

HIAS POLICY RESOLUTION

Special Registration of Nonimmigrant Visitors

Preamble

The Hebrew Immigrant Aid Society (HIAS) is an organization dedicated to the historic values of immigration, diversity and pluralism in American life. Throughout our over 120-year history, HIAS has recognized the absolute necessity of developing effective immigration measures to both protect our country from those from abroad who aim to enter our country and do us harm and defend the rights of refugees and other vulnerable people from around the world.

Beginning in August 2002, the Bush Administration began to issue a series of notices implementing a Special Registration Program to fingerprint, photograph and question nonimmigrant aliens – foreign nationals already residing in the United States – who are nationals of 24 predominantly Muslim countries as well as North Korea. “Willful” failure to register is a ground for removal, carries criminal penalties, and may be used to deny future immigration benefits. While authorization for Special Registration has existed since 1940, use of this special call-in program has been extremely rare.

During the first two rounds of the Special Registration Program, numerous significant and troubling problems have been identified that have produced widespread fear within the affected communities and raised concerns about governmental abuse of individual rights. These problems include detention of hundreds of visitors without particular suspicion of flight-risk, and initiation of removal proceedings against thousands of other foreign nationals, including many with pending claims for legal immigration status; allegations of mistreatment by the authorities – including overcrowded prison conditions, strip searches and insufficient and religiously inappropriate food supplies; failure to implement the program in a fair and uniform fashion across the country resulting in widely disparate treatment of foreign nationals in various INS districts; failure to provide adequate definitions of crucial elements of the registration requirements, thereby creating confusion as to the exact requirements of the program; and failure to provide accurate and timely public information about the pro-



gram to insure that all those required to register know their obligations.

Based on HIAS' history as an American Jewish migration agency, we are concerned that the Special Registration

Program may not fulfill its stated national security objectives, may undermine efforts to defeat terrorism and may utilize religious and ethnic factors in a discriminatory manner.

Our perspective on the Special Registration Program is affected in large measure by our Jewish heritage. We recall clearly the special call-ins of Jews in Germany and other parts of Europe during the Holocaust era. As a community that has suffered from discriminatory immigration policies in the past, with particularly tragic results during World War II, HIAS is deeply sensitive to programs that appear to target groups of migrants based on their ethnic or religious heritage.

While registration may well have merit as an immigration control mechanism, it is best discussed in the context of comprehensive immigration reform. Arguably it will not deter terrorists who are highly unlikely to submit to Special Registration requirements. Because for many the penalties for failing to register are no worse than the problems they will face if they do register, any migrant who does not have a perfect immigration file will be unlikely to come forward under the current program. As a result, we believe that the anticipated national security benefits may be significantly diminished and risks diverting crucial immigration enforcement resources to a program that may only serve to alienate immigrant communities whose cooperation and information will be needed to assist us in defeating terrorism. This danger specifically threatens our community both as Americans and as Jews.

To promote effective security policies while remaining true to our core values, HIAS believes that all national security oriented programs that utilize race, religion, ethnicity, or national origin should receive extremely stringent analysis before they are undertaken. The following questions should be addressed in this process: Are important individual rights threat-

ened by the policy? What is the scope of the infringement of the individual rights? How strong are the national security imperatives for the policy? Will the proposed plan meet the national security objectives? Could the national security objectives be met using a less discriminatory practice? Could implementation plans be developed to diminish the harm to individuals even if the underlying policy is justified? What are the long-term implications of a policy decision on both national security and individual liberty?

Since the stakes for national security, civil liberties and immigrant rights are so high, HIAS recognizes that government officials, NGOs and members of the general public may well differ in their evaluation of these crucial questions. HIAS seeks to work actively with colleagues in the Jewish, immigration and refugee communities to find common ground on these crucial policy matters. Despite any prospective differences, HIAS will work cooperatively with all governmental and nongovernmental partners on the critical issues facing our nation during these difficult times.

Notwithstanding concerns about the Special Registration Program, HIAS supports efforts by the Administration and Congress to create a more uniform and secure immigration system by focusing on visa issuance procedures at U.S. Consulates abroad and the immigration inspection process at ports of entry. The Departments of State and Homeland Security should be provided with the necessary resources and appropriate technologies to ensure that these programs succeed.

Resolutions

HIAS calls on the Administration to carefully review the Special Registration Program to ensure that it is an appropriate policy response to a clearly articulated national security need. Since the program affects so many fundamental American values, HIAS believes that Congress should hold oversight hearings to evaluate the policy rationale for Special Registration, the procedures utilized, and the overall costs and benefits of the program at this extraordinary time in our history. HIAS recommends that further implementation of this program be temporarily delayed until the review is completed, and if the national security imperative for the program is established, that the following implementation concerns be addressed.

- Immediate steps should be taken to end any mistreatment or other violations of the civil and human rights of current registrants, to prevent abuses in any future registration, and to ensure that those responsible for implementing the pro-

gram proceed with the utmost integrity, compassion, and accountability.

- Because the Special Registration Program is a national security rather than an immigration program, aliens – regardless of their immigration status – who volunteer to participate in the program should not be detained or removed based on information provided during interviews unless they are a threat to society. Most importantly, registrants with pending claims for legal status, or who will be eligible to regularize their status under § 245(i) of the Immigration and Nationality Act, should not be subject to detention or removal unless they pose a threat to society.
- A uniform and fair set of procedures that clearly, accurately and definitively articulates all requirements for the program must be consistently used across the country, with continuing supervision on the national level. Ambiguous terms such as “national” must be defined so that no question exists as to which aliens are required to register. Congress should provide sufficient resources so that the registration process can be carried out in an efficient, consistent, and humane manner.
- Because failing to register carries such severe consequences, the Administration should utilize every possible means to work with local communities to inform potential registrants of the details of the program. Due to continued confusion surrounding the rules for Special Registration, aliens should uniformly be permitted to register without penalty despite missing deadlines.
- Problems relating to the departure provisions of the Special Registration rules must be resolved so that registered aliens have the greatest number of acceptable ports of departure. The information must be clearly explained and widely disseminated so that registrants do not inadvertently leave the United States from an incorrect departure point, or follow incorrect procedures – thereby making themselves inadmissible to the United States in the future.

HIAS believes that the review of the Special Registration Program, and the possible improvements in implementation, discussed above would provide our country with a better opportunity to create policies that are both effective and fair. As such they will best be able to contribute to the struggle against terrorism and the challenges faced by the United States in the post-9/11 period

Approved, HIAS Board of Directors, March 3, 2003