

**Congress of the United States**  
**Washington, DC 20515**

February 20, 2024

The Honorable Alejandro Mayorkas  
Secretary of Homeland Security  
U.S. Department of Homeland Security  
301 7th Street SW  
Washington, DC 20528

Dear Secretary Mayorkas,

We write to urge you to implement a prosecutorial discretion policy that takes into consideration the unique circumstances of intercountry adoptees who were brought to the United States as children, did not acquire citizenship upon adoption as children, and have been deported or face removal proceedings.

These are unfortunately an estimated tens of thousands of individuals who were brought to the United States as children for the purposes of adoption by U.S. citizens but never received citizenship through no fault of their own.<sup>1</sup> These individuals were raised in the U.S. and built their lives here, and for many, the U.S. is the only place they have called home. In some cases, these individuals were unaware they are not citizens even into adulthood. While Congress passed the Child Citizenship Act (CCA) in 2001 to help address gaps in the process to grant citizenship to intercountry adoptees, individuals who were over the age of 18 on the effective date of the CCA did not benefit.

Adoptees who did not acquire citizenship who have interactions with the criminal legal system are vulnerable to removal proceedings, immigration detention, and deportation. The deportation of this population of individuals can be especially concerning given the unique circumstances that these individuals initially came to the U.S. under. Since they were adopted to the U.S. as children, they often have zero or extremely limited ties to the country they were born in. Without family, friends, or an understanding of the language or culture, deportation back to their country of birth can be especially harmful and make economic and social survival extremely difficult.<sup>2</sup>

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<sup>1</sup> According to the Korean Foreign Ministry, over 19,000 Korean American adoptees' U.S. citizenship has not been confirmed. As cases of adoptees without citizenship from over 20 other countries have also come to light, it is estimated that roughly tens of thousands of intercountry adoptees did not acquire U.S. citizenship.

<sup>2</sup> See, e.g., Choe Sang-Hun, *Deportation a 'Death Sentence' to Adoptees After a Lifetime in the U.S.*, New York Times (Jul. 2, 2017), available at <https://www.nytimes.com/2017/07/02/world/asia/south-korea-adoptions-phillip-clay-adam-crapser.html>.

There is bipartisan support in Congress to address the loophole in the Child Citizenship Act that led to many adoptees over the age of 18 at the time of its effective date to not acquire automatic citizenship.<sup>3</sup> While Congress works to address the underlying issue legislatively, we urge you to take steps within your authority to assist these individuals.

The Department of Homeland Security (DHS) should establish a policy or directive on the use of prosecutorial discretion to assist already deported intercountry adoptees or those facing removal orders that considers the specific, unique, and extenuating circumstances presented in these cases.<sup>4</sup> DHS's existing prosecutorial discretion policies already includes adoptees who are longtime lawful permanent residents of this country.<sup>5</sup> However, it is our view that additional consideration is warranted in evaluating the cases of individuals adopted as young children by U.S. citizen families who have no ties to the country of their birth. Deportation in such cases is a particularly cruel outcome that should be avoided whenever possible, and steps should be taken to incorporate this same consideration for already deported individuals who are seeking motions to reopen or other relief that would grant them admissibility to the U.S.

Prosecutorial discretion is a particularly critical tool where there is no other form of legal relief available to avoid deportation or bring a person back after deportation. A wide array of criminal convictions, including nonviolent and misdemeanor crimes, impose the consequence of mandatory deportation for lawful permanent residents (LPRs) and lifetime bars to reentry and naturalization. In these circumstances, immigration law requires deportation without consideration for whether such a punishment is a fair and proportionate result in the individual case or the impact on their families. Immigration and Customs Enforcement's (ICE) exercise of prosecutorial discretion is often the only chance at a fair outcome in these cases where extenuating circumstances merit consideration.

We urge you to establish a prosecutorial discretion policy for these intercountry adoptees who have been deported or are facing deportation. Thank you for your attention to this important matter.

