

Regulating Survival: The Legal Implications of Employment Authorization Delays for Asylum Seekers under U.S. Immigration Law

Hira Tunio

hira.tunio@giu.edu.pk

Lecturer in Law, Faculty of Law, Green International University Lahore, Pakistan.

Corresponding Author: * **Hira Tunio** hira.tunio@giu.edu.pk

Received: 09-11-2025

Revised: 02-12-2025

Accepted: 10-12-2025

Published: 26-12-2025

ABSTRACT

The ability to work, especially for the people who flee persecution and seek refuge in another jurisdiction, is lifeline rather than a convenience. Being able to access lawful employment can also be the differentiating factor between self-sufficiency and destitution. As, under the immigration laws of the United States, asylum seekers have to experience significant delays even before they entitled to obtain Employment Authorization Documents (EADs). Whereas, in the interim they are prohibited from legal employment. Such delays in authorization, which now regulate the survival of asylum applicants, now have become an area of concern for the policymakers, courts, and advocates. This paper intends to provide a comprehensive analysis of the legal implications of such delays and the interconnected challenges which are created for the asylum seekers under the U.S. law.

Keywords: Asylum, Immigration, Refugees, United States, Employment Authorization Documents

INTRODUCTION

Employment authorization issues for asylum seekers in the U.S. have since long been a subject of legal debate and a humanitarian concern. As asylum seekers are individuals who flee their home countries in order to avoid persecution, but still their journey within the United States is mired with uncertainty about their fates¹. The immigration law of the United States, which inherently is restrictive when it comes to the ability of asylum seekers' ability to work when their cases are pending, which has major implications in terms of their personal well-being and economic survival². By understanding the legal framework, and the human consequences of these policies, an examination of both the domestic laws of the U.S. and the international human rights standards is warranted.

The Right to Work and U.S. Immigration Law

Under the immigration law of the United States, asylum seekers are ordinarily barred from seeking work during the initial stages of their asylum claims. The Immigration and nationality Act (INA) §208(d)(2), which governs the asylum procedures, expressly states that asylum applicants are not entitled to seek employment authorization as a right³. Instead, work authorization is granted as a matter of discretion by the Department of Homeland Security (DHS) and ordinarily is available after a waiting period of about

¹ Leticia M Saucedo, 'Employment Authorization, Alienage Discrimination and Executive Authority' (2017) 38 *Immigr. & Nat'lity L. Rev.* 463.

² Bill Frelick, 'At Least Let Them Work' [2013] Human Rights Watch <<https://www.hrw.org/report/2013/11/12/least-let-them-work/denial-work-authorization-and-assistance-asylum-seekers-united>> accessed 5 November 2025.

³ WomensLaw, 'INA § 208 (8 USC § 1158)- Asylum' (WomensLaw.org, 4 October 2017) <<https://www.womenslaw.org/laws/estatutos-seleccionados-federales/immigration-laws-current-through-pl-112-283-approved-1-15-7>> accessed 5 November 2025.

180 days from the submission of an asylum application. This provision was introduced through the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), with the intent that it would curtail what the United States government had perceived as an abuse of the asylum system. Whereas, critics argue that this waiting period creates major hardships for asylum seekers, who are mostly forced into homelessness, poverty, or exploitative labor markets during this time⁴.

Even though the law provides asylum seekers with a pathway towards employment authorization after the completion of the waiting period, but in reality, the delay more often than naught exceeds the statutory limits. The reason for this is administrative backlogs, legal challenges, and the regulatory changes which causes protracted delays in work authorization, which additionally increases the vulnerability of the asylum seekers⁵. Even after being granted with work authorization, asylum seekers are often subject to renewal delays, which creates continuous uncertainty about their legal status and their ability to work⁶. As in terms of the present regulations in terms of the 8 C.F.R. § 208.7 and other applicable provisions, an asylum seeker can apply for an Employment Authorization Document after submitting a complete application for asylum after 150 days, and the USCIS can issue the EAD not before 180 days with the added 30 days for processing⁷. As this clock stops counting if the asylum applicant had caused any delays within their case, as the clock rule was initially introduced within the 1990s in order to curb abuse, as at the time it was feared by the authorities that numerous people were filing frivolous asylum claims in hopes for obtaining work permits, thereby resulting in backlogs⁸.

That even after the 180-day wait, employment authorization for asylum applicants was still discretionary as opposed to being automatic⁹. As the USCIS had to ascertain the veracity of an application. Practically, as the waiting period had lapsed with the asylum case pending, an applicant was generally eligible for renewing their EAD. This process itself was shaped by litigation over time, with a notable case in this regard being *Rosario v USCIS*, which led to an injunction which in effect warranted the USCIS to adjudicate on the initial asylum EAD applications within a 30 day timeframe, which remained in effect till the regulatory upheaval of 2020, which had increased the waiting time to 150 days, which could not be granted till the passage of 180 days, with an additional 30 day processing time¹⁰. This theoretically had increased the work authorization delay, by making an applicant wait for 210 days after applying for asylum¹¹.

⁴ Bill Frelick, 'At Least Let Them Work' [2013] Human Rights Watch <<https://www.hrw.org/report/2013/11/12/least-let-them-work/denial-work-authorization-and-assistance-asylum-seekers-united>> accessed 5 November 2025.

⁵ Caroline A Lay, 'Unlicensed to Work: An Analysis of the United States' Human Rights Violation against Asylum Seekers Due to Unreasonable Waiting Period for Work Authorization, and How the Nation Forfeits an Economic Opportunity in the Process' (2024) 59 Tulsa L. Rev. 139.

⁶ Bridget Marie Haas, *Suspended Lives: Navigating Everyday Violence in the US Asylum System*, vol 4 (Univ of California Press 2023).

⁷ Faith Hegstad, 'FROM 180 TO 30: A CASE FOR SHORTENING THE ASYLUM EAD CLOCK'.

⁸ Andrew Ian Schoenholtz, Jaya Ramji-Nogales and Philip G Schrag, *The End of Asylum* (Georgetown University Press 2021).

⁹ Burcu Yasemin Seyben, 'Survival of the Weakest', *Exiled Scholars in Western Academia: Refugees or Intellectuals? Reflections on the Paradox of Inclusion and Exclusion* (Springer 2025).

¹⁰ Dear Ms Deshommes, 'Submitted via Www. Regulations. Gov'.

¹¹ Caroline A Lay, 'Unlicensed to Work: An Analysis of the United States' Human Rights Violation against Asylum Seekers Due to Unreasonable Waiting Period for Work Authorization, and How the Nation Forfeits an Economic Opportunity in the Process' (2024) 59 Tulsa L. Rev. 139.

Comparative Perspective

The approach of the United States in terms of both the denial of employment rights and governmental assistance during the asylum wait was relatively harsh when compared against asylum mechanics of the other developed nations. The Human Rights Watch had classified the United States as an anomaly, as many other countries had shorter periods of wait or were able to provide the applicants with adequate welfare aid so that they could meet their basic needs such as housing and stipends. For examples, the European Union countries typically grant working rights to an asylum applicant within 6 to 9 months if their claim remained undecided, and within the interim the applicants were provided with allowances and housing in accordance with the EU Reception Conditions Directive¹². Whereas, the U.S. alone stood against employment and governmental assistance for asylum seekers for unreasonably extended periods¹³. This combination of denying work, and aid, was reflective of a state fiat meant to regulate survival of the asylum seekers, through dictating that the asylum applicants remain in legal uncertainty without sufficient means of sustenance¹⁴. The justification given by the U.S. officials mostly revolves around preventing abuse of the asylum system.

Country / Region	Wait Time to Work	Public Assistance	Notes
EU	9 months max	Yes	Housing + allowances
UK	6 months	Limited	Ongoing reforms
Canada	Immediate/early	Yes	Strong integration programs
Germany	3–6 months	Yes	Robust social protections
U.S.	180 days+	No	Longest delays + no welfare

Human Rights Law and Employment Authorization

The right to work is a recognized right within the international human rights law, and is fundamental to human dignity. The Universal Declaration of Human Rights (UDHR) also asserts that everyone has the right to work, and the International Covenant on Economic Social and Cultural Rights (ICESCR) also further elaborates on this right, whereby noting that it is applicable to non-nationals such as asylum seekers, refugees, and stateless persons. Though the United States has not ratified the ICESCR but it is still bound by the principles of the UDHR, which are deemed as customary international law. As in many countries such as those within the European Union, have a relatively more inclusive policy mandate which enables asylum seekers to legally work after waiting a short period of time, which in effect also enables asylum seekers to be provided with welfare assistance during the time when they have to wait.

