
III. ASYLEES

This section presents information on persons who come to the United States to seek asylum from persecution abroad, including the number and characteristics of persons who filed, were granted asylum, and adjusted to lawful permanent resident status.

An asylee is an alien in the United States who is unable or unwilling to return to his or her country of nationality because of persecution or a well-founded fear of persecution. (See Appendix 3, p. A.3-2.) An asylee must meet the same criteria as a refugee; the only difference is the location of the person upon application—the potential asylee is in the United States or applying for admission at a port of entry, and the potential refugee is outside the United States. The Immigration and Nationality Act, as amended by the Refugee Act of 1980, regulates U.S. asylum policy as well as governing refugee procedures. The Act, for the first time, established a statutory basis for granting asylum in the United States consistent with the 1967 United Nations Protocol on Refugees.

U.S. Asylum Program

Filing of claims

Any alien physically present in the United States or at a port of entry may request asylum in the United States. According to the Refugee Act, current immigration status, whether legal or illegal, is not relevant to an applicant's asylum claim. Aliens may apply for asylum in one of two ways: with an INS asylum officer; or, if apprehended, with an immigration judge as part of a deportation or exclusion hearing. Traditionally, aliens who appear at ports of entry without proper documents and request asylum were referred for exclusion hearings; however, the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) (see Appendix 1, p. A.1-23) made major revisions to the procedure, that became effective on April 1, 1997. Under the new law, such aliens are referred to asylum officers for credible fear interviews. These interviews are not formal asylum hearings. The purpose of the interviews is to determine whether aliens might have credible fear of persecution and thus be eligible to apply for asylum before an immigration judge. In credible fear interviews, aliens only need to show that there is a significant possibility that they might qualify for asylum. To be granted asylum, aliens must show convincing evidence of a well-founded fear of persecution. Those who fail to demonstrate that they have a significant possibility for establishing eligibility for asylum are placed in expedited removal proceedings. However, upon the alien's request, an immigration judge may review

the outcome of the interview. The data reported in this section pertain only to asylum cases filed with INS asylum officers. Aliens denied asylum by the INS may renew asylum claims with an immigration judge.

Adjudication of claims

On April 2, 1991, the Asylum Officer Corps (AOC) assumed responsibility within INS for the adjudication of asylum claims that were filed with the INS. Before that date, such claims had been heard by examiners in INS district offices. During fiscal year 1997, asylum officers worked from eight sites in the United States—Arlington, VA, Chicago, Houston, Los Angeles, Miami, New York City, Newark, NJ, and San Francisco. Applicants who did not live near these locations were interviewed by asylum officers who traveled to other INS offices.

In March 1994, the INS published proposed regulations designed to streamline the asylum decision process, discourage the filing of frivolous claims, and integrate the work of asylum officers with the work of the immigration judges in the Executive Office of Immigration Review (EOIR, an independent Justice Department agency) in the case of claims that do not appear to meet the standards for granting asylum. The final asylum reform regulations were published in December 1994, and took effect on January 4, 1995.

Under asylum reform the INS standard is to conduct the asylum interview within 60 days after the claim is filed, and to identify and grant in a timely fashion those cases that have merit. If the INS asylum officer does not find the claim to be grantable at the interview, the applicant is referred immediately for deportation proceedings before EOIR (unless a nonimmigrant status is still valid). The immigration judge may grant the claim or may issue a denial and an order of deportation. Under this system INS asylum officers issue relatively few denials, but an interview followed by a referral to EOIR represents the asylum officer's judgment that the application is not readily grantable. An applicant who fails without good cause to keep a scheduled appointment for an asylum interview is referred immediately to EOIR for deportation; this is considered to be one type of case closure.

Starting in 1997, the AOC also began conducting credible fear interviews as required by IIRIRA, and interviewing applicants for refugee status at the INS overseas locations. During fiscal year 1997, asylum officers interviewed refugee applicants at seven overseas locations—Croatia, Cuba, Germany, Italy, Kenya, Saudi Arabia, and Vietnam.

Nearly 86,000 asylum applications were filed in the United States during 1997.

