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FY 2004 Omnibus Bill Sets Funding for Refugee Protection and Assistance: Includes New Provision on Refugee Resettlement

On January 23, the president signed an FY 2004 omnibus appropriations bill that includes U.S. funding for refugee protection and assistance this fiscal year (Public Law 108-199). The omnibus bill also includes a little known but important provision entitled, "Report on Admission of Refugees," which directs the secretary of state to take several measures to enhance the identification and processing of refugees for U.S. admission. While the bill sets funding levels below what advocates had sought, the refugee amendment is a victory for them. Another victory—the Specter amendment designed to help U.S. resettlement applicants stranded in Vienna, Austria—also passed under the omnibus bill (see story, page 5.)

MRA Down, ERMA Up

The final agreement appropriates \$760.197 million for Migration and Refugee Assistance (MRA) and \$30 million for the Emergency Refugee and Migration Assistance account (ERMA). The MRA appropriation is the same as the president's request, but it is \$21.688 million less than the FY 2003 level of \$781.885 million. The ERMA appropriation is \$10 million less than the president's request but \$4.169 million more than the FY 2003 level of \$25.831 million.

The MRA account funds the UN High Commissioner for Refugees (UNHCR), the International Committee of the Red Cross, and other agencies that provide humanitarian assistance and protection to refugees overseas, including physical and legal protection and the provision of food, shelter, health services, and other assistance. MRA funds also help pay the initial cost for refugees to resettle in the United States; aid to refugees resettling in Israel; and administrative expenses of the Department of State's Bureau of Population, Refugees, and Migration (PRM).

The ERMA account, which is replenished yearly, supplies funds for urgent and unforeseen migration needs. ERMA is a no-year account that the President may draw on at any time to meet "unexpected urgent refugee needs." The term "no-year" means that any funds left over in the account at the end of a fiscal year can be carried over into the next fiscal year. In the FY 2004 omnibus bill, Congress waived the provision of law that says the amount of funds appropriate for ERMA cannot cause the balance of the account to exceed \$100 million.

The MRA and ERMA accounts are found in the International Affairs function of the federal budget, and appropriations are provided each year

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through the Foreign Operations Appropriations bill. Appropriations are typically passed before the beginning of each fiscal year in October. This year, however, wrangling over a final funding agreement between the House and Senate delayed the process for several months. As a result, funding for refugee protection and assistance has been operating on a continuing resolution of the FY 2003 level.

ORR Funding: Down \$28 Million

The administration has designated \$450.3 million to fund the Office of Refugee Resettlement (ORR) under the Department of Health and Human Services to assist refugees, asylees, entrants, unaccompanied minors, torture survivors, and victims of trafficking in the United States.

This is about \$11 million below the president’s request for \$461.6 million and almost \$28 million less than the FY 2003 appropriation of \$478 million. In FY 2003, ORR received \$478 million in appropriated funds and an additional \$2.9 in supplemental funds for a total of \$480.9 million.

According to Lavinia Limón, executive director of Immigration and Refugee Services of America (IRSA), “The appropriation for ORR is very disappointing, particularly given the anticipated funding difficulties for the Matching Grant program and the needs of ORR’s expanding mandate.” The line-items administered by ORR include: Transitional Assistance and Medical Services (TAMS), which includes refugee cash and medical assistance, the refugee unaccompanied minors program, the Matching Grant program, and state formula social services; targeted assistance; public health; social services (discretionary); torture victims programs; trafficking victims programs; and the unaccompanied alien child program (transferred to ORR through the Homeland Security Act of 2002).

Refugee Admissions Amendment

The omnibus bill also includes a provision directing the secretary of state to take measures to enhance the identification and processing of refugees for U.S. admission. It also requires a report on these measures.

The final version of the amendment was sponsored by Senators Brownback (R-Kans.), Lautenberg (D-N.J.), and Kennedy (D-Mass.). According to Limón, “The amendment sends a strong signal of Congressional intent that the State Department

should make needed changes to the admissions system. Its a significant victory for the refugee agencies who worked so hard to get it passed.”

The language, which appears in the final version of the bill reads:

**REPORT ON ADMISSION OF REFUGEES
SEC. 590.**

(a) The Secretary of State shall utilize private voluntary organizations with expertise in the protection needs of refugees in the processing of refugees overseas for admission and resettlement to the United States, and shall utilize such agencies in addition to the United Nations High Commissioner for Refugees in the identification and referral of refugees.

(b) The Secretary of State should establish a system for accepting referrals of appropriate candidates for resettlement from local, private, voluntary organizations and work to ensure that particularly vulnerable refugee groups receive special consideration for admission into the United States, including--

- (1) long-stayers in countries of first asylum;*
- (2) unaccompanied refugee minors;*
- (3) refugees outside traditional camp settings;*
- and*
- (4) refugees in woman-headed households.*

(c) The Secretary of State shall give special consideration to--

- (1) refugees of all nationalities who have close family ties to citizens and residents of the United States; and*
- (2) other groups of refugees who are of special concern to the United States.*

(d) Not later than 120 days after the date of enactment of this Act, the Secretary of State shall submit a report to the Committees on Appropriations describing the steps that have been taken to implement this section.

PVO Referrals

The amendment directs the State Department to utilize private voluntary organizations (PVOs) in the identification, referral, and processing of refugees to the United States.

With respect to identification and referral, PRM currently primarily accepts referrals from UNHCR, which results in many vulnerable refugees not being identified as appropriate candidates for the U.S. resettlement program. This is mainly because UNHCR is overwhelmed with their primary mission of sheltering, feeding, and protecting hundreds of thousands of refugees and therefore does not have sufficient time or staff to devote to resettlement referrals. In the past, PRM has not generally encouraged U.S. embassies to identify potential resettlement cases, contrary to its own official policy (i.e., Priority One referrals are supposed to come from either UNHCR or U.S. embassies). This is especially problematic when combined with the limited use of Priority Two (groups of special concern to the United States) and Priority Three (family reunification), which means that very few refugees get to the first stage of access to the U.S. program.

