

Hon. Alejandro N. Mayorkas
Secretary of Homeland Security
U.S. Department of Homeland Security
2707 Martin Luther King Jr. Avenue, SE
Washington, DC 20528

Dear Secretary Mayorkas,

We, the undersigned 96 international, national, state and local advocacy and civil rights organizations, write to urge the Department of Homeland Security (DHS) to halt the use of denaturalization, a racialized and criminalizing tactic to determine who belongs in the United States. While we are relieved that the Biden Administration has committed to a review of harmful denaturalization, the detrimental effects of past policies continue to have a chilling effect on naturalization and the immigrant community as a whole. In the absence of clear policy from DHS, these chilling effects will continue to harm the communities we serve. We urge DHS to engage further with impacted communities to develop comprehensive recommendations that will lead to substantive reform.

The Trump Administration sought to strip naturalized Americans and their families of their citizenship in numbers exponentially greater than any previous administration. Previously, denaturalization was used in a limited way against alleged Nazis and other war criminals who had committed crimes against humanity. The prior administration drastically escalated the use of denaturalization as a dragnet enforcement tool that disproportionately affected Muslim communities and communities of color. In 2017 and 2018 alone, the Trump Administration filed double the average number of denaturalization cases filed in the prior 12 years.¹

Despite the rescission and revocation of certain Trump-era policies, DHS continues to utilize expensive, disproportionately invasive, and non-transparent surveillance tools under the guise of streamlined data sharing, in the form of the ATLAS software.² Despite the Biden Administration's call for a return to more humane immigration policies, DHS continues to assess and adjudicate immigration petitions with a "fraud-first" mentality, coupled with a dangerous overreliance on experimental technological "solutions" to this fundamentally flawed premise. Compounding these risks, the tools employed, including ATLAS, ultimately draw on flawed or inconsistent data held in multiple databases, a situation that will continue to generate incorrect and unfair targeting of U.S. citizens and immigrants with and without legal status as well as targeting immigrants based on contact with the criminal legal system (both pre- and post-naturalization) which disproportionately impacts Black and Brown immigrants.³

¹ *Unmaking Americans: Insecure Citizenship in the United States*, Open Society Justice Initiative, 2019, <https://www.justiceinitiative.org/uploads/e05c542e-0db4-40cc-a3ed-2d73abcf37f/unmaking-americans-in-secure-citizenship-in-the-united-states-report-20190916.pdf>

² DHS/USCIS/PIA-084 ATLAS, <https://www.dhs.gov/publication/dhsuscispia-084-atlas>

³ *Little-Known Federal Software Can Trigger Revocation of Citizenship*, Sam Biddle and Maryam Saleh, The Atlantic, <https://theintercept.com/2021/08/25/atlas-citizenship-denaturalization-homeland-security/>

The threat of denaturalization prevents immigrants from fully and freely exercising their rights as U.S. citizens or residents and engaging in civic and political life. By using tremendous government resources to target naturalized U.S. citizens who have been rooted in their communities for decades, the threat of denaturalization presents a destabilizing effect for those who have naturalized and sends a chilling message to those seeking to naturalize. Further, denaturalization itself is a costly and time-consuming process, involving multiple federal agencies, federal court litigation and requiring a significant expenditure of resources.⁴

Given these serious concerns, we urge DHS to take the following actions:

1. **Reporting:** Create and publish a disparate impact study on the practice and effects of denaturalization. Publish the results of the review undertaken by Executive Order on Restoring Faith in Our Legal Immigration Systems and Strengthening Integration and Inclusion Efforts for New Americans⁵ as it relates to denaturalization (Section 5(a)(v)). Ensure that the review encompasses the investigation, settlement negotiation (where applicable), prosecution, and impact of denaturalization cases, and includes the following information:
 - a. The policies, procedures, and priorities under which the Departments of Homeland Security, Justice and/or State investigate and prosecute U.S. citizens for denaturalization;
 - b. Staff and funding deployed for denaturalization from each relevant operational component;
 - c. The number of denaturalization cases since 2008 reviewed or investigated, referred for prosecution, filed in federal court, placed in removal proceedings, leading to removal, and leading to statelessness. Case data should be disaggregated by country of origin, religion, gender, manner of entry (including port of entry and immigration status upon entry), referring agency, and alleged denaturalization grounds; and
 - d. The number of Americans with derivative citizenship denaturalized due to their sponsor's denaturalization.
2. **Denaturalization Enforcement:** Halt denaturalization operations and dismantle the denaturalization apparatus that was institutionalized in the Departments of Homeland Security, Justice, and State during the Obama and Trump Administrations, including disbanding the denaturalization units within DOJ's Civil Division (Office of Immigration Litigation), USCIS and ICE.
 - a. Recommend to DOJ to dismiss all pending denaturalization cases and impose a moratorium on new civil and criminal denaturalization (8 U.S.C. § 1451 and 18 U.S.C. § 1425) referrals to the Department of Justice.