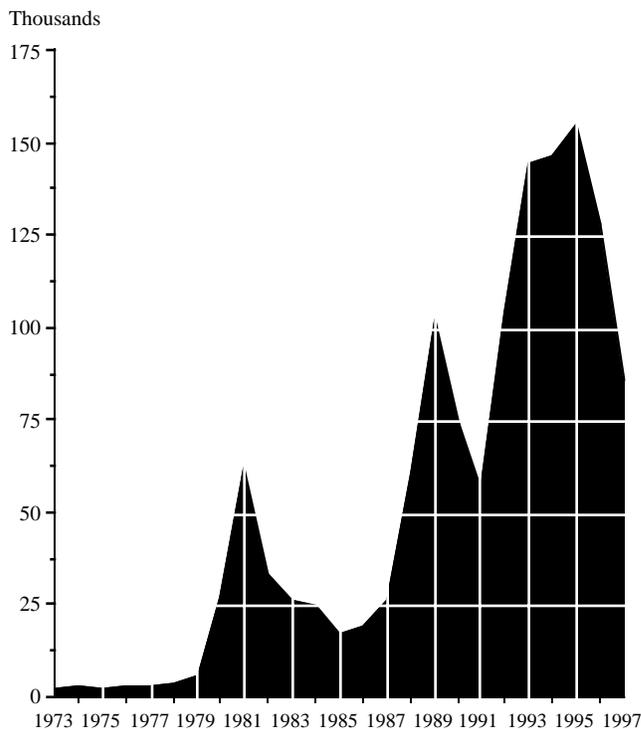
Data Overview

Trends in asylum applications (Chart G, Tables E, 27)

The annual number of asylum applications filed with the INS has fluctuated greatly since the effective date of the Refugee Act of 1980 (see Appendix 1, p. A.1-18), as shown in Chart G. In fiscal year 1997, 85,866 asylum cases were filed or reopened. This represents a 33 percent decrease from the 128,190 cases filed in 1996 (Table 27). The sharp decline in 1997 was due largely to a significant decrease in claims filed or reopened under the terms of the *American Baptist Churches (ABC) v. Thornburgh* settlement (see discussion below) because of the termination of the ABC filing period. As a result, Central Americans accounted for about 16 percent of the new claims and 25 percent of total applications compared with about 67 percent of both categories in 1996. The trend in claims from Central America is shown in Table E.

In the past few years, the trend in asylum claims filed by persons from Central America has been driven in large part by ABC cases. Under the terms of this 1991 class action lawsuit settlement, many nationals of El Salvador and Guatemala were allowed to file or renew their claims for asylum. Nationals of Guatemala had a filing deadline of March 31, 1992, which was the peak year for claims from this country. The 187,000 Salvadorans who had registered for Temporary Protected Status (TPS) in 1991 became eligible to file for asylum at the expiration of their TPS period in 1992. They were later granted additional time under deferred enforced departure periods which extended until December 1994, and they ultimately had until January 31, 1996 to apply for asylum under the ABC agreement. The number of ABC claims filed by Salvadorans surged during fiscal year 1996 before the filing deadline. These claims are heard under the pre-reform regulations. Applications filed after the ABC filing deadline were processed as reform filings, except those ABC cases that were closed by the EOIR or federal courts and were not previously filed with the INS. Under the settlement, once

Chart G
Asylum Applications Filed with the INS:
Fiscal Years 1973-97



NOTE: See Glossary for fiscal year definitions. Source: Table 27.

the latter cases are identified by the INS, they are treated as ABC filings instead of reform filings. During 1997, 3,128 cases were identified as either filed or reopened as ABC cases.

Cases filed (Tables 28, 29)

Nearly 13,700 new claims were filed by Mexicans, with more than 4,700 by Salvadorans. Haiti, with 4,310 new claims, ranked third, followed by India (3,776), Guatemala (2,386), the People's Republic of China (2,377), and Iraq (2,328) (Table 28). Excluding the 3,128 claims filed or reopened under the terms of the ABC settlement, more than 82,700 applications were received during 1997, an increase of nearly 17 percent from fiscal year 1996.

