



## The Party of Trump Is Trying to Gut America's Asylum Process

**A GOP bill would set up impossible obstacles for fleeing foreigners**

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July 27, 2017

Are there limits to nativism in the party of Trump? The latest indication from the House of Representatives is that the answer is "no." Yesterday, the committee that controls immigration policy passed a bill to gut America's asylum process, dooming many thousands of desperate people to a U.S. taxpayer-funded flight back to violence and persecution.

The Asylum Reform and Border Protection Act would radically increase the evidentiary burden for asylum seekers simply to *apply* for asylum. Current law requires a minimal test: articulating a credible fear of persecution. If they do this, they get a hearing in immigration court to present their full asylum claim. At that point they have to offer copious proof of their claim before they are extended the right to live permanently in the United States.

The new bill would now require asylum seekers to prove when they are detained at the border that it is "more probable than not" that their claims are true in order to just get a hearing.

Under this heightened standard, words alone will generally no longer suffice. Asylum seekers will need to carry proof of persecution with them. This is absurd. Many asylees have to flee under cover of darkness or swim through streams to escape their persecutors. They often set out without any concept of where they will end up, let alone with documentary evidence in their pockets.

As the Immigrant Legal Advocacy Project notes, "preparing an asylum application requires a lot of work." It necessitates gathering, if available, photographs, medical reports, written threats, witness statements, police reports, and reports on human rights in their country of origin. Many legitimate asylum seekers lose their cases because they cannot obtain such evidence even after months to prepare for their court appearance. It is a delusion to expect people to have it at the border.

In one asylum case, a Muslim woman fled Morocco due to abuse from her conservative Muslim father. She escaped to the United States and claimed a credible fear of persecution. The officer allowed her in. Only then was she able to document the claim with testimony from her aunt and

the State Department's report on the inability of Moroccan women to seek protection from abusive male family members.

As the Tahiri Justice Center, which serves women fleeing violence, stated, "H.R. 391's heightened screening standard will, as intended, wrongfully prevent women and girls fleeing horrific violence from even presenting their cases in court." The bill's sponsor, now-former Rep. Jason Chaffetz, responded to these concerns last year by simply saying, "It is not too much to ask that the alien seeking refuge in the United States be required to tell the truth." But this response is neither here nor there: they already must tell the truth. The question is how and when to verify it.

For these reasons, when Congress created the "credible fear" process in 1996, it did so with the clear intent that it would not create an adversarial process that this bill now seeks to do. The initial draft of the 1996 legislation had included the "more probable than not" language, but when opponents noted these problems, the bill's Republican authors removed it. Those were more sensible times, apparently!

These asylum changes would not simply apply to the people fleeing gangs in Central America but also to Syrian Christians fleeing the Islamic State. A number of Syrian Christians showed up at the U.S.-Mexico border last year to apply for asylum after traveling across several continents. Despite the fact that the State Department has found that ISIS is carrying out a "genocide" of Christians in its territory, if this law had been in place then, they would either have been deported from the border or consigned to a stateless existence in the U.S.

"Genocide" appropriately brings to mind the Holocaust. The entire asylum system came out of America's complicity in that awful crime, via its systematic denial of visas to German Jews and particularly its monstrous decision to compel the M.S. St. Louis to return its cargo of 937 Jews. The Nazis killed 255 of them in death camps or elsewhere on their return, their fate heartbreakingly depicted in the movie *the Voyage of the Damned*.

The State Department used similar documentary requirements as a tool to keep out German Jews just as the Holocaust ramped up. Our failure then is now our moral compass. If our proposals today would have kept out those passengers, then they are unfit for discussion.

Against these considerations, the bill's authors offer only the fear that many people claim asylum simply to gain entrance, and "something must be done" (a favorite phrase in government). But the U.S. experienced an equally large surge of asylum seekers in the mid-1990s, and Congress adopted a much more moderate reform—"the credible fear process"—which Congress today wants to gut.

Moreover, while some asylum applicants are undoubtedly gaming the system, the best evidence indicates that it mostly works as intended, giving many legitimate claimants the opportunity to apply. Indeed, a majority of asylum applicants in immigration courts prove their claims, if they are able to obtain immigration counsel.

This draconian bill—which would deny safe haven in numerous other abhorrent ways—demonstrates the depths to which the party of Trump has fallen. For years, a level of bipartisan

common decency protected those who sought refuge in America. Now we can only hope partisan gridlock offers the same level of protection.

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