

July 23, 2003

**The Honorable John Ashcroft  
6777**

Attorney General  
Department of Justice  
905 Pennsylvania Avenue, N.W.  
Washington, D.C. 20530

**VIA FACSIMILE: 202-307-**

**The Honorable Thomas J. Ridge  
282-8404**

Secretary of Homeland Security  
Department of Homeland Security  
Naval Security Station  
3801 Nebraska Avenue, N.W.  
Washington, D.C. 20393

**VIA FACSIMILE: 202-**

**RE: Prosecution of Asylum Seekers**

Dear Attorney General Ashcroft and Secretary Ridge:

We write on behalf of a diverse coalition of faith-based, human rights, immigrant rights and refugee rights organizations around the country to express our concern about the increasing criminal prosecution of asylum seekers who rely on false documents to enter the United States. Such prosecutions penalize refugees for using what is often their only means of escaping persecution and undermine the legal and ethical commitment of the United States to protecting those displaced by armed conflict and human rights abuses.

It recently came to our attention that asylum seekers arriving in Miami and Washington, DC are increasingly charged with document fraud. This practice is not only out of keeping with that demonstrated in other ports of entry, but is also contradictory to U.S. law. U.S. regulations recognize that refugees typically have no other recourse than to rely on false documents to escape persecution in their homelands; section 8 C.F.R. 270.2 (j) states that asylum seekers should not be fined for their use of fraudulent documents provided that they present themselves without delay to immigration authorities and show good cause for their illegal entry. The Board of Immigration Appeals, moreover, has stated that “there may be reasons fully consistent with the claim of asylum that will cause a person to possess false documents, such as the creation and use of a false document to escape persecution by facilitating travel” (In re O-D-, 21 I. & N. Dec. 1079, 1083 (BIA 1998)).

Moreover, international law recognizes the reality that refugees often have no choice but to resort to false documents. The 1951 Convention Relating to the Status of Refugees and the 1967 Protocol to the Convention, to which the United States is a party, imposes on states the obligation not to penalize refugees who enter or seek admission to their territory illegally. The UN High Commissioner for Refugees recently reinforced this principle through an advisory opinion that expresses concern about the U.S. prosecution of asylum seekers for the use of false documents before they have received a final decision in their asylum cases, noting that this practice is inconsistent with international standards (*copy attached*).

The effect that a conviction of document fraud has on an asylum seeker is devastating. He or she may be rendered ineligible for asylum and returned to a country to face further human rights abuses or even torture.

Refugees often have no choice but to use false travel papers in order to escape persecution. Many Jewish refugees, for example, were only able to escape Nazi Germany by using false documents. In fact, the United States has hailed Raoul Wallenberg, a Swedish diplomat who issued thousands of false passports to help Jews flee Nazi persecution, as a hero and granted him honorary U.S. citizenship.

We understand that the U.S. government faces serious security challenges and must take all reasonable steps to protect the security of the American people. For this reason, we are dismayed that precious prosecutorial and law enforcement resources would be wasted on penalizing a population that U.S. and international law recognize as particularly vulnerable. We urge you to take steps to ensure that the United States acts consistently with these fundamental values and obligations.

Thank you for your attention to this serious matter.

Sincerely,

Wendy Young  
Vice Chair, **Refugee Council USA**

Director of Government Relations, **Women's Commission for Refugee Women & Children**

*On behalf of the following organizations:*

Carol Khawly, JD, Legal Advisor  
**American-Arab Anti-Discrimination Committee (ADC), Washington, DC**

Timothy H. Edgar, Legislative Counsel

**American Civil Liberties Union, Washington, DC**

Sarah Craft, Policy Analyst

**American Friends Service Committee, Washington, DC**

Bill Frelick, Director, Refugee Programs

**Amnesty International USA, Washington, DC**

Margaret Fung, Executive Director

**Asian American Legal Defense and Education Fund, New York, NY**

Richard Konda, Executive Director

**Asian Law Alliance, San Jose, CA**

T. Van Do, Southeast Asian Community Advocate

Immigration Clinic Coordinator

**Asian Law Caucus, San Francisco, CA**

Debi Sanders, Executive Director

**CAIR Coalition, Washington, DC**

Sushil Narayanan, Staff Attorney

**Catholic Charities Immigration Legal Services, Archdiocese of Washington  
Washington, DC**

Cindy Koser, Director, Refugee Assistance Program

**Catholic Community Services, Seattle, WA**

Donald Kerwin, Executive Director

**Catholic Legal Immigration Network (CLINIC), Washington, DC**

Sister Faith Colligan

Margaret Cafferty *Fellow*

**Catholic Charities USA, Alexandria, VA**

Karen Musalo, Director and Stephen Knight, Coordinating Attorney

**Center for Gender & Refugee Studies**

**U. C. Hastings College of the Law, San Francisco, CA**

Rev. Joe Roberson, Director

**Church World Service Immigration & Refugee Program, New York, NY**

Jane Guskin

**Coalition for the Human Rights of Immigrants (CHRI), New York, NY**

Angela K. Plummer, Director/Staff Attorney  
**Community Refugee & Immigration Services, Columbus, Ohio**

