



Explainer: “Invasion” & “Influx” **in a Time of Falling Border Encounters**

I. Introduction

Upon returning to the White House for a second term, President Trump immediately issued a series of executive actions relating to the U.S. southern border and interior immigration enforcement. Many of President Trump’s January 2025 executive orders and proclamations framed migration as a national security threat, invariably asserting that the United States faces an emergency due to a mass “influx” of migrants and is facing an “invasion.” The executive actions invoke various extraordinary enforcement measures to respond to these circumstances, even as the invocation of both terms – once seen as political hyperbole – is [contested](#).

Critics [argue](#) that the Trump administration’s repeated invocation of the terms “invasion” and “influx” is [ideologically driven](#) and [designed to inflame](#) social tensions and justify extreme policies. By invoking constitutional provisions such as [Article IV’s Guarantee Clause](#) and statutory mechanisms like [INA § 103\(a\)\(10\)](#), the administration seeks to justify extraordinary enforcement measures, including a campaign promise of “[mass deportations](#).” In other words, what was once considered hardline rhetoric is now federal immigration policy.

Notably, on March 14, 2025, President Trump invoked the Alien Enemies Act, a wartime authority established in 1798, to expedite the deportation of individuals linked to the Venezuelan gang Tren de Aragua, citing an “invasion” by this transnational criminal organization. This marked the first use of the act since World War II, granting the president broad powers to detain and deport non-citizens with limited due process. Yet, unauthorized crossings at the southern border have significantly declined, with border apprehensions at their [lowest levels](#) since fiscal year (FY) 2000 – the first year monthly data is available from Customs and Border Protection (CBP). On March 1, President Trump touted the declines on [Truth Social](#):

The month of February, my first full month in Office, had the LOWEST number of Illegal Immigrants trying to enter our Country in History – BY FAR! ... The Invasion of our Country is OVER. (emphasis in original)

The president has celebrated the decline in border encounters and proudly proclaimed the “invasion” has ended, yet the administration is gearing up to respond to “influx” and “invasion” conditions with ever-more invasive enforcement measures consistent with the initial executive actions. This explainer examines the legal and factual underpinnings of the terms “invasion” and “influx,” their use by the administration, and the dangerous implications of their misuse for American immigration policy and society, including the invocation of the Alien Enemies Act when the existence of an “invasion” is contested.

II. Legal Context: “Invasion”

The term “invasion” appears in two constitutional provisions: [Article IV, Section 4](#) (the Guarantee Clause), which obligates the federal government to protect states from invasion, and [Article I, Section 10, Clause 3](#), which allows states to act independently during an actual invasion or imminent danger. Legal scholars and courts have narrowly interpreted “invasion” to mean armed hostilities or organized military incursions—[excluding](#) peaceful migration and smuggling operations by criminal entities.¹

For example, in a 1997 case, [California v. U.S.](#), several states, including California, [argued](#) that elevated levels of illegal immigration constituted an “invasion” under the Guarantee Clause. The [U.S. Court of Appeals for the Ninth Circuit](#) rejected this claim, holding that addressing it would require the court to weigh in on a [nonjusticiable political question](#). The court reasoned that the exact definition of a migrant “invasion” has been considered a [political question](#), not a legal one. The Supreme Court of California [found](#) that “the issue of protection of the States from invasion implicates foreign policy concerns which have been constitutionally committed to the political branches...[and] has held that the political branches have plenary powers over immigration.”

In a 2024 case, *United States v. Abbott*, the Fifth Circuit Court of Appeals, ruling *en banc*, did not directly address Texas’s “invasion” claim in a case involving the construction of a [floating buoy barrier](#) in the Rio Grande. The court decided the case on other grounds, specifically focusing on whether the barrier violated the Rivers and Harbors Appropriation Act of 1899 and suggested in a [footnote](#) that the “invasion” might be [non-justiciable](#). Both the California and Texas decisions indicate that courts will be inclined to defer to political actors on this issue.

Before the Fifth Circuit’s decision in *United States v. Abbott*, a different case involving Texas’s immigration law [SB4](#) was blocked by Judge David Alan Ezra of the U.S. District Court for the Western District of Texas. In his February 2024 preliminary injunction, Judge Ezra [rejected](#) Texas’s “invasion” argument, stating that “[t]he text, structure, and original understanding of the Constitution makes it clear that immigration does not constitute an invasion.” Litigation regarding the bill is ongoing, and, as a result, SB4 is [not in effect](#). Notably, the Supreme Court has not ruled on the justiciability of an “invasion” declaration in this context, and it remains uncertain whether it would find such a claim justiciable if directly challenged.

