

## METHODOLOGICAL APPENDIX

### LIVES IN THE BALANCE: ASYLUM ADJUDICATION BY THE DEPARTMENT OF HOMELAND SECURITY

Andrew I. Schoenholtz, Philip G. Schrag, and Jaya Ramji-Nogales  
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The Department of Homeland Security's United States Citizenship and Immigration Services (USCIS) provided us with data drawn from its Refugee Asylum and Parole System (RAPS), a computerized database used to track the processing of asylum claims through the affirmative asylum process.<sup>1</sup> USCIS staff at one of four regional service centers enter new asylum cases into the system, inputting data that asylum seekers provide on Form I-589, Application for Asylum and for Withholding of Removal.<sup>2</sup> As discussed further below, Asylum Office personnel have access to RAPS in order to update and correct the database with information provided by asylum applicants at their interviews.<sup>3</sup> The data sets provided by USCIS contained 552,760 asylum decisions rendered between October 1, 1996, and June 8, 2009. Some cases involved both an applicant and a spouse or child who was already in the United States. To avoid duplication of data, USCIS eliminated the separate entries of dependents from the database. But as discussed further below, the existence of one or more dependents in the United States was noted in the record of the principal applicant.<sup>4</sup>

DHS provided us with fifteen variables for each case: asylum officer identification number,<sup>5</sup> asylum officer region, case

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<sup>1</sup> U.S. CITIZENSHIP & IMMIGRATION SERVS., AFFIRMATIVE ASYLUM PROCEDURES MANUAL 2-3, 7-9 (2007), available at [http://www.uscis.gov/sites/default/files/USCIS/Humanitarian/Refugees%20%26%20Asylum/Asylum/2007\\_AAPM.pdf](http://www.uscis.gov/sites/default/files/USCIS/Humanitarian/Refugees%20%26%20Asylum/Asylum/2007_AAPM.pdf) [hereinafter USCIS ASYLUM MANUAL]. RAPS also allows users to determine the status of asylum cases in the immigration court system. *Id.* at 3.

<sup>2</sup> *Id.* at 2-3, 7. USCIS service centers are located in California, Nebraska, Vermont, and Texas. USCIS Home Page, <http://www.uscis.gov/about-us/contact-us#USCIS%20Service%20Centers> (last visited Dec. 12, 2013).

<sup>3</sup> USCIS ASYLUM MANUAL, *supra* note 1, at 2-3, 7. In rare cases, generally involving reapplication after denial and filing by an applicant who had previously been included as a dependent on another asylum application, in which direct filing with the Asylum Office is permitted, the data provided on Form I-589 are inputted by Asylum Office personnel. *Id.* at 7.

<sup>4</sup> E-mails from Sally Armstrong, Mgmt. & Program Analyst, Asylum Div., Office of Refugee, Asylum & Int'l Operations, U.S. Citizenship & Immigration Servs., to Philip G. Schrag (Apr. 30, 2009, and May 5, 2009) (on file with authors).

<sup>5</sup> These numbers were completely anonymized and do not relate in any way to any actual identification numbers used by asylum officers. DHS randomly assigned these numbers to asylum officers for use only in the data set that our study examines.

identification number,<sup>6</sup> filing date, date of entry, status at entry, nationality, gender, religion, ethnic group, age at filing, dependents, representation, final disposition code, and final decision date.<sup>7</sup>

DHS provided the data to us organized by the fiscal year in which the case was filed.<sup>8</sup> The FY 1998 data set was split into two parts: those who filed before and those who filed after April 16, 1998, the effective date of the one-year deadline. The FY 2009 data set included only cases that had been decided as of June 8, 2009.

We began by excluding data that were not relevant to our analysis. First, we eliminated the cases of all Mexican nationals. During the years in question, the vast majority of Mexican asylum applicants were not genuine asylum seekers; they applied for asylum in order for DHS to deny them and refer them to immigration court, where they could seek another form of relief.<sup>9</sup> We eliminated 62,568 Mexican cases.

Second, we removed from the data all cases that had not yet been completed as of June 8, 2009 (the end date for our data set) and cases that had been administratively closed (such as cases in which applicants did not appear for their interviews or

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<sup>6</sup> These numbers were completely anonymized and do not relate in any way to any actual asylum case identification numbers. DHS randomly assigned these numbers to asylum cases for use only in the data set that our study examines.

