



human rights *first*

THE NEW NAME OF
LAWYERS COMMITTEE FOR HUMAN RIGHTS

March 30, 2005

Re: Refugees and the *REAL ID Act* (H.R. 418)

Dear Senator:

I write to express the strong opposition of Human Rights First to Sections 101, 103, 104 and 105 of the *REAL ID Act* (H.R.418). If enacted, these provisions will endanger the safety and lives of refugees who seek the protection of the United States. We believe these provisions will increase the risk that victims of persecution will be forced back into danger. We urge you to oppose these provisions of the *REAL ID Act* and to reject any effort to attach them to legislation without full consideration by the appropriate committees of jurisdiction.

For twenty-five years, Human Rights First has provided *pro bono* legal representation to refugees who seek asylum in this country. Many were forced to flee in fear of their lives, persecuted because of who they are or what they believe. They are political dissidents, journalists, members of minority ethnic groups, parents who resisted coercive population control measures, and members of persecuted religions. Some have suffered torture, rape or other horrific abuses. They need our protection.

Based on these years of experience in helping refugees navigate the difficult process of seeking asylum, we know first-hand the devastating impact the provisions of the *REAL ID Act* would have on vulnerable refugees. Section 101 of the *Act* would:

- Allow the government to deny asylum to a refugee who *testifies credibly* if she is unable to track down evidence to corroborate that credible testimony;
- Require a refugee to prove what his persecutor's "central" reasons were for harming him - essentially penalizing a refugee who cannot demonstrate with precision the various motives of his persecutors; and
- Give an immigration officer or immigration judge broad leeway to deny a refugee asylum based on subjective conclusions about his "demeanor" or on an immaterial or minor inconsistency in testimony.

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Section 101 would overturn decisions of *several different* Federal Circuit Courts, as well as precedent of the U.S. Department of Justice's Board of Immigration Appeals. The bill's provisions on determining credibility fail to recognize the well-established fact that refugees who suffer from the after-effects of torture and trauma -- including survivors of rape or forced abortions -- may appear lacking in emotion or have difficulty making eye contact, making "demeanor" a particularly poor indicator of credibility.

Section 105 of the *REAL ID Act* would deprive federal courts of the power to issue a stay to prevent someone from being sent back to the country from which they fled while their case is pending before the court. This could lead to a situation in which a refugee is granted the protection of the United States under the law, but that "protection" is meaningless because he has already been returned to the government agents who mean him harm.

Sections 103 and 104 would broaden inadmissibility, deportability, and exclusion from asylum to allow even the wives and children of victims of terrorism to be deported or barred from refugee protection.

The law's existing definitions of "terrorism" and "terrorist activity" have been interpreted so broadly that victims of extortion by terrorist or militant groups are already being denied asylum in the United States. But these new provisions would also make deportable and ineligible for refugee protection anyone who "espoused" virtually any use of arms that would be unlawful in the country where it would be committed. So, for example, these provisions would require the deportation of a Cuban resident in the U.S. who, frustrated at the Castro regime's jailing of political dissidents, publicly complains that only the armed overthrow of Castro will bring change in Cuba.

It is important to note that anyone who engages in terrorist activity is already inadmissible, deportable, and barred from asylum under U.S. law. The law specifically bars from asylum anyone who is or may reasonably be considered a danger to the security of the United States, anyone who has been convicted of committing a serious crime, as well as anyone who prepares or plans terrorist activity, anyone who gathers information on potential targets for terrorist activity, anyone who solicits funds for terrorist activity, and anyone who provides material support to anyone who has committed or plans to commit a terrorist act.

The proponents of this legislation argue that it is needed to ensure the safety and security of the American people. We share that critical objective, but firmly reject their misguided approach. These provisions will not advance that objective, but will harm the victims of human rights abuses, torture, and religious and political persecution who seek the protection of this country. We urge you to ensure that this country's tradition of protecting the persecuted is upheld.

Thank you for your consideration of our views.

Sincerely,



Eleanor Acer
Director, Asylum Program
Human Rights First