Research on this subject conducted by the American Immigration Council have also highlighted that the current asylum regime in terms of employment authorization perpetuates a humanitarian crisis, through denying people the right to work for extended periods of time¹⁵. There are organizations which argue that the policies of the United States which allow both governmental assistance and working opportunities,

¹² Brendan Rupprecht, 'The Long Migration Route: Exploring Social Implications for Asylees in the US and Policy Creation in Transit Countries as a Result of Immigration Patterns of African and Haitian Asylum-Seekers Traveling Through Latin America to the United States'.

¹³ Muruga P Ramaswamy, 'Delays And Other Inefficiencies In Asylum Processing And The Need For Normative Initiatives To Prevent Adverse Effects On The Basic Rights Of The Refugees' (2023) 1 *Fiat Iustitia* 21.

¹⁴ Andrew Ian Schoenholtz, Jaya Ramji-Nogales and Philip G Schrag, *The End of Asylum* (Georgetown University Press 2021).

¹⁵ Jermaine Ricketts, 'Navigating the Asylum Settlement Process Pre and Post Policy Memorandum 19-05 in the United States: Case Study of San Francisco and Worcester Based LGBTQ+ Asylum Nonprofits' (University of California, Davis 2025).

leave the asylum seekers in a state of destitution, which violates their basic human rights while also being an affront on their dignity.

METHODOLOGY

This paper employs a doctrinal legal analysis of statutes, regulations, and case law; a comparative analysis of foreign asylum work policies; and a qualitative synthesis of empirical reports from NGOs, USCIS, GAO, and international organizations. No original quantitative dataset is used. Instead, the focus is on integrating existing evidence, legal doctrine, and policy analysis. (this part was missing and now I have added it)

LITERATURE REVIEW

Legal and Regulatory Framework

U.S. asylum employment authorization rules arise from a combination of statutory provisions, federal regulations, and agency directives that have evolved over decades.

Statutory Authority

Under INA § 208(d)(2), asylum applicants are not entitled to employment authorization as a matter of right. Instead, Congress delegated discretion to the Department of Homeland Security (DHS) to determine eligibility and timing.

The Regulatory “Asylum Clock”

The primary regulation governing EAD eligibility for asylum seekers is 8 C.F.R. § 208.7, which establishes:

- 150-day waiting period before filing an initial EAD application
- 180-day minimum before an EAD may be issued
- “Clock stops” triggered by applicant-caused delays (e.g., extensions, failure to appear, incomplete submissions)

Although designed to deter frivolous applications, the clock system creates significant confusion and can extend eligibility delays by months or years.

Historical Evolution of the Rules

A brief timeline illustrates the complexity:

Year	Event	Impact
1996	IIRIRA	Introduced EAD waiting period; asylum clock established
2018	<i>Rosario v. USCIS</i>	Court required 30-day adjudication for certain initial EADs
2020	Trump-era rules	Extended wait to 365 days; added disqualifications
2022	<i>Asylum Works v. Wolf</i>	Invalidated 2020 rules; reverted to 150/180-day system
2023–24	USCIS backlog surge	Delays persisted despite restored rules

Policy Memos and Administrative Practices

USCIS policy manuals and field office practices contribute additional layers, including discretionary adjudication standards and varying interpretations of “applicant-caused delays.”

Literary Gaps

Despite the extensive body of legal scholarship regarding the statutory evolution of the INA § 208(d)(2) and the humanitarian critiques provided by organizations such as Human Rights Watch, significant gaps remain in the current discourse. Primarily, there is a scarcity of empirical quantitative data correlating the specific length of employment authorization delays with long-term economic integration outcomes for asylees post-grant; existing studies rely heavily on qualitative narratives of immediate hardship. Secondly, while the "prevention of fraud" is cited as the primary justification for the 180-day bar, there is a notable absence of administrative data or independent studies confirming the efficacy of these delays in actually deterring frivolous applications, a deficiency acknowledged by DHS during the 2020 rulemaking process. Finally, legal scholarship has yet to fully explore the constitutional viability of state-level work authorization initiatives under the theory of intergovernmental immunity, a critical emerging area of analysis given recent legislative attempts in states like New York.

Impacts of Work Authorization Delays on Asylum Seekers

When asylum seekers are unable to work legally for extended period of time, this has far reached consequences for the asylum seekers, as these challenges induce health, economic and psychological strain on the asylum seekers, while also leaving them prone to exploitation and crime, which cumulatively also negatively impact the legal proceedings of asylum. A brief overview of these impacts is organized as follows:

- **Poverty and Basic Needs:** An extensive period of unemployment renders asylum seekers unable to being able to afford food, shelter, and the other necessities, thereby resulting in homelessness and being left at the mercy of charities¹⁶.
- **Exploitation and Unfair Labor Practices:** In a desperate attempt to just survive, many asylums' seekers resort to unauthorized work, where most of the asylum seekers are exploited with impunity, as they are often paid below minimum wage or have their payments withheld¹⁷.
- **Mental Health and Dignity:** The idleness because of not being able to work also severely impacts the psychological health of the asylum seekers, as most of them lose a sense of purpose, and get afflicted with mental ailments such as anxiety and depression, which is especially true for trauma survivors who require immediate stability¹⁸.
- **Criminal Vulnerability:** The lack of support coupled with the absence of legal working opportunities, also forces asylum seekers into the world of crime, or make them a target for the criminal elements. As this forces them to conduct survival crimes such as petty theft, and using fake documents, which makes them prone to criminal charges that could negatively impact their asylum applications¹⁹. Whereas, others become victims of human trafficking and other kinds of abuses because of their precarious position.

¹⁶ Mitra Naseh and others, 'Factors Associated with Poverty among Refugees in the United States' (2024) 28 Journal of Poverty 91.

¹⁷ Efren Corona, 'The Price of a Dream: An Analysis of the Exploitative Systems Facing Migrants Trying to Enter the United States' (2025) 3 The Annual Review of Criminal Justice Studies 328.

¹⁸ Rebecca Blackmore and others, 'The Prevalence of Mental Illness in Refugees and Asylum Seekers: A Systematic Review and Meta-Analysis' (2020) 17 PLoS medicine e1003337.

¹⁹ Stephen Phillips, 'Enhanced Vulnerability of Asylum Seekers in Times of Crisis' (2023) 24 Human rights review 241.

- **Impact on Asylum Claims and Legal Access:** Without adequate income, many of the applicants are unable to afford effective legal representation or able to gather evidence for their asylum cases, which impacts the outcome of their claims²⁰. Moreover, if the applicants get arrested, then they could be barred for asylum under stricter immigration laws.

Economic Hardship and Basic Survival

One of the most foremost effects of work authorization delays is within severe economic hardship, as asylum seekers generally reach within the United States with few resources, as many have fled their home countries in fear for their lives leaving behind their support networks, assets and jobs²¹. When they reach the United States, they are barred from seeking lawful employment until they receive their EAD²². Within this time, they have no federal assistance available to them, as under the United States law they are classified as undocumented or in an authorized pending status which does not entitle them to federal welfare programs²³. This also disentitles them from food stamps, Medicaid except for emergency care, cash assistance or housing vouchers²⁴. Additionally, asylum applicants are also not entitled to refugee settlement benefits, as those are reserved for people already admitted as refugees or have been granted asylum²⁵. Whereas, the availability of aid is stretched and patchy, and few states where shelter systems were introduced such as New York, the overabundant influx of asylum seekers quickly strains these resources²⁶. But even though there are faith-based groups which provide asylum applicants with clothing, temporary lodging and food, but none of this could be a viable substitute for a stable income.