The amendment seeks to remedy this problem by directing PRM to “utilize PVOs with expertise in the protection needs of refugees,” for

the identification and referral of prospective candidates for admission (in addition to continuing to accept referrals from UNHCR). It also directs PRM to “establish a system for accepting referrals of appropriate candidates for resettlement from local PVOs.” Many local PVOs are well placed to identify vulnerable refugees. These referrals would not require the United States to admit any person—each individual would still have to be interviewed by U.S. immigration officials and would have to meet all eligibility requirements under U.S. law—but it would increase the likelihood that refugees in need of resettlement would have a chance of gaining access to the program.

With respect to processing, PRM has been slowly but surely cutting U.S.-based PVOs out of their historic role in processing refugees for admission to the United States. For many years, in various parts of the world, the State Department has used PVOs to conduct case preparation and other pre-screening activities in preparation for U.S. government interviews. This is known as a

U.S. Migration and Refugee Assistance

| Activities | FY 2003* | FY 2004** | FY 2005 | Increase/ (Decrease) |
|--|-----------|--------------|-----------|-------------------------|
| | Actual | Estimate | Request | |
| Overseas Assistance | \$624,622 | \$552,667 | \$524,539 | \$(28,128) |
| Africa | \$228,523 | \$201,387 | \$208,500 | \$7,113 |
| East Asia | \$19,528 | \$20,404 | \$14,500 | \$(5,904) |
| Europe | \$74,915 | \$54,558 | \$50,000 | \$(4,558) |
| Near East | \$125,404 | \$100,538 | \$97,000 | \$(3,538) |
| South Asia | \$79,321 | \$73,741 | \$58,039 | \$(15,702) |
| Western Hemisphere | \$20,366 | \$21,526 | \$26,000 | \$4,474 |
| Migration | \$16,275 | \$17,303 | \$15,500 | \$(1,803) |
| Strategic Global Priorities | \$60,330 | \$63,210 | \$55,000 | \$(8,210) |
| Refugee Admissions | \$81,155 | \$132,464 | \$135,750 | \$3,301.00 |
| Humanitarian Migrants to Israel | \$59,610 | \$49,705 | \$50,000 | \$295.00 |
| Administrative Expences | \$16,457 | \$20,876 | \$19,500 | \$(1,391.00) |
| TOTAL MRA | \$781,884 | ** \$755,712 | 729,789 | 10 |

* The amount appropriated for FY 2003 after application of .65 percent across the board rescissions.

** The amount includes the application of a .59 percent across the board rescission, down from a total appropriation of \$760.197 million.

Source: U.S. Department of State

“Joint Voluntary Agency” or JVA, which means that one agency acts on behalf of all of the U.S.-based refugee resettlement agencies.

For example, Church World Service helps process refugees in parts of Africa, and those refugees are then resettled not only by CWS but also by most or all of the national resettlement agencies. Recently, however, PRM has been using the International Organization for Migration (IOM) to fulfill this pre-processing function in many parts of the world, using fewer and fewer JVAs. This is problematic because IOM is concerned with managed migration in the broad sense and does not have a specific mandate for the protection of refugees. Yet, PRM prefers to use IOM for this function, for a variety of reasons.

The refugee agencies believe that it is more appropriate to utilize agencies that, in addition to fulfilling all State Department requirements for refugee processing, can act as advocates for refugee protection and as an ombudsmen for the refugees themselves. “We believe that it is appropriate to use agencies that have a connection to the U.S. resettlement system, Limón said. “The JVAs have local affiliates throughout the United States that do the actual work of refugee resettlement once the refugees arrive.”

The amendment seeks to remedy this problem by directing PRM to “utilize” PVOs for the processing of refugees. It does not prohibit PRM from using IOM or any other organization for this purpose as well.

Vulnerable Groups

The amendment directs the State Department to work to ensure that particularly vulnerable refugee groups receive special consideration for admission into the United States.

For the past several years, PRM has increasingly restricted access to the U.S. refugee resettlement program. This has been accomplished through the almost exclusive reliance on UNHCR for Priority One referrals, as well as by the extremely limited use of the other processing priorities. Currently, only five refugee groups worldwide are designated as being of special concern to the United States (Priority Two), and only nine nationalities are eligible to be considered for U.S. refugee admission on the basis of having close family members in the United States (Priority Three). (All persons interviewed under any of these priorities must still meet the U.S. definition of a refugee.)

The refugee agencies have long urged PRM to increase access to the U.S. program for particularly vulnerable refugees, such as refugees who have lived in camps for many years (“longstayers”), unaccompanied refugee minors, refugees in female-headed households, and refugees outside of traditional camp settings (particularly “urban refugees”). The agencies also believe that PRM should not restrict Priority Three (family reunion) to only a few nationalities.

The amendment seeks to remedy these problems by directing PRM to give special consideration to particularly vulnerable refugee groups, to refugees of all nationalities who have close family ties to citizens and residents of the United States, and to other groups of refugees who are of special concern to the United States.

Long-Stayers

With respect to refugees who have lived in camps for many years, UNHCR, and more recently PRM, have begun considering ways to resettle long-stayers for whom integration and return—UNHCR’s historic “preferred” durable solutions—appear remote. Many of these populations—including tens of thousands of refugees from Bhutan, Burma, Liberia, Somalia, and Sudan—have lived in camps for more than 10 years. Because many do not have urgent refugee-protection needs, they were generally not considered for resettlement. Under past practice, such refugees faced a “double persecution standard” whereby they would have had to prove not only that they fled a well founded fear of persecution initially, but also that they faced such persecution in their current situation.

Recently, UNHCR—and increasingly, PRM—have begun to shift from the urgent-protection paradigm to recognize that people in protracted refugee situations also warrant consideration for resettlement. For his part, UN High Commissioner Rudd Lubbers has been encouraging other nations to support UNHCR’s new “group referral mechanism” that waives individual status determinations and enables the agency to refer groups—including long-stayers—for resettlement. PRM has expressed support for the new group referral system and is including long-stayers in its purview of vulnerable groups it is considering for U.S. resettlement.

The amendment is designed to bolster this effort by including “long-stayers in countries of first asylum” in its list of particularly vulnerable refugee

groups that should receive special consideration for U.S. admission.

