

January 3, 1995

Mr. Eric Schwartz
National Security Council
Washington, DC 20520

Dear Eric:

the for regarding
I am writing to ask you help ~~with~~ a recent and unexpected decision taken by the Bureau for Population, Refugees and Migration (PRM) at the Department of State. I know you are familiar with issues relating to the former political prisoners in Vietnam and important to the organization I head, the Families of Vietnamese Political Prisoners Association (FVPPA). *having for issues* ~~Often~~ While you worked with Congressman Solarz, I often asked your advice on ~~decisions~~ pertaining to the former political prisoners and their resettlement in the United States. I am sure you recall ^{at 30} many occasions ~~when~~ I ^{often} disagreed with decisions but learned to live with them and to advise the families accordingly. Unfortunately this latest decision is difficult for me to understand and to explain to the former political prisoners and their families.

(attached) and Sykes contradictory
I was dismayed by the news contained in a letter from Ms. Rusch dated December 6 whereby she informed us that children of former political prisoners over the age of 21 will no longer be eligible for the program. I must be candid in telling you that I find this decision arbitrary, illogical, ill-considered, unfair and ~~contrary~~ to the spirit of the admissions program for former political prisoners ~~as administered since 1975~~. What is the logic of excluding this group at this stage when most of the children from the Vietnam era of the former political prisoners are over 21? What is the fairness in disadvantaging those families who have waited for their turn in the processing queue? Where is the cultural sensitivity in a decision that excludes genuine family members who are dependent on the father until the child is married and establishes a family of his or her own? What will happen to the old soldiers who will have to come here alone without the support of the working children they now rely upon in the twilight of their lives? What is the consideration that compels such a major change in eligibility when the program is so near to completion?

Ms Rusch tells us that the incidence of fraud requires this change. I am sympathetic to the onerous burden of officers who must deal with fraudulent applicants, but we do not agree that this provides a sufficient basis to exclude bona fides sons and daughters from eligibility. As you will recall from your work on Southeast Asian issues with Congressman Solarz, there was a high rate of fraud in the Amerasian program and yet the program continued its eligibility guidelines through its completion. This dramatic change in eligibility disadvantages those who have put the most faith in the integrity of the program and its promise that family unity would be sustained.

Ms Rusch also states that sons and daughters can wait for their fathers to file second preference petitions after they resettle in the United States. However, the resettled refugee cannot file a petition until after one year and then the son or daughter faces another 3-4 years of waiting until the second preference petition is current. I think further consideration will reveal that this is not a reasonable alternative. *they had been*

This news has shocked members of the Vietnamese community. *Separate*
I ask your advise and help in seeking to ~~have~~ *Reverse* this decision, *go long,*
~~revised.~~ *It is cruel*

for your
Sincerely,

(Mrs.) Khuc Minh Tho
President.

*& inhumane - to force them
to leave their
sons & daughter
behind.*

Dear Senator/Representative _____:

I am writing to express my deep concern with recent decisions by the Administration that will substantially reverse the U.S. policy of granting haven to Vietnamese political prisoners and their families.

All these decisions are based on an erroneous perception that Vietnam is now like any other country in the world. But despite the trend towards normalizing relations and economic development, Vietnam is not like any other country. Political persecution is still a fact of life, and the people who are being persecuted are the very ones that put their trust in the U.S. during the war against the present communist leadership.

There are three such decisions that have been made without any consultation of the interested parties, without any substantial transitional period, and without any regard to Congress's intent in passing the original legislation that allows political prisoners to immigrate to this country.

The first decision, made in early December, is to exclude unmarried children over the age of 21 from the families of those political prisoners eligible to apply for admission to the U.S. This policy, which is to commence February 1, 1995, has already been implemented in some cases.

The situation of these Vietnamese parents is unique. The father of the family is often a soldier who was allied to the U.S. side during the Vietnam War, and as a result has been forced into a communist prison for at least three years of "reeducation" -- that is, forced labor and starvation. The whole family was split, and the children suffered discrimination on his account. Now the family would be split again, between the U.S. and Vietnam, with hardship to all members. When the more productive, younger members are left behind in Vietnam, it will be harder for the parents to become self-sufficient, forcing those who are elderly or ailing onto our overburdened system of social services. Such a result is hardly rational or humane.