This leads to many asylum seekers experiencing housing instability or homelessness, as DHS officials themselves have acknowledged this eventuality when they have to get familiar with homeless shelters²⁷. It is also not uncommon to find asylum seekers to live in makeshift encampments, church basements, with even the acquisition of food items also becomes a difficulty. Moreover, a Human Rights Watch investigation in 2013 had revealed that many asylum seekers have to rely on soup kitchens and live in abandoned buildings because they do not have adequate means to supporting themselves during their initial wait period²⁸. Emergency programs have also been opted by local governments and nonprofits, as within the cities that face large arrivals might open emergency shelters while pleading for federal support, as was witnessed in 2022 to 2023, when a large number of migrants were transferred to sanctuary cities

²⁰ Ryan Baugh, 'Refugees and Asylees: 2021' (2022) 13 Annual Flow Report. Office of Homeland Security Statistics. Accessed June 2023.

²¹ Won Bin Lee, 'The Hardships of Immigrants to the United States and Its Immigration System' (California State University, Northridge 2023).

²² Mitra Naseh and others, 'Migration Integration Policies as Social Determinants of Health for Highly Educated Immigrants in the United States' (2023) 23 BMC Public Health 1358.

²³ Donald Kerwin, 'The Faltering US Refugee Protection System: Legal and Policy Responses to Refugees, Asylum-Seekers, and Others in Need of Protection' (2012) 31 Refugee Survey Quarterly 1.

²⁴ Linda Piwowarczyk, Terence M Keane and Alisa Lincoln, 'Hunger: The Silent Epidemic among Asylum Seekers and Resettled Refugees' (2008) 46 International Migration 59.

²⁵ Bobana Ugarkovic, 'A Comparative Study of Social and Economic Rights of Asylum Seekers and Refugees in the United States and the United Kingdom' (2004) 32 Ga. J. Int'l & Comp. L. 539.

²⁶ John Ketcham and Daniel Di Martino, 'Shelter from the Storm: Better Options for New York City's Asylum-Seeker Crisis' [2023] Manhattan Institute.

²⁷ Aaron Reichlin-Melnick, 'DHS Suggests Asylum Seekers Should Get Used to "Homelessness" After Stripping Work Permits' (American Immigration Council, 24 June 2020) <<https://www.americanimmigrationcouncil.org/blog/asylum-seeker-work-permit/>> accessed 5 November 2025.

²⁸ Christopher B Street, 'The Asylum-Seeker Crisis: Intersecting Shelter & Solidarity' (Pratt Institute 2024).

such as NYC²⁹. Though these measures seem like a step in the right direction but are ultimately stopgap, as the reality is that the United States policy withholds not only the asylum seeker's ability to sustain themselves but also deprives them substantive aid, effectively rendering many of the asylum seekers as destitute³⁰. This kind of state induced poverty has lasting effects on not just the physical health through rendering them vulnerable to illness and malnutrition, but also impacts the ability of the asylum seeker to integrate after the asylum has been granted because recovering from extreme poverty can be extremely challenging.

The Shadow Economy and Exploitation

Owing to economic pressures, there are a multitude of asylum seekers who feel like that they have no other choice but work illegally, which usually means that they have to find under the table jobs within the informal economy, which is ripe for labor exploitation³¹. As the asylum seekers and other workers who work unauthorizedly, by legal definition lack the protections accorded by law, and even though the labor laws such as minimum wage officially extends to all kinds of workers irrespective of their status, but the threat of being reported to immigration authorities is able to effectively silence those without papers³². The asylum seekers awaiting their EADs are especially vulnerable, as they are not proficient in the English language, nor do they have any social network, and they essentially cannot complain to the authorities about the abusive employment without disclosing that they too have been working illegally³³.

The Human Rights Watch had documented how such asylum workers are treated who work illegally, and they found that these workers were grossly exploited by their employers, as one asylum seeker had revealed within the investigation that an off the books job not only paid below the minimum wage but also at times wages were withheld for weeks, because the employer knew that they had no real recourse³⁴. Others reported that were made to do work within unsafe environments, and the no overtime was paid to them. As even if a worker threatens or intends to report such a violation, the employer could retaliate by calling the Immigration and Customs Enforcement, or the local police. As this kind of an imbalance in power results in systemic exploitation, dangerous work conditions, wage theft, and even incidents such as modern-day slavery. There also have been numerous incidents where the people without papers had been trafficked for the purposes of forced labor, as the traffickers know that such people are desperate for work and are unlikely to report their employers to the law enforcement³⁵. It was also noted by the U.S. Committee for refugees and Immigrants that forcing vulnerable migrants to wait years without work increases their risk of labor trafficking and exploitation. Whereas, those who avoid this underground economy face a different kind of exploitation, i.e., destitution. As asylum seekers have described the

²⁹ Caroline A Lay, 'Unlicensed to Work: An Analysis of the United States' Human Rights Violation against Asylum Seekers Due to Unreasonable Waiting Period for Work Authorization, and How the Nation Forfeits an Economic Opportunity in the Process' (2024) 59 *Tulsa L. Rev.* 139.

³⁰ John Van Kooy and Asher Hirsch, 'Destitution by Design' [2022] Regulating Refugee Protection Through Social Welfare: Law, Policy and Praxis. London: Routledge.

³¹ Michael Samers, 'The "Underground Economy", Immigration and Economic Development in the European Union: An Agnostic-Skeptic Perspective' (2004) 6 *International Journal of Economic Development* 199.

³² Emanuele Bracco and Luisanna Onnis, 'Immigration, Amnesties, and the Shadow Economy' (2022) 74 *Bulletin of Economic Research* 1135.

³³ Geoff Boyce, 'Shadow Regionalism and Border Policing in the Political Economy of North American Integration', *The Elgar Companion to North American Trade and Integration* (Edward Elgar Publishing 2025).

³⁴ Bill Frelick, 'At Least Let Them Work' [2013] Human Rights Watch <<https://www.hrw.org/report/2013/11/12/least-let-them-work/denial-work-authorization-and-assistance-asylum-seekers-united>> accessed 5 November 2025.

³⁵ Lindsay M Harris, 'Asylum Under Attack: Restoring Asylum Protection in the United States' (2020) 67 *Loy. L. Rev.* 121.

extended waiting periods for EAD as degrading and dehumanizing, and thereby are forced into beggary and absolute dependence, with many choosing to work illegally despite the risks in order to survive, but such a choice also has legal repercussions extending far beyond exploitation³⁶. This vulnerability is engineered through policy, as prior to receiving EAD, asylum seekers are pushed into the shadow economy by legal design, and this is apart from the fact that asylum seekers are pushed into the shadow economy, even though there are labor shortages³⁷.

Intentional Barriers: The 2020 Regulatory Changes

In the mid of 2020, the Trump Administration had introduced a sweeping overhaul of the asylum EAD rules, which was intended to tighten the asylum access, with the new rules coming into effect from August 25, 2020 which dramatically curtailed asylum seeker's access to work permits³⁸. These rules extended the waiting period of an EAD from 150 days to 365 days after the asylum application was filed. It also removed the long-standing 30-day deadline for USCIS to process initial EAD applications³⁹. Additionally, the new rules had imposed new categorical bars, such as denying EADs to anyone who had entered the country through illegal border crossing, even if they were otherwise entitled to file for asylum. Furthermore, disqualifying factors were also added such as criminal convictions and even minor offences were enough for asylum seekers from getting a work permit. Even if an appeal was pending, the EAD eligibility gets terminated if the immigration judge denies asylum at the first instance⁴⁰. Surprisingly, DHS also acknowledged that these new regulations would render many asylum seekers from being able to support themselves, and had suggested that the asylum applicants rely on homelessness shelters, and charity during the year long wait period.

