The Human Faces Behind H.R. 10

The following examples correspond to specific provisions in Title III of H.R. 10 that ensnare immigrants as opposed to terrorists. They illustrate the perhaps unintended consequences of these provisions, using real cases and fictional examples based on real-life situations. Please contact Douglas Rivlin of the National Immigration Forum (rivlin@immigrationforum.org) with any questions about these examples, and he will put you in touch with the organizations who have drafted them.

Denied Use of Legal Foreign-Government Identity Documents (3006)

This provision bans federal employees from accepting any but the following documents as a form of identity: a document issued by the Attorney General or the Secretary of Homeland Security under one of the immigration laws; a domestically-issued document that the DHS Secretary designates as reliable and that cannot be issued to an alien unlawfully present in the US; or an unexpired foreign passport. This means that foreign driver's licenses, consular ID cards, and other foreign government-issued documents can no longer be used to establish identity to a federal agency.

Example: Sami is a legal permanent resident from Colombia who has lived in the United States for four years. One day his wallet was stolen, where he kept his green card. Sami went to the local immigration office to apply for a replacement green card. However, the only identity documents he had in his home were his old Colombian passport, which had expired since he entered the United States, a military identification card issued to Colombian men, and his Colombian birth certificate. None of these documents serve as valid identification to apply for a replacement green card under the new law, and he was unable to prove his identity to receive a new green card despite qualifying for it.

Example: Mario is an asylum applicant who is detained by ICE in Miami. He does not have a passport and cannot ask his government for one. His asylum claim is based on his government's persecution of him, his government does not know that he has applied for asylum, and his family members in his home country would be persecuted if the government found out. He has other ID documents such as a national ID, birth certificate, and school ID. ICE won't release him from detention unless he provides proof of his identity, but he can't use these documents and so remains in immigration custody even though he has close relative in Miami. In immigration court, the judge asks for proof of his identity because she is not certain that he is who he says he is. He also cannot present his documents to her. She rules against him in his asylum case.

Expedited Removal (3007)

Victims of Trafficking, Domestic Violence, and Sexual Assault

The expanded expedited removal regime proposed by Section 3007 of H.R. 10 will have particularly harsh consequences for victims of human trafficking and other violent crimes and for battered immigrant women. Section 3007 makes anyone subject to expedited removal who "has not been admitted or paroled into the United States and has not been physically present in the United States continuously for the 5-year period immediately

prior to the date of the determination of inadmissibility."[1] All trafficking victims by definition and many battered immigrants by virtue of the coercion of their abusers will be swept up by the first criteria of "unlawful admission." Trafficking victims and many battered immigrants also would have great difficulty producing any proof of their presence for the required period, let alone their continuous presence. Traffickers conceal their victims to conceal their crimes, so perversely the only proof a victim could obtain to show her continuous presence might be a note from her trafficker. Similarly, abusers often isolate their victims to ensure their control, so many battered women do not have driver's licenses, leases, nor so much as a utility bill or library card in their own names.

At airports, other ports of entry and along the border where expedited removal is currently in place, it is generally assumed that the kinds of proof one might have of identity and entitlement to enter or be in the United States would be on one's person. We do not know how expedited removal will be applied if it is expanded to the interior of the country – whether someone detained by an Immigration and Customs Enforcement (ICE) officer would be given any chance, let alone a fair opportunity, to gather the proofs required to prevent their summary deportation. For trafficking victims and battered immigrants, it is entirely unlikely that ICE will permit them the time to prepare the kinds evidence of they could conceivably muster – for example, the sworn affidavit of a neighbor, clergyperson, or shelter worker who knows their circumstances and is willing to come forward. Moreover, having little or no resources and no access to counsel, trafficking victims and battered immigrants may find it impossible as a practical matter to amass this evidence.

Section 3007 would also apply with equal force to children as to adults, notwithstanding that under the present regime, for obvious humanitarian reasons, children are not subject to deportation without a hearing. Finally, even if Section 3007 were to permit ICE officers to exercise discretion in applying expedited removal to trafficking victims and battered immigrants, none of these extenuating circumstances are likely ever to come to light. Traffickers and abusers often build on the legacy of mistrust and fear their victims have of oppressive, corrupt, or callously unresponsive law enforcement in their home countries by threatening their victims that if they ever speak of their abuse and exploitation it is the victim – not the persecutor – who will be harshly punished.

