

December 12, 2013

The Honorable Robert Goodlatte
Chairman
House Committee on the Judiciary
2309 Rayburn House Office Building
Washington, D.C. 20515

The Honorable John Conyers, Jr.
Ranking Member
House Committee on the Judiciary
2426 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Goodlatte and Ranking Member Conyers:

We, the undersigned 118 legal experts and organizations including civil rights, human rights, and faith-based organizations and non-profit legal service providers, respectfully write to discourage new restrictions to the asylum system. Our organizations include experts and practitioners in asylum and immigration law with experience representing arriving asylum seekers, including survivors of torture, rape, sexual assault and other forms of religious, political, and other persecution.

For decades, the United States has served as a refuge for individuals fleeing persecution on account of their race, religion, nationality, political opinion, or social group. American values reflect a moral duty to ensure the well-being of those seeking refuge in our country, and legal obligations under domestic and international law require protecting refugees who reach our borders. The bi-partisan Refugee Act of 1980 enshrined into domestic law our legal commitment to sheltering the persecuted, a commitment that we have repeatedly renewed in legislation to protect victims of torture.

The “credible fear” process is in many cases the only mechanism that stands between an arriving asylum seeker and immediate deportation. As part of the 1996 immigration laws, Congress created an “expedited removal” provision that allows for the summary deportation of those who, like many asylum seekers, arrive at our borders without valid entry documents. At the same time, Congress created the credible fear process as a safeguard to this process in order to try to protect those fleeing torture or persecution from being immediately deported. Under the credible fear process, U.S. Customs and Border Protection officials must refer a migrant who expresses a fear of persecution or torture to U.S. Citizenship and Immigration Services (USCIS), which determines whether that person’s fear is “credible.” Unless or until USCIS determines that an individual is found to have a credible fear, he or she is subject to mandatory detention. A person whose fear is not found to be “credible” is subject to immediate deportation.

The credible fear process, which also triggers initial security checks, is only the first of many steps in the asylum process for those apprehended at or between ports of entry. A finding of “credible” fear is not the equivalent of a grant of asylum. Furthermore, when an individual’s fear is found to be “credible,” the government still has the authority to keep detained anyone it believes may be a threat to public safety or national security or a flight risk. An individual who passes the credible fear interview is not

automatically admitted into the United States; rather, he or she is immediately placed into removal proceedings. The asylum seeker can make a defensive claim before an immigration judge—sometimes from detention, and often without an attorney—and if the judge denies the claim, the person is ordered removed. If the judge grants the claim, the individual is subject to extensive security and background checks before receiving permission to remain in the United States. An asylum seeker is not eligible for asylum if found to be a terrorist or persecutor of others, and is subject to a permanent bar from receiving any immigration relief if he or she is found to have submitted a fraudulent application.¹

While asylum seekers undergo the rigorous and lengthy credible fear and removal process, they often sit in costly immigration detention facilities that are generally ill-equipped to handle their mental and physical health needs. Detention often aggravates an asylum seeker's post-traumatic stress disorder (PTSD) or other mental health conditions.² Indeed, earlier this year, the bi-partisan U.S. Commission on International Religious Freedom found that the U.S. government often detains asylum seekers in inappropriate jail and jail-like facilities.³ While some who pass a credible fear interview may be eligible for a bond hearing, only a narrow category of asylum seekers—those apprehended *at* ports of entry—are eligible for consideration for parole under existing guidance, and only *if* the government determines that they do not pose a flight risk or a danger to the community.

Rather than exploring more restrictions, there are critical steps policymakers could take to increase the integrity of the asylum system, including decreasing the use of unnecessary detention, more robustly funding the immigration courts and asylum office, and ensuring that officials are properly screening for potential fear of return. The U.S. Commission on International Religious Freedom found that sometimes those expressing fear at the border are not even referred for a credible fear interview, revealing significant gaps in the screening process.⁴ Although in some cases individuals who have passed a credible fear interview are released, in other cases, asylum seekers held in prolonged detention abandon their cases altogether due to the trauma they experience by being unnecessarily held in detention. Furthermore, asylum seekers placed into removal proceedings face drastically underfunded and under-resourced immigration courts, facing long wait times as they await the hearing that determines whether they will receive protection in the United States or return to persecution or torture.

Rolling back protections in the asylum process would harm those in need of protection by discouraging *bona fide* asylum seekers from applying for relief, creating more strain on a costly and already over-used immigration detention system, and, worst of all, deporting those who are legitimately in need of protection back to the terrors they have fled. Fraud and abuse of the asylum system can and should be investigated using the many tools at the government has at its disposal to do so. However, in order for the United States to continue meeting its obligations and serving as a safe haven for the persecuted, it

¹ For more information, see *Bars and Security Screening in the Asylum and Refugee Processes* at <http://www.humanrightsfirst.org/wp-content/uploads/HRF-Security-Safeguards.pdf> and *Anti Fraud and Security Safeguards in the Asylum System* at http://www.humanrightsfirst.org/wp-content/uploads/pdf/ANTI-FRAUD_AND_SECURITY_SAFEGUARDS_IN_THE_ASYLUM_SYSTEM.pdf.

