



**Statement of
The Advocates for Human Rights**

**Submitted to the United States House
Committee on the Judiciary**

**Markup of
H.R. 1147, the “Legal Workforce Act”;
H.R. 1149, the “Protection of Children Act of 2015”;
H.R. 1153, the “Asylum Reform and Border Protection Act of 2015”; and
H.R. 1148, the “Michael Davis, Jr. in Honor of State and Local Law Enforcement Act”**

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The Advocates for Human Rights is a nongovernmental, nonprofit organization dedicated to the promotion and protection of internationally recognized human rights in our home community and around the world. The Advocates for Human Rights has provided free legal representation to asylum seekers, investigated and reported on human rights violations, and engaged volunteers in building respect for human rights since 1983.

The United States is a nation of values, founded on the idea that all people are equal in rights and dignity, no matter what they look like or where they came from. These values are echoed in our obligation to respect the fundamental rights of all persons without discrimination, regardless of national origin, citizenship, or immigration status.

While the United States has the right to control immigration, that right is tempered by the obligation to respect the fundamental rights of all persons. Indeed, one of the most powerful aspects of the United States Constitution is its application to all persons. As the Supreme Court has made clear ‘once an alien enters the country, the legal circumstance changes, for the Due Process Clause applies to all ‘persons’ within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent.’”

In designing and enforcing its immigration laws the United States must protect fundamental human rights including the right to seek and enjoy asylum from persecution, the right to family

unity, the right to be free from arbitrary detention, and the right to due process of law. The United States' immigration system, while generous in many ways, is riddled with systemic violations of human rights, violations which cannot be ignored or excused simply because the victims are aliens. The United States Congress must take steps to amend laws which violate human rights standards and to avoid knowingly enacting laws which violate these most fundamental obligations.

The bills under consideration by the House Committee on the Judiciary threaten fundamental human rights.

“Michael Davis, Jr. in Honor of State and Local Law Enforcement Act” (H.R. 1148)

H.R. 1148 would violate U.S. obligations against arbitrary arrest and detention. The bill provides no procedural safeguards against unlawful stops or arrests, focuses training requirements on investigation, identification, apprehension, arrest, and detention of “inadmissible and deportable aliens” with no requirement that law enforcement be trained on how to ensure they do not violate the right to due process of persons. Indeed, the bill seeks to shield law enforcement officers from liability they might otherwise face from these violations, undermining fundamental accountability.

The bill fails to recognize that these law enforcement activities operate outside the procedural and constitutional protections of the criminal justice system. The relationship between local and immigration enforcement bypasses the procedural safeguards against constitutional violations which exist in the criminal justice system where searches and seizures can be challenged and where evidence, including testimony, may be suppressed if found to have been obtained in violation of law.

This bill seeks to have it both ways by utilizing the inherently coercive power of local law enforcement to arrest and detain anyone it identifies as an alien without any of the constitutional safeguards against unlawful apprehension, arrest, or detention. H.R. 1148 would permit indefinite detention and expand detention of asylum seekers, violating the fundamental right to be free from arbitrary detention. Hiding behind the faulty assumption that aliens are not “persons” under the Constitution, this bill ignores fundamental due process rights.

H.R. 1148 would violate U.S. obligations against refoulement of refugees by limiting U.S. authority to withhold the removal of any alien who has been convicted of an “aggravated felony.” This denial of protection to refugees with criminal convictions would be a clear violation of the United States' obligations under Article 33 of the 1951 Refugee Convention by per se barring persons with a broad class of convictions from any protection from persecution. While the Refugee Convention does allow the United States to deny protection to persons convicted of “particularly serious crimes,” the United States' extremely broad definition of “aggravated felony” is far more expansive than that permitted by the Convention.

“Asylum Reform and Border Protection Act of 2015” (H.R. 1153)

Everyone has the right to seek asylum from persecution, but H.R. 1153 would dramatically alter U.S. asylum and humanitarian protections resulting in grave harm to asylum seekers; survivors

of domestic violence and trafficking; military members; and abused neglected or abandoned children.

H.R. 1153 seeks to increase the standard of proof for asylum seekers initial "credible fear" screenings. This would require asylum seekers to produce evidence supporting their fears of persecution, torture, and death on account of their race, religion, nationality, social group, or political opinion without any chance to consult with counsel, identify and present witnesses, or even have access to the documentation they may have been carrying at the time they were taken into custody.

The bill would also harm survivors of domestic violence and human trafficking. Survivors of domestic violence and battered children protected under the bi-partisan VAWA and trafficking laws count on parole to be unified with their close relatives. H.R. 1153 would severely restrict parole authority Congress granted for these relatives of survivors of violence.

“Protection of Children Act of 2015”, H.R. 1149

H.R. 1149 seeks to take away existing procedural protections for children who are seeking asylum by subjecting children to expedited removal proceedings. The bill would subject all children to an expedited screening mechanism that relies on Border Patrol officials to identify whether children are victims or at risk of persecution or trafficking. UNHCR has found that this abbreviated screening mechanism, as currently applied to Mexican children, too often results in the return of children to situations of trafficking and persecution.

The bill would strip away the most minimal procedural protections for children, rendering our refugee protection obligations an illusion rather than a reality when it comes to children. Instead of lowering standards for children from noncontiguous countries, we should be raising the standards for all children by ensuring that they are interviewed in suitable settings by appropriately trained professionals who understand both the needs of children and of humanitarian protections.

“Legal Workforce Act”, H.R. 1147

H.R. mandates such rapid implementation of E-Verify that it would harm tens of thousands of authorized U.S. workers. Every year large numbers of people who are authorized to work are erroneously denied employment authorization by errors in the E-Verify system. Most wait for weeks to resolve the problems in the system frequently losing wages or even job offers during the delay. Based on the 2012 E-Verify error rate, about 150,000 authorized workers would be erroneously denied if the current E-Verify were made mandatory as required under H.R.1148.

The United States’ failure to consider its fundamental human rights obligations has led to a situation in which over people live in this country without legal immigration status. This situation exists not because a whole group of people set out to break the law. Rather, the United States has historically looked the other way when employers seeking low-wage labor recruited and hired undocumented workers, a system that has thrived on the push factors – the poverty, violence, and instability abroad – that make leaving one’s home in exchange for a life in the shadows seem like a rational choice.

Congress has for too long attempted to shift the buck when it comes to immigration policy reform onto the backs of employers and workers. Employment verification cannot be done in isolation without addressing other urgently needed immigration reforms. Unless Congress finds a way to legalize the status of the millions of unauthorized workers, a mandatory employment authorization bill will disrupt major sectors of our economy including the agricultural industry.

Our immigration laws, policies, and practices must reflect our most deeply held values: that each of us is inherently worthy of dignity, fair treatment, and respect for human rights. Congress must act to protect these values. The package of legislation under consideration undermines our nation's values and should be rejected.