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**THOUSANDS OF REFUGEES DENIED PROTECTION
DUE TO ASYLUM FILING DEADLINE**

U.S. Implementation of One-Year Deadline Violates Human Rights, Report Says

Washington, D.C. - One in five refugees seeking protection in the United States is denied asylum because they do not apply within one year of their arrival and miss the 12-month deadline imposed by Congress, according to a study of the Board of Immigration Appeals' (BIA) asylum decisions.

“The one-year deadline results in the denial of asylum, a basic human rights protection, because of a technicality,” said Mary Meg McCarthy, executive director, Heartland Alliance’s National Immigrant Justice Center. “The BIA is making a bad law worse by arbitrarily denying exceptions to the deadline and putting the lives of men, women, and children at risk.”

The study’s conclusions are detailed in a new report, *The One-Year Asylum Deadline and the BIA: No Protection, No Process*, a collaboration among Heartland Alliance’s National Immigration Justice Center’s National Asylum Partnership on Sexual Minorities, Human Rights First, and Penn State Law’s Center for Immigrants’ Rights. The report is the first to examine how the asylum deadline is handled by the BIA, the highest level of administrative appeal available to asylum seekers. The study analyzed 3,472 BIA asylum cases decided in January from 2005 to 2008.

The report is available at www.immigrantjustice.org/oneyeardeadline.

Enacted in 1996, the one-year filing deadline requires asylum seekers to establish by “clear and convincing” evidence that their asylum applications were filed within one year of their arrival in the United States, or demonstrate that their applications were delayed due to changed or extraordinary circumstances. Asylum seekers who cannot meet these requirements, even if they are refugees with well-founded fears of persecution, are barred from asylum protection and face deportation to the countries from which they fled.

Among the report’s key findings are the following:

- One out of five asylum cases was denied because it was filed after the deadline.
- In 46 percent of the 662 filing deadline denials, the BIA did not provide any reason for the denial of the asylum application other than that it was submitted after the filing deadline. Of the 662 filing deadline denials, the BIA did not recognize any exceptions to the filing deadline.

(more)

- When an immigration judge granted an exception to the one-year deadline, the BIA affirmed that decision 75 percent of the time. By contrast, when an immigration judge denied asylum based on the one-year deadline, the BIA affirmed the decision 96 percent of the time.

“Our study found that the one-year deadline serves no public policy purpose other than to bar legitimate refugees from obtaining the protection they deserve under international and U.S. law,” said Shoba Sivaprasad Wadhia, clinical professor of law, Penn State Law’s Center for Immigrants’ Rights. “It is not being applied in the way Congress intended and should be repealed.”

Recommendations

Only legislative repeal of the deadline will ensure that refugees are not denied protection based on a technicality. The U.S. Attorney General, who supervises the BIA, also should take a number of steps outlined in the report – including to revise regulations governing exceptions to the deadline and require adjudicators to consider more circumstances that justify delayed filings.

“This study confirms that the filing deadline is leading the United States to deny asylum to credible refugees who are likely to face persecution in their home countries,” said Eleanor Acer, director of Human Rights First’s Refugee Protection Program. “Not only is the deadline inconsistent with this country’s commitment to protecting the persecuted, but it also wastes already limited government resources litigating a technicality. Congress should simply eliminate the asylum filing deadline.”

The One-Year Asylum Deadline and the BIA: No Protection, No Process is available for download as a PDF at www.immigrantjustice.org/oneyeardeadline.

[Heartland Alliance's National Immigrant Justice Center \(NIJC\)](http://www.immigrantjustice.org) is a Chicago-based organization dedicated to ensuring human rights protections and access to justice for all immigrants, refugees and asylum seekers through a unique combination of direct services, policy reform, impact litigation and public education. NIJC's National Asylum Partnership on Sexual Minorities (NAPSM) applies a comprehensive human rights and due process framework to issues that particularly affect lesbian, gay, bisexual, transgender, and HIV-positive immigrants. www.immigrantjustice.org

[Human Rights First \(HRF\)](http://www.humanrightsfirst.org) provides pro bono legal representation to refugees who seek asylum and advocates for their protection consistent with international refugee and human rights conventions and law. Based in Washington, D.C., and New York, HRF builds respect for human rights and the rule of law to help ensure the dignity to which everyone is entitled and to stem intolerance, tyranny, and violence. HRF safeguards the rights of refugees through direct legal services and advocacy by helping asylum seekers find safety in the United States and by advocating for progressive reform of asylum policies. www.humanrightsfirst.org

[Penn State Law’s Center for Immigrants’ Rights](http://law.psu.edu). Launched in 2008, the Center for Immigrants’ Rights is an immigration clinic where students work on innovative advocacy and policy projects relating to U.S. immigration primarily through representation of immigration organizations. The mission of the Center is to represent immigrants’ interests through legal excellence, advocacy, education, and collaboration with key stakeholders and the community. <http://law.psu.edu>