Recent Developments

Relief for Persecuted Religious Minorities from Iran

by Daniel Shanfield, Attorney at Law

Another important provision known as the Specter Amendment also passed with the omnibus bill. The Specter Amendment—an expanded version of the Lautenberg Amendment—affords protection to potentially thousands of religious refugees fleeing the Islamic Republic of Iran. It also provides a potential solution for several hundred Iranian refugee applicants who have been denied U.S. resettlement and are currently waylaid in Austria.

Background

Iranian religious minorities are designated under U.S. refugee law as a Group of Special Concern (Priority Two, or P-2), and are therefore eligible to participate in the U.S. overseas refugee resettlement program (USRP). The community comprises Baha'is, Armenian and Assyrian Christians, converts to Christianity, Jews, Mandaeans, and Zoroastrians. The U.S. government conducts processing for this refugee category primarily in Vienna, Austria, under the twin auspices of the State Department's Bureau of Population, Refugees, and Migration (PRM) and U.S. Citizenship and Immigration Service (USCIS—formerly the Immigration and Naturalization Service or INS). Qualified applicants in Iran may participate in the Vienna program through the sponsorship of family or friends stateside, with the assistance of a designated U.S. voluntary resettlement agency (volag).

The Vienna program operates in close partnership with the Austrian Ministry of the Interior (MOI), which issues temporary humanitarian visas for refugee applicants to come to Austria for processing. In 2002, the USRP streamlined its relations with non-profit voluntary agencies assisting refugees in Austria, and now works exclusively through the Hebrew Immigrant Aid Society (HIAS) as its design-

ated Overseas Processing Entity (OPE). The OPE conducts initial screening of sponsorship applications, forwards humanitarian visa requests to the Austrian government, and guides arriving applicants through the resettlement process.

From 1980 through the end of 2002, the USRP approved resettlement to approximately 58,000 Iranians on the basis of religious affiliation; and over a typical year, the former-INS granted approximately 80 to 90 percent of all applications in this category. In 2001, the United States admitted 6,582 religious refugees from Iran. However, in 2002 and 2003, that figure fell to approximately 1,500 and 650 refugees, respectively. This decline is expected to continue, as PRM has declared a resettlement ceiling of 600 P-2 Iranians for FY 2004.

Stranded in Vienna

Even before the terrorist attacks of September 11, 2001—after which U.S. refugee admissions declined—the INS had begun a pattern of denying applications of about 58 percent of Armenian and Assyrian Christians. By 2003, numerous Iranian Christian families were stranded in Vienna, unable or unwilling to return to Iran, denied refugee admission to the United States, and living illegally in Austria. The year 2003 moreover witnessed an appreciable surge in rejections for Iranian Jewish refugee applicants, with rejection rates climbing from a traditional 10 to 15 percent rate to about 50 percent by last autumn.

The exact number of USRP applicants stranded in Vienna is unknown. However, at its peak in 2003, the number was estimated at some 700 to 900 individuals. The Austrian government, displeased at hosting such a sizable denied refugee population—a population whom it had assisted at the behest of the U.S. Refugee Program—threatened to shut down its part of the program unless a solution was reached. With the situation growing dire, a number of religious community organizations in the United States approached PRM, INS/USCIS, and Congress to provide some form of relief. In the interim, PRM and INS acquiesced to a Request for Reconsideration (RFR) project for cases denied prior to January 2002. However, at the end of 2003, some 500 USCIS-denied individuals still remained in Austria.

By the autumn of 2003, Senator Arlen Specter (R-Pa.), persuaded by religious community

organizations from around the United States, took the lead in sponsoring a bill that would expand the Specter Amendment's provisions—formerly accorded to religious refugees from the former Soviet Union and Indochina—and offer a relaxed interpretive standard for establishing a well-founded fear of persecution to Iranian religious refugee applicants.

The Specter Amendment

The Specter Amendment relaxes normal refugee eligibility standards for Iranian religious minorities—whom the law now clearly identifies per se as targets of persecution on account of race, religion, nationality, social group membership, or political opinion—by permitting them to establish a “well-founded fear of persecution” merely by asserting a fear of persecution alongside a credible basis for that fear. As historically construed by the former INS (now USCIS) in adjudicating the overseas refugee claims of Former Soviet Union (FSU) applicants, this showing is significantly less demanding than the threshold practitioners are accustomed to demonstrating before the Asylum Office and the immigration courts.

One shortcoming of the Specter Amendment—compared to the treatment FSU refugees receive—is the absence of parole and adjustment-of-status for rejected refugee applicants. The absence of parole in the bill is a drawback, because certain applicants will inevitably face denial even with the help of a relaxed well-founded fear standard. For those rejected cases lacking some other U.S. immigration alternative, the absence of a parole option puts applicants with weaker claims at risk.

Guidelines are being developed to implement the Specter Amendment. They will ultimately determine its effectiveness in protecting Iranian religious minorities in Vienna.

(Daniel Shanfield contributed to this article. Daniel practices immigration and nationality law in Palo Alto, California, with a focus on refugee and asylum law. Before starting his law practice, Shanfield was Refugee Legal Services Manager for the Overseas Processing Entity in Vienna, Austria, and a resettlement expert with UNHCR in Central Asia. He can be contacted at shanfield-law@sbcglobal.net)

Partial Victory Over Special Registration

By Stacy Tolchin¹

On December 2, 2003, the Department of Homeland Security (DHS) announced a change to the government's “Special Registration” program, ending the program's “annual re-registration” requirement. The program, implemented in fall 2002 and in the shadow of the September 11 attacks, required certain non-citizens from 25 countries to “register” with the Immigration and Naturalization Service (which has now been taken over by the Department of Homeland Security).

The program earned criticism because it targeted men from mostly Muslim or Middle-Eastern countries, equating national origin and religion with being a danger to national security (See Refugee Reports, Vol. 22, No. 9, and Vol. 23, No. 2). The program was frequently analogized to the Japanese Internment Camps of World War II because it targeted individuals on the basis of national origin, assuming they were security threats because of their place of birth. The change announced on December 2 was a victory for the many civil rights and community groups advocating for a change to the program. However, the program is still in effect on a lesser scale.