III. Legal Context: “Influx”

Conversely, “influx” is defined statutorily under [INA § 103\(a\)\(10\)](#), which allows the Department of Homeland Security (DHS) to declare a “mass influx” emergency when large-scale migration events overwhelm federal resources. This provision enables DHS to deputize local law enforcement for immigration enforcement and allocate federal resources to manage migration surges. Past administrations legally invoked this provision [sparingly](#), such as during the [Mariel Boatlift](#) in 1980 and the [Haitian](#)

¹ Experts have noted that frequent use of “invasion” rhetoric in American immigration policy debates is a reflection of the modern mainstreaming of the virulent, disproven, and racist conspiracy, the Great Replacement Theory (GRT). See National Immigration Forum, “The ‘Great Replacement’ Theory, Explained,” December 2021, <https://immigrationforum.org/wp-content/uploads/2021/12/Replacement-Theory-Explainer-1122.pdf>.

[migration crises](#) in the 1990s. In both instances, the executive branch's use of “influx” provisions was about resource allocation and humanitarian response, not about framing migration as a national security threat.

Applying this standard to the high levels of border encounters in 2023 and the first part of 2024 suggests that the “influx” definition might have been applicable. However, with the collapse of irregular border encounters along the U.S.-Mexico border since the latter half of 2024, an influx declaration has much weaker support in early 2025. Critics [argue](#) that invoking INA § 103(a)(10) in the absence of a large-scale migration surge risks undermining due process protections and straining local resources by requiring local law enforcement to participate in federal immigration enforcement operations. While the administration’s use of the phrase “migrant influx” is not inherently inflammatory, conditions on the ground raise questions about the designation’s propriety and the potential for its misuse.

IV. President Trump’s Invocation of the Alien Enemies Act

On March 14, 2025, President Trump [invoked](#) the Alien Enemies Act (AEA), a wartime authority established in 1798, to justify the expedited deportation of individuals linked to the Venezuelan gang Tren de Aragua. The AEA permits the president to order “all natives, citizens, denizens, or subjects of the hostile nation or government,” aged fourteen and older who are not naturalized U.S. citizens “to be apprehended, restrained, secured, and removed as alien enemies.” Such action is contingent on “a declared war between the United States and any foreign nation or government, or any invasion or predatory incursion is perpetrated, attempted, or threatened against the territory of the United States by any foreign nation or government.”

The invocation of the AEA marked the first time the act had been used since World War II, granting the president sweeping powers to detain and deport non-citizens without judicial review. On March 15, President Trump [told](#) reporters on Air Force One, “This is a time of war.” In his proclamation, Trump declared Tren de Aragua is “perpetrating, attempting, and threatening an invasion or predatory incursion against the territory of the United States,” echoing the language of the AEA. The proclamation stated that the gang members were “a danger to the public peace or safety of the United States” and ordered the expedited removal of all Venezuelan citizens ages 14 and older deemed to be members of the group (excluding those who are U.S. citizens or lawful permanent residents).

This unusual invocation of the Alien Enemies Act in the absence of a declared war and the questionable assertion of an invasion or predatory incursion by an entity that is not a foreign nation or government raises concerns about the potential for broader applications against other immigrant populations. The AEA’s invocation was immediately met with legal challenges. A [lawsuit](#) filed by Democracy Forward and the ACLU emphasized that the law has only been invoked during wartime (the War of 1812, World War I, and World War II). U.S. District Judge James Boasberg issued a [temporary injunction](#), halting deportations and directing any planes already in flight to return to the U.S. At the time of publication, litigation over the invocation continues.

V. “Invasion” & Recent Executive Actions

At least three of President Trump's initial executive orders employed invasion rhetoric to justify novel, escalatory immigration enforcement measures.² Specific measures detailed in these executive orders include the suspension of asylum at the southern border and the expanded use of [expedited removal](#). The [U.S. military](#) is now tasked with securing the borders against threats of invasion, and state and [local law enforcement agencies](#) are being compelled to assist in federal immigration enforcement. The persistence of these measures raises questions about their true purpose as they continue to escalate despite the administration's claim that the "invasion" has ended.