More than 33,600 asylum cases were reopened in 1997, which accounted for 39 percent of the applications received and represents a 60 percent increase over the number of cases reopened in 1996 (Table 29). The number of reopened cases has increased significantly since May 1995. This is due to an automatic function which triggers the reopening of cases that were administratively closed when aliens apply for renewal of their employment authorization. Those cases were administratively closed due to a failure to appear for the asylum interview or for an

Table E
Asylum Applications Filed with the INS by Central Americans: Fiscal Years 1991-97

Area of citizenship	1991	1992	1993	1994	1995	1996	1997
Central America	28,114	53,966	54,898	62,310	104,228	83,410	21,599
Nicaragua	2,219	2,075	3,180	4,682	1,908	2,034	1,674
El Salvador	10,244	6,781	14,616	18,600	75,860	65,588	8,156
Guatemala	14,774	43,915	34,198	34,433	23,202	13,892	9,811
Honduras	808	1,127	2,805	4,385	3,163	1,836	1,851
Other	69	68	99	209	95	60	107

Source: Table 29; applications received and reopened during year.

invalid mailing address. This function also automatically reschedules an interview. Under the new regulation, those who do not appear for the scheduled interview can be placed in removal proceedings immediately. Some of these reopened cases may qualify for ABC treatment.

Cases completed (Table 27)

During fiscal year 1997, the Asylum Officer Corps completed work on 129,716 claims, an increase of more than 4 percent from the 123,706 cases completed in fiscal year 1996. As of April 1, 1997, a procedural change occurred which affected asylum case completions. The IIRIRA requires that a case cannot be granted until identity and record checks have been finalized. Applicants can be recommended for approval; however, the final decision can not be issued by the AOC until FBI fingerprint clearance has been received. Under previous procedure, these cases went directly to final approval, and were, therefore, included as case completions. As a result of the procedural change, case completions declined while interviewed cases moved through the processing pipeline to final decision. However, late in 1997 final approvals increased and have continued to increase in fiscal year 1998. The number of cases granted in 1997 was 10,129, representing 19 percent of the cases adjudicated. These cases encompassed 15,896 persons given asylum. In fiscal year 1996, 13,532 asylum cases were granted, which was 22 percent of the adjudicated cases.

The Asylum Program undertook a project to identify active cases from the pre-reform non-ABC backlog, in fiscal year 1997. Notices were sent to about 90,000 applicants in the backlog to determine their continued interest in pursuing their asylum requests. Applicants no longer interested in pursuing an asylum claim could request withdrawal of the application, cases without good addresses would be administratively closed, and the remaining caseload would be scheduled for interview as slots became available.

Largely due to this project, about 62,900 cases were closed, a 24 percent increase over 1996.

Coercive population-control procedures

Section 601 of the IIRIRA stipulates that a person qualifies as a refugee or asylee persecuted for political opinion if forced to undergo, has a well founded fear of being compelled to undergo, or resists a coercive population-control procedure. It sets a combined annual ceiling of 1,000 persons who may be granted refugee or asylee status under this provision. In fiscal year 1997, the INS and the Executive Office for Immigration Review (EOIR) granted asylum status to 606 aliens based on coercive population control methods. The INS AOC made 147 grants, Immigration Judges made 340 grants, and the Board of Immigration Appeals (BIA) made 119 grants. China was the country of origin of all grants. No one was granted refugee status in fiscal year 1997 based on coercive population control measures.

Adjustment to permanent resident status (Table 5)

No limits are set by law on the number of individuals who may be granted asylum in the United States. Under immigration law, an approved asylee must reside in the United States for 1 year following his or her approval to be eligible to apply for adjustment to lawful permanent resident status. One year of the asylee's residence prior to adjustment is counted toward the naturalization residency requirement. Although asylee adjustments are exempt from the worldwide annual limitation on immigrants, the law places a ceiling on the number of asylees who may adjust each year. The Immigration Act of 1990 (see Appendix 1, p. A.1-20) increased the ceiling from 5,000 to 10,000 per year, effective in fiscal year 1991. It also waived the annual ceiling beginning in fiscal year 1991 for those asylees who had met the required 1-year waiting period and filed for adjustment of status on or before June 1, 1990.

In 1997, 10,106 asylees adjusted to lawful permanent resident status (Table 5). The backlog of registered asylees waiting to adjust status was gone by the end of fiscal year 1993, and the ceiling of 10,000 was sufficient to accommodate all who applied during 1996 and 1997. Because more than 10,000 persons have received asylum each year since fiscal year 1994, a potential backlog is building again. The largest groups of asylees who adjusted status in 1997 included 811 Ethiopians, 779 persons from the former Soviet Union, 775 Haitians, 663 Chinese, 646 persons from the former Yugoslavia, and 605 Nicaraguans. No other nationality adjusting status accounted for as many as 600 asylees.