Background

“Special Registration,” technically the “National Security Entry-Exit Registration System (NSEERS),” proved unsuccessful for identifying potential terrorist threats. NSEERS consists of registration through various ports-of-entry, and registration through the Special Registration program. By 2005, the Department of Homeland Security plans to have NSEERS function as a comprehensive entry-exit system that applies to almost all foreign visitors.

Instead of helping DHS identify potential terrorists, Special Registration proved successful for serving as a “voluntary raid” for the thousands of men who came in to register, and who were then placed into removal proceedings because they had technical immigration visa violations. Almost 14,000 people were placed into removal proceedings, meaning they have been deported, or are on the road to being deported, from the United States. Countless families, friends, and communities have been separated as a result of the policy.

Special Registration consists of two different categories. The first applied to both men and women entering the United States after October 2002 from Iran, Iraq, Libya, Sudan, and Syria, as well as any individual who appeared remotely suspicious based on travel or appearance. The second category applied to men over the age of 16 who were residing in the United States as of September 2002, and who were nationals of Afghanistan, Algeria, Bahrain, Bangladesh, Egypt, Eritrea, Indonesia, Iran, Iraq, Jordan, Kuwait, Libya, Lebanon, Morocco, North Korea, Oman, Pakistan, Qatar, Somalia, Saudi Arabia, Sudan, Syria, Tunisia, United Arab Emirates, and Yemen. A total of almost 177,260 individuals were registered.

The process required each man to: 1) come to a designated BICE office to be registered (photographed, fingerprinted, and interviewed under oath) by the deadline specified; 2) report back within ten days of the anniversary of the date on which he first registered, if he remains in the United States for more than one additional year; 3) report any change of address, employment, or educational institution in writing within ten days of the change; and 4) appear in person before an inspecting officer at one of the designated exit ports and leave from that port on the same day if he leaves the United States.

According to INS statements issued before the agency's transition to the DHS, men who failed to register could be considered to be out of status and deportable, and could be "subject to arrest, detention, fines and/or removal from the United States." In addition, they could face problems applying for immigration benefits in the future or when attempting to reenter the United States, if they failed to leave the country through a designated exit port.

The program became most problematic in January 2003, when thousands of registrants were detained and placed into removal proceedings because of visa violations. In many instances, people went to register with the INS because they felt a sense of duty. Many others went into register without understanding the harsh penalties that could result once they reported to the INS, such as detention and eventually deportation. The affected communities were also offered conflicting information from community advocates, some telling them to unquestionably appear for registration, and others telling them that the consequences were harsh and that their options should be carefully weighed before

appearing at INS. Still many others heard no news at all, and may suffer later as a result.

Advocacy groups worked tirelessly to convince the Department of Homeland Security, legislators, and the public to end the program. Individual stories proved effective in swaying public opinion—stories of young men who came here as children being returned to countries they have never known. Other stories involved fathers, brothers, and sons being torn from their families, a result of their voluntary compliance with the Special Registration program.

NSEERS Still in Effect

The December 2 announcement does not entirely end Special Registration, but it does limit the scope of the program. Originally, anyone who registered at the INS was required to "re-register" annually, assuming the person remained in the United States and did not become a lawful permanent resident, or green card holder (the program does not apply to permanent residents).

The December 2 announcement ended that annual re-registration requirement. This was a victory for advocates because many people who registered in 2003 may not be in legal status in 2004, and thus would be exposed for deportation. Additionally, the INS failed in many cases to provide accurate information to registrants about the re-registration requirement, and thus many people would not have timely appeared for re-registration. Because the penalty for failing to comply with special registration may include deportation or a bar to obtaining permanent residency, the re-registration requirement promised to be a problem for many non-citizens in the coming year.

The changes to the program instead allow the Department of Homeland Security to choose to individually identify individuals subject to re-registration, on a "case-by case basis." This announcement is potentially problematic because it does not articulate criteria for the Department to use, and thus is subject to potential abuse. However, individuals from the 25 countries and those who last registered as entrants no longer need appear for their annual registration. They can remain in the United States without having to present themselves again.

Other remnants of the program also remain, such as the requirement that anyone who registered in the past register their departure at a

designated airport when leaving the United States. It also still remains to be seen what will happen in those cases where an individual was required to register and failed to do so. However, the end to the categorical registration requirement is a victory for the many civil rights, immigrants' rights, and community groups who criticized the Bush administration for using "national security" rhetoric to target individuals based on national origin and religion.

(For more information on Special Registration and the U.S. VISIT program, see the Department of Homeland Security's website at www.dhs.gov. Stacy Tolchin is an Associate Attorney with Van Der Hout, Brigagliano & Nightingale, LLP in San Francisco, California.)

Temporary Reprieve to Elderly and Disabled Refugees Cut Off from SSI

By Kate Hilton Hayward, Staff Writer

In 2003, one of the little known legacies of "welfare reform" went into effect: the elimination of Supplemental Security Income (SSI) benefits for thousands of elderly and disabled refugees, asylees, and other humanitarian immigrants. Currently, elderly and disabled refugees, asylees, and other humanitarian immigrants who arrived after August 22, 1996, lose SSI and in some cases Medicaid after their first seven years in the United States, unless they have become U.S. citizens or have adjusted to legal permanent residence (LPR) status and have worked 40 quarters or ten years in the United States. This cutoff date was legislated in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) and just began effecting elderly and disabled refugees, asylees, and other humanitarian immigrants last year.

The Social Security Administration projected that by 2003, up to 5,300 elderly and disabled refugees, asylees, and other humanitarian immigrants could reach the time limit and be dropped from SSI rolls. According to Immigration and Refugee Services of America Executive Director, Lavinia Limón: "For many of these immigrants, SSI is their only form of cash support. This is of grave concern, especially as most of these elderly and disabled individuals are unable to work and some may have no other family support in the United States." Furthermore, it re-

mains unclear what will happen to the people who have already been cut off. Even if the proposal is approved by Congress, most if not all of those who were dropped in 2003 will have reached the eight year limit and will therefore remain ineligible for SSI. It is unlikely that benefits would be reinstated retroactively for those who have been cut off.

