

The Honorable Janet Napolitano
Secretary of Homeland Security
Washington, D.C. 20528

August 23, 2013

Dear Secretary Napolitano,

We write on behalf of the 3,500 people in the United States who have already passed the difficult test to prove they are refugees and are waiting to go through additional security checks so they can finally become permanent residents of the United States and reunite with their families. We also write on behalf of refugees who remain in dangerous situations abroad, who remain eager to prove to the Department of Homeland Security that they pose no terrorist or security threat to the United States. All of these refugees have been stuck in legal limbo by immigration law definitions of “terrorism” that are widely acknowledged to be harming refugees the United States is committed to protect.

We urge you to use the authority designated to you by Congress to finally fix this problem for the thousands of refugees and asylees who have been mislabeled as “terrorists” before you leave office in September. The principles of fairness and family unity should be applied to these refugees and asylees, who were admitted to this country legally and have been waiting for as long as ten years to obtain permanent legal status and reunite with their spouses and children.

In 2001, Congress enacted legislation that significantly broadened the definition of “terrorist activity.” Because the definition was so broad, it encompassed some activities that had no real-life connection to terrorism. Many refugees seeking safety – including those with family already in the United States – were barred from entering the U.S., and many refugees and asylees already offered protection and living in the U.S. were barred from obtaining green cards and reuniting with family members. A bipartisan coalition in Congress led by Senators Patrick Leahy (D-VT) and Jon Kyl (R-AZ) amended the law in 2007 to authorize the Administration to exempt persons with no actual connection to terrorism from the broad anti-terrorism provisions of the immigration law.

Last year, in commemoration of the 60th anniversary of the United Nations Refugee Convention, the Administration pledged to “significantly reduce” cases that are on hold by the end of fiscal year 2012, and to review, by the end of calendar year 2012, current interpretations of the immigration law’s national security exclusion grounds “to better ensure that those in need of protection retain eligibility for it.” We welcomed your August 2012 announcement that refugees in the United States already granted protection whose applications for permanent residence or family reunification have been on hold for years will finally be given the opportunity to pass all required security and background checks to have their cases adjudicated on a case-by-case basis.

Today, we are disappointed that this policy announcement has not yet resulted in a significant reduction in the number of cases on hold, and note that the hope the August announcement gave to these refugees has faded. We urge you to take the following steps to fully implement the exemption authority currently available under the law:

- Sign additional group exemptions – many of which have been under consideration for months or even years – to allow the prompt adjudication of cases of individuals who do not bear any responsibility for human rights abuses or crimes and pose no threat to the security of

the United States. Progress in this area is particularly urgent with respect to refugees who are applying for asylum or resettlement now.

- Ensure prompt implementation of the August 2012 exemption announcement for refugees and others who were already granted asylum or other lasting status and whose applications for permanent residence or family reunification have been on hold for 10 years or more in some cases.
- Allow US Citizenship and Immigration Service officers to examine and provide relief where appropriate to individuals – on an individual, case-by-case basis—who had voluntary associations with “Tier III” groups. This includes refugees abroad in urgent need of resettlement and those currently seeking protection here in the United States, who were not helped by the recent change in policy and are still waiting for their cases to be considered. The “Tier III” groups with which these refugees were associated are not designated as terrorist groups or treated as such by the U.S. government in any other context. In many cases they are long defunct or are groups the U.S. government sympathizes with and even supports. The current approach, involving centralized review of each Tier III group before an individual who engaged in voluntary activities on behalf of the group can be granted an exemption, has proved to be unworkable.
- Review and revise current legal interpretations of what specifically constitutes “material support” under current immigration law. Statutory interpretations should and in our view can easily be brought into line with the purpose of the law, which was to exclude and deny relief to persons who are responsible for or provide meaningful support to terrorist acts or groups and who pose a terrorist threat to the U.S.

This is a matter of compelling concern to each of us and to the organizations with which we are associated, and we urge you in your last months as Secretary to finally resolve this problem that has caused so much pain and uncertainty for so many. On grounds of compassion, good policy and the rule of law, we call on you to resolve this matter quickly so that refugees– including those who remain at risk abroad – can finally find safety in the United States.

Sincerely,

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