

February 8, 2005.

Dear Member of Congress:

We, the under-signed organizations, urge you to oppose Sections 103 and 104 of the REAL ID Act (H.R.418), which would give the Department of Homeland Security sweeping new authority to deport non-citizens. Anyone who engages in terrorist activity already is inadmissible, deportable, and barred from asylum under a statutory definition of “terrorist activity” so broad that it could, if read for its plain meaning, apply to a prank.<sup>1</sup>

Sections 103 and 104 would broaden the definition even further, so far that the government would be likely to deport innocent people, even some, paradoxically, who were themselves victims of terrorists. These provisions would:

- Make immigrants deportable—and refugees ineligible for asylum—based on the actions of their spouses and parents. If sections 103 and 104 become law, a 13-year-old child threatened with death because her father had joined an insurgency against her country’s government could find herself denied asylum based solely on the fact that she is her father’s daughter. A narrow exception based on lack of knowledge or renunciation of the father's affiliation would do nothing to protect a child who knew her father had joined a rebel movement, but had no control over his actions, or could not "renounce" an affiliation she never had to begin with.
- Allow immigrants to be deported for exercising rights of free speech that are protected under the U.S. Constitution. Under current law, anyone who engages in or incites terrorist activity is already deportable. Under sections 103 and 104, the 13-year-old girl in the previous example could also be deported—and denied asylum—even if all her father did was write essays justifying armed struggle against a dictatorial regime.
- Greatly broaden the range of groups that could be considered “terrorist organizations” under the law. The REAL ID Act would give the Department of Homeland Security authority to deport a non-citizen for membership in any group, based only on DHS’s contention that it is “a group of two or more individuals, whether organized or not”, which has a subgroup that DHS deems to be terrorist. The REAL ID Act does not limit this authority to senior DHS officials or require that the government provide public notice that it considers such a group to be a terrorist organization.
- Require non-citizens to meet a virtually impossible burden of proof to convince the government that they did not knowingly support terrorism. Our law now makes foreign nationals inadmissible if they knew or should have known that the support they provided to a group would further the group’s terrorist activity. Under the REAL ID Act, a person would be deportable unless he or she could show “by clear and convincing evidence” that he or she did *not* know that the group they were supporting was a terrorist organization under the law’s extremely broad definition of that term. Since it is almost impossible to prove a lack of knowledge of anything, this standard would make it nearly impossible for an innocent immigrant to defend herself against deportation. This would, for example, allow the deportation of an immigrant who donated money for tsunami disaster relief in

---

<sup>1</sup> See 8 U.S.C. § 212(a)(3)(B)(iii)

the Aceh province of Indonesia, not knowing that the organization that received the funds had a subgroup that DHS considered terrorist.

- Exacerbate a problem that has arisen under current law whereby victims of terrorist or militant groups have been deported or denied asylum because they were subject to extortion by terrorist groups. For example a Colombian rancher who, at the point of a gun, gave cattle to a guerrilla group may already find himself subject to deportation and denied asylum under current law. This would mean that the rancher's very reason for seeking asylum could bar him from obtaining it. By making people deportable and ineligible for asylum and withholding of removal for any connection to terrorist activity – even when they bear no personal responsibility – the REAL ID Act would encourage such extremist interpretations of existing law.

Thank you for your consideration of our views.

Sincerely,

### ORGANIZATIONS

American Immigration Lawyers Association

Amnesty International USA

Center for Immigrants Rights at the Community Level

Center for National Security Studies

Center for Victims of Torture

Episcopal Migration Ministries

Human Rights First

Idaho Office for Refugees

Irish American Unity Conference

Kurdish Human Rights Watch, Inc.

Minnesota Advocates for Human Rights

National Asian Pacific American Legal Consortium

National Council of La Raza

National Immigration Forum

Northwest Immigrant Rights Project

Peace Action Wisconsin

Tahirih Justice Center

The Multiracial Activist

Vermont Refugee Assistance

Washington Lawyers' Committee for Civil Rights and Urban Affairs,  
Immigrant and Refugee Rights Project

Women's Commission for Refugee Women and Children

World Organization for Human Rights USA

World Relief - Chicago

INDIVIDUALS\*

William J. Aceves, Professor of Law, California Western School of Law, San Diego, CA

Jeff Joseph, Senior Partner, Joseph Law Firm, PC, Denver, CO

Ira J. Kurzban, Esq., Past president, American Immigration Lawyers' Association;  
Author of *Kurzban's Immigration Law Sourcebook*

Estelle McKee and Stephen Yale-Loehr, Co-Directors, Cornell Law School Asylum and  
CAT Appeals Clinic

Carlina Tapia-Ruano, American Immigration Lawyers Association, First Vice-President;  
Illinois Institute of Technology-Kent College of Law, Adjunct Professor

Shoba Sivaprasad Wadhia, Esq.; Adjunct Professor of Law,  
Washington College of Law, American University, Washington D.C.

\*For individual signers, institutional affiliations are listed for identification purposes only