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1266 Queen Street West
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12 March 2008

BY FAX: 416-531-0885

Dear Ms. Sadoway,

This is in support of the application for permanent residence under humanitarian and compassionate grounds for Jeremy Hinzman, his wife Nga Thi Nguyen, and child, Liam Liem Nguyen.

Amnesty International (AI) believes that as an individual who deserted the United States military for reasons of conscience, there is a significant risk Mr. Hinzman will be imprisoned upon his return to the United States (U.S.), and as such he should not be forcibly removed to that country. If imprisoned, AI would consider him to be a prisoner of conscience.

Background

Amnesty International believes Mr. Hinzman has a genuine conscientious objection to serving as a combatant in the US forces in Iraq. Amnesty International considers that he took reasonable steps to register his conscientious objection through seeking non-combatative status in 2002, an application which was eventually rejected.

Mr. Hinzman enlisted in the U.S. military on 27 November 2000 and during his course of training and service gradually came to the conclusion that he could not participate in offensive military operations as it would be contrary to his beliefs. He applied to the army for non-combatative status as a conscientious objector in August 2002. A few months later he submitted a second application as no action had been taken on the original. While this was pending, he was deployed to Afghanistan where he had a hearing on his application for non-combatative status in April 2003. His application was refused as it was determined that Mr. Hinzman's beliefs were not congruent with the definition of conscientious objector under the U.S. Army Regulations. Mr. Hinzman did not appeal this finding as he did not believe that his appeal would be treated fairly.

In December 2003, when he was back in the U.S., Mr. Hinzman received notice of his unit's deployment to Iraq. He did not make a new request for conscientious objector non-combatant status with respect to the proposed deployment to Iraq as it was his

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understanding that the definition of “conscientious objection” in U.S. Army Regulations did not encompass opposition to a particular war, as opposed to war in any form, or the bearing of arms. He decided to leave the military without leave as he considered combatant participation in the war in Iraq would be a violation of his conscience, religious principles, and international law. In early January 2004, he came to Canada together with his family where he submitted a refugee claim on January 22, 2004. The Canadian Immigration and Refugee Board denied Mr. Hinzman asylum in March 2005.

Conscientious Objection

Amnesty International is of the view that the right to refuse to perform military service for reasons of conscience is inherent in the notion of freedom of thought, conscience and religion as recognised in *Article 18 of the Universal Declaration of Human Rights (UDHR)* and *Article 18 of the International Covenant on Civil and Political Rights (ICCPR)*. In its general comment *No. 22 on article 18 of the ICCPR*, the Human Rights Committee of the United Nations has reaffirmed that the right to conscientious objection to military service is a legitimate exercise of the right to freedom of thought, conscience and religion.

AI is also of the view that that the right to refuse to perform military service for reasons of conscience is inherent in the equality provision of the *Canadian Charter of Rights and Freedoms*, which protects against discrimination on the basis of religion and political opinion.

Amnesty International considers a conscientious objector to be any person who, for reasons of conscience or profound conviction, refuses either to perform any form of service in the armed forces or applies for non-combatant status. This can include refusal to participate in a war because one disagrees with its aims or the manner in which it was being waged, even if one does not oppose taking part in all wars. It is thus the view of Amnesty International that conscientious objectors can adopt selective forms of objection which should not be used to undermine the conscientious nature of their objection.

Prisoner of Conscience

Amnesty International considers a person to be a prisoner of conscience when s/he is detained or imprisoned solely because s/he has been denied or refused his/her right to register an objection or to perform alternative service. S/he would also be a prisoner of conscience if s/he is imprisoned for leaving the armed forces without authorization for reasons of conscience, if s/he has taken reasonable steps to secure release from military obligations.

Following this Amnesty International opposes the forcible return of a rejected asylum seeker if s/he is a conscientious objector and upon return would risk becoming a prisoner of conscience or would risk other serious human rights violations for reasons of his/her conscience.

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understanding that the definition of “conscientious objection” in U.S. Army Regulations did not encompass opposition to a particular war, as opposed to war in any form, or the bearing of arms. He decided to leave the military without leave as he considered combatant participation in the war in Iraq would be a violation of his conscience, religious principles, and international law. In early January 2004, he came to Canada together with his family where he submitted a refugee claim on January 22, 2004. The Canadian Immigration and Refugee Board denied Mr. Hinzman asylum in March 2005.

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Amnesty International Concerns

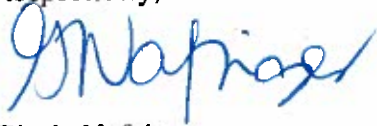
Amnesty International considers that the circumstances and evidence presented in the case of Mr. Hinzman indicates that he is a conscientious objector. Several factors form the basis for this conclusion. He has comprehensively described the process during which he gradually came to the conclusion that he could not participate in offensive military operations as it would be contrary to his beliefs. This process was manifested through his formal application for conscientious objector non-combatant status; his deployment in Afghanistan on non-combatant duties before his claim was rejected and his consistent assertion that he believes the war in Iraq to be contrary to international law and waged on false pretences; that the use of force is immoral and counterproductive and that he is not willing to kill or be killed in the service of ideology and economic gain. The U.S. authorities' rejection of his earlier application for conscientious objector non-combatant status, and the limited grounds on which such status can be sought under U.S. regulations, make it reasonable to believe that had he submitted another application specifically focusing on his objection to the war in Iraq it was likely to have been rejected.

AI is seriously concerned about the commission of war crimes and human rights violations – particularly the widespread use of torture and maltreatment of prisoners – in the U.S. war in Iraq. We support persons who stand up against such breaches anywhere, and who refuse to be associated with the commission of such violations. AI has found a number of U.S. army deserters to be conscientious objectors and has objected to their detention solely for their conscientious objection to the war in Iraq.¹

Amnesty International believes there is a significant risk that Mr. Hinzman will be imprisoned for up to five years if forcibly returned to the US because of having left the armed forces without authorization for reasons of conscience. As such, AI would consider him to be a prisoner of conscience if imprisoned in the United States. For these reasons Amnesty International does not believe the Mr. Hinzman should be forcibly removed to the United States.

¹ AI Index: AMR 51/077/2005, USA: *International Conscientious Objector Day marked by sentencing Pablo Paredes to three months of hard labour*, 13 May 2005. found at: <http://www.amnesty.org/en/library/asset/AMR51/077/2005/en/3bc72f80-a2d7-11dc-8d74-6f45f39984e5/amr510772005en.html> and AI Index: AMR 51/053/2007, USA: *Prisoner of conscience: Mark Lee Wilkerson (m)* 28 March 2007. found at <http://archive.amnesty.org/library/Index/ENGAMR510532007?open&of=ENG-2AM>

Respectfully,



Gloria Nafziger
Refugee Coordinator (Toronto Office)
Amnesty International