The justification for these changes was that they were made in order to prevent fraudulent asylum claims, with the DHS asserting that the six months wait also had left a loophole which encouraged people to file frivolous applications for obtaining work permits⁴¹. As by making asylum seekers ineligible and disqualifying the broader categories of applicants, DHS had aimed to curtail frivolous applications, but the DHS had also admitted during the rulemaking phase that it did not have the data on how many asylum applications were actually frivolous, as DHS was only able to track the ultimate grant or denial rates, and not fraud rates⁴². The government could not quantify the supposed abuse it intended to stop. The consequences of this change had left thousands of legitimate asylum seekers unable to work legally longer, or at all, in effect pushing them into destitution. It was also uncovered that the DHS communications that it was perceived that the refugees would in one way or the other adapt to the hardships originating from not working, which was not just unrealistic but also cruel⁴³. This drastic

³⁶ Grant Portal and Financial Statements, 'Request for Articles-The New Asylum Seekers: Subnational Dynamics of Migration Governance in the United States'.

³⁷ Nayla Rush, 'The Biden-Harris Administration's Makeover of the US Refugee Resettlement Program' (2024) 9 LIMEN 23.

³⁸ Caroline A Lay, 'Unlicensed to Work: An Analysis of the United States' Human Rights Violation against Asylum Seekers Due to Unreasonable Waiting Period for Work Authorization, and How the Nation Forfeits an Economic Opportunity in the Process' (2024) 59 Tulsa L. Rev. 139.

³⁹ Catherine L Crooke, 'US Asylum Lawyering and Temporal Violence' (2024) 49 Law & Social Inquiry 1510.

⁴⁰ Bridget Marie Haas, *Suspended Lives: Navigating Everyday Violence in the US Asylum System*, vol 4 (Univ of California Press 2023).

⁴¹ Ash M Cornejo, 'Weaponizing Opacity: The Employment Authorization Timeclock as a Method of Prevention Through Deterrence' (University of California, San Diego 2024).

⁴² Ryan Baugh, 'Refugees and Asylees: 2021' (2022) 13 Annual Flow Report. Office of Homeland Security Statistics. Accessed June 2023.

⁴³ Jazmin E De La Cruz Sanchez, 'Allowed to Stay: An Exploration of DHS New Guidelines to Dismiss Certain Immigration Cases'.

overhaul was deemed as pushing asylum seekers into desperation, as it forced them to rely on local and state aid for which the eligibility was already very restrictive, or they had to work illegally in order to avoid starvation. The administration had at the same time also proposed asylum seekers for any unauthorized work, as it proposed that any untaxed income could become the ground for denying asylum claims⁴⁴. This had in effect created a “catch 22” situation, where either they obey the ban and starve, or they earn illegally at the risk of losing their asylum case.

Whereas, the extreme nature of the EAD restrictions within 2020, were immediately challenged before the courts by immigrant right organizations with asylum seekers filing lawsuits, with notable cases such as *Casa de Maryland v Wolf*, and *Asylum Works v Wolf* within the D.C. federal court. In the *Casa de Maryland* case, the court had issued an injunction which resulted in a partial blockage of the rules, as the application of the EAD rules would not be applicable to the plaintiffs in the said suit⁴⁵. As the USCIS had been ordered to not enforce the new provisions such as the 365 days wait period in respect of the plaintiffs, which created a strange as the members who were able to enroll within CASA and ASAP only enjoyed the 180-day timeline, while others could not. This remained in effect till the February of 2022, when the D.C. court in *Asylum Works v Wolf* had delivered the final decision. It had been ruled that new EAD rules were invalid because the Acting DHS secretary at the time, Chad Wolf had been unlawfully appointed⁴⁶. This decision had restored the regulatory framework to its previous version, as a result the 2022 system had been reverted to the 150 days wait to apply, with 180 days minimum for approval.

Even after achieving victory in *Asylum Works*, asylum seekers continued to experience delays and challenges with work authorization because of administrative delays. As USCIS backlog meant that the initial EAD applications were not always processed within the 30-day timeframe, as some of applicants had to wait more than a month, which prompted a great many asylum seekers to remind the USCIS of the court order. The USCIS had also acknowledged that those facing delays could refer the *Rosario* court order in order to request expedited processing. Additionally, the general renewal applications could take months, leading the USCIS to extend the automatic extension of expiring EADs to 540 days in order to mitigate this, which was a welcome relief⁴⁷. A renewal delays also meant that a person was unable to change jobs, or if the automatic extension had lapsed then they would risk losing employment till the wait was not over.

Another extensive ongoing issue with respect to asylum cases was the pendency of the cases for years, because of the excessive backlogs, with the repetitive renewal fees which historically used to be USD 410, and the excessive paperwork which had also become a burden for the asylum seekers. In 2020, the DHS had also tried to further restrict the application process by increasing the fee and trying to eliminate fee waivers for the EADs, which had increased the hardship of the asylum seekers, which too were not only challenged but were enjoined as well⁴⁸. As of the present, there is no fee for the asylum applications, as the court had blocked the USD 580 fee which the DHS had tried to impose. Regardless, the bureaucratic hurdles ranging from biometric appointments could further delays in starting the EAD clock or in getting the card.

Summarily, the present legal regime surrounding asylum is mixed with fixed statutory constraints such as the 180-day minimum wait, as it lacks congressional backing, coupled with the regulatory requirements

⁴⁴ Cynthia S Gorman, ‘Defined by the Flood: Alarmism and the Legal Thresholds of US Political Asylum’ (2021) 26 *Geopolitics* 215.

⁴⁵ Zachary Manfredi, ‘Impoverishing Asylum:” Bona Fide” Asylum-Seekers and the End of Work Authorization’ (2022) 47 *Yale J. Int’l L. Online* 9.

⁴⁶ Judge Beryl A Howell, ‘United States District Court For The District of Columbia’ (2010) 202 *Cell 3070*.

⁴⁷ Y BRIEF, ‘Unblocking the US Immigration System’.

⁴⁸ David J Bier, *Streamlining to End Immigration Backlogs* (Cato Institute 2023).

and the practical delays. These delays for asylum seekers have real world implications, as these expose asylum seekers to multifaceted challenges and vulnerabilities which arise when the asylum seekers are prohibited from working.

Criminal Vulnerability and Legal Consequences

The notion of criminal vulnerability is two parts, as it refers to the phenomenon of being at an increased risk for asylum seekers to engage in illegal activities for basic survival, and second being the increased susceptibility of asylum seekers to become victims of crime such as trafficking or other abuse because of their marginalized status⁴⁹. Both of these are directly connected with not being able to legally work, and being deprived of protections otherwise would have been accorded by law.

In terms of the commission of offences, as it had been noted above, a predominant majority of the asylum seekers have to resort to unauthorized work, which in itself is a violation of the immigration law but not a violation of the federal law⁵⁰. However, in terms of seeking out work opportunities, many asylum seekers commit crimes inadvertently. As for example, it is a federal offence to use false and fictitious documents to seek employment, but an asylum seeker who is desperate for a paying job, is more susceptible to buy a fake social security care, or to assume the identity of someone in order to fill an employment form⁵¹. As such actions have previously led to criminal prosecutions within the past in the aftermath of worksite enforcement raids, where unauthorized workers had been charged for document fraud or identity fraud because of using false social security numbers. In one such case i.e., *Flores-Figueroa v United States*, the Supreme Court had deliberated that an undocumented worker could not be convicted for aggravated identity theft without proof that they were aware that the false social security number belonged to a real person⁵². This had restricted the interpretation of a harsh law which previous was used to pile serious charges on immigrant workers. Still, the usage of false documents such as by false statement or a social security fraud, irrespective of the knowledge of the victim was a felony. This meant that a well-meaning asylum seeker who just wanted to earn money could also end up with a criminal record that not only means jail time, but the destruction of their eligibility for the immigration relief.

As the immigration law of the U.S. places a bar on asylum when a person had been convicted of serious crimes or serious non-political crimes⁵³. Though these strictly apply to felonies such as major drug trafficking or violent crimes, but it is also conceivable that specific instances of theft or fraud triggered by survival needs could also result in someone getting into trouble. As, minor offences such as stealing necessities or shoplifting could in some jurisdictions could be treated harshly, as a single misdemeanor though would not disqualify a person for asylum, but it surely would impact the credibility of a person by making them less sympathetic⁵⁴. In extreme cases, if an asylum seeker gets convicted for an aggravated

⁴⁹ Encarnación La Spina, 'Migrant Vulnerability or Asylum Seeker/Refugee Vulnerability? More than Complex Categories' (2021) 11 Oñati socio-legal series S82.

