

On April 1, 2003 the following letter was sent by a group of 90 organizations including the Lawyers Committee for Human Rights to Secretary of Homeland Security Tom Ridge, urging that the Department of Homeland Security safeguard the rights of refugees and asylum seekers.

The coordination of this effort was conducted by the Refugee Council U.S.A.

April 1, 2003

Honorable Thomas J. Ridge
Secretary of Homeland Security
Department of Homeland Security
Naval Security Station
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Washington, D.C. 20393

Gordon R. England
Deputy Secretary of Homeland Security
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Dear Secretary Ridge and Deputy Secretary England:

We are writing to introduce ourselves and to urge that the Department of Homeland Security, as it makes critical decisions about the structure and functioning of the Department, implement safeguards to ensure the protection of those who seek refuge in this country. Our 90 organizations are faith-based and secular organizations, located across the country, that work on behalf of refugees and asylum seekers. We look forward to working with you as you assume responsibility for ensuring the safety of the United States as well as the safety of those who seek refuge within our borders.

The United States has a long tradition of providing protection to victims of political, religious and other forms of persecution. This country has granted refuge to a wide range of individuals: peaceful pro-democracy and human rights advocates jailed by repressive regimes; women persecuted in Afghanistan, Iran and elsewhere because of their resistance to restrictive gender-based rules; torture survivors from Liberia, Iraq, Tibet and other places; victims of religious persecution from China, Egypt, Sudan and the former Soviet Union; journalists targeted in Colombia, Haiti, and other countries because of their efforts to expose the truth; and many other victims of human rights abuses from around the world.

On March 1, Immigration and Naturalization Service functions, including those relating to asylum seekers and refugees, were transferred to the Department of Homeland Security. The many tasks that face your new department are indeed staggering. We recognize the challenges that you face as you take strides to protect this country's security. We firmly believe that the U.S. can both protect itself and protect the victims of human rights abuses who flee to this country in search of refuge. We are writing to voice our concerns and recommendations with respect to the vulnerable populations that we serve.

First, we urge that, with your strong leadership, the United States take steps to maintain and renew its long tradition of providing refuge to the persecuted. We urge that you ensure that this commitment not suffer given the many important obligations of the Department of Homeland Security. At this moment, thousands of refugees are waiting in dire, and in some cases dangerous, situations around the world to be resettled in the U.S. We look forward to working with you to improve the pace of refugee resettlement so that these refugees can be brought to safety in the U.S.

Second, we are deeply concerned that the transfer of immigration services and enforcement functions to three *separate* bureaus within the Department of Homeland Security – if not properly conducted and planned – could in fact exacerbate long-standing problems that plagued the Immigration and Naturalization Service for years. (*A copy of a paper, prepared by the Lawyers Committee for Human Rights, which details these concerns, is attached.*) With the new DHS structure, a refugee who seeks asylum at a U.S. airport or border – and is subject to expedited removal and “mandatory detention” -- will interact with three different DHS bureaus: the Bureau of Customs and Border Protection (BCBP) during immigration inspection and expedited removal; the Bureau of Citizenship and Immigration Services (BCIS) in connection with a credible fear determination and asylum matters; and the Bureau of Immigration and Customs Enforcement (BICE) which oversees detention facilities and jails.

We understand that the Department is in the process of making critical decisions about the structure and functioning of the Department. We urge that the Department, as it makes these important decisions, bear in mind the special situation of asylum seekers and refugees, the U.S.'s firm commitment to protecting the persecuted, and its obligations to these vulnerable groups under both U.S. law and international law. In particular, we urge that the Department:

- Create specific mechanisms at high levels to ensure that the interests of asylum seekers and refugees – including those who are subject to the jurisdiction of the BCBP and BICE – are protected within the new Department.
- Devise a structure that will ensure that the Department, its three immigration-related bureaus, and any other entities within, will accurately and consistently apply the legal standards relating to asylum and refugee issues and will ensure that the legal guidance of BCIS attorneys on asylum and refugee matters is followed by other bureaus and entities within the DHS and by individual “trial attorneys.” These legal standards stem from the 1951 Convention Relating to the Status of Refugees and the 1967 Protocol, to which the U.S. is a party.

- Maintain the professional Asylum Corps and, as decided last year, launch a professional Refugee Corps within BCIS. We welcome the DHS's decision to maintain these two professional corps.
- Devote the necessary resources to ensuring that the pace of refugee resettlement is improved so that the U.S. can meet its resettlement targets.
- Create mechanisms to ensure adequate oversight of immigration inspections by high level officials within DHS, BCBP and BCIS (which is charged with improving immigration "services" and has substantial asylum expertise). These mechanisms should include a reinvigorated high-level expedited removal working group and regular additional training of inspectors by the asylum division. Credible fear interviews should continue to be conducted by trained BCIS asylum officers. The involvement of trained asylum specialists in the conduct and oversight of expedited removal processing at airports and other ports of entry should be expanded.
- Institute concrete mechanisms to ensure that BCIS, which has the most direct expertise in asylum issues, has direct and supervisory oversight of and input into issues surrounding the detention of asylum seekers. Parole determinations for asylum seekers should be conducted and overseen by BCIS, which is charged with handling asylum determinations.
- Ensure that adequate resources are devoted to alternatives to detention, and in no case should resources that Congress has provided for alternatives *to* detention be spent on alternative forms *of* detention.
- Take steps to ensure that unaccompanied children are promptly transferred to ORR after apprehension by DHS, in compliance with the requirements of the Homeland Security Act and the *Flores Agreement*.

We look forward to working with you and others within the Department. We would suggest that a high-level official be designated to convene regular meetings between officials involved in the transition and interested organizations that work with non-citizens in order to discuss the future structure and functioning of the Department and the three new immigration bureaus.

Your attention to these important issues is deeply appreciated.

Sincerely,

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* Institutions listed with an asterisk are for informational purposes only, and the endorsers are the individuals. In all cases, the signers represent institutional endorsements.