



American ideals. Universal values.

February 21, 2017

The Honorable John F. Kelly  
Secretary of Homeland Security  
Washington, D.C. 20528

The Honorable Rex Tillerson  
Secretary of State  
U.S. Department of State  
2201 C Street NW  
Washington, D.C. 20520

**Re: U.S. Global Leadership on Human Rights and Refugee Protection**

Dear Secretaries Kelly and Tillerson:

President Trump has announced that he will issue a new executive order on immigration and refugees in the coming days. In advance of this next directive, I urge you to do all you can to ensure that this new order mitigates the harm to American national security interests posed by the January 25 and January 27 orders, and that any actions you take to implement these orders uphold our treaty commitments and international legal obligations. Our nation can—and must—safeguard its security without breaking faith with its most cherished ideals.

The January 27 order would limit resettlement to the United States of Muslim refugees fleeing persecution in Muslim-majority countries. In response to the regional refugee and displacement challenges at our southern border, the January 25 order would increase the use of detention, turn away refugees at the border, and curtail access to asylum for those seeking protection. Such policies are unnecessary and cruel. Moreover, they set a dangerous example for the rest of the world, encouraging other countries—including those hosting the overwhelming majority of the world's refugees—to shirk their responsibilities to provide refuge to those fleeing persecution, violence, and terror. Such actions undermine international law and international cooperation through resettlement, critical tools for supporting global stability and advancing American national security interests.

**President and CEO**  
Elisa Massimino

**Chair**  
William D. Zabel

**Vice-Chairs**  
Tom A. Bernstein  
Michael K. Rozen

**Board of Directors**  
J. Adam Abram  
Elizabeth Bowyer  
Lynda Clarizio  
Daniel Doctoroff  
Donald Francis Donovan  
Matthew Dontzin  
Leslie Gimbel  
R. Scott Greathead  
Myrna K. Greenberg  
Lewis B. Kaden  
Roberta Karp  
Kerry Kennedy  
Daryl Libow  
Robert Todd Lang  
Ambassador Robert A. Mandell  
David P. Matthews  
Alberto Mora  
Mona Sutphen  
Lev A. Sviridov  
James W. Ziglar

In your implementation of existing orders and as you consult with the White House in advance of any new order, I urge you to ensure that:

- **The United States does not discriminate against refugees or others seeking to enter the United States simply because of their nationality or religion.** While the courts have stayed implementation of the January 27 order, I urge you to direct your agencies to refrain from any future religious or nationality-based discrimination. The United States should not discriminate against Muslims in their visa or immigration adjudications. Such actions violate our Constitution and our treaty obligations prohibiting such discrimination.
- **The United States does not rely on persecuting governments and failed states to vet refugees, asylum seekers, and others seeking to leave those countries.** Section 3 of the January 27 order appears to set up a process to ban individuals from the seven Muslim-majority states, perhaps permanently, unless their governments—mostly repressive regimes and dysfunctional states—provide information about people fleeing or seeking to leave or travel from those countries. The United States should not rely on information from such states to vet individuals who have fled from or seek to leave their countries. Such information will likely be unreliable, and the U.S. government has other effective ways of confirming the identities of individuals and ascertaining whether they pose a threat.
- **Vetting procedures are not used as a pretext to limit the entry of Muslims or deny protection to refugees who do not present a danger.** The United States regularly reviews and enhances its security vetting protocols, and it should continue to do so. Refugees already undergo extensive vetting, including detailed interviews and multiple rounds of review by a wide array of intelligence agencies. Any changes to this heightened process should be designed to improve its effectiveness and not to block or deter refugees or keep out Muslims.
- **The United States does not turn away asylum seekers at its borders.** The United States must provide access to asylum assessments to those who request protection, including at our ports of entry, and must maintain critical protection safeguards in expedited removal proceedings. The January 25 order signals that DHS may attempt to return some people arriving by land “to the territory from which they came pending a formal removal hearing.” If this provision were applied to asylum seekers, it would place the United States in breach of its obligations under the U.N. Protocol relating to the Status of Refugees. Neither Mexican nor other asylum seekers can be turned away from U.S. borders without proper asylum assessments. Refugees and migrants have been attacked, kidnapped, disappeared, trafficked, and killed in Mexico. LGBT asylum seekers, for example, whether from Africa, Colombia, Honduras, or Mexico itself, face serious dangers in Mexico. Many asylum seekers have already been wrongfully deported from Mexico back to their countries of persecution.

When it passed the Refugee Act of 1980, Congress endeavored to provide safeguards to protect refugees from mistaken deportation. These safeguards should not be circumvented; rather, they should be maintained and strengthened. Indeed, as the bipartisan U.S. Commission on International Religious Freedom documented in reports issued in [2005](#) and [2016](#), U.S. border agents often fail to implement the safeguards designed to

protect asylum seekers from mistaken deportation during expedited removal processing. This problem must not be made worse.

- **The United States does not hold refugees, asylum seekers, and immigrants in detention arbitrarily without court assessment of the need for their continued detention.**

The January 25 order calls for increased detention of immigrants and refers to ending or changing policies that allow asylum seekers and immigrants, in some cases, to be released from detention. Under the International Covenant on Civil and Political Rights, to which the United States is a party, the United States cannot subject asylum seekers or immigrants to arbitrary detention, including detention that is unnecessary, prolonged, or not based on a court's assessment of the need for the individual's continued detention. The detention of asylum seekers is limited by Article 31 of the Refugee Convention. In addition, as a DHS advisory committee recommended last year, the detention of children should be avoided.

- **The United States continues to use the “TRIG” exemptions implemented under the two prior administrations to allow for case-by-case adjudications.**

The EO directs your agencies to consider rescinding these exemptions, which were promulgated over a ten-year period following an exhaustive process of interagency review. Rescinding these provisions would be a mistake. The lack of effective exemptions has at times crippled U.S. resettlement initiatives and left asylum seekers stuck in limbo or in detention for years, victims of sweeping inadmissibility provisions that have mislabeled many innocent refugees and immigrants as supporters of “terrorist organizations”. These have included an Iraqi interpreter for the U.S. Marine Corps who was labeled a terrorist for having once opposed Saddam Hussein, women kidnapped and forced to work as slaves by armed militias, who were deemed to have provided “material support” to their captors because they were forced to cook for them and wash their clothes, and doctors and nurses who provided medical care to the wounded without discrimination, as required by medical ethics and international humanitarian law. While the exemptions implemented to date have not solved all of the problems inadmissibility provisions thrust on innocent refugees, they have provided relief over the years to many, and will be critical to refugees, asylees and others in the future.

The United States has the capacity to manage its borders and safeguard its security without sacrificing its global leadership or subverting international law. I would welcome the opportunity to meet with you to discuss these recommendations, including with other human rights and refugee protection organizations.

Very respectfully,

Elisa Massimino  
President and CEO