⁵⁰ William Chiaromonte and Veronica Federico, 'The Labour Market Needs Them, but We Don't Want Them to Stay for Good: The Conundrum of Migrants, Refugees and Asylum Seekers' Integration in Italy' [2021] Migrants, Refugees and Asylum Seekers' Integration in European Labour Markets: A Comparative Approach on Legal Barriers and Enablers 193.

⁵¹ Francesca Calo, Tom Montgomery and Simone Baglioni, "You Have to Work... but You Can't!": Contradictions of the Active Labour Market Policies for Refugees and Asylum Seekers in the UK' (2024) 53 Journal of Social Policy 638.

⁵² Raymond J Toney, 'Flores-Figueroa v United States: US Supreme Court Attempts to Clarify Mens Rea' (2009) 13 The International Journal of Evidence & Proof 330.

⁵³ David Baluarte, 'Refugees Under Duress: International Law and the Serious Nonpolitical Crime Bar' (2021) 9 Belmont L. Rev. 406.

⁵⁴ Mary Holper, 'Redefining Particularly Serious Crimes in Refugee Law' (2017) 69 Fla. L. Rev. 1093.

felony for a fraud over USD 10,000, they would be barred from asylum and could also be ordered to be removed⁵⁵. Moreover, it would also be an irony that if a person fleeing persecution survive the journey and then later on be denied the very sanctuary they came to seek against a legal violation, when the laws of the place forced them to commit the violation in the first place.

Even when there are no actual crimes, asylum seekers without a designated status are often at a risk of being detained, as the asylum seeker who had either entered the country unlawfully or had overstayed enters a state of limbo during the pendency of their application, as they could be detained by ICE, especially if they have an encounter with law enforcement. For example, if a person seeking asylum is caught driving without a license, which is common occurrence, as many of the states do not issue driver's licenses to those who do not have valid legal status or work permit(s)⁵⁶. A state of detention can possibly disrupt the case preparation and it also prevents people from caring for their families. So, any interaction with the law enforcement even a minor one could risk someone in this vulnerable position.

When it comes to being the victim, both poverty and a lack of legal protection can make asylum seekers easy prey for criminals. There have been instances where many immigrants were assaulted, extorted, or robbed, because their perpetrators knew that they were unlikely to report crimes as it would also trigger a check on their status⁵⁷. Additionally, women asylum seekers who are not able to afford housing are vulnerable to domestic violence and sexual exploitation when they have to depend on someone for shelter⁵⁸. Additionally, there have been trafficking rings which specifically target asylum seekers, as they lure them by promising transport, housing, in exchange for forced labor, or force women into sex trade⁵⁹. The lack of authorized work forces people into a darkness where predation usually goes unnoticed. Even apart from extreme exploitation, asylum seekers usually face legal hazards on a daily basis, such as their ineligibility for a driver's license which could result in criminal charges, working under someone's name which can result in fraud charges, or using expired or false documents which is also a crime. This creates a state of enforced unlawfulness, which establishes a minefield of potential criminal issues for the asylum seekers.

It is also notable that the United States also offers a specific visa, such as the U visa for victims of qualifying crimes which could allow law enforcement in their functions and against such assistance, a U visa could be granted. Additionally, there is also the T visa for the victims of trafficking crimes⁶⁰. Both these types of visas encourage immigrants to cooperate with law enforcement. The irony here is that asylum seekers could benefit for these visas more than asylum application itself⁶¹. As these visas grant immediate authorization and status, with many of the experts and advocates claim that trafficking victims

⁵⁵ Arturo Angel Burga, 'What Happens to Your Immigration Status If You Were Charged with an Aggravated Felony?' (*Burga Law Firm PC*, 22 October 2024) <<https://www.burgalaw.com>> accessed 6 November 2025.

⁵⁶ Robinson and Henry, 'How Traffic Offenses Can Affect Immigration' (17 September 2024) <<https://www.robinsonandhenry.com/blog/criminal-defense/traffic-offenses-cause-immigration-issues/>> accessed 6 November 2025.

⁵⁷ Alfonso Mercado and others, 'Trauma in the American Asylum Process: Experiences of Immigrant Families Under the Migrant Protection Protocols' (2024) 16 Psychological trauma : theory, research, practice and policy S379.

⁵⁸ Patricia A Seith, 'Escaping Domestic Violence: Asylum as a Means of Protection for Battered Women' [1997] Columbia Law Review 1804.

⁵⁹ Tala Hartsough, 'Asylum for Trafficked Women: Escape Strategies beyond the T Visa' (2002) 13 Hastings Women's LJ 77.

⁶⁰ G Hass and others, 'Barriers and Successes in U Visas for Immigrant Victims: The Experiences of Legal Assistance for Victims Grantees' (2014) 1 Arts Social Sci J S 2.

⁶¹ Joey Hipolito, 'Illegal Aliens or Deserving Victims: The Ambivalent Implementation of the U Visa Program' (2010) 17 Asian Am. LJ 153.

get work permits more straightforwardly than the asylum seekers. This kind of discrepancy also highlights how restrictive the asylum work rules are even when compared against other humanitarian categories.

Impact on Legal Representation and Case Outcomes

One of the most overlooked implications of employment ban is its adverse effects on the asylum seeker's ability to pursue their cases effectively. Applying asylum is in itself is a complex process which greatly benefits from having a competent counsel⁶². But hiring a competent immigration attorney is expensive, and it requires the kind of money which asylum do not have nor they could earn, which in the alternative forces people to opt for pro bono legal services which have been made available through law school clinics and nonprofits, but their resources are constrained. In numerous areas, the number of asylum applicants far exceed the volunteer lawyers⁶³. As, those who do secure pro bono representation also still face delays, as many pro bono attorneys are juggling a large number of pro bono cases, which in cases result in the postponement of hearings. Those who are not able to find legal help have to take their cases on *pro se* in a highly complicated legal proceedings, which can drastically lessen their chances of success.

If asylum seekers have a right to work sooner than later, then they could also earn enough to pay their legal fees, or be able to cover the costs such as gathering evidence such as the hiring of expert witnesses, or procuring translation of documents. In the absence of funds, asylum applicants are usually not able to procure essential evidence, such as an expert report on home country conditions, or a medical evaluation which document remnants of torture. As these pieces of evidence are able to make a huge difference regarding the outcome of an asylum case, but it requires money which asylum seekers lacking a job do not have⁶⁴. The asylum officers and judges do not provide any financial assistance for case preparation. As one of the asylum seekers from Uganda, tried contesting his case *pro se* and was denied, but later on even after getting a *pro bono* counsel he was held in immigration detention during the appeals because of the initial errors he had made.

Being impoverished along with homelessness makes it significantly harder for the asylum seekers to pursue their applicants, as even a simple mail from the immigration court or the USCIS for hearings or interviews can present a new challenge as the asylum applicants do not have a mailing address, which can result in missed appointments, and deportations orders in *absentia* because the notice was not delivered⁶⁵. As without income, asylum seekers also do not have phones and their ability to travel is also limited, which puts them at a greater disadvantage, as they risk denial of their cases not because of the merits, but because of the procedural and practical hurdles which they have to face.

In terms of legal ethics, one can question the approach of the U.S. as whether it provides a fair chance to the asylum seekers for them to be heard, if it especially means that denying the means to survive and to prepare a case. Even though there is no constitutional right as to the right to counsel within the immigration proceedings⁶⁶; but the right to a full and fair hearing still remains⁶⁷. If a person is unable to

⁶² Romina Nemaci, 'Right to Counsel for Asylum Applicants' (2020) 26 Pub. Int. L. Rep. 135.

⁶³ Ingrid V Eagly and Steven Shafer, 'A National Study of Access to Counsel in Immigration Court' (2015) 164 U. Pa. L. Rev. 1.

⁶⁴ Donald Kerwin, 'The Faltering US Refugee Protection System: Legal and Policy Responses to Refugees, Asylum-Seekers, and Others in Need of Protection' (2012) 31 Refugee Survey Quarterly 1.