The Trump administration's use of the word "invasion" in recent executive actions threatens to expand the definition of "invasion" beyond its historical meaning and has profound legal implications. Specifically, by invoking Article IV's Guarantee Clause to justify extreme immigration policies, the administration risks setting a precedent that could erode constitutional protections for legal immigrants and those with temporary status, including due process requirements in deportation proceedings.

In the January 20, 2025 order, "[Protecting the American People Against Invasion](#)," the administration claimed that a temporary ban on asylum was necessary to protect the U.S. against migrants taking part in an "invasion" of the United States through the U.S.-Mexico border. In response, several groups are [suing](#) over the invocation of [Section 212\(f\)](#) of the INA, which affords the president [significant discretion to suspend the entry](#) of noncitizens into the United States after a determination their entry would be detrimental to the national interest. While Section 212(f) can be invoked without the state of "invasion" existing, the executive order is premised on the existence of such an invasion. The lawsuit challenges the president's authority to unilaterally override congressional protections for asylum seekers, characterizing this move as an "[unprecedented power grab](#)" that jeopardizes countless lives and misuses the rhetorically loaded and legally specific term "invasion."

VI. Current Circumstances Do Not Merit a Mass Influx Declaration

On January 23, 2025, Acting DHS Secretary Benjamin Huffman [invoked](#) INA § 103(a)(10) for the [first time](#), declaring a "mass influx" emergency. This declaration allows DHS to request assistance from state and local governments nationwide in enforcing immigration law, shifting significant resources away from other priorities to address an immigration surge that had [largely subsided](#) by the fall of 2024. There have been no court challenges to this declaration at the time of writing.

As noted above, the justification for Huffman's mass influx declaration is [questionable](#), as border crossings had significantly declined before Trump's inauguration in January 2025. With the number of border encounters [continuing to fall](#) in February and March 2025, the current number of daily crossings are a fraction of last year's monthly averages. These declines suggest that the present situation does not meet the criteria for a "mass influx" emergency, which requires evidence of large-scale migration overwhelming federal resources.

² Executive orders published on January 20, 2025 that frame migration as a national security threat include "[Protecting the American People Against Invasion](#)," "[Guaranteeing the States Protection Against Invasion](#)," and "[Clarifying the Military's Role in Protecting Territorial Integrity](#)"

Declaring a “mass influx” event after large-scale migration has largely subsided raises concerns about the propriety of relying on INA § 103(a)(10) and the potential for misuse of this provision. For example, delegating immigration enforcement authority to local law enforcement agencies under this provision poses [risks](#). Ordinarily, efforts to deputize local law enforcement officials to carry out federal immigration officer functions fall under the [287\(g\) program](#), which requires mandatory training and formal written agreements specifying the parameters of the delegated functions. In contrast, delegating authority under INA § 103(a)(10) lacks these safeguards and increases the risk of errors, misallocation of resources, inconsistent application of immigration laws, and potential civil rights abuses.

The January 2025 mass influx declaration stands out compared to previous administrations' actions in response to migration-related crises, which did not rely on this authority. Despite historically high border encounter numbers in 2023-24, the [Biden administration](#) did not declare a “mass influx” emergency. Instead, it utilized other tools, including expanding [humanitarian parole programs](#) and implementing stricter enforcement mechanisms, including [restrictions on asylum](#). Similarly, the [Obama administration](#) did not declare a mass influx when facing a surge in [unaccompanied minors](#) in 2013-14, instead [increasing](#) resources for processing and detention facilities and working with Central American countries to address the root causes driving migrants to the U.S. Nor did the first Trump administration invoke this authority when facing a [substantial increase in border encounters in 2018-19](#), [focusing instead](#) on deploying resources and personnel to the border and creating the [Migration Protection Protocols](#) (MPP) to force prospective asylum seekers to wait in Mexico for the duration of their immigration proceedings. The case for a mass influx declaration under INA § 103(a)(10) was more substantial in each of these circumstances than it is now. This contrast highlights the unprecedented nature of the current administration's decisions and actions.

VIII. Conclusion

The Trump administration continues to introduce new and extraordinary immigration enforcement measures that are premised on a state of “invasion” or mass “influx.” These actions occur at a moment when border encounters have fallen dramatically, and the president has declared that, “The Invasion of our Country is OVER.” Given the sweeping powers the administration is claiming under this authority, including an unprecedented invocation of the Alien Enemies Act, it matters whether the actions are responsive to actual national security threats and reflect reality on the ground. The absence of a military incursion into the United States and the dramatic fall in the number of border encounters suggests the invocation of an “invasion” or “influx” is not appropriate.