<sup>7</sup> The original data are available on the website on which this Methodological Appendix is posted: <http://www.law.georgetown.edu/humanrightsinstitute/LivesInTheBalance/>.

<sup>8</sup> The U.S. Senate website defines the federal government's fiscal year as "[t]he accounting period for the federal government which begins on October 1 and ends on September 30. The fiscal year is designated by the calendar year in which it ends; for example, fiscal year 2006 begins on October 1, 2005 and ends on September 30, 2006." United States Senate, Glossary, [http://www.senate.gov/reference/glossary\\_term/fiscal\\_year.htm](http://www.senate.gov/reference/glossary_term/fiscal_year.htm) (last visited Nov. 12, 2010).

<sup>9</sup> The database that we used excluded 62,568 cases filed by Mexican nationals. According to the U.S. Headquarters Asylum Division of DHS, a very large proportion of these claims were filed only to enable Mexicans who were residing in the United States to receive referrals to immigration court, where they could abandon their asylum claims and seek some other type of immigration benefit to which they believed they were entitled, such as cancellation of removal. See Andrew I. Schoenholtz, *Refugee Protection in the United States Post-September 11*, 36 COLUM. HUM. RTS. L. REV. 323, 338 n. 62 (2005). Cancellation of removal, which can be granted by an immigration judge but not by an asylum officer, allows a foreign national to remain in the United States if the judge finds that the applicant (a) has resided in the United States for at least ten years before being served with a notice to appear in immigration court, (b) has been of good moral character during that period, (c) has not been convicted of certain offenses, and (d) has a spouse, parent, or child who is an American citizen or lawful permanent U.S. resident and who would suffer an "exceptional and extremely unusual hardship" if the applicant was removed. 8 U.S.C. § 1229b(b) (2006). DHS did not claim, nor do we believe, that there are not a number of valid Mexican asylum claims during the years covered by the database. But we respect the DHS judgment that many of the Mexican claims were for other purposes. In order to keep the focus of the study on the adjudication of asylum cases, we have excluded the Mexican claims from our analysis.

discontinued their applications).<sup>10</sup> There were 2,462 cases that had not been decided and 121,959 cases that were administratively closed. We excluded only 102,484 undecided and administratively closed cases because of category overlap; that is, some cases that remained undecided or were administratively closed were also Mexican cases, and for that reason had already been eliminated from the database.

Third, we eliminated cases in the data set that the Asylum Office did not adjudicate. For example, the database included the cases of individuals who entered as dependents of successful asylum applicants.<sup>11</sup> Because these entries did not represent new individual asylum determinations, we eliminated 2,955 such cases.

Finally, we removed from the data cases that had obviously been miscoded in such a way that they could not be used to address questions about the impact of the filing deadline. Specifically, these were cases in which the dates of entry were later than the dates of application. Asylum seekers cannot apply for asylum from abroad, and DHS informed us that these were coding errors. There were 1,875 cases in the database for which the date of entry was later than the date of application; we excluded only 1,273 for this reason as the others were already excluded on other grounds. As a result of these exclusions, our data will not match up with DHS published statistics.<sup>12</sup>

In total, we eliminated 169,280 cases from the data, leaving 383,480 cases for our analysis in Chapters Three through Five. In Chapters Six through Nine, we analyzed the cases of the 329,336 asylum seekers who applied on time or qualified for an exception to the one-year deadline. In Chapter Ten, we studied the 31,635 decisions made by the 221 asylum officers who attended Asylum Officer Basic Training (AOBTC) classes at the Federal Law Enforcement Training Center (FLETC) between July 2003 and July 2008.<sup>13</sup>

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<sup>10</sup> Cases that had been administratively closed with no decision had final decision codes beginning with “C.”

<sup>11</sup> Asylum seekers can include their spouses and minor children in their applications for protection. If their applications are successful, asylum is also granted to these dependents. If an asylee’s dependents live overseas, they can then enter the United States with asylee status. We identified these cases using the following *status at entry* codes: AS1, AS2, AS3, and AY. Further description and explanation of *status at entry* codes are available on this book’s companion website, *supra* n. 7.

<sup>12</sup> See, e.g., DEPT OF HOMELAND SEC., 2012 YEARBOOK OF IMMIGRATION STATISTICS (2013), available at <http://www.dhs.gov/files/statistics/publications/yearbook.shtm>.

