



The
CENTER for
VICTIMS of
TORTURE

**Submission to the U.S. House of Representatives Judiciary Subcommittee on
Immigration and Border Security:
“Asylum Fraud: Abusing America’s Compassion?”
Tuesday, February 11, 2014**

Introduction:

The Center for Victims of Torture (CVT) is an international non-profit organization that provides rehabilitation services to survivors of torture and severe war atrocities. Since its founding in 1985, CVT has extended care to nearly 25,000 survivors at our healing sites in Minnesota, Africa and the Middle East. CVT would like to express its gratitude to the House Judiciary Subcommittee on Immigration and Border Security for the opportunity to submit testimony and encourages the Subcommittee to have a thoughtful discussion of steps Congress can take to improve the asylum process.

Survivors of Torture Seeking Asylum in the United States:

CVT believes in preserving the integrity of asylum adjudications and understands the importance of measures designed to deter and prevent fraud, as well as to protect national security and community safety. Preventing fraud and providing asylum applicants with access to a fair and efficient adjudication process are not mutually exclusive. The current backlogs and wait times in the immigration courts undermine fraud prevention and refugee protection—simultaneously making the system vulnerable to abuse while denying applicants meaningful access to the process.

The United States should be proud of the thousands of lives that are saved every year through its asylum system—for refugees facing political, religious and other forms of persecution, fleeing from their country is often a matter of basic survival, not a choice, and the U.S. asylum system can be a lifeline. At our clinic in Minnesota, CVT’s clients share accounts of being subjected to rape, beatings, mock executions, blindfolding, electroshock, forced starvation or food deprivation, and other brutal forms of torture. As a government’s use of – or acquiescence to – the practice of torture is often indicative of broader human rights violations and abuses of power, refugee survivors of torture are often fleeing situations in which war, military dictatorships, organized violence, massacres, disappearances or other gross violations of human rights have occurred.

As we learn of the painful experiences that brought them to the United States, CVT sees first-hand the ways in which refugee survivors of torture are able to rebuild their lives. We also see how refugees who came to the United States in search of protection frequently find themselves navigating a confusing labyrinth of complicated laws and legal procedures in an asylum adjudication process that takes months or years. CVT’s clients regularly describe agony and dread associated with waiting extended periods of time before having their asylum cases heard in the immigration courts. During that time, they remain separated from family members. Their housing is often unstable or unsafe, making them vulnerable to exploitation. Throughout this period of waiting, they live in constant fear of being returned to the

country in which they were tortured. When a survivor of torture's life remains in this state of limbo, the trauma is ongoing and the instability may exacerbate symptoms of depression, anxiety or other conditions they may be suffering. Currently, the average length of the wait time in the immigration courts is 570 days.¹

As the Committee examines this important question of asylum fraud, CVT offers a series of recommendations for steps Congress can take to improve the system overall, while helping those who have genuine asylum claims move more smoothly—and less traumatically—through the process.

Recommendations:

- ***Increase personnel in both U.S. Citizenship and Immigration Services (USCIS) and the Department of Justice/Executive Office for Immigration Review (EOIR).*** Properly staffing the adjudication functions of the U.S. immigration system is critically important to reducing the backlogs and wait times. More personnel in both the USCIS Asylum Division and the EOIR immigration courts will allow much quicker adjudication of asylum claims.
- ***Provide legal counsel and legal information for individuals in immigration proceedings.*** The high numbers of individuals appearing in proceedings without counsel contributes to the backlog in the immigration courts as judges are forced to guide *pro se* individuals through immigration court proceedings, often through an interpreter, sometimes issuing continuances to give individuals time to find counsel. The American Bar Association concluded that “enhancing access to quality representation promises greater institutional legitimacy, smoother proceedings for courts, reduced costs to government associated with *pro se* litigants, and more just outcomes for noncitizens.”² While not a substitute for legal representation, EOIR’s Legal Orientation Program (LOP) contracts with nonprofit organizations to educate immigrants in removal proceedings about basic immigration law and procedure. By helping individuals make informed decisions, LOP results in fewer court hearings and less detention time.³ LOP should be expanded nationwide.
- ***Eliminate the asylum filing deadline.*** The asylum filing deadline is an arbitrary procedural hurdle that contributes to the backlog in the immigration courts by funneling genuine asylum applicants from the USCIS Asylum Office into the immigration courts. The filing deadline adds an administrative step that mandates asylum officers and immigration judges determine whether an asylum seeker can prove by clear and convincing evidence that she entered the United States within one year of applying for asylum. This blunt instrument creates inefficiencies without providing any additional security or protections against fraud.

Please contact Annie Sovcik, Director of the Washington Office at the Center for Victims of Torture, at 202/822-0188 or asovcik@cvt.org with any questions.

¹ *Immigration Court Backlog Tool*, Traclmigation, Syracuse University, http://trac.syr.edu/phptools/immigration/court_backlog/ (last accessed February 10, 2014).

² American Bar Association Commission on Immigration, *Reforming the Immigration System: Proposals to Promote Independence, Fairness, Efficiency, and Professionalism in the Adjudication of Removal Cases* (2010), at ES 39-40.

³ Legal Orientation Program: Evaluation and Performance Output Measurement Report, Phase II, VERA INSTITUTE OF JUSTICE, at iv(May 2008) available at <http://www.justice.gov/eoir/reports/LOPEvaluation-final.pdf>