

“Donald Trump’s hardline immigration policies face court challenges” from *The Economist* (English 1 Honors)

Required Annotations		Student-Created Annotations		Summary / Questions / Reflection	
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DONALD TRUMP launched his presidential campaign four summers ago by raising fears of criminals, drug dealers and “rapists” entering America “from all over South and Latin America”. Since inauguration day, cracking down on immigration has been one of Mr Trump’s most zealous endeavours. In the past few weeks alone, the administration has barred asylum at the southern border for anyone travelling through Mexico from another country; denied green cards to immigrants who need financial support from the government; and, on August 21st, announced a plan that would allow authorities to hold families at detention centres indefinitely, rather than for a maximum of 20 days. These moves have all inspired—or are about to trigger—legal challenges.

The American Civil Liberties Union challenged the asylum crack-down in court, and on July 24th, Judge Jon Tigar, a federal district court judge in San Francisco, blocked the new rules nationwide. “Under our laws”, he wrote, “the right to determine whether a particular group of applicants is categorically barred from eligibility for asylum is conferred on Congress” and may not be accomplished by “executive **fiat**”. He also noted that asylum in Mexico was not “feasible” and found no “**scintilla** of evidence” that the system in Guatemala was an adequate alternative.

The Trump administration appealed to the Ninth Circuit Court of Appeals and on August 16th, it won a partial victory. The three-judge panel (comprised of appointees by Presidents George W. Bush, Bill Clinton and Donald Trump) agreed with Judge Tigar that the asylum change seemed to have been pushed through improperly—without the required “notice-and-comment” period required under the Administrative Procedure Act (APA). The government had pointed to APA exemptions for changes that have “good cause” or are related to “foreign affairs”, but the Ninth Circuit found it had not made a “strong showing” for these claims. Accordingly, it refused to lift the lower court’s injunction against the new asylum **regime**.

Two of the three judges, however, voted to limit Judge Tigar’s **injunction** to states within the Ninth Circuit’s jurisdiction. So while the Trump administration could not change the rules for asylum applications at border crossings in California and Arizona, it could begin implementing its no-asylum-without-previous-attempts **stricture** in Texas and New Mexico—states belonging to other federal circuits. This approach, the judges wrote, “allows other litigants wishing to challenge the rule to do

so” and fosters the “**percolation** of legal issues in the lower courts” so that if the issue reaches the Supreme Court, the justices will have the “benefit of additional viewpoints” and a “fully developed factual record”.

Another Trump administration policy coming soon to courtrooms is a plan, rolled out earlier this month, to limit new permanent residents to applicants with the financial means to care for themselves. Under current law, someone deemed at risk of becoming a “public charge” may not be eligible for a green card or visa. The new rule, scheduled to take effect on October 15th, interprets that standard in a radically toughened way. Anyone who receives any of a range of public benefits for more than 12 months in a three-year period would be deemed a “public charge”. That means an immigrant who is on Medicaid or food stamps, or who receives housing assistance, would be **ineligible** for permanent residency.

Dozens of lawsuits against this change are in the works, including a complaint by the states of New York, Connecticut and Vermont. Letitia James, New York’s attorney-general argues that the new requirements are “thinly veiled efforts” to bar all migrants except those who fit certain “narrow ethnic, racial and economic criteria”.

A similar reaction is sure to greet the latest Trump administration announcement on immigration. In order to deter families from crossing the southern border illegally, the plan goes, a rule limiting family detention to 20 days will be eliminated. Families coming to America without papers may be detained for as long as the government deems necessary. Legal challenges to the rule are all but certain, and will probably **scuttle** the administration’s plans in the short term. The 20-day limit on detention dates back to 2015 and is based on a consent decree issued following a 1997 class-action lawsuit concerning the physical and emotional harm children face when detained for too long in migrant-holding facilities.

According to the structure of the 1997 agreement, only Judge Dolly Gee—who oversees what is known as the “Flores settlement”—may agree to a change in the 20-day limit. Given her record, she is not likely to do that. More government appeals will probably follow, with more of Mr Trump’s immigration rules held in limbo while the judiciary sorts out which of the president’s **gambits** square up with the law. In the meantime, the delayed implementation may hold political benefits for the president. Mr Trump can tout his tough-on-immigration **bonafides**—and criticise judges who rule against his policies—as the presidential campaign heats up.

Questions

1. What can you infer from the spelling of words like “criticise,” “endeavours,” and “travelling”?
2. What background knowledge does the author assume the reader has in this sentence: “The three-judge panel (comprised of appointees by Presidents George W. Bush, Bill Clinton and Donald Trump) agreed with Judge Tigar that the asylum change seemed to have been pushed through improperly—without the required “notice-and-comment” period required under the Administrative Procedure Act (APA).”?
3. Reread this passage in the final paragraph: “According to the structure of the 1997 agreement, only Judge Dolly Gee—who oversees what is known as the “Flores settlement”—may agree to a change in the 20-day limit. Given her record, she is not likely to do that.” To what record is the author referring?
4. The title of the article is “Donald Trump’s hardline immigration policies face court challenges.” How many policies does the article discuss? What key words helped you figure this out?