

February 22, 2016

VIA Express Mail

Secretary Jeh Johnson
Deputy Secretary Alejandro Mayorkas
U.S. Department of Homeland Security
3801 Nebraska Ave NW
Washington, DC 20016

RE: Request for Executive Action to Waive Discriminatory Prohibitions Based on National Origin under the Visa Program Improvement and Terrorist Travel Prevention Act

Dear Secretary Johnson and Deputy Secretary Mayorkas:

On behalf of the undersigned civil rights, immigrant rights, human rights, interfaith, and non-profit advocacy organizations, we strongly urge you to utilize the waiver authority provided under the Visa Waiver Program Improvement and Terrorist Travel Prevention Act (“VWP Act”) to ensure that individuals are not barred from the Visa Waiver Program (“VWP”) on the basis of their national origin or family heritage. Utilizing the waivers for this purpose is in the law enforcement and national security interest of the United States and is fully authorized by the VWP Act.

Under the VWP Act, individuals who are citizens of VWP countries and are also dual nationals of or have traveled to Iran, Iraq, Sudan, or Syria on or after March 1, 2011 are prohibited from traveling to the United States under the VWP. This mandatory bar to all persons whom are dual citizens and those whom have engaged in legitimate travel is discriminatory and does not advance U.S. national security or law enforcement interests.

Fortunately, the VWP Act includes authorization for the Administration to waive restrictions if doing so is in law enforcement or national security interest. Utilizing these waivers for dual nationals as well as for legitimate travel meets this standard.

Targeting individuals based on national origin or family heritage would divert resources from legitimate law enforcement activities. An individual’s national origin or family heritage is not a valid or useful criterion by which to judge whether they pose a security threat. Devoting resources to screen people based on their place of birth, residence, national origin, or family heritage is a diversion of resources and counterproductive to securing our nation.

Furthermore, targeting dual nationals also risks exacerbating a wedge of distrust between law enforcement and affected communities. Engaging in profiling against members of these communities will only serve to undermine communication and cooperation between these communities and law enforcement for actual legitimate law enforcement activities is destroyed.

Finally, prohibiting persons from the VWP based on these criteria risks undermining relationships and cooperation between the United States and its closest allies, which risks making the United States less secure. The European Union has already stated that it may suspend the

VWP program for all Americans, which would reduce important intelligence sharing and other cooperative efforts, as well as economic opportunities. Furthermore, even in lieu of full suspension, VWP countries may enact similar restrictions against Americans because the VWP is based on reciprocity. Any EU-imposed travel restriction would impact over 740,000 American citizens solely based on their national origin and/or family heritage.

In January 2016, Congressional members introduced in both the Senate and House the Equal Protection in Travel Act with bipartisan support. These legislative actions were taken in recognition of the fact that the prohibition against dual nationals under the VWP Act is discriminatory, perpetuates profiling based on national origin, is ineffective to actually address security, and directly contradicts American values. Nevertheless, ongoing legislative efforts that aim to remove the discriminatory national origin provision of the VWP do not replace the authority of the Executive to take action.

While we welcome the Department of Homeland Security – Customs and Border Protection agency implementation efforts to utilize waivers under the VWP Act for certain categories, the waivers thus far have not addressed concerns regarding dual nationals and other travel. Only by utilizing your legal authority waiver can this Administration protect dual nationals and shield targeting of these communities, and protect U.S. law enforcement and national security interests in the process. We strongly urge your Administration to utilize its authority to legally waive the dual nationality and travel ban provisions under the Visa Waiver Program Improvement and Terrorist Travel Prevention Act.

Sincerely,

National Organizations

American-Arab Anti-Discrimination Committee (ADC)
American Civil Liberties Union (ACLU)
American Immigration Lawyers Association (AILA)
Arab American Institute (AAI)
Asian Americans Advancing Justice (AAJC)
Bill of Rights Defense Committee/Defending Dissent Foundation
Church World Service
Council on American-Islamic Relations (CAIR)
Friends Committee on National Legislation
Institute for Policy Studies - New Internationalism Project
International Campaign for Human Rights in Iran
Iranian Alliances Across Borders
Iranian American Bar Association
Jewish Voices for Peace
Just Foreign Policy
KARAMAH: Muslim Women Lawyers for Human Rights
League of United Latin American Citizens (LULAC)
Refugee and Immigrant Center for Education and Legal Services (RAICES)
National Immigrant Justice Center
National Immigration Law Center
National Iranian American Council (NIAC)
National Korean American Service and Education Consortium (NAKASEC)

National Center for Lesbian Rights (NCLR)
National Network for Arab American Communities
Peace Action
Peace Action West
Public Affairs Alliance of Iranian Americans (PAAIA)
Reporters Without Borders USA
South Asian Americans Leading Together (SAALT)
Syria Relief and Development
The Sisters of Mercy of the Americas, Institute Justice Team
United for Iran
Unitarian Universalist Service Committee
U.S. Campaign to End the Israeli Occupation
U.S. Committee for Refugees and Immigrants
X-Lab

State/Local Organizations and Entities

Arab-American Family Support Center (New York)
Arab Community Center for Economic and Social Services (ACCESS -Michigan)
Bay Area Iranian-American Democrats
Cabrini Immigrant Services (New York)
Dar al-Hijrah Islamic Center (Virginia)
Illinois Coalition for Immigrant and Refugee Rights
Localini Incorporated
Massachusetts Immigrant and Refugee Advocacy Coalition
Needham (MA) Area Immigration Justice Task Force
North Carolina Justice Center
OneAmerica (Washington State)
PARS Equality Center (California)
Reformed Church of Highland Park (New Jersey)
The Hand Foundation

CC:

Holly Canevari, Holly Canevari, Chief of Staff, Office of the Assistant Secretary,
Department of Homeland Security

Mary Giovagnoli, Deputy Assistant Secretary, Office of Immigration and Border Security,
Department of Homeland Security

Serena Hoy, Senior Counselor, Office of the Deputy Secretary,
Department of Homeland Security

Megan Mack, Officer for Civil Rights & Civil Liberties, Office for Civil Rights & Civil Liberties,
Department of Homeland Security

Amy Pope, Deputy Homeland Security Advisor and Deputy Assistant to the President, National
Security Council, White House Executive Office of the President