⁶⁵ Greenberg Traurig, 'Important Information for Foreign Nationals: Change of Address Notification Required' (1 January 2024) <<https://www2.gtlaw.com/practices/immigration/dyk/changeofaddress.htm>> accessed 6 November 2025.

⁶⁶ Nasim Emamdjomeh, 'Walking through the US Immigration System and Its Missing Right to Counsel' (2021) 59 Hous. L. Rev. 673.

gather evidence or ensure appearance because of destitution, this raises concerns of due process. The courts though do not consider the denying of work authorization as a violation of due process, but exponents of immigration argue that such policies undermine the integrity of the asylum adjudication system.

Legal Challenges and Responses to Work Authorization Delays

The plight of the asylum seeker waiting in limbo has not gone entirely unnoticed, as within the recent years there have been many challenges, legislative proposals, and policy debates which aimed to lessen or eliminate the long waiting time required for work authorization. Following is a highlight of the key responses

Court Intervention for the Right to Work

As discussed in detail earlier, the most dramatic litigation outcomes in this regard were the *Casa de Maryland* and *Asylum Works* cases, which had managed to protect asylum seekers from the restrictive rules of 2020. As the decision in *Asylum Works v Wolf* in 2022, had not just reversed the timeline to 180 days, it had also affirmed that work authorization for asylum workers is essential to their well-being. The plaintiffs in the case consisted of organizations which served asylum seekers and had argued that the new rules were not only harmful for their clients but also for their missions. In striking down the rules, the court had also allowed these organizations to continue helping asylum seekers for jobs when they get eligible. The case had been decided on administrative law grounds, so it did not technically declare a fundamental right to work for the asylum seekers. However, by striking down the rules, the court reinstated a regime which was somewhat favorable towards the asylum seekers⁶⁸.

Another notable case, *Rosario v USCIS*, which was a case filed before federal court in Washington State by an asylum seeker who had experienced significantly long EAD processing delays, wherein the court had mandated the USCIS to adhere with the 30-day timeline for the initial EAD adjudications. The effect of compliance with the ruling was that speed of EAD approvals significantly increased, until the 2020 overhaul⁶⁹. This also highlights a systemic neglect of the EAD applications, as the court had to step in, despite the statutory timeframe. Following the decision in *Asylum Works v Wolf*, the precedent set in *Rosario* had again come in effect theoretically, but people still experience delays, and then they have to contact USCIS and invoke the Rosario ruling in order to get the work permit timely processed. As for the asylum seekers having no means of income until the government processes their papers, time is of the essence.

As of yet, no court has held that a constitutional right to work exists for asylum seekers, but it also attracts the fifth amendment's due process clause that the government cannot arbitrarily deprive an asylum seeker of their ability to survive. A substantive claim in this regard would be met by overwhelming opposition, because of the plenary power doctrine when it comes immigration, but future litigations can be based on this argument if Congress decides to impose even harsher conditions. As the argument for humanitarian obligations also stands resolute, as when a person has made an application, they are also subject to international law based interpretive principles which oblige the government that the asylum seekers do

⁶⁷ Nimrod Pitsker, 'Due Process for All: Applying Eldridge to Require Appointed Counsel for Asylum Seekers' (2007) 95 Calif. L. Rev. 169.

⁶⁸ Mark Elliot, 'Asylum-Seekers Have Human Rights, Too | Request PDF' [2025] ResearchGate <https://www.researchgate.net/publication/248696277_Asylum-seekers_have_human_rights_too> accessed 6 November 2025.

⁶⁹ Gianna Borroto, 'Federal Court Restores Access to Work Permits for Many Asylum Seekers' (American Immigration Council) <<https://www.americanimmigrationcouncil.org/blog/access-work-permits-for-asylum-seekers/>> accessed 6 November 2025.

not end up destitute. This though logical, but still cannot override the statutory laws within the U.S., but it can influence interpretations, but till date no decision relating to immigration has leaped to rely or factor in international law during judicial interpretation, as the primary successes has only been achieved through procedural challenges and statutory interpretation.

Legislative Proposals

The human and economic aspect of asylum seekers both warrant a legislative intervention, as reforms have been advocated by lawmakers from both parties. One such prominent proposal was the Asylum Seeker Work Authorization Act of 2023, which was a bipartisan effort with its versions introduced within both the House and the Senate⁷⁰. If this bill gets enacted then it would drastically shorten the waiting period for the asylum applicants to receive work authorization, from 180 days to 30 days after the asylum application has been filed. This in effect would be directing the DHS to grant permits as a matter of course to the eligible asylum applicants, which would be marking a major shift from the current half-year minimum wait⁷¹. The work permit would also last throughout both the asylum process inclusive of the appellate stage, until the final denial, thereby providing stability⁷². The objective of this proposed legislation is both economic and humanitarian. Economically it would increase the workforce at a time of labor shortages. This bill had been endorsed by the U.S. Chamber of Commerce and different business groups, thereby highlighting that many of the asylum seekers are eager to work, and also pay taxes. For example, it was noted in Maine that thousands of vacant positions could have been filled if asylum seekers were allowed to work. This has gained traction with republican's co-sponsors and other conservatives as well, with it being a solution which is common sensibly viable, as it would allow the asylum seekers to work legally rather than depending on tax payer money in the form of aid.

State and Local Initiatives

In the absence of viable solutions, some states have started to explore whether a state could issue work permits to asylum seekers, even in the absence of federal action. For example, legislators in New York had proposed to introduce a state level asylum seeker work permit which could be granted after the application is filed⁷³. This idea has not been legally tested, as according to the U.S. Constitution, the authority to regulate immigration lies with the federal government. As, a state issued work permit also does not comply with the federal I-9 employment eligibility verification which all employers have to follow, but state issued permits could signal state licensed employers that they would not be penalized if they chose to hire these individuals⁷⁴. It could also serve as a means of identification, this idea is derived from the theory of intergovernmental immunity, that the ban imposed by the federal government should not apply to the state government which wants to hire for its own purposes. Such workaround are legally complex and are also prone to be challenged before courts, but they also highlight the urgency faced at the state levels, that the governors and mayors should formulate a mechanism through which the asylum seekers would not have to remain within shelters. This highlights the urgency felt at the state level, by the state officials which has prompted them to plead for a mechanism through which the asylum workers could be used rather than they be left at the mercy of welfare.

⁷⁰ Caroline A Lay, 'Unlicensed to Work: An Analysis of the United States' Human Rights Violation against Asylum Seekers Due to Unreasonable Waiting Period for Work Authorization, and How the Nation Forfeits an Economic Opportunity in the Process' (2024) 59 *Tulsa L. Rev.* 139.

⁷¹ Philip G Schrag, 'The Border Crisis and the Right to Seek Asylum' (2024) 53 *Hofstra L. Rev.* 115.

⁷² Irene Gibson, 'Refugees and Asylees: 2022' [2023] *Annual Flow Report*.

⁷³ John Ketcham and Daniel Di Martino, 'Shelter from the Storm: Better Options for New York City's Asylum-Seeker Crisis' [2023] *Manhattan Institute*.

⁷⁴ James Reif, 'To Suffer or Permit to Work: Did Congress and State Legislatures Say What They Meant and Mean What They Said' (2013) 6 *Ne. ULJ* 347.

Alignment with International Norms

In terms of a broader perspective, there also remains a pressure for the U.S. to align itself with the other democracies with regards to asylum seekers. As the European countries generally allow work after a certain period, and the UK for example had reduced the minimum wait time from 12 months to 6 months because of similar arguments⁷⁵. The UNHCR had encouraged host countries to provide working rights to asylum seekers as a means of maintaining their dignity, and alleviate the strain on public resources. The rationale behind this is clear, that a working asylum seeker can pay for their own food and housing while contributing in taxes, but those who are not allowed to work must be supported in one manner or the other or fall into destitution. For the long term, allowing early labor market access also helps integration for those people who win their asylum cases, and for the people who could not win their asylum cases they at the minimum would not have lived in enforced idleness for years.