The following stories are illustrative of the thousands of such victims who will be forever silenced, and the countless criminals who will go scot-free to prey on all our communities, if expedited removal is expanded as Section 3007 of H.R. 10 proposes. Names and other identifying details have been withheld or changed to protect their safety.

Example: A fourteen year-old girl, a fifteen year-old girl, and ten single mothers with elementary school-age children were recruited from Mexico to come to the United States and work as restaurant employees for a good salary. When they arrived, they were forced into prostitution and never paid any money. During this time, they were kept under constant surveillance by their traffickers and locked in their residence. The

[1] Section 3007 would also expand expedited removal to reach anyone who is deemed inadmissible under INA Sections 212(a)(6)(C) [e.g., anyone who used misrepresentation to enter the United States] and 212(a)(7) [e.g., anyone who used an invalid visa to enter the United States].

traffickers physically threatened them and their families. Based on their testimonies, federal prosecutors were able to obtain convictions against defendants Jenny Valle-Maldonado, Javier Sandoval-Garcia, Jose Velasquez-Garcia and Juan Gregorio Martinez-Vasquez. Martinez-Vasquez was convicted of harboring and assisting illegal aliens. Velasquez-Garcia was convicted of conspiracy and 5 counts of importation and harboring of aliens for purposes of prostitution. Defendants Valle-Maldonado and Sandoval-Garcia were convicted of conspiracy, two counts of importation and harboring of aliens for purposes of prostitution, and bringing illegal aliens to the United States.

All of the victims were smuggled in by the traffickers and had been in the United States for less than one year. If they had been subject to expedited removal as proposed by Section 3007 of H.R. 10, they would not have gotten the emotional and physical assistance they needed, would not have been able to apply for the relief Congress intended for them, and would also have been unable to assist law enforcement in stopping this child sex-trafficking ring. In reality, these victims all received "continued presence" (granted by the government after an initial determination that they were eligible for special immigration status) and should soon be receiving "T" visas (accorded to victims of a severe form of human trafficking who are willing to assist law enforcement in the investigation and prosecution of their traffickers). For further information, see Department of Justice press release at http://www.usdoj.gov/usao/cac/pr2004/093.html.

Example: Two Korean sex-trafficking victims were smuggled into the United States earlier this year and forced into prostitution for several months. They were severely beaten and told they would be killed if they told anyone about their situation. The information they provided to federal law enforcement authorities led to the rescue of 17 other victims and the arrest of two suspected traffickers. Under current law, these victims should soon receive continued presence and T visas. Under Section 3007 of H.R. 10, however, the women would have been subject to mandatory deportation without a hearing, and could not have helped to rescue other victims and to stop these violent criminals from trafficking other women into the United States.

Example: A young woman from Cameroon came to the United States at the age of 14, having been promised that she would get schooling in America. Without her knowledge, the girl was smuggled in on a false passport, and immediately taken to work around the clock in a home where she was routinely beaten and mentally abused. Two years later, after an especially vicious beating, she managed to run away and eventually found legal help. She helped the government prosecute her traffickers, and she received a T visa. The T visa allowed her to stay in the United States, which was vital since she feared retaliation in Cameroon by the family of the people who trafficked her to the United States. Under Section 3007 of H.R. 10, however, this young woman would have been summarily sent back to Cameroon to face violent retribution from her traffickers' relatives, and the traffickers would have gone unpunished.

Example: Maria filed a petition under the Violence Against Women Act for legal status independent of her abusive husband (a "VAWA self-petition") in April 2003, and it was finally approved in May 2004. Upon approval of the self-petition, Maria received employment authorization, and began looking for a job that would allow her to support herself and her two sons. After her self-petition was approved, an Immigration Judge

terminated removal proceedings against Maria's son. Maria is now saving money to file applications for herself and her sons to become legal permanent residents.