C. Richard Parkins, Director  
**Episcopal Migration Ministries, New York, NY**

Heid Moll Schoedel, National Director  
**Exodus World Service, Bloomingdale, IL**

Cheryl Little, Executive Director  
**Florida Immigrant Advocacy Center, Miami, FL**

Leonard Glickman, President & CEO  
**Hebrew Immigrant Aid Society, New York, NY**

Ruth Spivack, Outreach Coordinator  
**Immigrant and Refugee Rights Project  
Washington Lawyers' Committee for Civil Rights and Urban  
Affairs, Washington, DC**

Patricia McManaman, CEO  
**Immigrant Rights and Public Interest Legal Center, Honolulu, HI**

Lavinia Limón, Executive Director  
**Immigration & Refugee Services of America/US Committee for Refugees  
Washington, DC**

Greg Wangerin, Executive Director  
**Interfaith Refugee and Immigration Ministries, Chicago, IL**

Judy Castranova, Diocesan Refugee Coordinator  
**Interfaith Refugee Ministry, New Bern, NC**

Paula Ettelbrick, Executive Director  
Dusty Araujo, Coordinator, Asylum Documentation Program  
**IGLHRC (International Gay and Lesbian Human Rights Commission),  
San Francisco, CA**

Arnold H. Leibowitz, President  
**International Refugee Research Institute, Washington, DC**

Robert Carey, Vice President for Resettlement  
**International Rescue Committee, New York, NY**

Rev. Richard Ryscavage SJ, Executive Director  
**Jesuit Refugee Service/USA, Washington, DC**

Kimberly J. Kinser, Esq.  
**Kinser Law Office, Herndon, VA**

Dr. Pary Karadaghi, Executive Director  
**Kurdish Human Rights Watch, Fairfax, VA**

Philip Hwang, Staff Attorney  
**Lawyers' Committee for Civil Rights, San Francisco, CA**

Eric Biel, Acting Director  
**Lawyers Committee for Human Rights, Washington, DC**

Mary St. John, Supervisor, Case Management Services, Refugee Resettlement  
**Lutheran Family Services in the Carolinas, Raleigh, NC**

Dr. Gove G. Elder, Sponsor Developer  
**Lutheran Family Services Refugee Resettlement Program of the Carolinas, Raleigh, NC**

Ralston H. Deffenbaugh, Jr. President  
**Lutheran Immigration and Refugee Service, Baltimore, MD**

Robin Phillips, Executive Director  
**Minnesota Advocates for Human Rights, Minneapolis, MN**

Beth Speich, Case Manager  
**Minnesota Council of Churches, Refugee Services, Minneapolis, MN**

Mark Franken, Executive Director  
**Migration and Refugee Services/United States Conference of Catholic Bishops Washington, DC**

Katherine Newell Bierman, Staff Attorney, Immigrant Rights  
**National Asian Pacific American Legal Consortium, Washington, DC**

Michele Waslin, Senior Immigration Policy Analyst  
**National Council of La Raza, Washington, DC**

Frank Sharry, Executive Director  
**National Immigration Forum, Washington, DC**

Susan Drake, Executive Director  
**National Immigration Law Center, Los Angeles, CA**

Sharon Lucas, Interim Executive Director  
**Northwest Immigrant Rights Project, Seattle, WA**

Ian Bratlie, Managing Attorney  
**Pennsylvania Immigration Resource Center, York, PA**

Samantha Morse, Asylum Network Coordinator  
**Physicians for Human Rights, Boston, MA**

Sarah Ignatius, Executive Director  
**Political Asylum/Immigration Representation Project, Boston, MA**

Elenora Giddings Ivory, Director  
**Presbyterian Church USA, Washington Office, Washington, DC**

James P. Delaney, Associate Director  
**Refugee & Immigration Services, Catholic Family Center, Rochester, NY**

KaYing Yang, Executive Director  
**Southeast Asia Resource Action Center, Washington, DC**

Layli Miller-Muro, Executive, Director  
**Tahirih Justice Center, Falls Church, VA**

Richard Foltin, Legislative Director and Counsel  
**The American Jewish Committee, Washington, DC**

Andrea G. Black, Executive Director  
Brooke Hammond, MSW  
**The Florence Immigrant and Refugee Rights Project, Florence, AZ**

Christopher Owens, Executive Director  
**Vive, Inc. An Organization for World Refugees, Buffalo, NY**

Ann Benson, Directing Attorney  
**Washington Defender Association's Immigration Project, Seattle, WA**

Morton Sklar, Executive Director  
**World Organization Against Torture USA, Washington, DC**

R. Timothy Ziemer, Rear Admiral, USN (ret), Executive Director  
**World Relief, Baltimore, MD**

John R. Welton  
Bethesda MD

cc: Lucy Clark, Acting General Counsel, Office of the Secretary, Department of Homeland Security

Michael J. Garcia, Acting Assistant Secretary, Bureau of Immigration & Customs Enforcement

Victor Cerda, Acting Principal Legal Advisor, Bureau of Immigration & Customs Enforcement

Molly Groom, Chief Refugee & Asylum Law Division, Bureau of Citizenship & Immigration Services