It has also been argued that the refugee law is not just about protection from return to persecution, but it is also about according standard of treatment within host countries which respect human dignity, as even though the Refugee Convention of 1951 is not directly applicable to asylum seekers before a status is granted to them, but it does indicate an intent that the refugees that had lawfully stayed should be accorded the right to work similar to the citizens.

Ongoing Debates

Even in 2025, the debate in the U.S. still continues, as within late 2023, the DHS had announced efforts with regard to speeding up the asylum EAD processing with even temporarily extended the validity of asylum EADs to 5 years in order to reduce the burden of renewal⁷⁶. There have also been demands for the administration to use the parole authority to allow certain groups of asylum seekers work sooner, especially in terms of the people from Venezuela or Cuba who had strong cases, but still no broad executive moves were made in this regard, because the 180-day statutory bar is still in effect⁷⁷. However, in special circumstances such as with Afghan parolees the government did grant them with immediate work authorization, which also demonstrates that a willingness exists when there is a clear moral imperative backed by public support⁷⁸.

Whereas, the opposition contends that a lenient work authorization policy would act as a magnet for economic migrants which in effect would overwhelm the asylum system, as the existing 6-month wait is not inhumane, as in their view many asylum seekers do have support from their families and their communities. The contention of the opposition gives the image of a broader management system, but the counterargument given by state officials is that there are already thousands of asylum seekers who are willing to work, so why keep them waiting especially when it serves the interest of no one to keep them idle.

CONCLUSION

Delays in employment authorization for the U.S. asylum seekers extends beyond bureaucratic inconvenience, as it is a policy choice with profound legal and ethical ramifications. By withholding the

⁷⁵ Aleena Shahzad, Cornelius Katona and Naomi Glover, 'The Psychological Impact of Spending a Prolonged Time Awaiting Asylum' (2025) 16 European Journal of Psych traumatology 2506189.

⁷⁶ Michael Kagan, 'A Faster Way To Yes: Re-Balancing American Asylum Procedures' [2024] Georgetown Law Journal, Forthcoming.

⁷⁷ Deniz Pelin Dinçer, 'Latinx Immigrants in the United States: A Comparative Analysis on the Venezuelan and Cuban Immigrants in Florida' (2022) 9 İstanbul Gelişim Üniversitesi Sosyal Bilimler Dergisi 567.

⁷⁸ Diana Guelespe and Fanny Terrones, *Navigating the Immigration System: Legal Service Providers Share Their Experience Assisting Afghan Evacuees* (JSTOR 2024).

right to work, the U.S. is able to dictate conditions of existence for the asylum seekers. This article has tried demonstrating what those conditions could look like, i.e., enforced poverty, criminal entanglements, increased risk of exploitation, and hurdles at every step of the way during the asylum process. This asylum system even though allows filing of asylum applications but following the filing, it effectively only regulates survival for the asylum seekers, whereby determining how they could meet their basic needs while await on their refugee status. Allowing asylum seekers to support themselves as they pursue the justice through the courts, is not just a kindness, but is a justice in itself, by recognizing their agony and dignity. It also reaffirms the American tradition that freedom and opportunity to those who arrive at the shores seeking safety. Whereas, in terms of the long run aligning policies with the professed values will only strengthen the legitimacy of the asylum system which as a system originally intended to protect refugees while ensuring that their human dignity is preserved. As removal of unnecessary barriers to employment is a critical part towards the realization of that mandate, which is long overdue for reform. In terms of curtailing fraud, the measures opted should be reasonable unlike the 2020 overhaul of the immigration rules, which aimed at unending not just the upcoming refugees but those who had yet to apply. The need to curtail fraud is paramount but it should not deter actual refugees who had escaped persecution and reached the shores of the United States for sanctuary by driving them back to exploitation which they initially sought to avoid.

REFERENCES

- [1] Baluarte D, 'Refugees Under Duress: International Law and the Serious Nonpolitical Crime Bar' (2021) 9 Belmont L. Rev. 406
- [2] Baugh R, 'Refugees and Asylees: 2021' (2022) 13 Annual Flow Report. Office of Homeland Security Statistics. Accessed June 2023
- [3] Gibson I, 'Refugees and Asylees: 2021' (2022) 13 Annual Flow Report. Office of Homeland Security Statistics. Accessed June 2023
- [4] Bier DJ, Streamlining to End Immigration Backlogs (Cato Institute 2023)
- [5] Blackmore R and others, 'The Prevalence of Mental Illness in Refugees and Asylum Seekers: A Systematic Review and Meta-Analysis' (2020) 17 PLoS medicine e1003337
- [6] Borroto G, 'Federal Court Restores Access to Work Permits for Many Asylum Seekers' (American Immigration Council) <https://www.americanimmigrationcouncil.org/blog/access-work-permits-for-asylum-seekers/> accessed 6 November 2025
- [7] Boyce G, 'Shadow Regionalism and Border Policing in the Political Economy of North American Integration', The Elgar Companion to North American Trade and Integration (Edward Elgar Publishing 2025)
- [8] Bracco E and Onnis L, 'Immigration, Amnesties, and the Shadow Economy' (2022) 74 Bulletin of Economic Research 1135
- [9] BRIEF Y, 'Unblocking the US Immigration System'
- [10] Burga AA, 'What Happens to Your Immigration Status If You Were Charged with an Aggravated Felony?' (Burga Law Firm PC, 22 October 2024) <https://www.burgalaw.com> accessed 6 November 2025

[11] Calo F, Montgomery T and Baglioni S, “You Have to Work... but You Can’t!”: Contradictions of the Active Labour Market Policies for Refugees and Asylum Seekers in the UK’ (2024) 53 Journal of Social Policy 638

[12] Chiaromonte W and Federico V, ‘The Labour Market Needs Them, but We Don’t Want Them to Stay for Good: The Conundrum of Migrants, Refugees and Asylum Seekers’ Integration in Italy’ [2021] Migrants, Refugees and Asylum Seekers’ Integration in European Labour Markets: A Comparative Approach on Legal Barriers and Enablers 193

[13] Cornejo AM, ‘Weaponizing Opacity: The Employment Authorization Timeclock as a Method of Prevention Through Deterrence’ (University of California, San Diego 2024)

[14] Corona E, ‘The Price of a Dream: An Analysis of the Exploitative Systems Facing Migrants Trying to Enter the United States’ (2025) 3 The Annual Review of Criminal Justice Studies 328

[15] Crooke CL, ‘US Asylum Lawyering and Temporal Violence’ (2024) 49 Law & Social Inquiry 1510

[16] De La Cruz Sanchez JE, ‘Allowed to Stay: An Exploration of DHS New Guidelines to Dismiss Certain Immigration Cases’

[17] Deshommes DM, ‘Submitted via Www. Regulations. Gov’

[18] Dinçer DP, ‘Latinx Immigrants in the United States: A Comparative Analysis on the Venezuelan and Cuban Immigrants in Florida’ (2022) 9 İstanbul Gelişim Üniversitesi Sosyal Bilimler Dergisi 567

[19] Eagly IV and Shafer S, ‘A National Study of Access to Counsel in Immigration Court’ (2015) 164 U. Pa. L. Rev. 1

[20] Elliot M, ‘Asylum-Seekers Have Human Rights, Too | Request PDF’ [2025] ResearchGate https://www.researchgate.net/publication/248696277_Asylum-seekers_have_human_rights_too accessed 6 November 2025

[21] Emamjomeh N, ‘Walking through the US Immigration System and Its Missing Right to Counsel’ (2021) 59 Hous. L. Rev. 673

[22] Frelick B, ‘At Least Let Them Work’ [2013] Human Rights Watch <https://www.hrw.org/report/2013/11/12/least-let-them-work/denial-work-authorization-and-assistance-asylum-seekers-united> accessed 5 November 2025

[23] HRW, ‘At Least Let Them Work’ [2013] Human Rights Watch <https://www.hrw.org/report/2013/11/12/least-let-them-work/denial-work-authorization-and-assistance-asylum-seekers-united> accessed 5 November 2025

