

April 11, 2005

Dear Senator:

The undersigned Asian Pacific American (APA) organizations urge you to oppose the REAL ID Act (H.R. 418). As discussed below, the REAL ID Act, if enacted, will have a disproportionate, wide-ranging, and devastating impact on the APA community.

The House of Representatives has attached the REAL ID Act to H.R. 1268, the emergency supplemental appropriations bill that will provide much needed aid to the victims of the tsunami disaster. We find it entirely inappropriate that a bill which will harm the APA community in so many different ways has been attached to a bill that our community cares so much about. As the Senate considers H.R. 1268 the coming weeks, we respectfully ask you to act to ensure that the REAL ID Act does not escape scrutiny by riding the coattails of an urgently needed supplemental appropriations bill.

The REAL ID Act recycles some of the most extreme and controversial anti-immigrant provisions that did not make it into the intelligence reform bill in the last session. In addition, the REAL ID Act now also contains a provision that would give bail bondsmen unprecedented power to pursue, arrest, and detain immigrants who have yet to complete removal proceedings. Specifically, the REAL ID Act would:

Turn back victims of persecution. The REAL ID Act would require asylum applicants to prove that their persecutors' "central motive" for harming or wishing to harm them was race, religion, nationality, membership in a particular social group, or political opinion. In essence, this provision would heighten the burden on asylum applicants to prove not only the existence of some motive in their persecutors' mind, but to distinguish among multiple motives and prove the primacy of one motive above others.

Under such an unrealistic burden of proof, a Burmese Christian woman of the Chin minority who was raped and robbed by drunken soldiers will have difficulty showing that her persecutors attacked her because of her religion and/or ethnicity rather than her money or their drunkenness. Likewise, an ethnic Chinese Christian from Indonesia who was extorted by corrupt government officials will have difficulty showing that he had to pay because of his ethnicity and/or religion rather than the officials' greed.

Furthermore, a last-minute, self-executing addition to the REAL ID Act would make even *immaterial* inconsistencies *not* related to the asylum claim a ground for denying asylum.

Insulate dysfunctional government agencies from federal court review. The REAL ID Act would prevent federal courts from reviewing virtually all discretionary actions of

the Department of Homeland Security in the immigration arena, no matter how erroneous or groundless the decisions may be.

For example, a Korean-American church that petitioned for a pastor from Korea would not be able to challenge the denial of its religious worker petition even if the DHS had articulated no grounds for denying the petition. That same church would not be able to challenge the denial even if the DHS had previously granted the same petition to the same church and the same pastor, and there had been no change in the circumstances.

Deport innocent people. The REAL ID Act would require noncitizens to prove a negative – that they did not knowingly support terrorism – by clear and convincing evidence. This provision would mandate the deportation of long-term lawful permanent residents who donated money for tsunami disaster relief in the Aceh province of Indonesia or in Tamil Tiger-controlled parts of Sri Lanka, not knowing that the organization that eventually received the money had a subgroup that the DHS considered to be a terrorist organization. Even more tragically, the REAL ID Act would mandate the deportation of their spouses and children unless they can show that they did not know or could not reasonably have known of their family member’s activities or renounce the activities to the government’s satisfaction.

Restrict APAs’ access to driver’s licenses and ID cards. The REAL ID Act would create a tripartite system for drivers’ licenses and ID cards that will disproportionately affect the APA community. U.S. citizens, lawful permanent and conditional residents, and asylees and refugees would have one type of license or ID. Nonimmigrants, asylum applicants, other noncitizens who are in the U.S. legally would have another type of license or ID. Undocumented immigrants would not have access to any license or ID at all.

Approximately 60% of the APA community was born outside the United States. We are a diverse mix of native-born and naturalized U.S. citizens; lawful permanent residents; refugees and asylees; legal non-immigrants in the United States to work or to study; and undocumented immigrants. APAs of different citizenship and immigration status often reside in the same family. The drivers’ license provision of the REAL ID Act will detrimentally affect the APA community in various ways.

Naturalized U.S. citizens (who are by definition born outside the United States) who do not have U.S. passports or access to their naturalization certificates may have difficulties getting their drivers licenses or ID cards because they cannot prove that they are U.S. citizens. Even naturalized U.S. citizens who have their citizenship certificates will likely face delays, as DHS will have to verify millions of documents showing citizenship or immigration status.

Legal nonimmigrants who are in the U.S. to work or study will be forced to carry drivers licenses or IDs that single them out from the general population. Furthermore, they will likely have tremendous difficulties getting or renewing their licenses or IDs, as many

employees of state Departments of Motor Vehicles will not understand the complexities of immigration law.