<sup>13</sup> DHS provided us with biographical data only for officers trained within this time frame because these were the only officers in our database for whom they collected this information. “Before 2003 [the FLETC] questionnaire was not given to AOBTC students. AOBTC moved from FLETC after the July 2008 class, and the questionnaire was not given to the two subsequent

### *Regression Analyses, Chapters Three through Five*

For the data exploring the one-year filing deadline in Chapters Three through Five, we ran a total of four binary logistic regressions to confirm the statistical significance of the data we reported in descriptive form. Two of these regressions explored the dependent variable of timely filing; the other two used rejection on the deadline as the dependent variable. The independent variables were essentially the same in each regression, but we ran additional regressions because we grouped the asylum seeker nationality variable into asylum seeker geographic region of origin. We describe these dependent and independent variables further below. The timeliness regressions analyzed the entire database of asylum seekers, but the rejection regressions analyzed only asylum applicants who filed more than a year after entry.

The independent variables common to all four regressions are Asylum Office region, asylum officer cases decided, the fiscal year in which the applicant filed for asylum, applicant's mode of entry, human rights conditions in the applicant's country of origin, applicant's gender, applicant's religion, whether the applicant had dependents, whether the applicant was represented by an attorney or other representative, and applicant's age at filing. One of the timeliness regressions also included applicant's nationality, and the other replaced this variable with applicant's geographic region of origin, as the latter variable was derived from the former. Similarly, one of the rejection regressions also included applicant's nationality, and the other replaced this variable with applicant's geographic region of origin, as again, the latter variable was derived from the first. Both of the rejection regressions also included the independent variable lapse between date of entry and date of filing.

These regression analyses generally confirmed the cross-tabulation analyses; we have noted in the text of the relevant chapter when they did not. The results of these regression analyses are provided in the Regression Appendix.

### *Estimation*

We ran an out-of-sample prediction to determine how many

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classes . . .". E-mail from Sally Armstrong, Department of Homeland Security, to Philip G. Schrag (July 1, 2009). 196 of those 221 officers were new hires who were trained shortly after beginning service, while the other 25 officers had joined DHS before July 2003. Most of the cases in that database were therefore decided by officers who joined the asylum officer corps between 2003 and 2008. A copy of the FLETC questionnaire appears on this book's companion website, *supra* n. 7.

late applicants barred by the deadline would have been granted asylum in the absence of the deadline. We performed a binary logistic regression on untimely and excepted cases, using the dependent variable of grant rate and the following independent variables: asylum officer's region, whether the applicant had dependents, the applicant's filing date, the applicant's geographic region of origin, the applicant's gender, the lapse between the applicant's date of entry and date of filing, whether the applicant was inspected at entry, the applicant's religion, and whether the applicant was represented. This regression calculated coefficients, which were then applied through a regression equation to cases rejected because of the deadline. This provided us with the probability that each particular case would be granted asylum. We then used the mean of these values to determine the percentage of all rejected cases that would have received asylum had the one-year deadline not been in effect.

We could not include applicants with blank dates of entry in this estimation, because we could not determine the lapse between date of entry and date of filing for these asylum seekers.

#### *Regression Analyses, Chapters Six through Eight*

For the analysis of decisions on the merits in Chapters Six through Eight, we ran two logistic regressions, including one with standard errors clustered by asylum officer, and one hierarchical logistic regression on the database of all merits cases, exploring the dependent variable of grant. The regression models contained the following independent variables: regional asylum office in which the applicant's case was heard, the number of cases previously decided by the asylum officer who heard the applicant's case, whether the applicant entered lawfully, the applicant's geographic region of origin, the state of political and civil rights in the applicant's nation of origin, the applicant's stated religion, the applicant's gender, whether the applicant had dependents in the United States, whether the applicant was represented, the applicant's age at filing, and the asylum era during which the application was decided.

#### *Regression Analyses, Chapter Ten*

For the discussion of the relationship between biographical characteristics of the officers and grant rates in Chapter Ten, we ran two logistic regressions, including one with standard errors clustered by asylum officer. We also ran a hierarchical logistic regression. The regression models contained the following independent variables: regional asylum office in which the applicant's case was heard, the number of cases previously decided by the asylum officer who heard the applicant's case, the

asylum officer's prior government work experience, the asylum officer's ethnicity, the asylum officer's gender, whether or not the asylum officer had a law degree, whether the applicant entered lawfully, the applicant's geographic region of origin, the state of political and civil rights in the applicant's nation of origin, the applicant's stated religion, the applicant's gender, whether the applicant had dependents in the United States, whether the applicant was represented, the applicant's age at filing, and whether the application was decided during the first three or the fourth asylum era.