Since Maria and her sons did not enter the United States until July 2001, they cannot show 5 years presence here. Moreover, because of their circumstances, they have no documentation at all of their first year in the United States, from July 2001 until Maria's marriage in August 2002. Under current law and protocol, Maria and her sons were able to obtain the relief and protection that they desperately needed and that the Violence Against Women Act specifically envisioned for them. Under Section 3007 of HR 10, Maria and her sons would have been summarily deported.

Example: Maribel entered the United States "without inspection" and fell in love with Manuel, a lawful permanent resident. Shortly after they married, Maribel became pregnant. Manuel did not want to have a child and pressured her to get an abortion. Maribel refused because of her religious beliefs. Thereafter, Manuel subjected Maribel to horrific physical abuse in attempts to cause Maribel to miscarry. On one occasion, Manuel kicked Maribel in the back several times to the point that she lost consciousness. Manuel was subsequently arrested and convicted of domestic violence. Through VAWA's self-petitioning process, Maribel was granted permission to remain in the United States. Maribel sought shelter and received counseling services. Manuel has never paid child support, but as an approved VAWA self-petitioner, Maribel was able to receive life-saving public benefits for her United States citizen child. Maribel now has employment authorization and is working and supporting her child herself. Under Section 3007 of H.R. 10, however, she would have been summarily deported – and could have lost custody of her child to the very abuser who had repeatedly tried to forcibly abort that child.

Example: Two Mexican women were promised jobs in the United States and smuggled across the border. Once here, they were taken to a brothel and forced to work as prostitutes. In addition, the women were subjected to severe physical, sexual and emotional abuse at the hands of their traffickers. They tried to escape once but were caught and re-trafficked into prostitution. On another escape attempt, the women finally managed to flee their traffickers. Under Section 3007 of H.R. 10, if these women were apprehended by the authorities upon their escape, ICE officers would have removed them from the country and their traffickers would have gone unpunished.

Example: A woman from Asia was trafficked into the Washington, DC area and forced to provide commercial sex services. The woman was brought into the United States illegally, across the Mexican border, lied to about her job, and forcibly isolated. Through connections with gang members, the person exploiting her threatened to kill her if she did not cooperate. Fortunately, a non-profit organization was able to intervene in this victim's situation after she was incarcerated on prostitution-related charges and awaited deportation. The woman has received a T visa under the Trafficking Victims Protection Act and has cooperated with law enforcement in the case against her trafficker. She is recovering from her trauma and her trafficker was successfully prosecuted with her assistance.

If Section 3007 of H.R. 10 had been law, however, no such life-saving intervention would have been possible. In addition to the fact that ICE officers seem to have no discretion

under Section 3007 to exempt trafficking victims from expedited removal, the authorities would likely never have learned she was a trafficking victim in the first place. It was not until the third visit to the detention facility by the non-profit organization that the woman was able to overcome her fears and begin to reveal the terrible truth of her situation.

Other, Section 3007

Example: Daphne was sponsored for legal permanent residency by her husband, David. Although Daphne had entered the country without inspection, the LIFE Act's brief reinstatement of section 245(i) permitted her husband to sponsor her for a green card without Daphne being banished from the country. However, when the adjudicator at the Bureau of Citizenship and Immigration Services at the Department of Homeland Security looked at her application, he decided that Daphne qualified for expedited removal under the new law. She was deported without a hearing, leaving behind her husband and U.S. citizen child. Daphne was never given the chance to contest her deportation despite years of living in the United States, ties to her community, assets, and most importantly, without even considering the fate of her child.

Example: Daphne's cousin, Betty, was caught up in the system when she tried to go to the airport to say good-bye to Daphne. Although Betty had lived in the U.S. for the past 10 years, she did not have documentation showing that she lived in this country all that time. Betty was caught up by the same "five year rule" that lead to Daphne's fast-track deportation, and without a hearing, was unable to gather the evidence to demonstrate that she did not qualify for such expeditious removal.