The Social Security Administration projects that more than 38,000 people will reach the seven-year limit between 2003 and 2007, although the actual number who lose SSI benefits may be somewhat lower, because some will have naturalized, died, or left the country before reaching the cutoff.

Temporary Reprieve

On February 2, President Bush released his FY 2005 Budget, which proposes to extend SSI for refugees and asylees from seven years to eight years after their entry into the United States. The proposal recognizes that some individuals have been unable to obtain citizenship within seven years as a result of bureaucratic processing delays or, in the case of asylees, due to a statutory cap on the number who can become legal permanent residents (see Refugee Reports, Vol. 23, No. 9).

However, the one-year extension offers elderly and disabled refugees and asylees only a temporary reprieve. "The process of becoming a citizen can be an insurmountable challenge both in terms of difficulty and expense, and a one-year extension will not change that," Limón said. "Many of these vulnerable individuals would like to become U.S. citizens but cannot unless they are exempted from some of the more difficult requirements in the naturalization process."

In addition, the president's proposal does not include other "humanitarian immigrants" paroled into the country such as Cuban and Haitian entrants and Amerasians, who are also subject to the current seven-year limitation. Current policy uses the arbitrary date of August 22, 1996 as a cut off for refugees and asylees who arrived afterwards. Actual dates of arrival depend on bureaucratic and logistical factors, over which individuals have little control. By contrast, refugees and asylees who were already receiving SSI as of August 22, 1996 remain eligible, regardless of their length of residency in the United States. Refugees and asylees, who entered before that date, are eligible for SSI if they can prove their disability makes them unable to work.

Advocates Seek a Permanent Solution

Immigration advocates are urging the administration to completely de-link SSI eligibility from length of residence and date of arrival in the United States. The 2002 Farm Bill, for example, offers a precedent whereby all immigrant adults are eligible for food stamps after they have lived in the United States as legal immigrants for five years. Such a change would be consistent with the Refugee Convention of 1951, ratified by the United States and 141 other nations. Article 23 of the Convention provides that “contracting states shall accord to refugees lawfully staying in their territory the same treatment with respect to public relief and assistance as is accorded to their nationals.”

Massive Displacement and Death in Western Sudan’s Darfur Region Continues

Nearly one year ago, violence erupted in Sudan’s western Darfur region. That violence continues unrestrained, having displaced at least 800,000 Sudanese civilians—including more than 110,000 who fled to the remote deserts of eastern Chad—and killed countless thousands of others. Although precise numbers are difficult to determine, it is estimated that the displacement caused by the Darfur crisis has increased the number of uprooted Sudanese from more than 4.5 million to nearly 5.5 million.

Poor security and Sudanese government-imposed travel restrictions to the Darfur region have prevented humanitarian assistance agencies from conducting adequate assessment missions to determine the extent of the crisis and the precise number and needs of displaced people in the region. Various sources estimate that more than 1,000 Darfurians are dying every week. While the true scale of the violence remains largely unknown, some international observers believe that the year-long bloodshed has disrupted the lives and further isolated more than half of the Darfur region’s estimated six million residents.

High-level peace negotiations seeking to end 20 years of civil war in Sudan between the Islamic government in Khartoum and the mainly southern Christian and animist Sudan People’s Liberation Army (SPLA) have garnered tremendous international at-

tention, but are void of discussions surrounding the crisis in Darfur.

Roots of Conflict

Residents of Darfur’s North, West, and South states—which cover approximately one-fifth of Sudan’s territory—have long claimed that they inhabit one of the most neglected and underdeveloped areas of the country. The arid Darfur region also suffers from chronic drought. In addition, nomadic groups reportedly killed hundreds of civilians from pastoral and sedentary agriculture populations in the region from 2000 to 2002.

In early 2003, Sudanese authorities reportedly armed and provided horses to the Janjaweed, a pro-government western nomadic tribe, and tasked them with patrolling Sudan’s 850-mile (1,400 km) border with Chad. The growing presence of these government-supported armed patrols raised fears among already terrified Darfurians, contributing to the growing tension between Darfur’s marginalized population and the government. The tensions soon accelerated into sporadic violence and then escalated into recurrent and systemic Janjaweed raids against civilian populations. “These attacks have reportedly included burning and looting of villages, large-scale killings, and abductions,” the UN Office for the Coordination of Humanitarian Affairs (OCHA) recently reported.

Responding, in part, to the lack of government protection against increasingly frequent raids and indiscriminate killings, Darfurian residents organized and armed themselves. Two main groups, the Sudanese Liberation Army (SLA) and Justice and Equality Movement (JEM), eventually emerged as formidable forces in the Darfur region. Initially, the Sudanese government and the SLA sought to peacefully resolve the burgeoning conflict through dialogue. Halting talks failed to produce meaningful resolution, however.

Massive Internal Displacement

In late April 2003, Sudanese President Omar al-Bashir declared that, “Khartoum will not negotiate with those who raised arms in Darfur.” Immediately after President al-Bashir’s statement, targeted attacks against civilians intensified. SLA assaults on government administrative and military sites also increased. The violence surrounding the massive displacement began in earnest in June 2003 and slowed briefly dur-

ing a tentative agreement between the Sudanese government and the SLA to end hostilities in September before resuming and expanding in late 2003.

Intensified and sustained Janjaweed raids, Sudanese government aerial bombings, and alleged joint Chadian military and Sudanese government-aligned militia offensives on Darfurian civilian populations have decimated and emptied hundreds of towns, villages, and other populated areas throughout the Darfur region. SLA and JEM retaliatory attacks have added to the massive displacement and destruction.

Nearly 400,000 Darfurians remain sheltered in some 20 displacement camps scattered throughout the Darfur states, including nearly 10 camps with more than 50,000 residents each. An estimated additional 300,000 internally displaced Darfurians remain disbursed in remote mountains, in the desert near the Sudan-Chad border, and with relatives and others in host communities.

A UN Rapid Response Team recently visited Nyala, El Geneina, and El Fasher, the three capitals of the Darfur states, to assess humanitarian needs, while UN agencies began to pre-position food and other supplies for 250,000 displaced persons. Poor security prohibited the team—the first of its kind to access the region since the outbreak of violence in early 2003—from visiting surrounding villages, where most of the population remains displaced. “This assistance is long overdue,” stated a member of the UN team. “However, we are still not reaching the majority of those in need.”

