

The Refugee Protection Act of 2016

Why is the Refugee Act of 2016 important?

- The United States has a proud history of providing refuge to victims of persecution. This tradition is a core component of this country's commitment to freedom and respect for human dignity. The Refugee Protection Act of 2016 strengthens this commitment by repairing many of the most severe problems in the U.S. refugee and asylum systems.
- Refugees are people who are forced from their homes for political, religious, ethnic, racial, and other persecution. In recent years, refugees have come from China, Colombia, Eritrea, Ethiopia, Honduras, India, Iraq, Russia, Somalia, Syria, and other places where people have been persecuted for who they are or what they believe. Many were arrested, jailed, beaten, raped, tortured, threatened with death, or otherwise persecuted because of their political or religious beliefs, or their race, ethnicity, or other fundamental aspects of their identity.

Why is the Refugee Act of 2016 necessary?

- When Congress passed the bipartisan Refugee Act of 1980, the United States established the legal framework for providing refugees access to protection in the United States through the asylum and refugee resettlement systems. Over the years, new laws, policies, and legal interpretations have undermined the

institution of asylum in the United States and led the United States to deny asylum or other protection to victims of persecution. The U.S. resettlement system has also faced challenges, particularly as it has struggled to adapt to the evolving needs of refugees.

- The United States is a leader in the protection of refugees and viewed by many other countries as a model. When the United States falters on its commitment, refugees worldwide suffer. The Refugee Protection Act of 2016 fixes many of the areas in which U.S. laws and policies are not living up to the standards the United States has set for itself and, by extension, the bar it sets for the rest of the world.

What are the major obstacles for refugees seeking asylum in the United States?

- A filing deadline and other barriers that have barred genuine refugees with well-founded fears of persecution from asylum, and led to a waste of government resources;
- The rapid escalation of immigration detention and the failure to provide all detained asylum seekers with crucial safeguards, such as immigration court custody review and legal representation, to prevent unnecessary and prolonged detention;

- Lack of fairness, transparency, and counsel in asylum and resettlement processes; and
- Lack of clarity on the definition of “particular social group” or the requirements for establishing “nexus,” leading vulnerable groups, such as women fleeing gender-based persecution, from having their cases adjudicated fairly and consistently.

What does the Refugee Protection Act of 2016 accomplish?

The Refugee Protection Act of 2016 resolves many of the most severe problems in the U.S. refugee and asylum systems. Among its many significant provisions, the Refugee Protection Act of 2016:

- **Eliminates** the one-year asylum filing deadline that bars refugees with well-founded fears of persecution from asylum;
- **Enhances** efficiency by allowing some asylum cases to be resolved at the asylum office level rather than putting them directly into immigration court removal proceedings initially, and authorizes the U.S. Commission on International Religious Freedom to conduct a new study on the effects of expedited removal authority on asylum seekers;
- **Prevents** the unnecessary and prolonged detention of asylum seekers by codifying criteria governing detention and release decisions, providing asylum seekers with the chance to have their custody reviewed in a hearing before an immigration court, and establishing a continuum of alternative-to-detention programs based on individualized assessments;
- **Promotes** due process and fairness by providing appointed legal counsel to children and particularly vulnerable individuals, which includes victims of abuse, torture, or violence, and by ensuring that legal orientation programs are implemented at all detention centers around the country;
- **Clarifies** the “particular social group” category and “nexus” requirement of the refugee definition, and provides that the definition of a “particular social group” is guided by the “fundamental and immutable characteristics” standard without additional requirements such as “social visibility” which could endanger victims of gender persecution or LGBT asylum seekers;
- **Enhances effectiveness of resettlement processing** through enhanced transparency, access to counsel, and the facilitation of resettlement consideration for groups whose resettlement is justified as a humanitarian concern or is otherwise in the national interest;
- **Protects** innocent refugees from inappropriate exclusion by revising overly broad immigration definitions that are mislabeling victims of armed groups and terrorist organizations as supporters of terrorism, while also ensuring those with actual ties to terrorist groups continue to be denied entry; and
- **Safeguards** newly arrived refugees from slipping into poverty and supports local communities by adjusting the per capita refugee resettlement grant level annual for inflation and the cost of living. ■