Finally, undocumented immigrants will be forced to drive without licenses and therefore auto insurance, resulting in more unsafe and dangerous roads for all Americans. Approximately one million undocumented immigrants from Asia will be forced deeper into the shadows of our society, more vulnerable than ever to exploitation by criminals and unscrupulous employers.

In addition to the foregoing provisions, amendments introduced the night before the House vote on the REAL ID Act included the following:

Allow people to be deported *before* the conclusion of their federal court cases. A last-minute, self-executing amendment added a section in the REAL ID Act that would allow the Department of Homeland Security (DHS) to deport noncitizens *before* the end of their federal court cases. This provision would allow the deportation of asylum seekers back to the countries where they may be killed or tortured *before* the federal court can determine whether they may in fact be eligible for asylum. It would also permit the deportation of long-term lawful permanent residents with strong family and community ties to the United States to be deported *before* the conclusion of their federal court cases.

Suspend the great writ of Habeas Corpus for the first time since the Civil War. The amendment discussed above would further restrict federal courts' ability to review the detention or deportation of immigrants by eliminating habeas corpus jurisdiction for immigrants in removal proceedings and by restricting the types of claims that immigrants can raise in federal court. In essence, the amended REAL ID Act would cut off the last remaining avenue of federal court review for certain immigrants, including some who are applying for protection under Convention Against Torture.

Empower bounty hunters to pursue, arrest, and detain immigrants. A last-minute amendment added by Rep. Pete Sessions (R-Texas) would give bail bondsmen unprecedented power to pursue, arrest, and detain immigrants who have not yet completed removal proceedings (and therefore may not be deportable at all, either because they are U.S. citizens, or because they are not deportable on the grounds with which they were charged, or because they have a relief from deportation), with no safeguards to protect the civil rights of immigrants or their U.S. citizen families. It would also compel all federal, state, and local government agencies to disclose any information that the bail bondsmen may find helpful in capturing these immigrants.

For the foregoing reasons, we respectfully urge you to oppose the REAL ID Act.

National:

Asian and Pacific Islander American Health Forum
Asian Pacific American Labor Alliance, AFL-CIO
Association of Asian Pacific Community Health Organizations (AAPCHO)

Hmong National Development
Japanese American Citizens League
National Asian American Pacific Islander Mental Health Association
National Asian Pacific American Bar Association
National Asian Pacific American Legal Consortium
National Asian Pacific American Women's Forum
National Coalition for Asian Pacific American Community Development (National CAPACD)
National Federation of Filipino American Associations (NaFFAA)
National Korean American Service & Education Consortium (NAKASEC)
Organization of Chinese Americans
Sikh American Legal Defense and Education Fund (SALDEF)
Sikh Coalition
South Asian American Leaders of Tomorrow (SAALT)
South Asian Network

Local:

Alliance of South Asians Taking Action (ASATA), San Francisco, CA
Arab American Community Coalition, Seattle, WA
Asian American Legal Defense and Education Fund (AALDEF), New York, NY
Asian American Resource Workshop, Boston, MA
Asian Counseling & Referral Service, Seattle, WA
Asian Law Alliance, San Jose, CA
Asian Law Caucus, San Francisco, CA
Asian Pacific American Legal Center, Los Angeles, CA
Catholic Charities Hawaii
Center for Career Alternatives, Seattle, WA
Center for Seniors, Chicago, IL
Comprehensive Korean Self-Help Center, Chicago, IL
H Visa Survey, New York, NY
Hate Free Zone Campaign, Seattle, WA
Indo-American Democratic Organization, Skokie, IL
Indo-American Friendship Forum (IAFF), Seattle, WA
Korean American Apt. Representatives Ass'n, Chicago, IL
Korean American Association of Chicago, IL
Korean American Chamber of Commerce, Chicago, IL
Korean American Community Services, Chicago, IL
Korean American Human Service Coalition, Chicago, IL
Korean American Resource & Cultural Center, Chicago, IL
Korean American Senior Center, Chicago, IL
Korean American Woman in Need (KAN-WIN), Chicago, IL
Korean Resource Center, Los Angeles, CA
Korean YWCA, Chicago, IL
Na Loio - Immigrant Rights and Public Interest Legal Center, Honolulu, HI

Papa Ola Lokahi, Honolulu, HI
Raksha, Inc., Atlanta, GA
South Asian Progressive Action Collective, Chicago, IL
Washington Asian Pacific Islander Families Against Substance Abuse (WAPIFASA),
Seattle, WA
YKASEC - Empowering the Korean American Community, Flushing, NY