### *Dependent Variables*

*Timely.* We created a binary variable that signifies timely filing, a value of 1, or untimely filing, a value of 0. Where the *final decision code* described below did not indicate that the case had been denied based on the deadline, code D5, or referred to immigration court because of the deadline, code I5, and the lapse variable described below was 364 or fewer days<sup>14</sup> we considered the asylum application to have been filed timely. Under all other conditions, such as when no entry date was listed, or *lapse* exceeded 364 days, or *lapse* was 364 days or less but the DHS final decision code was D5 or I5, we considered the asylum application to have been filed untimely.

*Final decision code* (FDEC). DHS provided us with nineteen decision codes that we combined into three categories: (1) denial/referral, (2) grant, and (3) administrative closure.<sup>15</sup> As described above, we eliminated from our data the cases that had been administratively closed as well as those with no final decision.

*Lapse.* This variable calculates the number of days between entry into the United States and the date of filing the asylum

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<sup>14</sup> If the 364th day fell on a weekend or a federal holiday, neither we nor DHS counted the case as late if filed on the following business day. If February 29 of a leap year was one of the days between entry and filing, we treated the case as not late if it was filed on the 365th day after entry, or if the 365th day was a nonbusiness day, on the next business day. The following were treated as holidays: New Year's Day, Martin Luther King, Jr. Day, President's Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, and Christmas Day. At least until 2009, DHS regarded a person as late if the person filed 365 days after entry, though a 2009 Ninth Circuit case held that DHS should have used 366 as the number of days in question. *Minasyan v. Mukasey*, 553 F.3d 1224, 1227-28 (9th Cir. 2009). DHS changed its practice in March 2009, after *Minasyan* was decided. U.S. DEPT OF HOMELAND SEC., ASYLUM OFFICER BASIC TRAINING COURSE: ONE-YEAR FILING DEADLINE 5 (2009), available at <http://www.uscis.gov/files/article/One-Year-Filing-Deadline.pdf> [hereinafter ASYLUM OFFICER BASIC TRAINING COURSE]. We used 364 days because that is how DHS calculated timely filing until the final months of the time frame studied. See, e.g., S. DEPT OF HOMELAND SEC., ASYLUM OFFICER BASIC TRAINING COURSE: ONE-YEAR FILING DEADLINE 4 (Mar. 15, 2001), available at [http://www.asylumlaw.org/docs/united\\_states/one\\_year\\_lesson\\_March2001.pdf](http://www.asylumlaw.org/docs/united_states/one_year_lesson_March2001.pdf).

<sup>15</sup> These decision codes are available on this book's companion website, *supra* n. 7.

claim. The *date of entry* and *date of filing* variables are discussed below. Following the DHS practice in determining whether an asylum seeker filed timely, we did not count the day of entry but we did count day of filing in our calculation of the *lapse* variable.<sup>16</sup> If no date of entry for the applicant was listed, *lapse* is blank.

*Date of entry.* Each case listed the applicant's date of entry, which was generally taken from the answer to question 18 on Form I-589, Application for Asylum and for Withholding of Removal, as filled out by the asylum seeker. Also, 21,256 cases had blank dates of entry.

If the date of entry field is left blank in the asylum application, national procedures direct the regional service centers that initially process these applications to leave the field blank in RAPS and suggest that staff may review supporting documentation to establish the date of entry.<sup>17</sup> However, regional service centers may devise regional procedures that are more stringent than these instructions. For example, if the date of entry is blank, the Vermont Service Center instructs staff to look at the applicant's list of prior residences in the I-589 and use the earliest date of U.S. residence. Similarly, the Nebraska Service Center instructs staff to use the last date of departure from their country or the date listed on the applicant's Form I-94 Arrival-Departure Record—but if no date is found, the I-589 will be refused and returned to the applicant as incomplete. In the same situation, the California Service Center instructs staff to leave the date of entry field blank. And, in the same circumstance, the Texas Service Center returns the I-589 to the applicant as incomplete. Both the California Service Center and the Vermont Service Center provide instructions for completing the date where it is incomplete on the I-589.<sup>18</sup>

