

AI statement re: Kimberly Rivera**August 31 2012**

Amnesty International considers Kimberly Rivera to be a conscientious objector, and as such would consider her to be a prisoner of conscience should she be detained for military evasion, upon removal to the United States.

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.

Wherever such a person is detained or imprisoned solely for their beliefs as a conscientious objector, Amnesty International considers that person to be a prisoner of conscience, and calls for their immediate and unconditional release.

The right to refuse to perform military service for reasons of conscience is inherent in the notion of freedom of thought, conscience and religion and is recognized in international human rights instruments including the Universal Declaration of Human Rights (UDHR) and International Covenant on Civil and Political Rights.

Kimberly Rivera formed an understanding of her position as a conscientious objector over a period of time while she was deployed in Iraq. At one point her convictions caused her to stop carrying her rifle while on duty in Iraq.

Amnesty International is concerned that past comments and a directive (operational bulletin 202) made by the Minister of Citizenship and Immigration, may have had a prejudicial impact on the refugee and humanitarian decisions of military deserters from the United States.

Operational Bulletin 202, (released in 2 July 2010), fails to recognize that military desertion for reasons of conscience is a legitimate ground for refugee protection. This bulletin deals with the processing of military deserters who claim refugee status in Canada and advises that military deserters from other countries who claim refugee status in Canada may be inadmissible to Canada. The bulletin specifically references deserter cases from members of the United States armed forces, and implies that these cases should be treated differently than deserters from other countries.

Amnesty International believes that Operational Bulletin 202 misstates the law and seeks to intrude on the independence of both Immigration and Refugee Board

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members and Immigration Officers. Amnesty International has called on the government to withdraw this bulletin.

Making a decision on a refugee or humanitarian application in Canada is a complex and difficult task. These decisions can be heart-rending and may also include consideration of the best interests of children. The government has appointed and mandated people to make these decisions, and they must be free to do so, without interference, upon a full consideration of all of the facts and taking regard of international human rights law.

Amnesty International urges the Minister to fully consider all of the facts in the case of Kimberly Rivera, including the fact that she is facing detention in the United States for her conscientiously held beliefs, and allow her to remain in Canada on Humanitarian and compassionate grounds.

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