



human rights *first*

April 2, 2007

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RE: Federal Register Number Vol 72 No. 21, February 1, 2007

8 CFR Part 103

DHS Docket # USCIS-2006-0044

Proposed rule— Adjustment of the Immigration and Naturalization Benefit Application and Petition Fee Schedule

Dear Mr. Sloan:

We are writing to express our grave concern about the proposed fee increases to applications for adjustment of status, naturalization, and other immigration benefits. If implemented, these fee increases would be devastating to many refugees who have been granted asylum in the United States as well as to other vulnerable immigrants who are unable to afford the fees. This barrier to adjustment of status places asylees at risk of return to the country where they were persecuted, and continues to separate them from their families, many of whom remain in dangerous situations.

We urge that if USCIS raises its fees, it do so at a smaller increment than is proposed. In addition, we urge that refugees, asylees, and other vulnerable immigrants be exempted from the fees, whether or not they are increased. Lastly, we urge that USCIS provide for fee waivers for asylees applying for adjustment of status and other immigration benefits such as the I-730 refugee/asylee relative petition. We believe that the failure to include a fee waiver for asylees is most likely an oversight as the proposed rule clearly indicates that refugees are exempt from a fee for adjustment of status.

USCIS has explained that it is necessary to increase fees in order to cover its operating costs. However, raising fees so significantly and without the option of a fee waiver puts asylees and other already vulnerable individuals in the position where they may never be able to afford to adjust status.

Human Rights First and its interest in this issue

For nearly thirty years, Human Rights First has worked to ensure protection of the rights of refugees, including the right to seek and enjoy asylum. Human Rights First grounds its work on refugee protection in the international standards of the 1951 Convention relating to the Status of Refugees and its 1967 Protocol and other international human rights instruments, and we advocate adherence to these standard in U.S. law and policy.

As a Member State to the 1967 Protocol relating to the Status of Refugees, the United States is bound by an international standard of treatment of those who flee persecution and seek protection within its borders. In particular, Article 34 of the 1951 Convention requires that, “as far as possible” States “facilitate the assimilation and naturalization of refugees,” by making every effort “to reduce as far as possible the charges and costs of such proceedings.”

Human Rights First operates one of the largest and most successful *pro bono* asylum representation programs in the country. With the assistance of volunteer attorneys, Human Right First provides legal representation, without charge, to hundreds of refugees who cannot afford counsel each year. Many of these refugees have abandoned everything to flee harm. Many of them have been forced to leave family members in their home country, often in dangerous situations. This extensive experience dealing directly with refugees seeking protection in the United States is the foundation for our advocacy work, and informs the comments that follow below.

Specific Comment

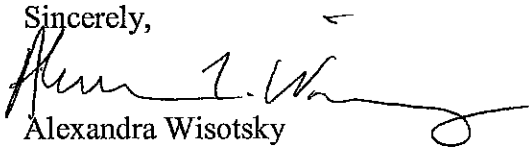
The magnitude of the proposed fee increases will cause severe economic hardship to many asylees seeking to stabilize their lives. For example, many asylum seekers arrive in the United States with few, if any, possessions and little or no money. Often, they have left everything behind in order to flee persecution. Once they arrive in the U.S., most are not permitted to work while their cases are pending, which in many cases can take several months or years. They often are forced to rely on the charity of friends, family, or churches and community organizations for their survival. Once they have been granted asylum, many asylees struggle to establish themselves financially. Many do not speak English well, and even more find that they have no option but to take low paying jobs. Their first priority may be to save up sufficient money to petition for their spouses and children to join them – and the expenses involved in uniting refugee families have escalated significantly in recent years. In fact, many of our clients already struggle under the strain of these costs. At the same time, they are supporting both themselves and their families back home. For many refugees, a \$900 fee for adjustment of status would force them to choose between gaining permanent residence and reuniting their families, or between permanent residence and paying their rent.

Compounding this problem is the fact that, under the proposed rule, asylees applying to adjust status would no longer be eligible for fee waivers, no matter how dire their financial situation. USCIS has made no exceptions or indication that they would in any way reduce the financial burden in these cases. Requiring that an applicant for adjustment of status be able to show that he or she is not, or will not become, a public charge is contrary to existing regulations which provide that asylees are exempt from the public charge grounds of inadmissibility. 8 C.F.R. §209.2(a)(1)(v).

The proposed rule exempts refugees from paying a fee for adjustment of status applications while denying asylees the option of even filing a fee waiver for the same applications. There is no justification for any differentiation to be made between these two populations. Whether resettled from abroad or granted asylum while in the United States, refugees and asylees are in the same position of having been granted protection in the United States after fleeing persecution in their home country. Therefore, we urge USCIS to either exempt asylees from paying a fee for adjustment of status, or allow low-income asylees to file a fee waiver for their adjustment application as well as other applications, such as the I-730 refugee/asylee relative petition.

We urge USCIS to reconsider its proposed fee increases. Should such increases be necessary, they should be significantly lower than those outlined in the proposed rule. We urge that the proposed rule be revised to include a fee waiver option for asylees and other vulnerable immigrants.

Sincerely,

A handwritten signature in black ink, appearing to read "Alexandra Wisotsky", with a long, sweeping horizontal line extending to the right.

Alexandra Wisotsky
Staff Attorney
Refugee Protection Program