The second is a decision to cut off applications for the HO program in September 1994, with processing due for completion in 1995. This decision does not take into account people who would be eligible but who could not apply -- for example, people who are presently in Vietnam's prisons on political charges, or people who fled persecution and are now in refugee camps.

Some of these asylum-seekers are now victims of a third U.S. decision, the decision to support the forced repatriation of those who are rejected as refugees by other countries or the UNHCR. In all the countries of first asylum (Hong Kong, Indonesia, Thailand, the Philippines) there have been problems with screening procedures, resulting in some egregious mistakes.

There exists a limited number of cases where people have been rejected who would surely have been admitted through the HO program or U.S. refugee determination procedures. If these people are forced back to Vietnam, there must be some mechanism to allow them to escape persecution.

The intent of Congress was to preserve family unity, and throw a lifeline to those in Vietnam who have suffered political persecution. We urge you to raise your voice against these unwise changes in policy, and seek their reversal at the earliest possible time.



United States Department of State

Washington, D.C. 20520

January 12, 1995

Mrs. Khuc Minh Tho
President
Families of Vietnamese Political
Prisoners Association
P.O. Box 5435
Arlington, VA 22205-0635

Dear Mrs. Tho:

This is in response to your letter of December 16, 1994, to Deputy Assistant Secretary Sykes, in which you expressed disagreement with the recent change in Orderly Departure Program (ODP) eligibility criteria which will limit derivative refugee status in former re-education camp detainee cases to spouses and unmarried children who have not yet attained the age of twenty-one.

We realize that this change in ODP policy will come as a great disappointment to many former re-education camp detainees who have yet to be interviewed by INS and to those who advocate for certain policies on their behalf. We regret that the new policy may cause hardship for families that have counted on being admitted to the United States as a family unit. However, it is an unfortunate fact of life that the level of fraud associated with refugee applications by former detainees had become unacceptable, with many sons and daughters of former detainees claiming to be single when in fact they had married and many persons over the age of twenty-one claiming to be sons and daughters of applicants when in fact they were more distant relations or not even related.

As the amount of time spent by INS officers attempting to resolve these fraudulent cases grew greater and greater, it became apparent that it would not be possible to complete interviews of the former detainee caseload within an acceptable time period unless drastic measures were taken. After considering the situation carefully, representatives of INS and the Department of State determined that the best solution would be to bring ODP processing into line with standard refugee family composition criteria, which limits cases to the spouses and minor unmarried children of principal applicants.

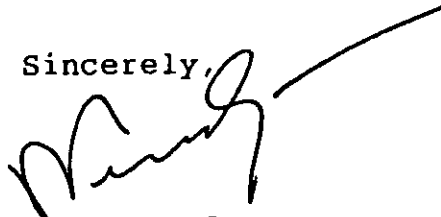
This change in policy was announced to your organization and to other advocacy groups within a few

days of the policy decision being made, and to the Vietnamese government on December 8. I regret that there is no possibility of reversing the decision.

Members of your organization should be aware that persons admitted as refugees are eligible to adjust status to that of Permanent Resident Aliens one year after admission, whereupon they may file 2nd Preference immigrant visa petitions for unmarried sons and daughters over the age of twenty-one who remain in Vietnam. While it may take some time for immigrant numbers to become available for this type of visa, the possibility still remains for remaining family members to immigrate to the U.S. within a few years. For the meantime, our assessment is that the adult sons and daughters of former detainees are not subject to persecution because of that relationship.

Again, we regret that this change of policy comes as such a disappointment to the members of your organization. However, we hope that you can see that the change was made in the best interests of the U.S. refugee admissions program.

Sincerely,

A handwritten signature in black ink, appearing to read 'Dewey Pendergrass', with a long horizontal line extending from the end of the signature.

