

8/15/09: Miami Herald: Overhaul sorry state of U.S. detention system

By Michael Cromartie and Elizabeth H. Prodromou

Last week was important for those seeking to reform the U.S. system by which asylum seekers are detained. On the same day, Sen. Joseph Lieberman, I-Conn., introduced the Secure and Safe Detention and Asylum Act to ensure that asylum seekers are treated in accordance with U.S. law, and the U.S. Immigration and Customs Enforcement finally recognized the need to overhaul a broken immigration detention system.

The Lieberman bill would address many glaring problems that have been identified by the U.S. Commission on International Religious Freedom, an independent, bipartisan federal government commission. Congressional action is needed, as unfortunately almost all these problems remain today.

The commission found that the Department of Homeland Security, along with the Department of Justice, were improperly treating asylum seekers in expedited removal, a procedure through which asylum seekers are detained and can be deported without even seeing an immigration judge. The Lieberman bill addresses both of these concerns.

Improved custodial conditions

The ICE announcement established goals and a framework for a new civil detention system that, within the next three to five years, would seek to offer improved custodial conditions and medical care, fiscal prudence and greater federal oversight. The announced goal of such reform is to move away from the "present decentralized, jail-oriented approach." We hope that the agency's plans become reality and look forward to ICE issuing specifics.

Given the sorry state of the current detention system and the fact that ICE has announced general plans but no concrete actions, legislation like the Lieberman bill is necessary. Simply put, asylum seekers fleeing persecution should not be returned to countries from which they have fled, nor should they be confined in prison-like conditions like criminals, simply for seeking freedom and protection in the United States.

In surveying detention facilities, we found conditions that may retraumatize asylum seekers: They were housed with criminal offenders, underwent inmate counts, invasive searches and surveillance and had limited contact with families and legal assistance providers.

We were particularly troubled to learn that asylum seekers were being restrained and forced to wear handcuffs and shackles like violent criminals. Often coming to this country suffering trauma, asylum seekers were being detained by staff who were neither trained to be sensitive to their special needs nor able to address the issues arising from torture and other trauma.

The commission made a number of recommendations -- none requiring congressional action -- to fix these problems. They include increased coordination among agencies that implement expedited removal; increased alternatives to detention or detention in non-jail-like facilities; increased opportunities for pro bono counsel for asylum seekers; and increased quality assurance procedures.

Four years after we issued our report, asylum seekers still are detained under prison-like conditions. Such confinement is unnecessarily severe, especially as there are legal alternatives to detention. Problematically, the use of detention has increased.

Taxdollars wasted

Over the past six years at least 42,000 asylum seekers have been detained, at a cost of hundreds of millions of dollars to U.S. taxpayers. To date, DHS has been unwilling to use and expand alternatives to detention.

We thus especially take note of ICE's announcement to develop a national strategy on detention alternatives. Essential to that effort would be a revision of the existing parole criteria, as we have consistently recommended since 2005, to facilitate asylum seekers' release from detention. The agency should immediately revise such criteria by returning to preexisting standards.

Before last week, DHS had not undertaken necessary remedial actions, nor even signaled its intention to do so. USCIRF welcomes the Lieberman bill and ICE's announcement. Both are important first steps to achieving the goal of treating asylum seekers fairly and humanely as well as reaffirming the leading role that the United States long has played in providing safe haven to those seeking freedom and safety on our shores.

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