This workshop was held at the 2019 Equal Justice Conference in Louisville, Kentucky.

Title:
Major Immigration Updates: Asylum and Other Hot Topics

Presenters:
Robyn Barnard, Human Rights First, Los Angeles, CA
Nareeneh Sohbatian, Winston & Strawn LLP, Los Angeles, CA

The session will focus on recent changes and developments in substantive immigration law. It will provide attendees an in-depth look at recent policy and legal developments pertaining to asylum claims and other immigration issues. Specifically, it will address recent changes in the adjudications of affirmative and defensive asylum claims.
Major Immigration Updates: Asylum and Other Hot Topics

May 10, 2019 • JUSTICE CONFERENCE
Robyn Barnard • Human Rights First
Nareeneh Sohbatian • Winston & Strawn LLP
### ROADMAP OF THE PAST YEAR

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<th>Topic</th>
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<td>Functioning of Immigration System</td>
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ACCESS TO ASYLUM

Asylum Ban
Remain in Mexico Policy
Metering and illegal turnbacks at the border
Matter of A-B-

- AG Sessions decision issued June 11, 2018
- Overturned grant of asylum to Ms. A.B.
By the BIA in 2016, A-B-’s case remanded
AG overruled Matter of A-R-C-G-

BIA precedent setting decision of 2014; “Married women in
Guatemala who are unable to leave their relationship”

Substantial Dicta in Case regarding relocation, non-state actors,
government’s willingness and ability to control

- Asylum case tips:
  - continue to use PSGs
    - Immutable; Particular; Socially distinct
  - Explore other claims
DETENTION AND EXPEDITED REMOVAL

- *Jennings* case
- *Damus* and parole denials
- *Padilla v. ICE*
SPECIAL IMMIGRANT JUVENILE STATUS
RFE/NOIDS and NTAs

• September 2018 USCIS announced implementation of policy, which will allow adjudicators to deny applications without issuing additional requests for evidence or notices of intents to deny if the initial evidence is not deemed sufficient.
  • Applies to all applications, petitions, and requests received after the effective date
  • USCIS rescinded its prior June 2013 Policy regarding RFEs and NOIDs

• Fall 2018 USCIS may issue notices to appear and place individuals in removal proceedings if USCIS denies an immigration application and the applicant is without status.
  • U, T, SIJ, VAWA, adjustment of status, I-730, I-539
• Employment Authorization wait time increase for asylum seekers
• Limited representation
• Fee waivers
• Asylum application filing fee
• Heightened Credible Fear Standard
FUNCTIONING OF IMMIGRATION SYSTEM

- “Last In, First Out” at Asylum Office
- Limited ability of Immigration Judges to Terminate Immigration Cases
- Immigration Judge case quotas
- CBP officers conducting Fear Interviews
RESOURCES

Factsheets, reports from Human Rights First available at www.humanrightsfirst.org
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Major Immigration Updates: Asylum and Other Hot Topics

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Substantial Dicta in Case regarding relocation, non-state actors, government’s willingness and ability to control

- Asylum case tips:
  - continue to use gender-based PSGs
    - Immutable; Particular; Socially distinct
  - Build record
  - Explore other claims
DETENTION AND EXPEDITED REMOVAL

- *Jennings case*
- *Damus* and parole denials
- *Padilla v. ICE*
- Credible Fear Process
SPECIAL IMMIGRANT JUVENILE STATUS

• *JL v. Cissna* February 1, 2019 granted Plaintiffs’ motion for class certification and certified the following class:

  “Children who have received or will receive guardianship orders pursuant to California Probate Code § 1510.1(a) and who have received or will receive denials of their SIJ status petitions on the grounds that the state court that issued the SIJ Findings lacked jurisdiction because the court did not have the authority to reunify the children with their parents.”

• *M. et al v. Nielsen et al*, April 8, 2019 Defendants' conclusion that the New York Family Court lacks the jurisdiction and authority to enter orders for juvenile immigrants between the ages of 18 and up to 21 violates the SIJ Statute.
RFE/NOIDS and NTAs

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• Employment Authorization wait time increase for asylum seekers
• Limited representation
• Fee waivers
• Heightened Credible Fear Standard
• Presidential Memorandum on Additional Measures to Border Security and Restore Integrity to Our Immigration System
  • Asylum-only proceedings and rocket dockets
  • Asylum application filing fee
  • Blocking those who EWI from work authorization until relief granted
FUNCTIONING OF IMMIGRATION SYSTEM

- “Last In, First Out” at Asylum Office
- Limited ability of Immigration Judges to Terminate Immigration Cases
- Immigration Judge case quotas
- No Dark Courtroom policy
- Immigration Court Backlogs
- CBP officers conducting Fear Interviews
RESOURCES

• Human Rights First, Parsing Truth from Fiction in President Trump’s Latest Attempt to Restrict Asylum (Apr. 30, 2019)
• Presidential Memorandum (Apr. 29, 2019)
• TRAC, Backlog of Pending Cases as of March 2019
• RFE/NOID Policy

• For technical assistance on asylum cases, contact our friends at Center for Gender & Refugee Studies OR your mentoring organization
• For other factsheets and reports by Human Rights First, see our website: www.humanrightsfirst.org
Contact Us

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