⁴ Citizenship and Immigration Services Ombudsman, Annual Report 2020 (June 30, 2020), https://www.dhs.gov/sites/default/files/publications/20_0630_cisomb-2020-annual-report-to-congress.pdf

⁵ Executive Order on Restoring Faith in Our Legal Immigration Systems and Strengthening Integration and Inclusion Efforts for New Americans, (February 2, 2021) <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/02/02/executive-order-restoring-faith-in-our-legal-immigration-systems-and-strengthening-integration-and-inclusion-efforts-for-new-americans/>

- b. In cooperation with the Department of Justice, publish a Department of Homeland Security and Department of Justice prioritization policy strictly limiting investigations potentially leading to denaturalization and civil and criminal denaturalization prosecutions.
 - c. In cooperation with the Department of Justice, conduct individual impact assessments and develop individual post-denaturalization plans, identifying factors that would preclude prosecution, such as the creation of statelessness or the separation of families.
 3. **USCIS Improvements:** Publish guidance to USCIS officers to exercise authority to recommend against denaturalization of target and derivatives and against removal. Such guidance should include measures to prevent the targeting and use of derivatives as a means to coerce an individual into a denaturalization settlement.
 - a. Halt the cancellation of certificates of derivative children and spouses.
 - b. Institute a process for reviewing all denaturalizations since 2008 and reinstating citizenship of denaturalized individuals and their derivatives, including by permitting such individuals to re-apply for citizenship *nunc pro tunc* and waiving fees.
 - c. Ensure that all current and future use of the Immigration Examinations Fee Account (IEFA) funds are not directed for denaturalization and immigration enforcement, including fraud related enforcement actions, and directed to processing immigration benefits and facilitating access to those benefits.
 - d. Rescind the 2019 Decision Memorandum, "Settlement Process for Historical Fingerprint Enrollment Denaturalization Cases," and publicly release all quarterly reports—which was mandated by the 2019 Decision Memorandum—describing outcomes of cases handled by the settlement panel.
 - e. Review and revise Form N-400, Application for Naturalization, to eliminate arbitrary questions specifically those related to "good moral character."
 4. **Technology:** Halt the use of software and other technology used to flag individuals for further investigation pending a data protection and disparate impact review. Commit to a revised data governance framework within DHS and data-sharing partners that entails clear lines of agency accountability for the accuracy, necessity and veracity of all information collected and processed in connection with benefits adjudication and enforcement activities.
 - a. Provide public disclosure of the rules that ATLAS is using to flag individuals for further investigation; the population being flagged by ATLAS, disaggregated by race, country of origin, etc.; the number of screenings and flags/System Generated Notifications (SGNs), and the outcome of those flags, including data on how many SGNs end up in denaturalization investigation and prosecutions.
 - b. Suspend the development of the Homeland Advanced Recognition Technology (HART) and divert funding for HART to ensuring access to immigration benefits instead.
 - c. Suspend the purchase, acquisition and processing of commercial and social media data within DHS systems, including the Automated Biometric Identification System (IDENT) currently in operation.

5. **Legislation:** Support legislation designed to eliminate or substantially limit or mitigate harmful denaturalization practice. Institute further procedural protections for those subject to civil denaturalization. Support legislation to impose a statute of limitations in civil denaturalization (there is currently a ten-year statute of limitations for criminal denaturalization); right to appointed counsel, right to trial by jury, heightened personal service requirement, and heightened evidentiary standard of “clear, unequivocal and convincing” evidence; and require proof of intentional fraud. Pursue legislative reform to prohibit denaturalization, particularly in any case where it would result in statelessness and in cases involving derivative denaturalization.

In conclusion, we respectfully request that DHS halt the use of denaturalization and thoroughly review the effects and practices of previous administrations and make public the results of that review. We also request that DHS adopt the recommendations detailed in this letter.

