

## *Don't Imperil Asylum*

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### **Body**

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Hidden in the Senate immigration bill is a threat to the protection that America offers to people who flee their homelands to escape persecution by oppressive governments.

Many countries will not issue passports to political and religious dissidents. People who have been persecuted or who legitimately fear persecution in such nations can escape threatened imprisonment, torture or death only by bribing an immigration official to issue a passport or by using someone else's passport to flee. In the past 12 years, perhaps half of the more than 100 people who have won asylum with the help of students in Georgetown University's asylum law clinic used false passports or irregularly issued passports to leave their own countries and enter the United States. Some of them had experienced gruesome torture, such as electric shocks, near drowning and severe beatings, before escaping to freedom in America.

The Senate bill would make it a felony, punishable by up to 15 years in prison, to knowingly use a passport issued to another person or to possess or use a passport "produced or issued without lawful authority."

Asylum applicants convicted of this new felony would be ineligible to receive asylum in the United States and could be jailed or deported to their countries. A person who has been granted asylum before being convicted could have that asylum status revoked.

The bill purports to protect asylum applicants by stating that any prosecutions must be consistent with U.S. obligations under the Refugee Convention. But that convention doesn't protect most asylum applicants in the United States. As interpreted by the Supreme Court, the Refugee Convention only bars deportation of people who can prove that it is more likely than not that they would be persecuted. By contrast, the United States extends asylum to those who can prove a well-founded fear of persecution, a lower standard than having to prove that persecution is more likely than not. In addition, the United States extends its protection to other categories of deserving persons who use false passports to leave their countries and who are not protected by the Refugee Convention, such as victims of trafficking.

The bill should be amended to make persons who are granted asylum, and other persons who are specially protected under U.S. law, absolutely immune from prosecution for the new felony of using a false passport.

## Don't Imperil Asylum

The writer is a law professor at Georgetown University and director of its asylum law clinic.

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