Refugee Flows

The situation in and around sites hosting refugees immediately across the border in neighboring Chad, where militia incursions and aerial bombardments have reportedly occurred, is as troublesome as the internal displacement in Sudan.

Many of the more than 110,000 Sudanese refugees who fled to neighboring Chad during the past 10 months remain strewn along a 375-mile (600 km) stretch of border and are struggling to survive under difficult humanitarian and climatic conditions. Chadian villagers provided already scarce food and water to refugees upon their arrival last year. The sizeable Sudanese influx, however, quickly exhausted meager local resources.

Sudanese refugees continue to battle harsh weather in eastern Chad, where international hu-

manitarian assistance has been slow to arrive. Tens of thousands of refugees, many of whom fled with minimal personal belongings, are living in the open and enduring sandstorms and temperatures that exceed 120 degrees Fahrenheit (50 degrees Centigrade) during the day and fall below freezing during the night. They are also susceptible to cross border Sudanese government and militia attacks.

In late January, Sudanese-government military aircraft dropped bombs that killed at least three Sudanese refugees, including a 28-year-old man and his two-year-old child, and injured some 15 others near the Chadian border town of Tine. The incident prompted the UN High Commissioner for Refugees (UNHCR) to accelerate its efforts to relocate refugees to safer sites further inland. Sudanese refugees who have recently arrived in Chad, including several with shrapnel, burn, and other injuries, have reported similar aerial bombings and militia ground attacks in several western Sudanese border villages.

During the past three weeks, UNHCR has transferred more than 4,000 Sudanese refugees away from the volatile border to three newly constructed camps at least 25 miles (40 km) inside Chad. UNHCR has relocated approximately 1,600 refugees huddled in and around Tine, in the north of the 375-mile (600 km) affected border area, to Touloum camp. UNHCR also relocated nearly 1,700 refugees living near the village of Birak, in the center of the affected border area, to Farchana camp, and several hundred refugees scattered further south of Birak to Kounoungo camp. “But we’ve still a long way to go, with tens of thousands of refugees still needing relocation – possibly as many as 80,000,” a UNHCR spokesman announced last week.

UNHCR has begun airlifting 265 tons of relief supplies to the border region and has identified three additional sites to construct camps. International donors have provided the agency with approximately \$1 million, or one-tenth of what UNHCR estimates is needed to continue and expand its relocation and humanitarian assistance operations.

* * *

Field Notes

Future Uncertain: Refugees Return to War-Devastated Angola

(U.S. Committee for Refugees policy analyst Joel Frushone recently returned from a three-week site visit to Zambia and Angola, where he examined the repatriation and reintegration of Angolan refugees. Below, he reports on the challenges Angolan refugee returnees face as they attempt to restart their lives in their currently peaceful, but war-devastated homeland. His report comes as the UN High Commissioner for Refugees pauses for the onset of seasonal rains after phase one of the repatriation program—set to resume in April 2004.)

Refugees repatriating to Angola are returning to a skeleton of a country. Nearly 30 years of brutal civil war reduced most of Angola's homes, schools, hospitals, places of worship, markets, roads, bridges, and commercial and government buildings to rubble. The war also rendered useless hundreds of thousands of acres of fertile agricultural land and countless miles of fish-abundant rivers with millions of landmines and unexploded ordnance, nearly all of which remain in place today.

The war's human toll was equally horrific. An estimated 500,000 to 1 million Angolans died of war-related causes, including deliberate civilian murders, malnutrition, and otherwise preventable diseases. Twenty-seven years of fighting for political control of the country and its lucrative natural resources of oil and diamonds between rebels known as the National Union for the Total Independence of Angola (UNITA) and government forces drove 4.5 million Angolans—or four out of every ten—from their homes, including approximately 500,000 who fled to neighboring countries.

Angola's civil war came to a dramatic and abrupt end when UNITA leader Jonas Savimbi was killed in battle in February 2002. UNITA and the Angolan government agreed to a cease-fire in April and signed a comprehensive peace agreement in August, bringing Angola's 27 years of warfare to an end.

The war's end triggered the spontaneous and abrupt return home of an estimated 800,000 inter-

nally displaced Angolans and some 80,000 Angolan refugees.

Repatriation

Since the end of conflict in mid-2002, an estimated 200,000 Angolans have repatriated.

Nearly 95,000 of them returned to Angola during the first phase of the UNHCR voluntary organized repatriation program—from June to November 2003. UNHCR launched the Angolan Organized Voluntary Repatriation Program to assist with the return of tens of thousands of Angolan refugees living in neighboring Zambia, the Democratic Republic of Congo (DRC), and Namibia. During phase one, UNHCR assisted more than 42,000 Angolan refugees to repatriate to their areas of origin, providing transportation and reintegration assistance to more than 20,000 Angolan refugees living in the DRC, some 18,000 living in Zambia, and 4,000 living in Namibia. During the same six months, approximately another 50,000 Angolan refugees repatriated spontaneously, including some 25,000 who received UNHCR transportation and reintegration assistance once in Angola and some 25,000 who received no assistance.

UNHCR temporarily suspended refugee repatriation because of the onset of seasonal rains in mid-November 2003. When the program starts up again, the agency plans to assist twice as many refugees to repatriate during 2004. However, UNHCR/Angola's budget was reduced by nearly 50 percent from 2003 and the agency currently lacks the protection officers needed to adequately monitor the reintegration of refugee returnees. As such, UNHCR/Angola will likely struggle to properly monitor the reintegration of repatriated refugees during 2004.

Obstacles to Return: Landmines

Approximately 300,000 Angolan refugees remain in neighboring countries, although the majority also wish to return home. However, they—and UNHCR and other UN agencies and international humanitarian organizations assisting with their return—face three major obstacles to return: 1) landmines and unexploded ordnance; 2) a lack of basic social services in areas of refugee return; and 3) poor infrastructure.

