



## **New Immigration Bill Would Increase Detention of Asylum Seekers**

*Fact Sheet on H.R.1932, the "Keep Our Communities Safe Act of 2011"*

### **✚ What impact does the Keep Our Communities Safe Act of 2011 have on asylum seekers?**

While this legislation couches itself as providing for the detention of dangerous aliens and as a measure to “keep our communities safe,” it contains several provisions that have nothing to do with dangerousness or safety assessments or even flight risk. Rather, the impact would be felt by a great many persons – including asylum seekers fleeing religious, political and other forms of persecution and seeking protection in the United States – who do not warrant that description and whose detention is unconnected to community safety.

- Section 2(b)(2) and (b)(4) provide for the prolonged detention under Sections 235 or 236 of the Immigration and Nationality (INA) of immigrants– including asylum seekers – in removal proceedings, specifying that “an alien may be detained under this section, without limitation, until the alien is subject to an final order of removal.” This provision would capture asylum seekers and prevent them from obtaining review of their continued detention, even if there is no reason to believe they are a danger to the community or pose a risk of flight.
- Section 2(b)(6) statutorily bars certain classes of immigrants, including asylum seekers arriving at an airport or border port of entry (“arriving aliens”), from accessing bond/custody hearings on any other issue beyond whether they are in fact arriving aliens or belong to one of the other classes of persons the bill would preclude from obtaining bond hearings. Consequently, judges would be prevented from making case-by-case assessments of whether an individual should be subject to continued detention and/or if there are conditions of release – such as bond – that would mitigate any concerns of flight risk.
- For all asylum seekers and other immigrants in removal proceeding, section 2(b)(2) of the bill would allow them to seek judicial review of their continuing detention only through a petition for habeas corpus brought in the U.S. District Court for the District of Columbia. There are no DHS detention facilities in the District of Columbia. Most immigration detainees are held in jurisdictions distant from Washington, D.C., where they already face great difficulty in obtaining legal assistance with their deportation cases. The possibility of judicial review in the District of Columbia would be illusory for most detainees who need it most, but would generate enough initial habeas filings to create a substantial burden for the D.C. district court.

Please contact Annie Sovcik, [sovicka@humanrightsfirst.org](mailto:sovicka@humanrightsfirst.org) or 202/370-3318 with question.

 ***Why are basic protections for detained asylum seekers important?***

- Asylum seekers arriving in the U.S. in search of refugee protection are often detained by the Department of Homeland Security (DHS) for months in jails or jail-like facilities as their cases are adjudicated. This system lacks basic due process safeguards – such as an external review of DHS’s detention decisions – and is inconsistent with America’s longstanding commitment to protect those who flee from persecution. This bill would make that lack of safeguards permanent.
- In February 2005, the bipartisan United States Commission on International Religious Freedom issued its comprehensive “Report on Asylum Seekers in Expedited Removal” (USCIRF Report). The USCIRF Report documented the treatment of asylum-seekers in the United States and concluded that the U.S. asylum system was inadequate in a number of areas critical to ensuring refugee protection.
- In April 2009, Human Rights First reported that since 2003, U.S. immigration authorities have spent more than \$300 million of taxpayer dollars detaining thousands of asylum seekers in jails and jail-like facilities under a system that lacks basic due process safeguards.