Example: Carmen witnessed what happens to her friends Daphne and Betty. She also heard rumors of immigration agents walking around her neighborhood, asking people to show proof that they have lived in the U.S. for five years. Even though she was born in this country, Carmen's husband George has been living without legal status and she worries about him every time he leaves the house. One day, George gets hit on the head by a falling piece of timber at the construction site where he works. Even though she thinks he has a concussion, Carmen is afraid to take George to the hospital because of his immigration status.

Visa Revocations Leading to Automatic Deportation (3009)

Section 3009 is yet another court-stripping provision. It seems specifically designed to overturn a recent court decision, Firsthand International vs. INS, __F.3d__, 2004 (2nd Circuit, August 2, 2004). The court in this decision found that the clear terms of the immigration statute, INA Section 205, provide that any visa revocation must be communicated to the beneficiary before the person begins his or her journey to the United States. The beneficiary in the Firsthand case was a multinational manager who had been working in the United States with an approved petition for several years. The government argued that the courts had no right to review the case, under the court-stripping provisions of INA Section 242(a)(2)(B)(ii) which bar court review of any "discretionary" immigration decisions. The court found to the contrary, ruling that the Attorney General had *no* discretion to revoke a visa once a person is in the United States. Hence the court could review the government's action, which was contrary to the statute.

The government has a long-standing and simple alternative to visa revocation and to the court-stripping provision which HR 10 is trying to impose. Under current law, if the government feels that a visa was issued in error, or under false pretenses, it can initiate removal proceedings against the beneficiary. An immigration judge would then examine the visa to determine its validity. In such a court hearing, the beneficiary is provided the opportunity to rebut the government's allegation that the visa is invalid. If the court upholds the government's position, the beneficiary would be deported. If the government is mistaken, the court can rule in favor of the beneficiary.

This procedure provides the due process that is a fundamental bedrock of our democracy--the government can prosecute fraud, but the court can determine whether the government is making a mistake.

Example: Wu, a Chinese national, enters the U.S. to work for a small company on an H-1B visa. Wu is sexually assaulted by her U.S. employer. The employer notifies the government that Wu has been fired and is no longer in status. DOS revokes her visa and DHS picks her up and places her in proceedings. Under this provision, Wu is prohibited from challenging the basis for the removal and is deported. The U.S. employer is free to do this again.

Example: Jeffrey, a British national, works for Citibank in London. While traveling in the United States on a business visa, his name is placed on a terrorist watch list and his visa is revoked. However, the State Department had merely confused him with another person bearing the same name. Under the new law, the decision to revoke his visa is an automatic ground for deportation. Jeffrey has no right to review of his case or resolution of the error, and is deported.

Example: Frederica, in the U.S. on a visa as the personal assistant of a diplomat, is beaten and raped by the diplomat. The diplomat notifies DOS that the assistant no longer works for him and Frederica is picked up and placed in proceedings, again with no ability to challenge the basis for the removal and no meaningful opportunity to apply for relief.

Eliminating temporary stays of removal and habeas corpus review (3010)

Virtual elimination of temporary stays of removal during federal court review

This provision eliminates stays of removal while a case is being reviewed by a federal court. Non-citizens who want their deportation to be stayed while they appeal to the federal court of appeals are already required to make a motion for a stay of removal, and show why they should be granted a stay—typically this means showing that their appeal has merit and that the harm they would suffer if they were deported while it was pending would be severe. Section 3010 eliminates stays of removal altogether, even in cases that are likely to succeed on the merits and where the immigrant appealing would suffer terrible loss if deported that would not be repaired by a subsequent favorable decision in his or her case.