Landmines, broken bridges, and poor road conditions have rendered closed approximately 40 percent of the main refugee returnee areas in Angola to organized refugee repatriation and have slowed repatriation and reintegration to areas deemed safe

for refugee return by the UN Security Coordinator (UNSECOORD). The presence of landmines and unexploded ordnance has hindered returnees' access to arable land and has significantly reduced agriculture production in returnee areas and is limiting the opportunities for returnees-nearly all of who are subsistence farmers-to obtain a minimum level of self-sufficiency. The presence of landmines and unexploded ordnance near areas where refugee returnees are reintegrating have turned water and firewood collection, cultivating, fishing, and other similar routine daily chores into life-risking activities in Angola.

According to experts, Angola was a testing ground for landmines produced throughout the world during the past 50 years and remains one of the mostly heavily mined countries in the world. The variety of mines and unexploded ordnance in Angola complicates the already intricate job of international mine detection and removal organizations working in refugee returnee areas, primarily the UK-based Mine Advisory Group (MAG).

While MAG, UN agencies, and international humanitarian assistance organizations have so far reported very few landmine accidents, landmine accidents are likely to increase in refugee returnee and other areas during 2004 as greater numbers of Angolans repatriate. In addition, a lack of funding and cooperation from the government of Angola has slowed the detection and removal of landmines and unexploded ordnance. At the same time, the government of Angola continues to pressure mine-detection organizations to clear more landmine-contaminated areas faster.

Lack of Social Services

Nearly every refugee returnee area in Angola lacks basic social services, including potable sources of drinking water, latrines, primary schools, and health clinics. Refugee returnee areas also lack education and health care materials and equipment, including drugs and the ability to properly store them.

Refugee returnee areas lack governmental technical reconstruction experts, professionally trained Angolan teachers, doctors, nurses, and other civil servants. In many refugee returnee areas, the government of Angola has not paid civil servants for 18 months.

During 2003, the majority of Angolan refugees repatriated to Moxico Province, eastern Angola, and Zaire Province, western Angola. UNHCR, in partnership with international humanitarian as-

sistance organizations, is gradually reintroducing very basic social services in major returnee areas in Moxico and Zaire Provinces. UNHCR expects that during 2004, the majority of refugees will also repatriate to Moxico and Zaire Provinces. UNHCR and international humanitarian assistance organizations are limited in the scope and size of the social services they can provide repatriated refugees in Moxico and Zaire Provinces, and other current and prospective returnee areas.

Poor Infrastructure

Nearly three decades of warfare completely destroyed Angola's roads, bridges, and airstrips, and reduced most of the country's homes, schools, hospitals, places of worship, and markets to rubble.

Once inside Angola, UNHCR-repatriation convoys often take several hours to traverse 60 miles (100 km). The considerable length of time repatriating refugees spend traveling to their areas of origin is physically and mentally stressful on returnees. Traveling and transporting humanitarian assistance supplies to refugee returnee areas is extremely timely and costly for UNHCR, UN agencies, and international humanitarian organizations.

With negligible help from the government of Angola, UNHCR, UN agencies, and international humanitarian organizations are beginning to rehabilitate or completely rebuild the majority of Angola's infrastructure in refugee returnee areas.

Government of Angola: Action Needed

Repatriated refugees told USCR that they expect the government of Angola to take the lead in rehabilitating or newly constructing schools, health clinics, and water stations. They also expect the government to provide and pay teachers, health care workers, and other civil servants in returnee areas. They understand that while refugee reintegration and related reconstruction tasks before the government of Angola are daunting, they are, if adequately and responsibly addressed, manageable.

To date, however, the government of Angola has provided insignificant reintegration assistance in refugee returnee areas. The government has yet to take earnest steps to fully understand the basic social, humanitarian, and development needs in refugee returnee areas and is extremely under prepared to assist repatriating refugees as they strive to reintegrate.

For example, the government of Angola has failed to issue critically needed identification documents to repatriated refugees, denying many returnees citizenship and other rights enjoyed by Angolan civilians. Refugee returnees without government-recognized identification and, in many cases, returnees with UNHCR-issued Voluntary Repatriation Forms (VRFs), are often harassed by military and police officials, and are unable to legally compete for limited jobs, enroll in schools, obtain passports, open bank accounts, and carry out other similar tasks necessary to successfully reintegrate into Angolan society. The government of Angola has stated they will recognize VRF's as temporary proof of Angolan citizenship, but, at the detriment to returnees, is slow to put the promise into practice. Furthermore, most refugees who spontaneously repatriated do not possess VRF's.

The government of Angola's lack of interest, participation, and financial support to ensure that more refugee returnee areas are safe and that basic social services are restored has severely restricted repatriation. If this trend continues, international interest and support for refugee repatriation and

reintegration to Angola is certain to wane, which could derail the short- and long-term prospects for the safe and dignified durable repatriation of Southern Africa's longest standing refugee population.

Oil Revenue

Angola is sub-Saharan Africa's second largest producer of oil, extracting nearly one million barrels of oil per day, and is the seventh largest importer of oil to the United States, providing approximately 25 percent of its annual production to the United States, and ranks third in the world in new oil discoveries. Angola's massive oil revenue provides the government of Angola an estimated \$3 to \$5 billion annually, but remains concentrated in the hands of some 100 families in the inner circle of Angolan president José Eduardo dos Santos, and the Angola Central Bank, Ministry of Finance, and Sonangol, Angola's state oil company.

Despite its tremendous current and projected wealth from the country's oil reserves, the government of Angola has invested inconsequential amounts, if any, of the country's money to reconstruct and develop refugee returnee areas and other desperately deprived regions of Angola.



For most refugees repatriating to Angola, the trip home once inside the country is long and arduous. These children, who were born and raised in Zambia, arrive late in the evening to a transit center in Luena, Angola. Their approximately 180-mile (300 km) journey over barely passable roads and bridges began at another transit center in Cazombo, Angola, and lasted 36-hours. Photo: USCR/J. Frushone

Profit realized by foreign companies extracting oil from Angola's primarily off-shore reserves, including ExxonMobil, ChevronTexaco, Royal Dutch/Shell, British Petroleum, TotalFinaElf, and others, remains largely unknown. While most oil companies operating in Angola annually invest billions of dollars in their extraction operations, in comparison, minuscule amounts of profit are in turn invested in social service and development projects in Angola.