Sincerely,

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3 In the last session of Congress, the Adoptee Citizenship Act in the House (H.R.1593) garnered 32 Republicans and 32 Democratic cosponsors and in the Senate (S.967) garnered 7 Republicans and 7 Democrats.


4 Such a policy could be similar to ICE Directive 10039.2: Consideration of Military Service When Making Discretionary Determinations With Regard to Enforcement Actions Against Noncitizens (2022).

5 See Kerry Doyle, Principal Legal Advisor, ICE, Memorandum: Guidance to OPLA Attorneys Regarding the Enforcement of Civil Immigration Laws and the Exercise of Prosecutorial Discretion, April 3, 2022, [https://www.ice.gov/doclib/about/offices/opla/OPLA-immigration-enforcement\\_guidanceApr2022.pdf](https://www.ice.gov/doclib/about/offices/opla/OPLA-immigration-enforcement_guidanceApr2022.pdf).



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Adam Smith  
Member of Congress



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Mazie K. Hirono  
United States Senator



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Eleanor Holmes Norton  
Member of Congress



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Amy Klobuchar  
United States Senator



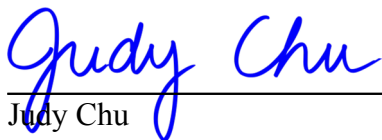
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Jesús G. "Chuy" García  
Member of Congress



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Tammy Duckworth  
United States Senator



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Judy Chu  
Member of Congress



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Elizabeth Warren  
United States Senator



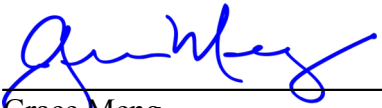
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Jamaal Bowman, Ed.D.  
Member of Congress

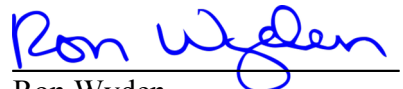


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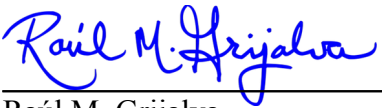
Jeffrey A. Merkley  
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Grace Meng  
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Ron Wyden  
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Raúl M. Grijalva  
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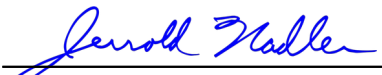
Richard J. Durbin  
United States Senator



Ro Khanna  
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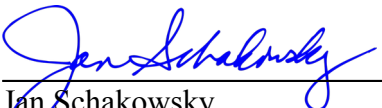
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Sheila Jackson Lee  
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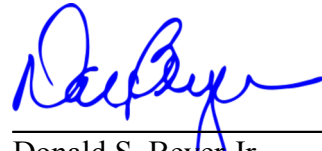


Gwen S. Moore  
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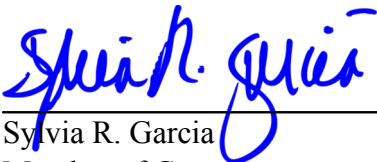
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Dan Goldman  
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Lizzie Fletcher  
Member of Congress



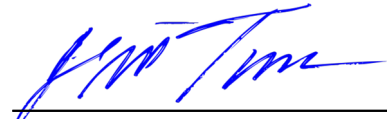
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Gerald E. Connolly  
Member of Congress



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Mike Quigley  
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David J. Trone  
Member of Congress



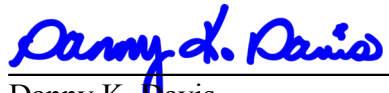
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Lloyd Doggett  
Member of Congress



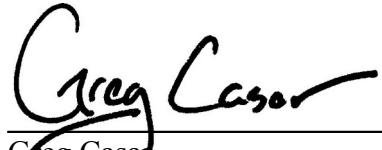
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Joaquin Castro  
Member of Congress



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Danny K. Davis  
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Greg Casar  
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