Dewey Pendergrass
Chief, Overseas Operations Division
Office of Admissions
Bureau for Population, Refugees,
and Migration

CON H.O. TRÊN 21 TUỔI: CẦN ĐÁNH GẤP, ĐÁNH MẠNH TRƯỚC TẾT

Falls Church, VA, 19-1-1994 (QGTTX).- Tin từ Hội Gia-đình Tù-nhân Chính-trị VN cho hay, chiều hôm nay một phái-đoàn đại diện cho Hội, Nghị-hội và Liên-hội VN vùng HTD đã đi gặp ông Eric Schwartz thuộc Hội-đồng An-ninh Quốc gia trong Toà Bạch-ốc để nêu lên những quan tâm chính-đáng của một số gia-đình H.O. còn kẹt lại ở VN về nguồn tin Hoa-kỳ đã đơn-phương quyết-định từ 1-2-1995 gạt bỏ những thành-phần con H.O. còn độc-thân nhưng đã trên 21 tuổi. Nói cách khác, những người này sẽ không được phỏng vấn để đón sang Hoa-kỳ cùng với người đứng đơn H.O. như đã xảy ra trước đây.

Bằng một văn-thư đề ngày 6-12-94, bà Theresa L. Rusch thuộc Bộ Ngoại-giao bắt thần thông-báo cho bà Khúc Minh Thơ, Chủ-tịch Hội GD TNCT VN, là dựa theo một quyết-định chung giữa Sở Di-trú (INS), Bộ Tư pháp, và Bộ Ngoại-giao, “kể từ ngày 1 tháng 2-1995, các trường hợp cựu học tập cải tạo được đề nghị để đưa vào phỏng vấn” sẽ loại-trừ “những người con [độc-thân] trên 21,” chỉ trừ ra những trường hợp rất hãn-hữu mà người con đó là người độc-nhất còn lại để lo cho người đương-đơn--trường hợp đó họ sẽ được nhận phỏng vấn trên một căn-bản nhân-đạo.

Tin này vừa được tung ra thì ngày 15-12 báo Tuổi Trẻ ở trong nước đã đưa tin vắn tắt về vấn-đề và tuần-báo Pháp Luật số ra ngày 20-12-95 đã có bài dài hơn nêu ra một số chi-tiết và khẳng-định rằng đó không phải là lập-trường của phía VN.

Bằng văn-thư đề ngày 16-12, bà Khúc Minh Thơ đã trả lời cho Bộ Ngoại-giao là Hội của bà không chấp nhận những lập-luận do INS và Bộ NG đưa ra để có quyết-định chặt hẹp nói trên. Theo bà Thơ, quyết-định hấp tấp đó đã tỏ ra thiếu hiểu biết về văn-hoá và tập-tục của người Việt, làm thất vọng không ít gia-đình đã chờ bao nhiêu năm để được ra đi--rồi giờ đây lại phải bị phân-tán nếu người chủ gia-đình quyết-định đi theo diện H.O. Cùng lúc Hội vận-động với một số văn-phòng trên Quốc-hội để cho các nghị-sĩ dân-biểu giúp ta lên tiếng về vấn-đề này. Ngày 12-1, Thượng-nghị-sĩ John McCain đã viết thư cho bà Phyllis Oakley, Thứ-trưởng Bộ NG chuyên lo về vấn-đề tỵ nạn, ủng-hộ quan-điểm của bà Thơ và cương-quyết không chấp nhận những lập-luận của Bộ NG và Sở Di trú về vấn-đề này. Bảo là vì có khai man mà phải làm vậy, theo ông McCain, thì hoàn-toàn không đúng: trong chương-trình di-dân nào mà chẳng có vấn-đề khai man song không thể bắt phạt người tử tế vì việc làm của một thiểu-số gian trá, thiếu trách-nhiệm được. Và lại, vẫn theo ông McCain, Hoa-kỳ có trách-nhiệm đặc-biệt đối với những người đồng-minh này: họ đã sát cánh với Hoa-kỳ trong chiến-tranh, họ phải trả giá bằng tù đầy nhiều năm, Hoa-kỳ đã có luật đón họ sang, nay họ được đoàn-tụ với gia-đình thì không lẽ nào Hoa-kỳ lại nỡ lòng phân tách họ ra.

Đó là những luận-điểm mà phái-đoàn đi với bà Thơ đã nhấn mạnh cho ông Eric Schwartz trong buổi gặp gỡ tại Toà Bạch-ốc. Được biết, ngoài bà Thơ ra phái-đoàn còn gồm có L.S. Thái Quý Toàn, cố vấn Hội GD TNCT VN, ông Nguyễn Ngọc Bích và ông Trần Tử Thanh thuộc Nghị-hội (ông Thanh là chuyên-viên về nhân-quyền), và cụ Lê Văn Ba, Chủ-tịch Liên-hội VN vùng HTD.

