Statement of
Church World Service
The Episcopal Church
HIAS
International Rescue Committee
Jesuit Refugee Service USA
Jubilee Campaign USA
Lutheran Immigration and Refugee Service
US Conference of Catholic Bishops
Women's Refugee Commission and
World Relief

Submitted to the Committee on the Judiciary of the U.S. House of Representatives
Hearing on February 11, 2015
Interior Immigration Enforcement Legislation

The Strengthen and Fortify Enforcement Act, also known as the SAFE Act, would negatively impact individuals fleeing persecution, including refugees, asylum seekers, and stateless people. This legislation worsens expansive laws targeting terrorism that instead have consequences for refugees and asylees. It expands our immigration detention system that currently holds many torture survivors, asylum seekers, and others seeking protection in the United States from persecution in their home countries. Finally, it unwisely delegates the enforcement of our national immigration laws to state and local law enforcement agencies despite demonstrated instances of profiling and subsequent weakening of community safety.

In 2001, Congress enacted legislation that significantly broadened the definition of "terrorist activity." Because the definition is so broad, it is encompassing some activities that have no real-life connection to terrorism. Refugees who fled because they were forced to provide money or services to terrorists, and those who

supported freedom fighters rising up against the most repressive regimes in the world, are mislabeled as "terrorists" under the expansive law.

The provisions that created these new bars to admission are collectively known at the "TRIG" or "material support" provisions. For nearly a decade they have been causing tremendous unnecessary hardship for individuals who have fled persecution.

Under these provisions, many refugees seeking safety – including those with family already in the United States – are barred from entering the U.S. In addition, many refugees and asylees already granted protection and living in the U.S. legally are barred from obtaining green cards and reuniting with their spouses and children who remain in dangerous situations abroad.

A bipartisan coalition in Congress led by Senators Patrick Leahy (D-VT) and Jon Kyl (R-AZ) amended the law in 2007 to authorize the Administration to exempt persons with no actual connection to terrorism from the broad anti-terrorism provisions of the immigration law.
However, because of the sweeping nature of the law, and the Administration's slow implementation of its authority to grant exemptions in deserving cases, thousands of people in the United States and abroad have been stuck in legal limbo by immigration law definitions of "terrorism" that are widely acknowledged to be needlessly harming refugees the United States is committed to protect.

As Congress considers reforms to our immigration system, it should be fixing this problem for the thousands of refugees and asylees who have been mislabeled as "terrorists."

Instead the SAFE Act would make the problem even worse.

Sections 202 and 203, "Terrorist Bar to Good Moral Character" and "Terrorist Bar to Naturalization," would bar from a finding of good moral character and naturalization, anyone who is described as a "terrorist" under section 212(a)(3)(b) of the Immigration and Nationality Act. While on its face this may seem reasonable, in fact, this provision would bar law abiding refugees who have lived in the U.S. for years or even decades from naturalization.

The Department of Homeland Security (DHS) and the Department of Justice interpret the term "terrorist activity" to include *any amount and all types of support* to armed opposition to any established government, no matter how repressive, and even to include acts committed under duress. Support can include providing small amounts of money or food, attending meetings or joining groups, and even political speech. Under these agencies' interpretation of the law, *even if this "support" is coerced*, it can bar a refugee's admission to the United States or adjustment to permanent resident status.

Under this legal interpretation, even survivors of the Warsaw Ghetto uprising are considered "terrorists," as are Iraqis who rose up against Saddam Hussein and fought alongside Coalition forces, Afghan groups that fought the Soviet invasion of Afghanistan with U.S. support, democratic opposition parties in Sudan and the South Sudanese opposition movement (that is now the ruling party of South Sudan), nearly all Ethiopian and Eritrean political parties and movements, religious and other minority groups that fought the ruling military junta in Burma, and any group that has used armed force against the regime in Iran since the 1979 revolution.

The assumption that "aliens described in section 212(a)(3)" are "Persons Endangering the National Security" is a false one. This is one of the core problems with the INA's terrorism-related

inadmissibility grounds, and is also the reason why Congress gave the Administration statutory authority to grant people exemptions from those grounds. We are concerned that this provision could even result in the denial of naturalization for refugees who have gone through the arduous process of being granted an exemption from the terrorism bars by the Department of Homeland Security.

Section 206, "Background and Security Checks" would require DHS to complete background and security checks before granting any immigration application, including for employment authorization, or any immigrant or non-immigrant petition, or before issuing any proof of status to a person. This could have serious consequences for applicants for immigration benefits or relief, including those who apply for asylum, whose security and background checks are grossly delayed for reasons beyond their control and who are ultimately cleared. Individuals mislabeled as terrorists whose cases have been on hold while the Administration slowly develops procedures for issuing exemptions from the terrorism bars under the Kyl-Leahy agreement would be denied work authorization while their cases drag out for years.

Additionally, **Title I** of the SAFE Act would expand the role of state and local law enforcement agencies in enforcing federal immigration law. By granting states and localities full authority to create, implement, and enforce immigration laws, the Act would hand state and local police officers vast authority without federal oversight. The approach could lead to racial profiling and discrimination. Those who "look undocumented," including refugees and asylees, would be subject to law enforcement stops, arrests, and detention. This approach could decrease public safety by fostering a fear of law enforcement in migrant and refugee communities making survivors and witnesses of crimes less willing to cooperate with law enforcement.

Finally, **Section 107** of the SAFE Act requires DHS to add

additional detention facilities to the network of over 200 jails and jail-like facilities used to detain individuals in immigration proceedings or awaiting repatriation. **Section 310** also eliminates current prohibitions on indefinite detention of individuals for immigration purposes. Many individuals seeking protection in the United States from persecution and torture in their home countries would be directly harmed by these changes. Notably, stateless individuals often spend significant lengths of time in immigration detention given their inability to obtain travel documents.

The SAFE Act undermines our nation's legal obligations to refugees and would cause unnecessary hardship for those who seek and those who have already proved they are legitimate refugees and have received protection in the United States.