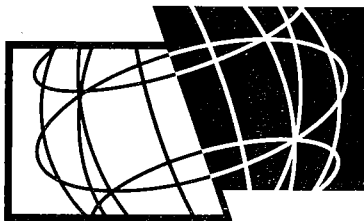


HUMAN RIGHTS



FOR HUMAN RIGHTS

OBSERVER

Volume VII, Number 3
April 1994

Asylum Under Siege: Reform or Ruin?

During the past year, the asylum system has been under attack. Decades of underfunding and neglect have created a backlog of 370,000 asylum cases and last year 150,000 new cases were filed. The Immigration and Naturalization Service (INS) is able to process only a fraction of the applications it receives. The resulting delays cause legitimate asylum applicants to languish for years while they wait for their cases to be decided. Fearful of being returned to a country where they face torture, detention or death, they are unable to

conceived and dangerous for legitimate asylum seekers. Asylum reforms intended to deter abuse and provide refuge to those fleeing persecution, must be built on a foundation of prompt and fair adjudications. Promptness will deter unscrupulous applicants and fairness will ensure that legitimate claims are properly considered.

The asylum system

Currently, asylum is granted in approximately 1/4 of the cases decided

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reunite with families and remain uncertain as to whether they will be allowed to build a life in the United States.

The slow processing time also invites abuse by applicants with frivolous claims. The long delays provide incentive for individuals who are not fleeing persecution to nonetheless apply for asylum, so that they can be free from deportation while their claims are pending.

Recent regulatory and legislative proposals would dramatically change the asylum system. While some of the proposals are useful, others are ill-

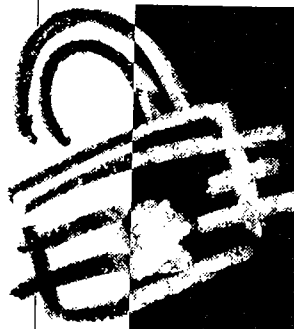
per year, resulting in approximately 5,100 grants of asylum during the last fiscal year. Individuals who are granted asylum thus make up a small percentage of the 1 million immigrants and refugees who come to this country annually.

Distinguished from the 150,000 refugees who are permitted to resettle in the United States directly from overseas, asylum claimants do not apply for asylum until they are on U.S. territory. Most enter legally with student or tourist visas only to find, for example, that a coup prevents their safe return home. Others obtain

continued on page 2

10th Annual Human Rights Awards Dinner

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WORLD'S CHILDREN

**Tuesday, July 26, 1994
Minneapolis Hilton
Minneapolis, Minnesota**

Recipients of the Human Rights Awards will be announced in the next *Human Rights Observer* -- watch the mail for your invitation!

fraudulent documents as the only way to escape a brutal regime.

To win asylum, the applicant must demonstrate a well-founded fear of persecution, or severe past persecution, due to race, religion, nationality, membership in a particular social group, or political opinion. The asylum process is a difficult one. Applicants with attorneys are three times more likely to win their cases.

Proposed regulations

The INS has proposed new regulations to speed up the processing of asylum claims. Several of these measures include:

- adding more Immigration Judges and doubling the number of asylum officers. The United States currently has only 150 asylum officers while Switzerland has 500, Sweden has 800 and Germany has 3000.
- eliminating some interviews by having asylum officers refer difficult cases directly to Immigration Judges for hearings.
- clearly meritorious claims would be approved within 60 days by asylum officers, those sent to immigration judges would take up to six months.
- cracking down on "boilerplate" applications which contain virtually identical information and are purchased from commercial preparers. Under new regulations, the preparers must be identified, and incomplete or "boilerplate" applications will be suspended and returned for additional information before processing.

Refugee advocates are especially concerned about measures that could penalize legitimate asylum seekers by inhibiting their ability to file an application and support themselves while awaiting a decision:

- charging a fee of \$130 to asylum applicants without a well-defined waiver that would ensure exemption for those truly unable to afford the charge.

- denial of work authorization to asylum applicants for six months or until asylum has been granted. The proposed regulations remove any process for identifying credible applicants and allowing them temporary work authorization.

There is currently a Comment period on the proposed regulations which were issued on March 24, 1994.

Legislative proposals

There also numerous legislative proposals to alter the asylum system. Some would severely restrict the ability of asylum seekers to have full and fair hearings on their claims. The "Expedited Exclusion" proposals target individuals who arrive at U.S. ports of entry without proper documents. Those who request asylum will be required to undergo an on-the-spot pre-screening interview during which they must immediately prove their "credible fear of persecution." Many legitimate asylum-seekers will be fatigued from a harrowing journey, traumatized, and frightened of government officials. Torture victims often have difficulty expressing themselves, particularly in recounting their trauma to government authorities whom they have learned to mistrust. Unfamiliar with the complexities of our asylum system, they will have no time to seek assistance. It is unrealistic to expect even the most compelling asylum-seekers to present a persuasive case under these circumstances.

Some of these proposals create an unacceptable risk of mistakenly sending genuine refugees to persecution, torture or death. Families risking their

lives to flee to safety sometimes have no choice but to use false documents to escape. Rarely do the persecuting governments provide documentation to help their victims flee.

There is no doubt that the asylum system needs reform. Vigilance is required to ensure that thoughtful rather than reactionary proposals are enacted. ■

Asylum Training Seminar

The Ninth Annual Asylum Training Seminar on June 9, 1994, will focus on the proposed and enacted changes in asylum law. The seminar, which trains volunteer attorneys to represent indigent clients with legitimate asylum claims through the Refugee & Asylum Project, will also feature a mock deportation hearing. The Project currently represents 363 clients from 33 countries.

