

August 17, 2011

## **PDHRP applauds ABA Support of the Right of Deportees to Reopen their Immigration Cases**

The Post-Deportation Human Rights Project commends the American Bar Association (ABA) for adopting a resolution calling for the elimination of the “post-departure bar” on filing motions to reopen or to reconsider removal proceedings. The “post-departure bar” prevents individuals who have been removed from U.S. soil from legally challenging their deportation cases, even when they later discover that major errors had occurred or they were deported based on legal theories that the Supreme Court has overturned. We estimate that thousands of long-term legal residents have been wrongly deported or denied the opportunity to ask courts to consider their family ties, rehabilitation, and other factors.

The ABA is the largest voluntary professional association in the world, with nearly 400,000 members and, as part of its mission, it strives to advance just laws and to assure meaningful access to justice for all persons. The ABA’s resolution is particularly timely, as over the course of recent years a majority of federal courts have invalidated the post-departure bar, and a petition for rulemaking to eliminate the post-departure regulation is pending before the Department of Justice. Despite these developments, the Board of Immigration Appeals continues to hold that it lacks authority to review motions filed by individuals who have been deported, finding instead that such individuals have simply “passed beyond our aid.”

Boston College Law School Prof. Daniel Kanstroom - Co-Director of the Post-Deportation Human Rights Project - worked in conjunction with Prof. Rachel Rosenbloom of Northeastern University School of Law and formerly of the Project, and Prof. Jill Family of Widener University School of Law to achieve support from the ABA. A link to the ABA Resolution (Resolution 104A) is available here: <http://www.abanow.org/issue/?annual-meeting-2011&view=hod>.

Challenging the post-departure bar through federal litigation and advocacy has been at the core of the work of the Post-Deportation Human Rights Project. In light of the passage of the ABA Resolution and the recent federal court decisions invalidating the regulation, we call on the appropriate government agencies to eliminate the post-departure bar regulation and to allow proper legal and discretionary consideration of these compelling cases.