Approximately 145,900 individuals have been granted asylum by the INS under the provisions of the Refugee Act from 1980 through 1997. During the same period, 122,744 asylees have adjusted to permanent resident status. At times the total number of asylees adjusting status might exceed the number granted asylum by the INS because immigration judges and the Board of Immigration Appeals also grant asylum. In addition, persons whose asylum applications are successful can apply for their spouses and children to join them from abroad, and these relatives also adjust status as asylees.

Understanding the Data

Tables 29 and 30 contain a column showing the number of applications that were reopened during the year. Most of these are cases that had been closed earlier without a decision. The number of asylum applications filed is defined here as the sum of new applications received and applications reopened during the year. The tabulations also contain columns showing the number of cases referred to immigration judges, with and without an interview. A referral due to failure to keep an appointment for an interview without good cause is considered comparable, for statistical purposes, to a closed case. The approval rate is calculated as the number of cases approved, divided by the number of cases adjudicated, which is defined as the cases approved, denied, and referred to EOIR following an interview.

Data Collection

Prior to April 1, 1991, data on asylum applicants reflect cases filed with INS district directors and, subsequently, cases filed with INS asylum officers on Form I-589 (Request for Asylum in the United States). A centralized, automated data system (Refugee, Asylum, and Parole System—RAPS) has been developed to support the processing of the existing caseload and new asylum applications. The system is designed to support case tracking, schedule and control interviews, and generate management and statistical reports. The system is capable of reporting asylum casework by nationality and other characteristics of asylum applicants.

Data can be reported by case or by the number of persons covered, since a case may include more than one person. Data on asylum applicants have been collected by the INS for selected nationalities since July 1980, and for all nationalities since June 1983.

As with refugees, the Immigration and Naturalization Service collects data on asylees adjusting to lawful permanent resident status in the Computer Linked Application Information Management Systems (CLAIMS) (see Immigrants section). Adjustment to immigrant status has been the only point at which detailed characteristics of asylees were collected in past years. The RAPS system is now able to provide data on selected characteristics of asylees at an earlier time.

Limitations of Data

The figures shown here for fiscal year 1997 differ slightly from preliminary statistics that were released by the Asylum Division in November 1997. The data presented here were tabulated from the RAPS system three months after the close of the fiscal year and incorporate late additions and corrections to the database. Cases that were entered into the RAPS system during fiscal year 1997 showing filing dates in previous fiscal years were treated as new cases in these tabulations. Other corrections resulted in a decrease from 453,580 to 452,246 in the pending caseload as reported in the 1996 *Statistical Yearbook* and at the beginning of fiscal year 1997 in this edition. Another change between 1996 and 1997 concerns the identification of applicants from the former Soviet Union whose records are being recorded to one of the succeeding republics. Therefore, the pending number of cases from “Unknown republic” decreased, and the numbers for Armenia, Russia, Ukraine, and other republics increased.

It is possible for an asylum case to have more than one action during a year, particularly if the claimant fails to pursue a claim and later reopens it. Therefore, some claims may be double-counted as received and reopened, or closed and denied or granted. For this reason, and due to recent growth in the number of reopened claims, the pending caseload at the end of the year can no longer be calculated by taking the pending caseload at the beginning of the year, adding claims filed, and subtracting claims completed.

Data on applicants for asylum collected by the Immigration and Naturalization Service historically have covered only cases filed with the INS. Information has not been available on cases filed by apprehended aliens or cases denied or referred by the INS and renewed with immigration judges in the Executive Office for Immigration Review. The two agencies are working to integrate their data systems to provide these data in the

future. Principal applicants whose asylum applications are successful can apply for their spouses and minor children, whether they are in the United States or abroad, and these relatives also receive status as asylees. The RAPS system collects information on the spouses and children of asylum applicants only if they are included on the principal's application. Information regarding relatives whose principals petition for them after

receiving asylum is collected by the CLAIMS and is not included in any calculation in this publication. The data collected by the INS at the time asylees adjust to permanent resident status include all aliens who adjust regardless of whether they were granted asylum by the INS, immigration judges, or the BIA. Adjustment data also include spouses and children of persons granted asylum.