Example: Ms. P is a young woman from Sri Lanka and a member of the Tamil ethnic group who testified in her asylum case that she fled Sri Lanka after being detained and sexually assaulted by the Sri Lankan Army, at whose hands her older brother had disappeared in 1990. An Immigration Judge whose decisions have become notorious for their arbitrariness denied Ms. P asylum based in large part on an assessment of her demeanor—an assessment that was almost word-for-word identical to that the same Immigration Judge had given in the cases of two other Sri Lankan applicants in different cases. These other applicants were men, and the IJ in her decision at times referred to Ms. P as "he." The Board of Immigration Appeals upheld the decision, holding that the IJ's demeanor's findings were "individualized" because they were quite detailed. The BIA did not address the problem that the IJ had described the demeanor of two unrelated applicants in *the exact same way*. Ms. P filed a petition for review with the Court of Appeals. Owing to the availability of stays of removal, Ms. P was protected from deportation, and her case finally got from the Court of Appeals the review it ought to have received from the BIA. Holding that "the integrity of the adjudicative process . . . is called into question when boilerplate findings masquerade as individualized credibility determinations," the Court of Appeals granted her petition and remanded her case for a new hearing—noting that they hoped "the unusual circumstances of this case will be carefully considered" and the case assigned on remand to a different immigration judge. Without a stay of removal, Ms. P would have been deported to Sri Lanka while her case was pending. The fact that she ultimately won her case would have done her no good there.

Example: Mr. X was a student activist in a repressive country. For his peaceful participation in student demonstrations, he was arrested and detained, beaten, and spent many months in jail under grotesque and life-threatening conditions. Although his case was well-documented and the Immigration Judge herself stated that she found him credible, Mr. X was denied asylum in an incoherent decision that contained clear errors of fact and very serious errors of law. The BIA, under its recently-adopted "streamlining" procedures, affirmed this highly problematic decision without opinion or comment. Fortunately, Mr. X was able to appeal to the federal court and request a stay of removal so that he would not be returned to further persecution while the court reviewed his case. The lawyers representing the government on appeal acknowledged that Mr. X had suffered past persecution and had shown himself to be a refugee and eligible for asylum, and agreed that the case should be remanded to the BIA for the BIA to exercise its discretion to grant him asylum. All this took about a year. Without the right to apply for a stay of removal, Mr. X might not be alive today to benefit from the asylum he was finally granted.

Suspension of the Great Writ of Habeas Corpus

Sec. 3010 also limits the power of federal courts to review immigration actions by explicitly suspending, for the first time since the Civil War, the "Great Writ" of habeas corpus, limiting all judicial review of detention and deportation to one appeal to the federal courts of appeals, under an extremely narrow standard that allows the courts to consider only "pure questions or law" or constitutional claims. Claims that are explicitly barred from review include some claims under the Convention Against Torture, claims for discretionary humanitarian relief (such as a non-citizen father of a severely disabled U.S.

citizen child who is the child's sole caregiver), and all claims involving criminal convictions, even in cases that occurred years or decades ago involving lawful permanent residents who came to the United States at an early age.

Manifest injustices caused by fraudulent or incompetent assistance of counsel. Immigrants are often victimized by unscrupulous persons who charge high fees but are not qualified or competent in their representation. As a result, they may lose their right to court review of their cases from missed filing deadlines or other actions completely outside their control. Today, where such claims present serious injustices, a federal court may be able to provide a safety valve to correct unlawful action by way of habeas corpus even if ordinary judicial review is barred because of the negligence of another. If the bill passes, this avenue will be barred.

Example: A woman from the People's Republic of China who has been forced to undergo sterilization because of China's coercive family planning policy escapes to the United States. She hires a lawyer to file her asylum application, but the lawyer fails to do so within the one year required under INA §208(a)(2)(B). She is subsequently placed in removal proceedings. The Immigration Court and the Board of Immigration Appeals deny her asylum claim because she did not file her asylum application within the one year deadline, notwithstanding the fact that she did not do so because of the lawyer's negligence. Because INA §208(a)(3) bars "judicial review" of the one year filing deadline rule, she cannot raise the issue of ineffective assistance of counsel in a petition for review. However, under current law, she can file an application for a writ of habeas corpus to have a federal district court review whether her failure to file an asylum application within the one year deadline may be excused in light of her lawyer's negligence. However, if Sec. 3010 becomes law, she will lose her only opportunity to have her case reviewed by a federal court. At best, she will have to challenge the constitutionality of Sec. 3010.

Claims involving "mixed questions" of law and fact. Habeas corpus review in immigration cases has historically been available to test the validity of deportation orders, and to correct unlawful action involving a mixed question of law and fact. By eliminating habeas corpus review of removal orders and by limiting the review under petition for review only to constitutional claims or pure questions of law, Sec. 3010 specifically precludes review of mixed questions of law and fact, even though they have long been regarded as within the scope of review available on habeas.