Denaturalization practices have had a detrimental effect on communities throughout the United States and we urge DHS to engage with these communities to understand the full extent of the harm and to develop solutions that will protect against future administrations that seek to use denaturalization as a weapon.

For any questions, please contact Elizabeth Taufa at the Immigrant Legal Resource Center at etaufa@ILRC.org, Deborah Choi at Asian Americans Advancing Justice - Asian Law Caucus at deborahc@advancingjustice-alc.org and Amber Qureshi at the National Immigration Project of the National Lawyers Guild at amber@nipnl.org.

Sincerely,

ABISA
African Communities Together
African Diaspora for Good Governance
Ahri Center
Alianza Americas
Alianza Nacional de Campesinas
American-Arab Anti-Discrimination Committee (ADC)
Ascentria Care Alliance, Immigration Legal Assistance Program
Asian Americans Advancing Justice - Asian Law Caucus
Asian Americans Advancing Justice - Los Angeles
Asian Americans Advancing Justice | AAJC
Bend the Arc: Jewish Action
Bertha M. Rodriguez, Esq.
Boulder Valley U-U Fellowship
Boulder Valley Unitarian Universalist Fellowship
Boulder Valley Unitarian Universalist Fellowship Immigration Justice Task Force
CASA
CASA in Action
Catholic Legal Immigration Network, Inc.

Causa

Central American Resource Center of California (CARECEN Los Angeles)
Church World Service
Coalition for Humane Immigrant Rights (CHIRLA)
Colorado Immigrant Rights Coalition
Community Resource Center
Connecticut Shoreline Indivisible
Council on American-Islamic Relations (CAIR)
Council on American-Islamic Relations, New York chapter (CAIR-NY)
Creating Law Enforcement Accountability & Responsibility clinic (CUNY School of Law)
Defending Rights & Dissent
Dominicanos USA
Employee Rights Center
Entre Hermanos
Faith in Indiana
Florence Immigrant & Refugee Rights Project
Georgetown Law International Migrants Bill of Rights (IMBR) Student Organization
GMHC
Government Information Watch
Hawai'i Coalition for Immigrant Rights
HIAS Pennsylvania
Illinois Coalition for Immigrant and Refugee Rights
Immigrant Alliance for Justice and Equity
Immigrant Legal Advocacy Project
Immigrant Legal Resource Center
Immigration Equality
Immigration Institute of the Bay Area
Inland Coalition for Immigrant Justice
International Refugee Assistance Project (IRAP)
ISLA: Immigration Services and Legal Advocacy
Islamophobia Studies Center
Jakara Movement
Korean Community Service Center
Law Office of Bertha M Rodriguez
Law Office of Roshani M. Gunewardene
Legal Aid Justice Center
Mainers for Accountable Leadership Action
Make the Road Nevada
Mariana Olaizola Rosenblat, Lecturer in Law and Fellow, Global Human Rights Clinic, University of Chicago Law School
Massachusetts Immigrant and Refugee Advocacy Coalition
Michigan Immigrant Rights Center
Mujeres Latinas en Accion
Muslim Advocates

Muslim Justice League
NALEO Educational Fund
National Immigration Law Center
National Immigration Project (NIPNLG)
National Network for Immigrant & Refugee Rights
National Partnership for New Americans
New American Leaders Action Fund
New Immigrant Community Empowerment (NICE)
New York Immigration Coalition
OCA-Greater Houston
OneAmerica
Open Immigration Legal Services
Project On Government Oversight
Project South
Promise Arizona
Pulso
Quinnipiac University School of Law Clinic
RAICES
Restore The Fourth
Rosana Donoso Barredo
S.T.O.P. - The Surveillance Technology Oversight Project
Self-help for the Elderly
South Asian Americans Leading Together (SAALT)
The Legal Aid Society (New York)
UndocuBlack Network
Unidos MN
UnidosUS
Unitarian Universalist Refugee & Immigrant Services & Education
United Stateless
Vermont Interfaith Action
Westchester Jewish Coalition for Immigration
Wind of the Spirit Immigrant Resource Center
Women Watch Afrika
Workers Defense Action Fund

cc:

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Esther Olavarria, Deputy Director of the Domestic Policy Council for Immigration

Phyllis Coven, CIS Ombudsman