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Responding to New Challenges for LGBTQ Asylum Seekers

Proskauer For Good on **May 8, 2019**

It is either a crime or fundamentally unsafe to be LGBTQ in more than 80 countries around the world. For the LGBTQ individuals forced to flee such conditions, seeking asylum in the United States is an opportunity to lead authentic lives safe from emotional harm and physical violence.

However, due to recent legal and policy developments, LGBTQ asylum seekers are facing new challenges as they struggle to navigate the U.S. immigration system. During a recent panel presentation at Proskauer's New York office, Immigration Equality—the nation's leading LGBTQ immigrant rights organization—teamed up with Bloomberg LP and Proskauer to educate pro bono lawyers about these developments and enable them to represent LGBTQ asylum seekers.

Immigration Equality's Executive Director, Aaron Morris, began the program by describing the harmful effects expected to result from the "Presidential Memorandum on Additional Measures to Enhance Border Security and Restore Integrity to Our Immigration System" issued on April 29, 2019. This memorandum orders the Attorney General and the Department of Homeland Security to impose a filing fee for asylum applications and initial employment authorization applications filed by asylum seekers. At present, there is no fee for these applications. The memorandum also directs that asylum applicants who "entered or attempted to enter the United States unlawfully" should be barred from receiving employment authorization while their asylum applications remain pending. These policy changes, if implemented, will cause significant hardship for LGBTQ immigrants fleeing persecution, many of whom are unable to afford filing fees and will struggle to support themselves in the U.S. if they are not permitted to work lawfully here.

Aaron also described how the Migrant Protection Protocol (MPP) policy, also known as the "Remain in Mexico" policy, has forced many LGBTQ asylum seekers to wait in Mexico while the U.S. government processes their asylum claims. As they attempt to take refuge in shelters south of the U.S. border, LGBTQ asylum seekers often face extreme threats to their safety. According to reports, one such group of LGBTQ asylum seekers experienced severe anti-LGBTQ violence while waiting in Tijuana, including "having the shelter they were staying in robbed and set on fire." For LGBTQ asylum seekers who fled homophobic and transphobic violence perpetrated by civilians in their home countries, being detained with these same civilians in shelters can pose a substantial risk of harm.

The conditions encountered by LGBTQ asylum seekers held by the U.S. government in immigration detention centers are often no less dangerous. A group of transgender women and gay men recently spoke out about their experiences in immigration detention centers, where they were subjected to sexual harassment, denied access to necessary medical care, and forced to endure dehumanizing treatment by guards.

In response to these new challenges, lawyers attending the presentation were eager to learn more about how to assist this vulnerable group of immigrants. Nishan Bhaumik, a staff attorney at Immigration Equality, provided an overview of U.S. asylum law as applied to LGBTQ immigrants, and Proskauer's pro bono counsel, Erin Meyer, instructed attorneys on how to prepare each component of the asylum application. Alicia Hornsby of Bloomberg LP and Erin shared their experiences working with LGBTQ asylum seekers and encouraged others to volunteer their time to help these immigrants win asylum.

Proskauer is honored to be receiving the Safe Haven Award from Immigration Equality on May 15, 2019, for its victories on behalf of LGBTQ and HIV-positive asylum seekers.

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