Example: Mr. R, a middle-aged lawful permanent resident of three decades with a U.S. citizen parent, U.S. citizen brothers and sisters, a U.S. citizen wife, U.S. citizen children and grandchildren is placed in removal proceedings because of a criminal conviction from his early twenties. He goes through the Immigration Court and the Board of Immigration Appeals (BIA), but as with many immigrants in removal proceedings, he is not represented by an attorney. Because Mr. R is unrepresented, he does not realize that he must file a petition for review to the court of appeals within thirty days and misses the deadline.

When Mr. R receives a "bag and baggage" letter asking him to report to the local Immigration and Customs Enforcement (ICE) to be deported, he and his family gather together what money they have to finally hire a lawyer. As the lawyer interviews Mr. R,

the lawyer realizes that Mr. R may in fact have become a U.S. citizen in his youth through his father, who is a naturalized U.S. citizen. However, before the lawyer can assemble all the documents necessary to show that Mr. R is a U.S. citizen (Mr. R has to show that his father fulfilled the residency requirement to transmit U.S. citizenship to him), ICE deports him. Under the current law, Mr. R can file an application for a writ of habeas corpus with the federal district court to ask that court to review his claim for U.S. citizenship. However, if Sec. 3010 becomes law, he will lose his only opportunity to have a federal court review his claim to U.S. citizenship. At best, he will have to challenge the constitutionality of Sec. 3010.

Elimination of habeas corpus to challenge unlawful detention. Sec. 3010 states that "[f]or purposes of this *title*, in every provision that limits or eliminates judicial review or jurisdiction to review, the terms 'judicial review' and 'jurisdiction to review' include habeas corpus review" (emphasis added). Leaving aside for the moment that such attempted elimination of the great writ of habeas corpus may well be unconstitutional, Sec. 3010 may prevent thousands of immigrants from challenging immigration decisions ancillary to removal proceedings, such as mandatory or indefinite detention. However, as the Supreme Court has repeatedly noted, the "historic purpose of the writ [of habeas corpus]" is "to relieve detention by executive authorities without judicial trial."

Example: Ms. K is an asylum applicant in removal proceedings. Despite the fact that she is not a flight risk, poses no danger to the community, and may be eligible for asylum, the government continues to detain her for years while the administrative removal process winds its way through the Immigration Court and the Board of Immigration Appeals. Under current law, Ms. K can file an application for a writ of habeas corpus with the federal district court to challenge the validity of her detention. She will not be bale to do so if Sec. 3010 becomes law. At best, she will have to challenge the constitutionality of Sec. 3010.

Deportation for Protected First Amendment Activity (3031)

Under the proposed expansion, withholding of removal would not be available to a broad class of individuals for purely political expression. For instance, a long term lawful permanent resident may be deportable under the proposed language for "endorsing a terrorist organization." Because the language of what constitutes a "terrorist organization" is so broad, this means that someone who endorses certain groups - solely based on ideology and not activity - would be deportable and barred from the statutory restriction on removal ("withholding of removal"). On a broader level, this law has the potential for gross selective enforcement of immigration laws. For instance many Muslims in the US have supported charities (either financially or by endorsement) that may in the future be considered terrorist groups under the Immigration and Nationality Act due to the proposed legislation. The expansion of 3031 would render long term lawful permanent residents deportable for such activity or ideology, and would place many of them at great risk because they would be deported to countries against which they have expressed political opposition. The purpose of "withholding of removal" is to protect individuals who are targeted because of their political activity from being deported to a country that would harm them for this political activity. This expansion would not only render individuals deportable for political activity, it would also mean they are deported directly to countries that will persecute them for expressing their opinions.

Example: Yusef, outspoken against his government (Egypt) and subject to intimidation, attack, and detention by government forces, comes to the U.S. on an H-1B visa with the intent to leave Egypt permanently because of his political antipathy towards Egyptian leadership. He has a long history of endorsing a religious opposition party that is subsequently determined to be part of a terrorist organization. Yusef cannot obtain sponsorship for permanent residence before his employment visa expires and is placed in removal proceedings as a result of overstaying his visa. He did not apply for asylum during the first year since he believed he would qualify for permanent residence through his employment. Under the new law, Yusef would be ineligible for withholding of removal and returned to Egypt, even though his life or freedom would be threatened upon return.