² See, for example, *Tortured & Detained*, Center for Victims of Torture, November 2013 at http://www.cvt.org/sites/cvt.org/files/Report_TorturedAndDetained_Nov2013.pdf or *Jails and Jumpsuits: Transforming the U.S. Immigration Detention System—a Two Year Review*, Human Rights First, 2011, <http://www.humanrightsfirst.org/wp-content/uploads/pdf/HRF-Jails-and-Jumpsuits-report.pdf>

³ *Assessing the U.S. Government's Detention of Asylum Seekers: Further Action Needed to Fully Implement Reforms*, U.S. Commission on International Religious Freedom, April 2013, at <http://www.uscirtf.gov/images/ERS-detention%20reforms%20report%20April%202013.pdf>.

⁴ *Report on Asylum Seekers in Expedited Removal*. U.S. Commission on International Religious Freedom, 2005, at <http://www.uscirtf.gov/reports-and-briefs/special-reports/1892.html>

must be able to do the job with which it is tasked: carefully screen for those with a credible fear of return and make meaningful, case-by-case assessments of the actual need to detain.

We thank you for your consideration of these important issues and urge you to uphold and strengthen our nation's commitment to protect the persecuted.

Sincerely,

National/International Organizations

American Civil Liberties Union

American Friends Service Committee

American Immigration Lawyers Association

American Jewish Committee

Americans for Immigrant Justice, formerly Florida Immigrant Advocacy Center

Amnesty International USA

Asian Americans Advancing Justice-AAJC

Asylum Access

Casa de Esperanza: National Latina Network for Healthy Families and Communities

Center for Gender & Refugee Studies

Center for Victims of Torture

Church World Service

Columban Center for Advocacy and Outreach

Conference of Major Superiors of Men

Council for Global Equality

Council on American-Islamic Relations (CAIR)

Detention Watch Network

Family Equality Council

Friends Committee on National Legislation

GetEQUAL

HIAS

Human Rights Campaign

Human Rights First

Human Rights Watch

Immigration Equality Action Fund

Jesuit Refugee Service/USA

Kids in Need of Defense (KIND)

Lambda Legal

Leadership Conference on Civil and Human Rights

Leadership Conference of Women Religious

Love Exiles Foundation

Lutheran Immigration and Refugee Service

Marriage Equality USA

Mennonite Central Committee U.S. Washington Office

National Asian Pacific American Bar Association (NAPABA)

National Center for Lesbian Rights

National Center for Transgender Equality

National Coalition of Anti-Violence Programs (NCAVP)

National Council of Jewish Women

National Gay & Lesbian Chamber of Commerce

National Gay and Lesbian Task Force Action Fund

National Immigrant Justice Center

National Immigration Forum

National Immigration Law Center

National Latina Institute for Reproductive Health

National Queer Asian Pacific Islander Alliance
NETWORK, A National Catholic Social Justice Lobby
South Asian Americans Leading Together (SAALT)
Southeast Asia Resource Action Center
Tahirih Justice Center
The Advocates for Human Rights
The Episcopal Church
Transgender Law Center
Unid@s
U.S. Committee for Refugees and Immigrants (USCRI)
United We Dream
We Belong Together
Women's Refugee Commission
World Relief

State and Local Organizations

AACI Center for Survivors of Torture
California

Advocacy for Justice and Peace Committee of the Sisters of St. Francis of Philadelphia
Pennsylvania

Advocates for Survivors of Torture and Trauma
Maryland and Washington, D.C.

American Gateways
Texas

Asian Americans Advancing Justice-Los Angeles
California

Capital Area Immigrants' Rights Coalition
Washington, D.C.

Casa Latina

Washington

Coalition for Humane Immigrant Rights of Los Angeles (CHIRLA)

California

Community Legal Services in East Palo Alto

California

Congregation Or Chadash

Illinois

DRUM - Desis Rising Up & Moving

New York

HIAS Pennsylvania

Pennsylvania

Human Rights Initiative of North Texas

Texas

Illinois Coalition for Immigrant and Refugee Rights

Illinois

Immigrant Law Center of Minnesota

Minnesota

Immigrant Legal Advocacy Project

Maine

JALSA - the Jewish Alliance for Law & Social Action

Massachusetts

Jewish Family Service of San Diego

California

Jewish Labor Committee Western Region

California

L.A Community Legal Center and Educational

California

Las Americas Immigrant Advocacy Center

Texas

Lawyers' Committee for Civil Rights of the San Francisco Bay Area

California

LGBTQ Immigrant Rights Coalition of Chicago

Illinois

Program for Torture Victims

California

Public Counsel

California

Refugee Representation Project of the Human Rights and Genocide Clinic at the Benjamin N. Cardozo School of Law

New York

Sisters of Mercy West Midwest Justice Team

Nebraska

Sisters of St. Joseph of Rochester

New York

Texas Civil Rights Project-Houston

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