



RESOLUTION SUPPORTING EFFORTS TO ASSIST SOUTHEAST ASIAN AMERICANS IN DANGER OF DEPORTATION

Endorsed June 2014

WHEREAS, the Coalition of Bar Associations of Color (CBAC), organized in 1983, is a coalition created to act as a collective voice for issues of common concern to its member organizations; and

WHEREAS, the member organizations of the Coalition of Bar Associations of Color are the Hispanic National Bar Association (HNBA), the National Asian Pacific American Bar Association (NAPABA), the National Bar Association (NBA), and the National Native American Bar Association (NNABA);

WHEREAS, the enforcement of immigration law and policy is having a negative and detrimental effect on refugee groups, such as Asian Pacific American refugees groups, including, but not limited to, approximately 1,500 Cambodian residents and their families;

WHEREAS, the combined effect of the 1996 Antiterrorism and Effective Death Penalty Act ("AEDPA") and the Illegal Immigration Reform and Immigrant Responsibility Act ("IIRIRA"), which eliminated judicial discretion from the criminal-alien removal process and expanded the categories of mandatory deportation, has caused a hardship upon Asian Pacific American families, including but not limited to, Cambodian American refugees;

WHEREAS, the application of the AEDPA and IIRIRA are punitive in nature and lack due process principles, including judicial discretion, mandatory legal counsel, as well as the concepts of rehabilitation and proportionality;

WHEREAS, the United States Supreme Court has held that the indefinite detention of immigrants whose removal or deportation is not reasonably foreseeable is unconstitutional and defies the principles of our justice system;

WHEREAS, the AEDPA and IIRIRA provisions enacted in 1996, which allow for the deportation of individuals who were convicted of crimes retroactively, (i.e., pre-1996, that were not deportable offenses at the time), are unconscionable and detrimental to notions of fairness and notice;

WHEREAS, many individuals convicted under these provisions were in effect deprived of sound legal counsel, as neither their lawyers nor the judges at that time could have properly advised them of the prospective immigration effects of their pleas and/or convictions;

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WHEREAS, the deportation and repatriation of Cambodian refugees pursuant to the *2002 Memorandum of Understanding with Cambodia* violates International Refugee Protection Laws and Human Rights Standards because they forcibly expel individuals who have properly received refugee status in the United States to the country he or she originally fled; and

WHEREAS, the application and effect of the AEDPA and IIRIRA have caused Asian Pacific American families, including American citizen children and spouses, to be permanently separated and have returned many culturally American individuals to countries that very few of them even remember.

NOW THEREFORE BE IT RESOLVED, that CBAC calls for Congress to introduce legislation to amend the AEDPA and IIRIRA (hereinafter the "Acts") to:

- Eliminate the retroactive effects of the Acts;
- Eliminate non-violent and misdemeanor offenses (as described by the sentencing jurisdiction) from the definition of crimes that mandate deportation;
- Allow for judicial discretion in removal proceedings involving those deemed to be deportable under the Acts; and
- Specifically allow immigration judges, prior to deciding whether to remove a criminal-alien, to consider:
 - a. evidence of rehabilitation;
 - b. contributions to the United States; and
 - c. the detrimental effect (including but not limited to the loss of a parent and the loss of the primary wage earner) of removal on American citizen children and spouses.

NOW THEREFORE BE IT FURTHER RESOLVED, that CBAC calls for full support of Comprehensive Immigration Reform legislation that takes into account the need for judicial discretion, mandatory legal counsel, as well as the concepts of rehabilitation and proportionality with regard to treatment of immigrants detained in the immigration system that is consistent with the provisions contained in this resolution.

NOW THEREFORE BE IT FURTHER RESOLVED, that CBAC authorizes its president, board, and staff to communicate the content of this resolution to its members, affiliates, other bar associations, members of Congress, the Administration, the press, and others to take steps to implement this resolution, as they deem necessary.

BE IT FINALLY RESOLVED, that this resolution shall be the legislative priority of the Coalition of Bar Associations of Color until it is withdrawn or modified by subsequent resolution.

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CERTIFICATION

WE, the duly-elected Presidents of the Hispanic National Bar Association (HNBA), the National Asian Pacific American Bar Association (NAPABA), the National Bar Association (NBA), and the National Native American Bar Association (NNABA), hereby certify that the foregoing Resolution was duly enacted by a duly noticed meeting of the Board of Directors.



Miguel Alexander Pozo
President, Hispanic National Bar Association

Date

William J. Simonitsch
President, National Asian Pacific American Bar Association

Date

Patricia Rosier
President, National Bar Association

Date

Mary Smith
President, National Native American Bar Association

Date