Seminar speakers will include Immigration Judge Robert Vinikoor; Robert Esbrook, Director of the Chicago Asylum Office of the INS; and Scott Busby, Legal Officer, Washington Office of the United Nations High Commissioner for Refugees.

Application will be made for 7 CLE credits. Cost of the seminar is \$150. A reduced registration fee of \$85 is available to lawyers who agree to take a pro bono asylum case. For further information, please call Rich Thomas at 612-341-3302. ■

The Human Rights Observer is published ten times a year by Minnesota Advocates for Human Rights.

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U.S. Government Continues Forcible Return of Haitian Refugees Despite Worsening Human Rights Situation

The United States' practice of forcibly returning Haitian asylum seekers has continued unabated despite escalating violence in Haiti. In recent months, the Haitian authorities and the paramilitary organization FRAPH have undertaken shocking acts of violence against the civilian population. Disfigured corpses are found in the streets of Port-au-Prince almost every morning, and disappearances are reported with frequency. Scores of civilians have been detained, interrogated and tortured arbitrarily. The United Nations Civilian Mission and non-governmental human rights organizations have documented many cases of rape of Haitian women and children. Yet, these human rights violations exist with utter impunity. One woman who recently testified to having been raped by a member of FRAPH reported that the aggressor advised her to "pray to God because it is he who is before you." Fearing for her life, she did not report the crime to the authorities.

Despite this growing reign of terror, where possessing President Aristide's photograph continues to be a pretext for torture and even execution, the United States government has continued its policy of forcibly returning Haitians attempting to flee their homeland. The United States Coast Guard's practice is to board Haitian vessels in Haitian territorial waters, bring the asylum seekers on board but not offer them any evaluation of their refugee status, sink their vessel, and then forcibly return the asylum seekers to the Haitian police at the Port-au-Prince dock. Several human rights organizations have documented cases of detention, torture and disappearances of these

asylum seekers after the U.S. government turned them over to the Haitian authorities.

At the same time, the present in-country refugee processing offered by the U.S. authorities has been demonstrated repeatedly to be inadequate given the extreme circumstances of Haitians facing persecution. Delays in the process have left applicants for refugee status in danger and several have been executed by the Haitian police or military before any decision was made on their case. Scores of cases reveal an apparent disregard for accepted standards of international law regarding refugees, where individuals suffering torture, death threats, and the executions of family members have been rejected for not demonstrating that they had a "reasonable fear of persecution."

The United States government has ratified the international Convention Relating to the Status of Refugees and incorporated its provisions into law. Under that law, the United States has acknowledged a responsibility to grant refugee status to those with a "reasonable fear of persecution" based on their political opinion, social group, race, religion, or nationality." The Refugee Convention also includes a specific provision against the practice of returning refugees to the very place where they face persecution, known as non-refoulement. The present United States policy fails to respect the principle of non-refoulement and presents a clear danger to Haitian asylum seekers, as well as a callousness in the face of an extremely serious, and apparently worsening, human rights situation. ■

Article by Sarah A. DeCasse

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Calendar

Saturday, April 30: Partners in Human Rights Education training session in Room 319A of the Seitz Building, 394 Lake Ave. S., Duluth, MN. For more information please call Sandy Block at 218-724-8538 or Kristi Rudelius-Palmer at 612-626-0041.

Saturday, May 7: Benefit concert for Amnesty International's Prisoner Relief program at the Eisenhower Community Center, in Hopkins, Minnesota. Tickets are \$12 and \$20. For more information please call Gary King at 612-571-7696

Tuesday, May 17: Death Penalty Defense Project half-day training seminar focusing on Mental Health Issues in Capital Defense to be held at the law firm of Faegre & Benson, Minneapolis. For more information please call 612-341-3302.

Monday, May 9: Cheryl Thomas will be discussing MAHR's Domestic Violence Project at a meeting of the Wayzata Amnesty International Group. The meeting begins at 7:15 p.m. at the Wayzata Community Church, 125 E. Wayzata Blvd., Wayzata, MN.

Thursday, May 26: Partners in Human Rights Education Volunteer Recognition event will be held at the University of Minnesota, Minneapolis Campus from 5:30 - 8:00 p.m. For more information please call 612-626-0041.

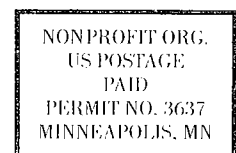
Thursday, June 9: Refugee & Asylum Project Training Seminar, held at the University of Minnesota Law School, Minneapolis, MN. For more information see box on page 2 or call Rich Thomas at 612-341-3302.

Tuesday, June 14: 3rd Annual Blues Saloon Bash to benefit the Death Penalty Defense Project. The John Duich Band will entertain you -- doors will open at 7:30 p.m. The Blues Saloon is located at Thomas & Western in St. Paul.

Tuesday, July 26: 10th Annual Human Rights Awards Dinner featuring International Protection of Children. The dinner will be held at the Minneapolis Hilton, Minneapolis, MN. Please see box on page 1.

Wednesday evenings: KTCI Channel 17 in St. Paul will air *Rights & Wrongs* at 7:00 p.m. Programs are hosted by Charlayne Hunter-Gault and will feature stories about many human rights crises, including Bosnia, Haiti, China and the United States. The programs are produced on a nonprofit basis by Globalvision, Inc.

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