In addition, the asylum officers who adjudicate claims are required to update the computerized system, including adding entry dates where appropriate.<sup>19</sup> The instructions on how to address blank dates of entry have changed over time. In May 1998, with the implementation of the one-year deadline, the Asylum Division altered the computerized system to allow the date of entry field to be left blank. At that time, asylum officers were instructed to enter a date of entry only when the asylum seeker presented documentary evidence, such as an I-94 or

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<sup>16</sup> ASYLUM OFFICER BASIC TRAINING COURSE, *supra* note 14, at 5.

<sup>17</sup> USCIS ASYLUM MANUAL, *supra* note 1, at 126.

<sup>18</sup> E-mail from Mary Margaret Stone, Chief of Operations, Asylum Div., Office of Refugee, Asylum & Int'l Operations Directorate, U.S. Citizenship & Immigration Servs., to Philip G. Schrag (Sept. 11, 2009) (on file with authors).

<sup>19</sup> See USCIS ASYLUM MANUAL, *supra* note 1, at 3, 126.

passport, or credible testimony as to that date, or when a computer record of the lawful entry existed.<sup>20</sup> These procedures were not fully incorporated into the USCIS Asylum Manual until 2003; indeed, the USCIS Asylum Manual did not address leaving the date of entry field blank until 2003.<sup>21</sup> As a result, not all asylum applicants who left the date of entry blank on their initial I-589 ended up with a blank date of entry in our database; the extent to which this occurred varied by region and likely by asylum officer.

*Rejection on the deadline.* Relying on the *recoded final decision code* variable described below, we created a binary *rejected for deadline* variable that found a deadline rejection, value of 1, when the *recoded final decision code* had a value of 2, and found there was no deadline rejection, value of 0, when the *recoded final decision code* had a value of 1 or 3.

*Recoded final decision code.* Using the FDEC *final decision code* variable provided by DHS and described above, we grouped asylum applicants into three categories related to the one-year filing deadline: (1) asylum granted, code G1, which was awarded a value of 1; (2) asylum denied or referred based on deadline, code D5 or I5, which was awarded a value of 2; and (3) asylum denied or referred on merits, all other FDEC codes, including FDEC codes beginning with “R,” which represent cases that were reopened and then denied or referred on the merits, which was awarded a value of 3.<sup>22</sup>

*Grant.* Relying on the *recoded final decision code* variable described above, we grouped asylum applicants into two categories— asylum granted, code G1, which was awarded a value of 1, and all other final decision values, including denials and referrals on the deadline and the merits, which were

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<sup>20</sup> In addition, leaving the date of entry blank results in an “unknown date of entry” on the NTA, which may cause problems with the different EOIR jurisdictions.

<sup>21</sup> The 2003 guidance is as follows:

The date of entry is recorded in RAPS according to whether the applicant met his or her burden of proof. Regardless of the claimed manner of entry, whenever the applicant has failed to meet the burden of proof with respect to his or her last arrival date, no date shall be entered into the DOE (Date of Entry) field on the I-589 or OSG screens. When the field is left blank, the words “UNKNOWN DOE” will automatically be printed on the NTA and the I-213 (where applicable). Asylum officers must address any credibility issues relating to the date of entry in the assessment. For guidance on the applicant’s burden of proof and determining the appropriate standards of proof required for entry dates, see AOBTC Lesson Plans *One-Year Filing Deadline* and *Asylum Eligibility Part IV—Burden of Proof and Evidence*.

U.S. CITIZENSHIP & IMMIGRATION SERVS., AFFIRMATIVE ASYLUM PROCEDURES MANUAL 129 (2003), available at [http://www.ilw.com/resources/Affirmative\\_Asylum.pdf](http://www.ilw.com/resources/Affirmative_Asylum.pdf). This language is incorporated into the 2007 edition of the USCIS Asylum Manual with two slight grammatical alterations. See USCIS ASYLUM MANUAL, *supra* note 1, at 126.

<sup>22</sup> These decision codes are available on this book’s companion website, *supra* n. 7.



awarded a value of 0.

### *Independent Variables*

*Age of Applicant at Filing.* DHS provided us with the asylum seeker's age at filing.