Deportation and Inadmissibility for Peaceful Activities (3034 and 3035)

These provisions essentially render people inadmissible AND deportable if they ever provided any material support to any group of two or more people that has ever engaged in the use of a weapon or threat to use a weapon. It applies retroactively, and applies to people who provided such support whether or not the group was designated "terrorist." The most troubling change is in the definition of the defense, which was the key to the prior agreement during debate over the PATRIOT Act. Under the PATRIOT Act, an alien who supports a non-designated group that nonetheless has engaged in "terrorism" as defined by the INA (including any use or threat to use a weapon) is deportable UNLESS he can show that he neither knew nor should have known that his support would further the group's terrorist activity. Under HR 10, the alien would have no defense unless he could prove BY CLEAR AND CONVINCING EVIDENCE that he neither knew nor should have known that the organization is a “terrorist” organization.

The fundamental problem with the provision, then, is that it imposes guilt by association, rendering people deportable for wholly lawful and peaceful activity if it supports any group that has engaged in the use of weapons or threatened to use weapons. The compromise that was worked out in the PATRIOT Act renders aliens who support DESIGNATED terrorist groups automatically deportable, but provides that those who support other groups that are not designated are deportable only if they supported the group's terrorist activity.

Example: A South African immigrant who supported the African National Congress's lawful, nonviolent anti-apartheid work during the 1980s would be deportable, and it would be no defense to show that the support was legal at the time. (The ANC also used violence, and the State Department regularly labeled it a "terrorist organization" until it came to power in South Africa.)

Example: Also deportable under HR 10 would be anyone who ever wrote in defense of the right to use force for national liberation, as those who founded this country themselves did.

Example: This section would render deportable immigrants who urged support of the Northern Alliance against the Taliban, or who supported the Contras in Nicaragua,

regardless of whether their targets were lawful military targets, and regardless of the fact that the United States supported both military struggles.

Legal Status Requirement for Driver's Licenses (3052)

This provision sets federal standards on driver's license issuance for all 50 states, makes legal presence a requirement to obtain a driver's license, and ties the expiration date of a non-citizens' license to his or her visa.

Example: Elisa is a newly naturalized U.S. citizen and has recently moved to a new state. She presents her naturalization certificate to the DMV to apply for a driver's license. The state DMV contacts DHS to verify her documents. It takes the DHS several weeks to respond because they are overwhelmed with verification requests. The DHS databases have not been updated to reflect Elisa's new citizenship status and shows that she is still a legal permanent resident. Furthermore, the DHS database does not have her new address. The DHS responds with a non-confirmation and Elisa is denied a driver's license.

Example: Frank qualified for legal permanent residency under the Nicaraguan Adjustment and Central American Relief Act (NACARA), and has been waiting since 1998 for his application to be adjudicated. While he was able to get a driver's license in Virginia by showing that he has an application for adjustment of status pending, he was given a temporary license with a one-year expiration date. When he goes back to the DMV a year later, he is told that he cannot get the license renewed because new federal law requires proof from DHS that his "status" has been extended. Because he has no official immigration status, and is merely stuck in the backlog of applications for NACARA that are waiting to be adjudicated, Frank is unable to renew his driver's license.

Example: Kim came to the U.S. from Thailand on a tourist visa, and stayed on to work in her uncle's friend's tool and die shop to make money to send home. Living in a rural community in Washington state, public transportation is not a viable option. Kim saved up enough money to buy an old car, but lacking legal immigration status she was unable to get a state driver's license or to buy car insurance. One day while driving home, her car slips on the ice and she runs into a ditch. Her car is damaged enough that she can't drive it home, and Kim's leg is injured. However, fearing the consequences of a police report, Kim leaves her car behind. She is also afraid to seek medical attention for her leg injury, and tries to get help from a family friend who used to be a doctor in Thailand instead.