

May 23, 2005

The Honorable Michael Chertoff
Secretary
U.S. Department of Homeland Security
Naval Security Station
3801 Nebraska Avenue, N.W.
Washington, DC 20393

Re: US Commission on International Religious Freedom Recommendations

Dear Secretary Chertoff:

We are writing to urge you to ensure that the Department of Homeland Security implements the recommendations of the Expedited Removal Study conducted by the bipartisan United States Commission on International Religious Freedom. Many of our organizations have already written to you about these important recommendations. In light of the passage of the REAL ID Act, which was included in the final version of the emergency spending legislation (H.R. 1268), we are writing again to stress the need to move forward quickly in adopting these recommendations.

Specifically, the REAL ID Act enhances the discretion of immigration judges to make credibility determinations on the basis of an asylum seeker's prior statements, including statements taken by Customs and Border Patrol officers during immigration inspection and expedited removal. The Commission's study found that immigration judges cite to these statements in one-third of the cases. At the same time, Commission experts, through the systematic collection of data from ports of entry, found that these statements, in view of the circumstances and conditions in which they are taken by CBP Inspectors, are highly unreliable. While CBP has procedures in place to protect asylum seekers, Commission researchers found that compliance with these procedures varies significantly. Some critical procedures – such as informing the asylum seeker of the reasons why the officer is asking about a fear of return, and allowing the individual to review and verify his sworn statement – were followed by CBP officers in less than half of all cases observed.

We join the Commission in urging DHS to require CBP to (1) clearly explain the limitations of these statements (the I-867B Sworn Statement) on the document itself; and (2) follow CBP procedures to ensure the improved accuracy of these statements and the protection of asylum seekers. We note that US Citizenship and Immigration Services similarly amended its corresponding document (the "Credible Fear Worksheet Form I-870") to include language explaining its evidentiary limitations after a prior study by the United Nations High Commissioner for Refugees expressed similar concerns about the use of these documents. At that time, CBP refused to amend its I-867B Sworn Statement to include a similar caveat. This change is more necessary than ever given the passage of the REAL ID Act.

At the same time, we also urge the Department to adopt the other recommendations made by the Commission, including:

- (1) appointing a high level refugee coordinator with authority over cross-bureau issues involving refugees and asylum seekers;
- (2) authorizing asylum officers to grant asylum during the credible fear interview for those asylum seekers who have established identity and can establish eligibility for asylum, so that they will not have to wait months – often in detention – for a redundant and costly hearing before an immigration judge;
- (3) adopting regulations to more consistently implement the parole criteria for asylum seekers, as set forth in the December 30, 1997 Pearson memorandum; and
- (4) for those asylum seekers who do not meet the release criteria, developing alternatives to detention and detention standards which are appropriate to a non-criminal population, along the lines of the Broward model.

We look forward to further discussions with the Department on matters concerning asylum seekers and refugees. We appreciate your willingness to ensure that these recommendations are given thorough consideration.

Sincerely,

Agudath Israel of America

Amy Gottlieb, Director, Immigrant Rights Program
American Friends Service Committee

American Immigration Lawyers Association

Carlina Tapia-Ruano,
American Immigration Lawyers Association, 1st Vice President*

The American Jewish Committee

Joren Lyons, Immigrant Rights Attorney
Asian Law Caucus

The Becket Fund for Religious Liberty

Dr. Allen Keller, Director
Bellevue/NYU Program for Survivors of Torture

Stacy Caplow, Professor of Law and Director of Clinical Education
Brooklyn Law School*

Capital Area Immigrants' Rights Coalition (CAIR)

Thomas Mungoven, Staff Attorney

Catholic Charities

Joan M. Maruskin, Washington Representative
Immigration and Refugee Program

Church World Service

C. Richard Parkins, Director

Episcopal Migration Ministries

Ethiopian Community Development Council

Geraldine A. Mulligan, President

First Friends

Jaya Ramji

Center for Applied Legal Studies

Georgetown University Law Center*

Leonard Glickman, President and CEO

Hebrew Immigrant Aid Society

Michael Horowitz, Director

Hudson Institute Project for International Religious Liberty

Eleanor Acer, Director, Asylum Program

Human Rights First

Human Rights Watch

Immigrant Legal Resource Center

Immigration Equality

Joseph K. Grieboski, President

Institute on Religion and Public Policy

Charles F. Mulligan, President

Interfaith Refugee Action Team – Elizabeth (IRAT-E)

International Institute of Boston

Arnold H. Leibowitz, President
International Refugee Research Institute

Ann Buwalda, Esq., Director
Jubilee Campaign USA Inc

Kurdish Human Rights Watch, Inc

Philip Hwang , Staff Attorney
Lawyers' Committee for Civil Rights

Ralston H. Deffenbaugh Jr., President
Lutheran Immigration and Refugee Service

Migration and Refugee Services/U.S. Conference of Catholic Bishops

Deborah Fikes, Executive Director
Ministerial Alliance

Minnesota Advocates for Human Rights

Judy Rogers, Executive Director
Nah We Yone

National Asian Pacific American Legal Consortium (NAPALC)

National Immigration Forum

Paula Galowitz,
Clinical Professor of Law
New York University School of Law*

Dr. Allen Keller, Assistant Professor of Medicine
NYU School of Medicine

Sarah Ignatius, Executive Director
Political Asylum/Immigration Representation Project

Layli Miller-Muro, Executive Director
Tahirih Justice Center

UJA-Federation of NY

Center for Gender & Refugee Studies
University of California, Hastings College of the Law

Asylum & Human Rights Clinic
University of Connecticut School of Law

Donna M. Hughes, Ph.D., Professor & Carlson Endowed Chair
Women's Studies Program
University of Rhode Island*

Lavinia Limón, President and CEO
U.S. Committee for Refugees & Immigrants

Patrick Giantonio, Executive Director
Vermont Refugee Assistance

Denise Gilman, Director
Immigrant and Refugee Rights Project
Washington Lawyers' Committee

Mary Day Kent, Executive Director
Women's International League for Peace and Freedom, United States Section

Sammy Mah, President and CEO
World Relief

cc:

The Honorable Michael P. Jackson, Deputy Secretary, Department of Homeland Security
The Honorable Eduardo Aguirre Jr., Director, Office of US Citizenship and Immigration Services
Robert C. Bonner, Commissioner, Customs & Border Patrol, Department of Homeland Security
Daniel Sutherland, Officer for Civil Rights and Civil Liberties, Department of Homeland Security
Joseph Cuddihy, Asylum & Refugee Affairs Bureau, Department of Homeland Security
Joseph E. Langlois, Director, Asylum Division, Department of Homeland Security

* Institutions listed with an asterisk are for informational purposes only and the endorsers are the individuals. In all cases the signers represent institutional endorsements.