

August 21, 2006: USCIRF Welcomes New Justice Department Reforms Based on USCIRF Recommendations to Protect Asylum Seekers; Urges DHS Also To Act Soon

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(202) 523-3240, ext. 14 WASHINGTON-New measures were announced this month by Attorney General Alberto Gonzales based on U.S. Commission on International Religious Freedom (USCIRF) recommendations to protect legitimate asylum seekers. The Commission, an independent, bipartisan federal agency, welcomes them. The changes are designed to improve the performance of the Immigration Courts and the Board of Immigration Appeals and protect those who may face persecution if returned to their countries of origin. "The Commission is pleased that our findings and recommendations regarding unfair, often summary immigration court proceedings are at last being addressed by these reforms," said USCIRF Chair Felice D. Gaer. "The Department of Homeland Security (DHS) should now follow the lead of the Justice Department and enact reforms based on the Commission's findings and recommendations to bring an end to jail-like detention for legitimate asylum seekers by DHS." On February 8, 2005, the Commission released its two-volume, 500-page Congressionally authorized study, Report on Asylum Seekers in Expedited Removal. The study examined how the process of expedited removal-through which immigration officials can summarily return people arriving in the United States without proper documentation to their country of origin-has been implemented and whether legitimate asylum seekers were being treated fairly. The study found that there were serious and systematic problems in implementation of expedited removal procedures by the Departments of Justice and Homeland Security that undermined the asylum system. Included among the recommendations contained in the Commission's study were that DHS and the Department of Justice should expand existing public-private partnerships to facilitate legal assistance for asylum seekers subject to expedited removal, and that they should improve administrative review and quality assurance procedures to improve consistency in asylum determinations by immigration judges. The Justice Department's long-awaited reforms include: Implementation of performance and supervision measures to promote better consistency and quality of decisions by immigration judges. Some adjustments to recent "streamlining" reforms by the Board of Immigration Appeals (BIA) to begin to improve and better explain its reasoning in decisions, to ensure that the BIA will be more effective in promoting better decisions by immigration judges. Strengthening of training for immigration judges, Board of Immigration Appeals members and staff of the Executive Office for Immigration Review (EOIR). Directing the head of EOIR to consider forming a committee to oversee expansion and improvement of EOIR's pro bono programs. Other changes include performance evaluation of immigration judges and Board of Immigration Appeals members by EOIR leadership, implementation of mechanisms to detect poor conduct and quality of immigration judges' and Board members' work, and a review of the selection process for interpreters who translate proceedings for asylum seekers. "The Justice Department's reforms are necessary and welcome steps toward ensuring that individuals who come to these shores and who are escaping the threat of persecution in their countries of origin find real the unique promise and values of this country, which include a well-functioning legal system and a society committed to the rule of law," said Preeta D. Bansal, a Commissioner who served as Commission Chair when the Commission's expedited removal study was issued in 2005. As part of its 2005 study, the Commission made the following additional recommendations to the Department of Homeland Security (DHS): DHS should establish detention standards that are more appropriate for asylum seekers than the current jail-like conditions under which most asylum seekers are currently detained; DHS should promulgate regulations to promote more consistent implementation of established release criteria to ensure that asylum seekers with a credible fear of persecution - and who pose neither a flight nor a security risk - may qualify for release from detention; Asylum officers at ports of entry should - in clearly approvable cases - be authorized to grant asylum applications during the expedited removal process, rather than waiting for months for a hearing before an immigration judge, just as asylum officers who are not stationed at ports of entry are authorized to do with regard to affirmative asylum applications; and DHS should implement and monitor quality assurance procedures - such as videotaping secondary inspections at ports of entry - to ensure more reliable information for homeland security purposes, and to ensure that legitimate asylum seekers are not turned away in error. "These additional modest but crucial changes in DHS regulation and procedure are critical for ensuring that the expedited removal system accords with the statutory aim of protecting all legitimate asylum seekers from deportation," said Mark Hetfield, an immigration expert and lawyer who directed USCIRF's study. The Commission's study is available on its web site at www.uscirf.gov.

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