

July 10, 2015

**The Honorable Secretary Jeh Johnson
U.S. Department of Homeland Security
Nebraska Avenue Complex
3801 Nebraska Avenue, N.W.
Washington, DC 20528**

**Attorney General Loretta Lynch
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001**

Re: DHS-OIG Report and Prosecution of Asylum Seekers in violation of Article 31 of the Refugee Convention and Protocol

Dear Secretary Johnson and Attorney General Lynch:

We, the undersigned faith-based, human rights, immigrant rights, and refugee protection organizations write to urge you to end the policy and practice of referring, and accepting, asylum seekers for prosecution for illegal entry and reentry and to take steps to ensure future compliance with U.S. obligations under the Convention and Protocol Relating to the Status of Refugees.

A recently released report from the U.S. Department of Homeland Security's (DHS) Office of the Inspector General (OIG) found that Customs and Border Protection (CBP) has been referring asylum seekers "expressing fear of persecution or return to Streamline prosecution" to the U.S. Department of Justice (DOJ). The report concludes that "[u]sing Streamline to refer aliens expressing fear of persecution, prior to determining their refugee status, may violate U.S. obligations under the 1967 United Nations Protocol Relating to the Status of Refugees, which the United States ratified in 1968."

Article 31(1) of the Refugee Convention, which the United States committed to comply with when it acceded to the Protocol in 1968, prohibits states from penalizing refugees for illegal entry or presence. Criminal prosecution clearly constitutes a penalty under Article 31, and a person who requests international protection should not be referred for prosecution but must have the opportunity to pursue their claim for protection to final decision in a fair procedure first. CBP's view that criminal prosecutions and protection claims should move ahead at the same time reflects a total lack of understanding of U.S. legal obligations under the Convention. The referral of individuals who are seeking U.S. refugee protection for criminal prosecution in the manner described by the OIG report squarely violates U.S. commitments under Article 31(1) of the Refugee Convention.

We urge DHS and DOJ to end prosecutions of individuals seeking protection in the United States, to develop guidance to safeguard asylum seekers from improper referral for criminal prosecution relating

to their entry or presence, and to implement more effective legal oversight of immigration enforcement and asylum matters to ensure compliance with U.S. commitments under the Refugee Convention, Protocol and human rights conventions and law.

U.S. compliance with these commitments will not only meet our nation's legal obligations, but it will also set an example for the rest of the world as the United States leads globally in efforts to protect refugees who have fled persecution and violence.

We request meetings with your legal, policy and other relevant offices to discuss these recommendations. Please contact Olga Byrne at ByrneO@humanrightsfirst.org to arrange a meeting with representatives from our groups.

Sincerely,

American Immigration Lawyers Association

Catholic Legal Immigration Network, Inc. (CLINIC)

Center for Gender & Refugee Studies

Florence Immigrant and Refugee Rights Project

HIAS

Human Rights Initiative of North Texas

Human Rights First

International Rescue Committee

Jesuit Refugee Service / USA

Kids in Need of Defense

Lutheran Immigration and Refugee Service

National Immigrant Justice Center

National Immigration Forum

Pangea Legal Services

Tahirih Justice Center

U.S. Committee for Refugees and Immigrants

Women's Refugee Commission

cc: Honorable John Kerry, Secretary of State

Honorable Anne Richard, Assistant Secretary of State, PRM