*Asylum Era.* We recoded the *fiscal year* variable described further below into four asylum eras: Era One, Oct. 1, 1995 – April 15, 1998; Era Two, April 16, 1998 – Sept. 11, 2001; Era Three, Sept. 12, 2001 – June 30, 2006; and Era Four, July 1, 2006 – June 8, 2009. Our rationale for dividing the eras in this way is described in greater detail in Chapter 6 of the book. For the regressions run on the data in Chapter 10, we recoded the *asylum era* variable into two periods, the first comprising Eras One through Three and the second comprising Era Four.

*Asylum Office Region.* Asylum cases are filed and adjudicated in eight Asylum Offices that cover specific geographic regions, described further in Chapter One, the Catchment Areas Appendix, and the Catchment Areas Map in the book. DHS provided us with the name of the regional Asylum Office in which each case was decided.

*Cases Previously Decided.* Using the asylum officer identification number provided to us by DHS, we sorted each asylum officer's cases by the final decision date provided by DHS. We then ranked each case by asylum officer identification number. When two cases were decided on the same day, both were assigned the average of the ranks.<sup>23</sup>

*Dependents of Applicant.* DHS provided us with a “yes” or “no” answer to the question of whether an asylum seeker had dependents. We therefore have two groups of applicants: asylum seekers with no dependents in the United States listed on their application, and asylum seekers with one or more dependents in the United States listed on their application.

*Ethnicity of Applicant.* DHS provided us with an ethnicity variable for each asylum applicant. Unfortunately, the overwhelming majority of entries in this field—514,757 of 552,760, or approximately 93 percent—were “OTHER” (446,016) or “UNKNOWN” (68,741). Apparently, most applicants did not enter this information on the application form. We did not use this field for any purpose.

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<sup>23</sup> For instance, if two cases decided on the same day were the eleventh and twelfth cases, each would be assigned 11.5.

*Ethnicity of Officer.* DHS provided us with the self-reported ethnicity of asylum officers who completed a biographical characteristics questionnaire at FLETC. The options provided on the form were: White (not of Hispanic Origin), Black (not of Hispanic Origin), Hispanic, Asian or Pacific Islander, American Indian or Alaskan Native, and Other (Specify).

*Filing Date.* DHS provided us with the filing date for each asylum applicant.<sup>24</sup>

*Fiscal Year.* DHS provided the data in cohorts by fiscal year of decision.

*Gender of Applicant.* DHS provided us with the gender of each asylum applicant.

*Gender of Officer.* DHS provided us with the self-reported gender of each asylum officer who completed a biographical characteristics questionnaire at FLETC.

*Inspection at Entry.* Using the *status at entry* variable provided by DHS and described below, we categorized all asylum applicants who entered EWI, or “entered without inspection,” and UU, or “unknown,” used interchangeably over the years with EWI, as “uninspected at entry,” and all other asylum seekers as “inspected at entry.”

*Geographic Region of Origin of Applicant.* Using the World Bank definition of the regions of the world,<sup>25</sup> we divided the *nationality* variable, described further below, into eight regions. Although the World Bank combines Europe and Central Asia, we made separate regions for those two categories. Only Canada was placed in the North America region, as Mexicans were excluded from the database.<sup>26</sup> Stateless persons and persons of unknown nationality were treated as regions of their own.<sup>27</sup>

*Human Rights Conditions in Applicant’s Country of Origin.* Using the Freedom House indices for civil liberties and political rights for the years 1997 through 2008, or editions 1998-2009, we created a combined score for both indices for each country of

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<sup>24</sup> The studies of outcomes by fiscal year of the one-year filing deadline in Chapters Four and Five were based on the fiscal years of application, because application dates determine whether an applicant is late or not, whereas the studies of outcomes by fiscal year in Chapters Six and Seven are based on the fiscal years in which decisions were actually rendered, which in most cases were approximately 60 days after the dates of application.

<sup>25</sup> The World Bank, <http://data.worldbank.org/country> (click on the hyperlink for each region to pull up a list of countries in that region) (last visited Dec. 12, 2013).

<sup>26</sup> See *supra* note 9 and accompanying text.

