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# Los Angeles Times

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## Some Immigrants Meet Harsh Face of Justice

*Complaints of insensitive -- even abusive -- conduct by some U.S. immigration judges have prompted a broad federal review.*

**February 12, 2006** | Ann M. Simmons | Times Staff Writer



*'I FELT LIKE I HAD DONE SOMETHING WRONG':* Cameroon immigrant Cynthia Soh, with her attorney, Edward Pilot, was criticized by Los Angeles Judge Ingrid Hrycenko for her accent.

The complaints about immigration judges were alarming.

In San Francisco, a U.S. citizen was wrongly deported to Mexico after a judge failed to verify the authenticity of his birth certificate and tax records -- actions that drew harsh criticism from a federal appeals court.

In Chicago, an appellate board found that a political asylum case involving an Albanian citizen was mishandled because the judge relied on testimony from a document expert who did not speak or read Albanian.

And in Boston, a judge was suspended for more than a year after he referred to himself as "Tarzan" during a court proceeding for a Ugandan woman named Jane.

Describing the conduct of some judges as "intemperate and even abusive," U.S. Atty. Gen. Alberto R. Gonzales recently announced that the Justice Department was launching a comprehensive review of the nation's immigration courts.

"To the aliens who stand before you, you are the face of American justice," Gonzales wrote in a Jan. 9 memo to immigration judges. "I insist that each be treated with courtesy and respect."

The review will focus on the performance of the nation's 224 immigration judges, including 55 in California. Last year, the jurists, who are appointed by the attorney general, heard about 270,000 cases, according to department statistics.

The review, which is underway, is being conducted by the deputy and associate attorneys general. It will assess the nature and scope of the problems within the system and recommend improvements, a Justice Department official said.

The National Assn. of Immigration Judges supports the review but believes that incidents of misconduct are rare, said Dana Leigh Marks, vice president of the organization.

"We do not believe that there is rampant incompetence and intemperance of judges," said Marks, who works in the San Francisco courts. "The vast majority of judges do an outstanding job."

Justice Department officials said the agency did not keep records on the number of complaints filed against judges. But an informal survey by the Executive Office for Immigration Review estimated that in the last five years, it had received complaints against 20 judges. No details were given.

Depending on the severity of the case, judicial misconduct is generally handled by an oral or written admonishment, temporary suspension or removal from the bench, officials said.

But immigration attorneys and critics said errant judges were emboldened by lifetime appointments and little oversight. They said records were not kept on problem judges because disciplinary action was not a priority.

"Reprimand means nothing for an immigration judge with tenure," said Khaled Abou El Fadl, a professor of Islamic law at UCLA and a former immigration attorney. "The complaints process is, to put it bluntly, a mockery of justice."

Some of the most stinging criticism comes from the appellate courts; it ranges from the insensitive manner in which some judges address foreign nationals to the way they mete out justice.

A few judges, such as Los Angeles Judge Anna Ho, have been warned repeatedly about their performance.

In 2001, Ho -- then based in Seattle -- wrongly ordered Salvador Rivera, a U.S. citizen, deported to Mexico, according to court records. Rivera, a former drug convict arrested by immigration officials, had once pretended to be a Mexican national to avoid arrest, and was even voluntarily deported.

But Ho dismissed as dubious the paperwork presented at trial by Rivera's mother, including his birth certificate, a middle-school report card, tax records and a page from his high school yearbook. Rivera, then 25, was born in Portland, Ore.

The U.S. 9th Circuit Court of Appeals in San Francisco ruled that Rivera's actions did not warrant "involuntary relinquishment of citizenship" and concluded that Ho had failed to conduct herself "as an impartial judge but rather as a prosecutor anxious to pick holes in the petitioner's story."

Rivera remains in Mexico, and his case is again pending before the appellate board, said his attorney, Karen L. Gilbert.

"He is penniless," Gilbert said. "It's terrible that a U.S. citizen is being held outside the country for so long."

