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Rights Groups Criticize Speedy Deportations

By RACHEL L. SWARNS

WASHINGTON, Feb. 19 — As the Bush administration rapidly expands its efforts to detain and deport illegal immigrants, human rights groups warn that people fleeing persecution are increasingly vulnerable to being deported to their home countries.

In 2005, a bipartisan federal commission warned that some immigration officials were improperly processing asylum seekers for deportation. The commission made recommendations to ensure that the system of speedy deportations, known as expedited removal, had adequate safeguards to protect those fleeing persecution.

But one year later, only one of the commission's five recommendations has been put into effect. Meanwhile, domestic security officials have expanded the expedited removal program, in which illegal immigrants are swiftly deported without being allowed to make their case before an immigration judge.

Immigration lawyers at the Pro Bono Asylum Representation Project in Harlingen, Tex., say asylum seekers are already falling through the cracks. They say Border Patrol agents have improperly placed several asylum seekers into deportation proceedings without informing them of their right to seek refuge in the United States.

Domestic security regulations require Border Patrol agents to ask all illegal immigrants apprehended if they fear being sent home. Immigrants who say yes are supposed to be exempt from expedited removal until it can be determined by a judge whether they have a credible fear of persecution.

But in October, Meredith Linsky, who directs the pro bono group in Texas, notified immigration officials that Border Patrol agents had placed a 22-year-old woman from Honduras into expedited deportation proceedings without asking whether she feared return. Immigration officials intervened to stop the deportation to allow the woman to be given a "credible fear" interview.

Domestic security officials say such cases are extremely rare. "If they exist at all, I am very confident that they are very small and very isolated," said David V. Aguilar, chief of the Border Patrol. "The training of our agents is very involved, and there are safeguards in place within the process to ensure that nobody drops through the cracks."

But Mark Hetfield of the United States Commission on International Religious Freedom, the federal commission that released a study on expedited removal in 2005, said the government's decision to expand expedited removal without first fixing its flaws left asylum seekers at risk.

In September, domestic security officials announced that they would detain and summarily deport illegal immigrants apprehended along the border with Mexico. (Until

then, expedited removal was primarily used to deport illegal immigrants who arrived by plane or by sea.)

In January, the policy was expanded to include the border with Canada. The policy, which is intended to address national security concerns by stemming the flow of illegal immigrants, is currently directed primarily at illegal immigrants from countries other than Canada or Mexico.

"We were pretty explicit that expedited removal should not be expanded until the flaws we identified were fixed," said Mr. Hetfield, who directed the study. "Yet none of the problems we have identified have been fixed, save one."

This month, domestic security officials put into effect one of the commission's most important recommendations, naming the Department of Homeland Security's first senior adviser for refugee and asylum policy to help ensure that adequate safeguards for asylum seekers and refugees are in place.

The new adviser is Igor V. Timofeyev, who came to the United States as a refugee from Russia. He joined the department from the law firm of Sidley Austin in Washington and previously served as associate legal officer for the president of the International Criminal Tribunal for the Former Yugoslavia, clerk for the Supreme Court and clerk for the Court of Appeals for the Ninth Circuit.

Mr. Timofeyev said the department took the commission's recommendations seriously and was studying them to determine what action should be taken. Last week, he met with staff members from Human Rights First, an advocacy group, and with officials from the United Nations, two groups that have raised concerns about the expedited removal process.

"Just the fact that I'm here is an illustration of the fact that the department and Secretary Chertoff take the recommendations seriously," Mr. Timofeyev said, referring to Homeland Security Secretary Michael Chertoff. "These issues will not fall through the cracks.

"We want to close the border to people who want to do us harm, but we also have to keep the door open to people who want to come here legitimately," Mr. Timofeyev said. "People who are legitimate refugees from persecution, they should certainly be able to come to this country."

Domestic security regulations require that immigration officials refer an illegal immigrant for a credible fear interview if the immigrant indicates "an intention to apply for asylum, a fear of torture or a fear of return to his or her country."

The commission found, however, that even when its experts were present to observe, immigration officials failed to refer illegal immigrants to credible fear interviews 15 percent of the time, including in cases in which the immigrants expressed fear of political, religious or ethnic persecution.

The study also found that asylum seekers were often treated like criminals while their claims were evaluated; they were strip-searched, shackled and often put in solitary confinement in local jails and federal detention centers. And it reported disparities in who was granted asylum, depending on where asylum seekers sought refuge, what country they were from or whether they had a lawyer.

Among other recommendations, the commission said that domestic security officials should clarify the often conflicting instructions given to Border Patrol and airport inspectors about how to handle asylum seekers, and should routinely videotape border agents when they interviewed asylum seekers.

The group also suggested that domestic security officials send anonymous field testers to see whether agents were following procedures; expand access to legal representation for immigrants; improve detention conditions; and release asylum seekers from detention when they posed no flight risk or security risk.

"The changes are long overdue at this point," said Eleanor Acer, director of the asylum project at Human Rights First. "And yet, despite the fact that the commission found significant problems, the expedited removal process has been expanded over and over again."