[24] Gibson I, ‘Refugees and Asylees: 2022’ [2023] Annual Flow Report

[25] Gorman CS, ‘Defined by the Flood: Alarmism and the Legal Thresholds of US Political Asylum’ (2021) 26 Geopolitics 215

[26] Guelespe D and Terrones F, Navigating the Immigration System: Legal Service Providers Share Their Experience Assisting Afghan Evacuees (JSTOR 2024)

[27] Haas BM, Suspended Lives: Navigating Everyday Violence in the US Asylum System, vol 4 (Univ of California Press 2023)

- [28] Harris LM, 'Asylum Under Attack: Restoring Asylum Protection in the United States' (2020) 67 Loy. L. Rev. 121
- [29] Hartsough T, 'Asylum for Trafficked Women: Escape Strategies beyond the T Visa' (2002) 13 Hastings Women's LJ 77
- [30] Hass G and others, 'Barriers and Successes in U Visas for Immigrant Victims: The Experiences of Legal Assistance for Victims Grantees' (2014) 1 Arts Social Sci J S 2
- [31] Hegstad F, 'FROM 180 TO 30: A CASE FOR SHORTENING THE ASYLUM EAD CLOCK'
- [32] Hipolito J, 'Illegal Aliens or Deserving Victims: The Ambivalent Implementation of the U Visa Program' (2010) 17 Asian Am. LJ 153
- [33] Holper M, 'Redefining Particularly Serious Crimes in Refugee Law' (2017) 69 Fla. L. Rev. 1093
- [34] Howell JBA, 'United States District Court for the District of Columbia' (2010) 202 Cell 3070
- [35] Kagan M, 'A Faster Way To Yes: Re-Balancing American Asylum Procedures' [2024] Georgetown Law Journal, Forthcoming
- [36] Kerwin D, 'The Faltering US Refugee Protection System: Legal and Policy Responses to Refugees, Asylum-Seekers, and Others in Need of Protection' (2012) 31 Refugee Survey Quarterly 1
- [37] Ketcham J and Di Martino D, 'Shelter from the Storm: Better Options for New York City's Asylum-Seeker Crisis' [2023] Manhattan Institute
- [38] La Spina E, 'Migrant Vulnerability or Asylum Seeker/Refugee Vulnerability? More than Complex Categories' (2021) 11 Oñati socio-legal series S82
- [39] Lay CA, 'Unlicensed to Work: An Analysis of the United States' Human Rights Violation against Asylum Seekers Due to Unreasonable Waiting Period for Work Authorization, and How the Nation Forfeits an Economic Opportunity in the Process' (2024) 59 Tulsa L. Rev. 139
- [40] Lee WB, 'The Hardships of Immigrants to the United States and Its Immigration System' (California State University, Northridge 2023)
- [41] Manfredi Z, 'Impoverishing Asylum:" Bona Fide" Asylum-Seekers and the End of Work Authorization' (2022) 47 Yale J. Int'l L. Online 9
- [42] Mercado A and others, 'Trauma in the American Asylum Process: Experiences of Immigrant Families Under the Migrant Protection Protocols' (2024) 16 Psychological trauma : theory, research, practice and policy S379
- [43] Naseh M and others, 'Migration Integration Policies as Social Determinants of Health for Highly Educated Immigrants in the United States' (2023) 23 BMC Public Health 1358
- [44] Nemaci R, 'Right to Counsel for Asylum Applicants' (2020) 26 Pub. Int. L. Rep. 135
- [45] Phillips S, 'Enhanced Vulnerability of Asylum Seekers in Times of Crisis' (2023) 24 Human rights review 241
- [46] Pitsker N, 'Due Process for All: Applying Eldridge to Require Appointed Counsel for Asylum Seekers' (2007) 95 Calif. L. Rev. 169

[47] Piwowarczyk L, Keane TM and Lincoln A, 'Hunger: The Silent Epidemic among Asylum Seekers and Resettled Refugees' (2008) 46 International Migration 59

[48] Portal G and Statements F, 'Request for Articles-The New Asylum Seekers: Subnational Dynamics of Migration Governance in the United States'

[49] Ramaswamy MP, 'Delays And Other Inefficiencies In Asylum Processing And The Need For Normative Initiatives To Prevent Adverse Effects On The Basic Rights Of The Refugees' (2023) 1 Fiat Iustitia 21

[50] Reichlin-Melnick A, 'DHS Suggests Asylum Seekers Should Get Used to "Homelessness" After Stripping Work Permits' (American Immigration Council, 24 June 2020) <https://www.americanimmigrationcouncil.org/blog/asylum-seeker-work-permit/> accessed 5 November 2025

[51] Reif J, 'To Suffer or Permit to Work: Did Congress and State Legislatures Say What They Meant and Mean What They Said' (2013) 6 Ne. ULJ 347

[52] Ricketts J, 'Navigating the Asylum Settlement Process Pre and Post Policy Memorandum 19-05 in the United States: Case Study of San Francisco and Worcester Based LGBTQ+ Asylum Nonprofits' (University of California, Davis 2025)

[53] Robinson and Henry, 'How Traffic Offenses Can Affect Immigration' (17 September 2024) <https://www.robinsonandhenry.com/blog/criminal-defense/traffic-offenses-cause-immigration-issues/> accessed 6 November 2025

[54] Rupprecht B, 'The Long Migration Route: Exploring Social Implications for Asylees in the US and Policy Creation in Transit Countries as a Result of Immigration Patterns of African and Haitian Asylum-Seekers Traveling Through Latin America to the United States'

[55] Rush N, 'The Biden-Harris Administration's Makeover of the US Refugee Resettlement Program' (2024) 9 LIMEN 23

[56] Samers M, 'The "Underground Economy", Immigration and Economic Development in the European Union: An Agnostic-Skeptic Perspective' (2004) 6 International Journal of Economic Development 199

[57] Saucedo LM, 'Employment Authorization, Alienage Discrimination and Executive Authority' (2017) 38 Immigr. & Nat'lity L. Rev. 463

[58] Schoenholtz AI, Ramji-Nogales J and Schrag PG, *The End of Asylum* (Georgetown University Press 2021)

[59] Schoenholtz, Andrew Ian, Jaya Ramji-Nogales, and Philip G. Schrag, *The End of Asylum* (Georgetown University Press 2021)

[60] Schrag PG, 'The Border Crisis and the Right to Seek Asylum' (2024) 53 Hofstra L. Rev. 115

[61] Seith PA, 'Escaping Domestic Violence: Asylum as a Means of Protection for Battered Women' [1997] Columbia Law Review 1804

[62] Seyben BY, 'Survival of the Weakest', *Exiled Scholars in Western Academia: Refugees or Intellectuals? Reflections on the Paradox of Inclusion and Exclusion* (Springer 2025)

- [63] Shahzad A, Katona C and Glover N, 'The Psychological Impact of Spending a Prolonged Time Awaiting Asylum' (2025) 16 European Journal of Psych traumatology 2506189
- [64] Streat CB, 'The Asylum-Seeker Crisis: Intersecting Shelter & Solidarity' (Pratt Institute 2024)
- [65] Toney RJ, 'Flores-Figueroa v United States: US Supreme Court Attempts to Clarify Men's Rea' (2009) 13 The International Journal of Evidence & Proof 330
- [66] Traurig, G, 'Important Information for Foreign Nationals: Change of Address Notification Required' (1 January 2024) <https://www2.gtlaw.com/practices/immigration/dyk/changeofaddress.htm> accessed 6 November 2025
- [67] Ugarkovic B, 'A Comparative Study of Social and Economic Rights of Asylum Seekers and Refugees in the United States and the United Kingdom' (2004) 32 Ga. J. Int'l & Comp. L. 539
- [68] Van Kooy J and Hirsch A, 'Destitution by Design' [2022] Regulating Refugee Protection Through Social Welfare: Law, Policy and Praxis. London: Routledge
- [69] Women's Law, 'INA § 208 (8 USC § 1158)- Asylum' (WomensLaw.org, 4 October 2017) <https://www.womenslaw.org/laws/estatutos-seleccionados-federales/immigration-laws-current-through-pl-112-283-approved-1-15-7> accessed 5 November 2025