Cuối cùng, phái-đoàn kêu gọi đồng-hương nhân dịp Tết Ất Hợi sắp tới hãy nhớ đến những bằng hữu và đồng-nghiep của chúng ta mà tiếp tay lên tiếng với dân-biểu và nghị-sĩ Quốc-hội khắp nơi ngõ hầu họ có thể can thiệp cho đồng-bào ta còn kẹt lại ở quê nhà. Mẫu thư vận-động với Dân-biểu Nghị-sĩ (xin chép lại và gửi đi gấp):

January 30, 1995

The Honorable Tom Davis
House of Representatives
Washington, D.C. 20515

Dear Congressman Davis:

We are writing to express our deep concern with recent decisions by the Administration that will substantially reverse the United States' policy of granting safe haven to Vietnamese political prisoners and their families.

These decisions are based on an erroneous perception that Vietnam is now like any other country in the world. Despite the trend towards normalizing relations and economic development, Vietnam is not like any other country. Political persecution is still a fact of life, and the people who are being persecuted are the very ones that put their trust in the United States during the war against the present communist leadership.

There are three such decisions that have been made without any consultation with or between the interested parties without a substantial transitional period, and without any regard to Congress' intent in passing the original legislation that allows political prisoners to immigrate to this country.

A decision was taken in early December to exclude unmarried children over 21 from "political prisoners cases proposed for interview" for admission to the United States. The reasons given were: a) a high incidence of fraud; and b) need to conform to INS standards applied to other countries. Beside the fact that interested parties have not been consulted in the process of reaching this decision and that it is inconsistent with the spirit of the law governing the program (the political, or re-education prisoners program" is an act passed by Congress, which was very much concerned with family unity). the reasons given simply do not hold water. reports from U.S. Consular offices everywhere tell of high levels of fraud in people's attempts to come to the United States (reaching over 50% in Bogota, Columbia, for instance), but this has never stopped the program. Secondly, the admission until now of single, unmarried children over 21 but still living in the same household was also a decision by the Justice Department and INS in the first place, so it could not have been in contravention of United States standards.

In human terms the recent decision penalizes honest people; splits families that have every sacrifice to be together; and will cause untold burdens on the families concerned and the social services in this country. In the case of splitting families, for instance, the father is most likely an allied soldier during the Vietnam War, as a result had been submitted to communist re-education camp or jail for at least 3 years (during which time his family is already split for the first time). the whole family underwent discrimination in the new system (many were sent to "New Economic Zones"), now that they are about to be admitted as a WHOLE family to the United States, they are threatened again with the splitting of the family. As for the untold burdens on the families concerned and the social services in this country, a split family will result in the upkeep of two homes (one in Vietnam and one in the United States, even though they may have had to sell their home in Vietnam to scrape some means to come to the United States), will make it harder for the family to become self-sufficient in the United States (since the most productive age bracket of the family is automatically kept back in Vietnam), and will force old and ailing persons onto overburdened social service system in the United States. This, we believe, is just not a good thinking decision and surely not based on humane factors.

The intent of Congress was to preserve family unity, and throw a lifeline to those in Vietnam who have suffered political persecution. We urge you to raise your voice against these unwise changes in policy, and seek their reversal at the earliest possible time.

Sincerely yours,

January 30, 1995

The Honorable Jim Moran
House of Representatives
Washington, D.C. 20515

Dear Congressman Moran:

We are writing to express our deep concern with recent decisions by the Administration that will substantially reverse the United States' policy of granting safe haven to Vietnamese political prisoners and their families.

These decisions are based on an erroneous perception that Vietnam is now like any other country in the world. Despite the trend towards normalizing relations and economic development, Vietnam is not like any other country. Political persecution is still a fact of life, and the people who are being persecuted are the very ones that put their trust in the United States during the war against the present communist leadership.

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Sincerely yours,

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The Honorable Frank Wolf
House of Representatives
Washington, D.C. 20515

Dear Congressman Wolf:

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These decisions are based on an erroneous perception that Vietnam is now like any other country in the world. Despite the trend towards normalizing relations and economic development, Vietnam is not like any other country. Political persecution is still a fact of life, and the people who are being persecuted are the very ones that put their trust in the United States during the war against the present communist leadership.

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