<sup>27</sup> Our division of countries into regions is available on this book’s companion website, *supra* n. 7.

origin.<sup>28</sup> Using the final decision date provided to us by DHS, we used the prior year score for cases decided between January and March and the current year score for cases decided between April and December. That is, for a case decided in February of 2002, we used the human rights indices for 2001; for a case decided in May of 2002, we used the human rights indices for 2002. We used this approach to accurately reflect the information before asylum officers, who rely most heavily on the U.S. State Department Country Human Rights Practices reports for their country conditions research. These State Department reports are published in late March or early April each year, so the time lag increases the accuracy of our data.

*Legal Education of Officer.* DHS provided us with the self-reported degree type for officers who completed the FLETC questionnaire. Reported degree types included AA, BA, BS, JD, MA, MEd, MS, Not Applicable, Other, and PhD. We recoded all officers who indicated that they had obtained a JD degree as having a legal education and all others as not having a legal education. The FLETC form allowed asylum officers to select only one degree type, so it is possible that some officers failed to report having obtained a JD in favor of listing another degree. Because the prior question asked officers to select the highest level of education completed, and the listed responses indicated Doctorate or other Graduate Degree (i.e., J.D.) at the end of that list, we think it likely that only officers with a PhD and a JD would have failed to report their JD. There was only one reported PhD in the asylum officer biographical characteristics data.

*Marital Status of Officer.* DHS provided us with the self-reported marital status of officers who completed the FLETC questionnaire. Reporting options were: Single, Married, Divorced, Separated, and Other (Specify). Because these data offered only a snapshot of marital status at one point in time, and because marital status is a variable that may change over time, we did not include this variable in any regression analyses.

*Nationality of Applicant.* DHS provided us with nationality abbreviations for each asylum applicant, using Immigration and Customs Enforcement country codes.<sup>29</sup>

*Prior Government Work Experience of Officer.* DHS provided us with the self-reported prior government service of officers who

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<sup>28</sup> See FREEDOM HOUSE, FREEDOM IN THE WORLD RATINGS, available at <http://www.freedomhouse.org/report-types/freedom-world> (last visited Dec. 12, 2013). We simply added the two scores together to create a combined score.

<sup>29</sup> A list of Immigration and Customs Enforcement country codes is available at [https://www.bja.gov/Funding/13\\_ICE\\_Country\\_Codes.pdf](https://www.bja.gov/Funding/13_ICE_Country_Codes.pdf)

completed the FLETC questionnaire.

*Region of Origin of Asylum Officer.* DHS provided us with the self-reported state of birth of officers who completed the FLETC questionnaire. Using the U.S. Census Bureau's divisions, we recoded this variable into five regions.<sup>30</sup> Northeast is Connecticut, Massachusetts, New Jersey, New York, Pennsylvania, and Rhode Island. South is District of Columbia, Florida, Georgia, Kentucky, Louisiana, Maryland, North Carolina, Oklahoma, Tennessee, Texas, and Virginia. Midwest is Iowa, Illinois, Indiana, Kansas, Michigan, Minnesota, North Dakota, Nebraska, Ohio, and Wisconsin. West is Alaska, California, Oregon, Utah, and Washington. Other is foreign born (FC), Guam (GU), and Puerto Rico (PR).

*Religion of Applicant.* DHS provided us with the religion of each asylum applicant. We combined some of these into one category. DHS uses three categories for Christians, including Christian, Catholic, and Orthodox, all of which we coded as Christian. Likewise, DHS uses three categories for Muslims, including Muslim, Shiite, and Sunni, all of which we recoded as Muslim. We recoded Parsi (PARSI) as Zoroastrian (ZOROA) because Parsis are a particular group of Zoroastrians. DHS uses both BADDH and BUDDH for Buddhist; we converted BADDH to BUDDH. For some regression analyses, we recoded these data into "Major Religions," which included Buddhist, Christian, Muslim, Other, Sikh, and Unknown.

In all, 48,872 asylum seekers had "unknown" and 26,624 had "other" entered in the religion field, for a total of 75,496 cases. The National Service Center I-589 procedures direct staff to leave a field blank in RAPS if the field is blank on the I-589 unless otherwise directed.<sup>31</sup> In the case of religion, the procedures specifically direct staff to enter "OTHER" if the asylum seeker does not designate a religion on the asylum application.<sup>32</sup>

The national procedures are the minimum requirements for processing at the service center. Each service center may devise local procedures that are more stringent. The Nebraska, Texas, and Vermont Service Centers instruct staff to enter "OTHER" if the religion designated by the applicant is not included in the list of religions in RAPS. The Vermont Service Center instructs staff to use "UNKNO" where the applicant states "none," "N/A," "no religion," or "unknown." The California Service Center instructs staff to pick the code that most closely matches the religion listed

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<sup>30</sup> The Census Bureau's regions are available at [http://www.census.gov/geo/maps-data/maps/pdfs/reference/us\\_regdiv.pdf](http://www.census.gov/geo/maps-data/maps/pdfs/reference/us_regdiv.pdf)

<sup>31</sup> E-mail from Mary Margaret Stone, *supra* note 18.