Future Assistance at Risk

The opportunity for Angola to attract international donor support for refugee reintegration and reconstruction projects in returnee areas will likely evaporate by late 2004. Potential large-scale refugee return to other African countries in 2004, primarily Sudan and the DRC, will overshadow and detract financial and human resources needed for refugee repatriation to Angola. If not turned around, the oil-revenue-rich government of Angola's reluctance to invest in refugee repatriation projects is also likely to turn potential international donor nations to refugee reintegration programs in other countries.

Currently, refugee returnee communities rely solely on UNHCR, the World Food Program (WFP), other UN agencies, and international humanitarian organizations for reintegration assistance and will more than likely continue to for the foreseeable future. If international humanitarian assistance disappears, repatriating refugees—many of who are in good health—will face new risks. They subsist on WFP food rations—provided as part of UNHCR's organized refugee repatriation package—meat from wild animals locally hunted and purchased, fish caught in Angola's many rivers and streams that course through or near returnee areas, and mangos and other locally grown fruit.

Angola's deteriorated roads, broken bridges, and flooded rivers have also encumbered and slowed repatriation. WFP humanitarian assistance flights are critical, in part, to overcoming these obstacles. However, a lack of international donor response has forced WFP to reduce many air services, which has hindered repatriation and reintegration projects.

In late 2003, funding shortages forced WFP to restrict cargo flights to carrying food only. Accord-



This young boy peers inside a landmine-risk education center in Meheba refugee settlement near Solwezi, Zambia. The UN High Commissioner for Refugees provides critical landmine-risk education to refugees repatriating to Angola—one of the most heavily mined countries in the world. Photo: USCR/J. Frushone

ing to UN estimates, it costs WFP approximately \$15,000.00 to fly a cargo plane from Luanda, the capital, to various provincial capital cities in Angola. Other financially strapped UN agencies and non-governmental organizations increasingly do not have the funds to cover the cost of flying much needed construction materials, vehicles, fuel, and other related supplies to returnee areas, most of which are remote and accessible only by air or poor roads made impassable during heavy seasonal rains.

WFP funding shortages and the reduced frequency of WFP flights to returnee areas have brought the implementation of UNHCR's Quick Impact Projects (QIP's)-primarily refugee reintegration projects that require construction material for hand-dug water wells, schools, and clinics-to a halt. A reduction in WFP flights has also delayed the pre-positioning and distribution of food and non-food items intended for repatriating refugees.

Resources

In Liberty's Shadow: U.S. Detention of Asylum Seekers in the Era of Homeland Security

On January 15, Human Rights First, formerly known as Lawyers Committee for Human Rights, published a report titled *In Liberty's Shadow: U.S. Detention of Asylum Seekers in the Era of Homeland Security*.

The report describes the plight of asylum seekers who come to the United States seeking sanctuary, but who find themselves subjected to inhumane treatment and detention. According to the report, the situation for asylum seekers has grown worse since September 11, 2001, exacerbating stringent measures under the 1996 Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA), including expedited removal and mandatory detention. In light of the September 11 attacks and in the name of advancing national security, the DHS has garnered unprecedented authority with respect to immigration regulations. For example, DHS trial attorneys (the prosecutors in immigration proceedings) can suspend judges' release orders.

The authors attribute the "inherently unfair process" of the U.S. asylum detention system to several factors. The determination to detain asylum seekers is grounded on "blanket" criteria, rather than on an individualized scrutiny of each case. Subsequent parole decisions are entrusted to officials of the Department of Homeland Security (DHS) rather than to an independent authority, such as an immigration judge. The parole criteria are set forth in guidelines rather than in uniform, enforceable regulations. As a result, the "unfair process" eliminates the possibility of parole for many asylum seekers.

The report conducts a cost-benefit analysis of the asylum detention system, concluding that implementation of the system drains U.S. coffers and imprints adverse and indelible marks on the mental health of asylum seekers through undue and prolonged detentions. The cost of keeping a person in immigration detention is about \$85 a day. The report refers to a study by Physicians for Human Rights (PHR) and the Bellevue/NYU Program for Survivors of Torture on the effects of detention on asylum seekers (See *Refugee Reports*, Vol 24, No.4). PHR and NYU found that, in nearly all cases, detention harmed the mental health of asylum seekers, suggesting that parole is a more humane approach.

The report also includes testimonies from asylum seekers. In one, a Ugandan pastor detained in a U.S. detention facility said, "Even criminals in Federal prisons get natural light, they get to go outdoors.... And these people have done crimes... but asking for asylum is something so simple, I don't think people should be penalized for it to that extent."

The report describes pilot programs designed to take the place of detention. However, the authors lament that some DHS officials appear reluctant to replace the detention system with such alternatives.

Human Rights First recommends changes to the asylum detention system, including, among others: 1) creating a refugee protection position in the office of DHS Secretary Tom Ridge, 2) granting asylum seekers the ability to have their detention reviewed by immigration judges, and 3) putting official parole criteria for asylum seekers into formal regulations.

To order *In Liberty's Shadow: US Detention of Asylum Seekers in the Era of Homeland Security* or to receive more information about Human Rights First, contact: Human Rights First, 333 Seventh Avenue, 13th floor, New York, NY 10001. Tel: 212-845-5200. Website: www.humanrightsfirst.org.

FY2004 U.S. Refugee Admissions, as of February 1

| REGION | ARRIVED | AUTHORIZED | REMAINING |
|----------------------|---------------|---------------|---------------|
| Africa | 5,355 | 25,000 | 19,645 |
| East Asia | 416 | 6,500 | 6,084 |
| Europe | 170 | 2,500 | 2,330 |
| FSU | 3,776 | 10,500 | 6,724 |
| Latin America | 454 | 3,500 | 3,046 |
| Near East/S. Asia | 869 | 2,000 | 1,131 |
| Unallocated Reserve* | 0 | 20,000 | 20,000 |
| Total | 11,040 | 70,000 | 58,960 |

* The unallocated reserve is to be used if/where the need for additional numbers develops and only upon notification to the Congress.

Source: U.S. Department of State, Tabulated by Immigration and Refugee Services of America

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