

American Immigration Lawyers Association

Press Release

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Refugee Protection—Upholding an American Tradition

Statement of the American Immigration Lawyers Association

Washington DC – The United States Commission on International Religious Freedom (USCIRF) today issued a study mandated by Congress on asylum seekers in expedited removal. Congress wisely authorized USCIRF, along with the U.S. General Accounting Office, to undertake this study to assess “the effectiveness of procedures in processing asylum claims by undocumented aliens who assert a fear of persecution...” The release of this study could not have come at a more timely moment, given that the House of Representatives is scheduled this week to vote on H.R. 418, the so-called “REAL ID Act,” introduced by Representative F. James Sensenbrenner (R-WI). Given the Commission’s extensive data and findings, we urge Members of the House of Representatives to vote “no” on this ill-conceived measure.

The American Immigration Lawyers Association (AILA) welcomes the Commission’s findings, and urges Congress to take the steps necessary to implement the Commission’s recommendations. We especially support the Commission’s call for the Department of Homeland Security (DHS) to create an office to address cross-cutting issues relating to asylum and expedited removal, to strengthen quality assurance procedures to ensure that asylum seekers are not turned away in error, to establish detention standards and conditions appropriate for asylum seekers, and to expand private-public partnerships to facilitate legal assistance for asylum seekers subject to expedited removal.

The Commission found that the expedited removal process is “opaque not only to the outside world, but even within the Department of Homeland Security.” Among other findings, the Commission pointed out that:

The “Record of Sworn Statement”...created at the ports of entry during the Expedited Removal process are often incomplete and less than reliable. Reliance on these records by immigration judges for purposes of assessing the credibility of an asylum applicant’s testimony in court could...lead to the incorrect removal of asylum seekers to countries where they may face persecution. In 30% of transcripts reviewed, immigration judges denying asylum cited the asylum seeker’s statement made to the immigration inspector at the port of entry...

Yet H.R. 418 would elevate the already-existing discretion of immigration judges making credibility findings by mandating that “the credibility determination...may...be based...on the consistency between the applicant’s...written and oral statements, made at any time and whether or not under oath.” Such a misguided provision would do nothing to make our nation more secure and as the Commission so aptly illustrates, would only harm those persons who need and deserve our protection.

America was founded by immigrants fleeing religious and political persecution. Our tradition as a haven for those who would face death or torture if deported to the hands of their persecutors has been enshrined in U.S. law for decades. Our asylum system was reformed in the mid-90s to ensure that terrorists or those seeking to fraudulently abuse our asylum system, would be unsuccessful in receiving asylum. Our

expedited removal procedures, enacted in 1996, took pains to provide safeguards so that those with genuine fear would have their day in court to make their asylum claim before an immigration judge.

H.R. 418 goes against the Commission's recommendations and our traditions, and ignores the reforms that have been undertaken in the asylum system. AILA urges Members of the House of Representatives to vote against H.R. 418 when it comes to the House floor for a vote, and instead work to assure the implementation of the Commission's recommendations.

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Founded in 1946, AILA is a nonpartisan, nonprofit organization that provides its Members with continuing legal education, information, and professional services. AILA advocates before Congress and the Administration and provides liaison with the DHS and other government agencies. AILA is an Affiliated Organization of the American Bar Association.

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