<sup>32</sup> *Id.*

on the I-589. If the applicant leaves the religion field blank on the I-589, staff must enter “UNKNO.” The Texas Service Center also instructs “UNKNO” to be used where the religion field is blank. If California Service Center staff cannot determine the religion written, then they must enter “OTHER.”<sup>33</sup>

Moreover, the table of religions in RAPS lists only nineteen choices, including “OTHER” and “UNKNO.” Although the table lists major religions of the world, it does not list many subgroups or denominations. As a result, if an asylum applicant describes herself as a member of a religious subgroup that is not listed in RAPS, service center staff might enter “OTHER” or “UNKNO” rather than selecting the larger religion to which that subgroup belongs. For example, if the applicant lists Anglican, Episcopal, or Methodist on the I-589, service center staff may not select “PROTE” on RAPS. There is also no specific category for Agnostic, Atheist, “none,” or traditional religions, which might as a result be classified as “other” or “unknown.”

Section II.L.1.g of the USCIS Asylum Manual instructs asylum officers to make changes to information in RAPS, such as religion, if these fields were changed on the I-589 during the interview.<sup>34</sup> It does not, however, give instructions on when to use “OTHER” versus “UNKNO.” As a result, the Asylum Division believes that the terms “other” and “unknown” are being used interchangeably in the religion field.<sup>35</sup> Moreover, these terms can mean anything from an illegible or blank religion entry on Form I-589 to atheism or even a traditional religion. Since “other” and “unknown” were often used interchangeably, we combined them into a single category for purposes of analysis.

*Representation.* Although DHS names this field “attorney,” “representative” is a more accurate term as this variable captures the presence of lawyers, law students, accredited representatives from nongovernmental organizations, and other “reputable individual[s] of good moral character” who provide free assistance to asylum applicants.<sup>36</sup> DHS coded all of these types of representation as a “yes” in the “attorney” field without making distinctions among them. A “yes” code in the “attorney” field means only that a representative signed a Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative,<sup>37</sup> at any point in the process, and does not necessarily mean that

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<sup>33</sup> *Id.*

<sup>34</sup> USCIS ASYLUM MANUAL, *supra* note 1, at 37.

<sup>35</sup> E-mail from Mary Margaret Stone, *supra* note 18.

<sup>36</sup> 8 C.F.R. §§ 292.1-292.2 (2010).

<sup>37</sup> Available at <http://www.uscis.gov/g-28>.

representative appeared at the interview.<sup>38</sup>

*Status at Entry.* The *status at entry* variable coded whether the asylum applicant was inspected at entry, and if so, on what type of visa she entered the United States. Those who entered without inspection or visas were coded EWI, “entered without inspection,” or UU, “unknown or not reported.”<sup>39</sup> Those who entered with visas or visa waiver documents were coded for the type of visa, for example, B2 for tourist and F1 for student. When an applicant testified that he or she used fraudulent documents to enter the United States and presented these documents to the asylum officer, the asylum officer coded his or her case SDF, or “suspected document fraud.”<sup>40</sup>

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<sup>38</sup> Authors Andrew I. Schoenholtz and Philip G. Schrag meeting with Mary Margaret Stone, Chief of Operations, Asylum Div., Office of Refugee, Asylum & Int’l Operations Directorate, U.S. Citizenship & Immigration Servs. (Nov. 15, 2011) (notes of conversation on file with authors).

<sup>39</sup> E-mail from Mary Margaret Stone, Chief of Operations, Asylum Division, Refugee, Asylum, and International Operations Directorate, US Citizenship and Immigration Services, Department of Homeland Security, to Andrew I. Schoenholtz (Aug. 12, 2011) (on file with authors).

<sup>40</sup> A complete listing of visa types is available on this book’s companion website, *supra* n. 7.