

March 20, 2003

VIA FACSIMILE

Honorable Thomas Ridge
Department of Homeland Security
Naval Security Station
Nebraska and Massachusetts Avenues, NW
Washington DC 20393

Re: Detention of Asylum Seekers

Dear Secretary Ridge:

I am writing to express our concern about a recent announcement that the Department of Homeland Security has begun implementing a blanket policy to detain asylum seekers from certain unspecified countries, as part of "Operation Liberty Shield." The policy sends a disturbing message to the public, to refugees and to the world about the way the United States views those who flee repressive governments and seek refuge here. We believe this new policy is unnecessary, and violates relevant international standards. We urge you to revisit this decision, mindful that it will be seen by many people, here and abroad, as undermining the historic commitment by the United States to protect refugees and treat them fairly and humanely.

Through our *pro bono* representation program, the Lawyers Committee for Human Rights supervises hundreds of pro bono attorneys who represent refugees in their asylum cases. We have received numerous inquiries from these volunteer lawyers and from others around the country this week about the impact of the Department's new detention plan on the refugees they represent. The manner in which this new policy was announced, as part of a "press kit" with little detail or explanation, sparked added confusion and fear.

From the few details we have been able to gather about the new policy, it appears to target asylum seekers for detention based on their nationality. As such, the policy violates principles of fairness and due process that are enshrined in U.S. and international law. Blanket detention of asylum seekers is barred by Article 31 of the UN Convention relating to the Status of Refugee, to which the United States is a party. UNHCR guidelines provide that the detention of asylum seekers should normally be avoided and is justified only in limited cases prescribed by law. See UNHCR Revised Guidelines on Applicable Criteria and Standards Relating to the Detention of Asylum Seekers (February 1999). Governments have the burden of showing the necessity for

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detention of asylum seekers in prompt and fair individualized hearings before a judicial or similar authority.

The new policy appears not only to deprive asylum seekers of an individualized determination of the need for their detention, but would seem to authorize detention even for asylum seekers who present no security risk whatsoever and who otherwise merit release from detention. Such a policy is unnecessary. Existing law provides ample authority for the Department to detain any non-citizen whom it believes may pose a security threat or about whom it has insufficient evidence of identity. The Lawyers Committee is familiar with many cases of refugees who have fled torture and repression by regimes in countries such as Iraq, and other countries where terrorist groups like al Qaeda are active. Jailing these refugees, based solely on their nationality, during the pendency of their immigration proceedings will further traumatize many who continue to suffer the effects of the persecution and mistreatment they fled.

We are deeply concerned about the message that this policy will send to victims of persecution and to other countries around the world. The announcement that the United States intends to jail Iraqis who seek refuge in the United States, regardless of whether they have opposed Saddam Hussein and suffered at the hands of his regime, will be counter-productive. It will certainly undermine U.S. efforts to encourage other nations, in the region and elsewhere, to extend protection to the hundreds of thousands of Iraqi civilians who are likely to flee the conflict and seek safety outside Iraq.

Finally, we are disappointed that the Department of Homeland Security, which among its many other responsibilities is charged with the important obligation of protecting refugees who seek asylum in our country, has as its first major announcement relating to asylum, taken action on the eve of war which effectively labels refugees seeking asylum here as threats to our security. We fully appreciate the critical importance of the Department's mission in protecting the United States from harm, but we firmly believe that this mission can be accomplished in a fair and non-discriminatory manner. The new policy fails that test, and we urge you to rescind it.

We would welcome the opportunity to meet with you or your representatives to discuss this matter further. We urge you to give this matter the attention that it deserves.

Sincerely,



Michael Posner
Executive Director

cc: Assistant Secretary of State Arthur E. Dewey