In other cases, appellate judges have criticized Ho for using "cookie-cutter credibility findings" in rejecting petitions for political asylum and for having a "predisposition to discredit" testimony.

Ho was not available for comment. Federal judges are generally not permitted to talk to reporters.

In one of the most highly publicized cases, Boston immigration Judge Thomas M. Ragno was placed on administrative leave in 2003 after he joked "Me Tarzan" to a Ugandan asylum-seeker named Jane, a rape victim. Ragno, who had served on the bench for more than 30 years, has since retired.

It was not the first time the jurist had been in trouble.

In 2001, Ragno was sharply rebuked for his handling of a case involving a Sudanese refugee who had fled his country after his wife and son were killed in a civil war. He told the court that because he was Christian, he was targeted by rebel Muslims.

The judge demanded that Moses Cirrilo recite the Ten Commandments to prove he was Roman Catholic, then verbally attacked a priest who testified on his behalf.

Ragno also expressed astonishment that the man was unfamiliar with parochial schools, when in fact there aren't any in Sudan.

The appellate board that ultimately granted Cirrilo asylum issued a harsh opinion of Ragno's performance, criticizing his "confrontational attitude" and calling him "an embarrassment to the court."

In another incident, recalled attorney Susan M. Akram, a clinical associate professor at Boston University School of Law, in 1997 Ragno ridiculed her client, a Haitian asylum-seeker, as the immigrant described how he had been beaten and tortured.

When Akram suggested her client take off his shirt to show Ragno his scars, she said, "the judge started shouting, 'I'm not going to turn this courtroom into a monkey house.' "

The lawyer said she filed at least half a dozen motions over the years to have Ragno recused, and joined a group of attorneys in filing an official complaint in the mid-1990s. But no action was taken.

"There's a sense" among some judges, Akram said, "that their courtroom is basically their fiefdom."

Language barriers present their own problems in the courtroom.

Asked by a Los Angeles judge if she needed an interpreter, Cameroon immigrant Cynthia Soh explained that English was her primary language but noted that she spoke with a different accent, like Australians.

"Obviously, we all know there's a different accent by Australians, New Zealand, etcetera, but give the American English a chance," Judge Ingrid K. Hrycenko said, according to transcripts in the 2002 case. "You seem to convey the impression that whatever English you speak is the better, and everybody else should come up to how you pronounce it."

"I'm sorry, your honor," Soh said.

"So try to restrain yourself on that because it's coming across as a bit snobbish," Hrycenko replied.

The judge, now retired, ultimately granted Soh asylum. But the government has challenged the case, now pending before the Board of Immigration Appeals.

The 26-year-old Soh said she was humiliated by the experience.

"I felt really bad," she said last month. "I felt like I had done something wrong."

Beverly Hills attorney Edward W. Pilot, who represents Soh, said the judge's behavior "wasn't an isolated incident."

"It was an ill-founded ... personal assault on my client," he said.

Pilot acknowledged that attorneys were often reluctant to complain out of fear of reprisal. "It could be career suicide," he said.

Marks, of the National Assn. of Immigration Judges, said some of the criticism leveled at judges stemmed from attorneys upset over the outcome of their cases.

She also said consideration had to be given to the heavy and complex caseloads that judges wrestled with every day, often without adequate resources.

"Judges are human beings," she said. "There can be an intemperate remark on occasion, and on occasion conduct that is questionable and perhaps abusive." One unfortunate incident, she said, can damage a career that would otherwise be exemplary.

But attorneys and legal scholars attribute some errant behavior to the judges' racial bias and lack of cultural sensitivity. Of the nation's 224 immigration judges, 166 are white, 26 African American, 22 Latino, nine Asian and one Native American, according to government records.

El Fadl, of UCLA, said that judges were obligated to uphold a professional standard in the courtroom and, when they fell short, they should be held accountable.

"A lot of judges have developed the attitude that ... everyone is willing to do anything to live in the United States, and all aliens are presumptively liars until proven otherwise," he said. "The fact that a person is trying to live in the United States -- it doesn't mean they checked their dignity at the door."