adhere to a system

that is undergirded by the rule of law,' " Vieux said. Trump administration officials, "often disregard the law and disregard our values which are mainstays of the republic."

Courts have repeatedly ruled against the administration over the way its tried to implement broad immigration policy changes. In January, [a federal judge in California](#) ordered Homeland Security to restart the Obama-era Deferred Action for Childhood Arrivals (DACA) program because it used flawed legal reasoning to end it. That program, which has protected nearly 800,000 undocumented immigrants brought to the country as children from deportation, [remains active](#) as it winds its way through the courts.

The detention of asylum-seekers gained national attention last month after the American Civil Liberties Union sued the administration for separating a Congolese woman from her 7-year-old daughter when they tried to apply for asylum. The mother was detained in San Diego while her daughter was held in a detention facility in Chicago for four months.

Days after that lawsuit was filed, [the mother was released](#). But she has not yet been reunited with her daughter, according to the ACLU, which is also a party in Thursday's class-action lawsuit.

That challenge is intended to help hundreds of other asylum seekers. The named plaintiffs include an ethics teacher from Haiti who was attacked after teaching his class about government corruption, a Venezuelan who was threatened for participating in marches opposing the country's communist government, and a gay Honduran man who was threatened at gunpoint. One has been held in detention centers for 21 months, another for 17 months.

Callol, the Cuban software engineer, fled his home because he says he was threatened by government officials for not participating in a public funeral for Fidel Castro. Callol said his superiors at work always chastised him for not attending marches and demonstrations to support the communist regime, and skipping Castro's funeral was apparently the last straw.

Callol said he lost his job, and security agents visited his home to threaten his wife and 2-year-old daughter. But after making a long trek through South America to reach the U.S.-Mexico border, he said he received a harsh welcome in Texas. Callol said he was shuffled from prison to prison, often chained at the hands, ankles and waist, before donning an orange jumpsuit for his extended stay in the York County Prison.

He said he meets all the conditions required for getting parole while his case is judged: he has no criminal history, he verified his identity, showed he has sponsors in the U.S., and has letters supporting his backstory. But still, he and hundreds of others wait behind bars.

"We don't understand. We're trying to comply with all of their requirements," Callol said. "But they keep denying us. We're here with regular prisoners. And we have no idea how long we're going to be here."