

10-28-1987

Reagan Administration Proposal To Change Rules On Applications For Political Asylum Faces Heavy Opposition

Deborah Tyroler

Follow this and additional works at: <https://digitalrepository.unm.edu/noticen>

Recommended Citation

Tyroler, Deborah. "Reagan Administration Proposal To Change Rules On Applications For Political Asylum Faces Heavy Opposition." (1987). <https://digitalrepository.unm.edu/noticen/1037>

This Article is brought to you for free and open access by the Latin America Digital Beat (LADB) at UNM Digital Repository. It has been accepted for inclusion in NotiCen by an authorized administrator of UNM Digital Repository. For more information, please contact amywinter@unm.edu.

Reagan Administration Proposal To Change Rules On Applications For Political Asylum Faces Heavy Opposition

by Deborah Tyroler

Category/Department: General

Published: Wednesday, October 28, 1987

A Reagan Administration proposal to have the Justice Department rather than the courts rule on applications for political asylum has run into opposition from lawyers and others working with immigrants. Oct. 27 was the deadline for comment on proposed regulations under which an immigration official would decide which illegal aliens are allowed to stay in the US because of fear of torture, murder or persecution in their homeland. The Immigration and Naturalization Service (INS) says the proposal is intended to make the system more efficient. Opponents say that the asylum process is already politicized and that the proposed regulations would make it worse. According to the American Immigrations Lawyers Association, half of all Soviet citizens and 40% of all Nicaraguans seeking asylum from 1983 to 1986 were successful, as against only 1% of applicants from Guatemala and 1.8% from Haiti. "The regulations would inject an ideological bias for granting or denying asylum," said Amy Novick, associate director of the lawyers' association. Amnesty International, the international human rights organization, argues that having an immigration official rule on asylum cases would be like have the police or prosecutors serve as judges in criminal cases. "You can question whether it is appropriate at all for an agency that is supposed to be enforcing immigration restrictions to be in charge of applications for political asylum," said Peter Steinberg, a lawyer for the Equal Justice Institute of Cambridge, Mass. "There is a big difference between making sure people aren't getting into the country through fraudulent marriages," Steinberg said, "and making sure somebody's life isn't going to be in danger if they're sent back to their country." The Justice Department is now reviewing the comments. It could be months before a decision is made on whether to impose the rules, said Duke Austin, a spokesman for the immigration service. Even then, the Congress could overrule the new regulations. Opposition by the sanctuary movement is exemplified in the following statement by the San Francisco Sanctuary Covenant released on Oct. 15: "New regulations on the immigration process have been proposed which may restrict political asylum for Salvadoran and Guatemalan refugees. The new regulations would require anyone who enters the country "illegally" to present themselves "promptly" to the Immigration and Naturalization Service. If a refugee does not report immediately to the INS, asylum can be denied on those grounds alone. The period for comments to the Immigration and Naturalization Service and to members of the Senate and House Immigration Subcommittees ends Oct. 27. Proposed political asylum regulations are summarized below: 1) All asylum applicants who enter the US illegally will have to prove that unlawful entry was necessary because s/he came directly from the country of persecution and that s/he then presented her/himself to the INS "promptly" after arrival in the US. If applicants fail to establish the above, they may automatically be denied asylum at the discretion of the INS... [According to the Covenant, this regulation violates the Refugee Act and international law.] 2) The new regulations do not ensure the right to representation by counsel. 3) The new regulations do not ensure the right of the applicant to present witnesses if the INS objects. 4) The new regulations do not ensure the right of the applicant to cross-examine government witnesses who present adverse testimony. 5) Evidence of witnesses is limited to written affidavits. 6) The new regulations prohibit the applicant from access to records, sources

of information of any governmental agency or officer. However, the asylum examiner may decide an individual asylum case based on 'confidential and classified information' in the possession of the government. There is no requirement that the final decision be based only on information and evidence presented during the interview. This impairs reviews of decisions. 7) The new regulations eliminate hearings before an independent immigration judge in contested asylum cases. It is not clear who would be the final adjudicator of cases. 8) The new regulations provide no right to a public hearing for asylum application if it is 'frivolous.' The term 'frivolous' is not clarified and there is no requirement that the INS explain the basis for a determination against asylum on these grounds. 9) The proposed regulations fail to direct INS officers to inform aliens in custody of their right to apply for asylum. 10) The proposed regulations expand the grounds on which asylum can be denied 'in the exercise of discretion,' that is for reasons having nothing to do with whether the applicant has well-founded fear of persecution in his/her homeland. The regulations permit insertion of improper political considerations (rather than individual merit) in determining asylum cases, which violates the Refugee Act of 1980, and violates the US obligations under the United Nations Refugee Protocol." (From AP, 10/27/87, and Covenant, 10/15/87. The San Francisco Sanctuary Covenant can be contacted at P.O. Box 146747, S.F., CA 94117; (415) 824-6274.]

-- End --