



National Asian Pacific American Bar Association

Statement of Support for Efforts to Assist Southeast Asian Americans in Danger of Deportation

Endorsed March 2014

WHEREAS, the National Asian Pacific American Bar Association (NAPABA) is the national association of Asian Pacific American attorneys, judges, law professors and law students, representing the interests of over 40,000 attorneys and nearly 70 national, state, and local Asian Pacific American bar associations; NAPABA members include solo practitioners, large firm lawyers, corporate counsel, legal service and non-profit attorneys, and lawyers serving at all levels of government; and NAPABA is committed to addressing civil rights issues confronting Asian Pacific American communities and people of color;

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;

WHEREAS, the deportation and repatriation of Cambodian refugees pursuant to the 2002

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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.

THEREFORE BE IT RESOLVED, that NAPABA:

1. 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.
2. 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.
3. 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.
4. Supports this resolution as a policy priority until it is withdrawn or modified by subsequent resolution.