

Task Force 2010

Protection and Resettlement Policy:

Reforming United States Policy towards Refugees, Asylum Seekers and Forced Migrants



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GLOSSARY OF ACRONYMS

1951 Convention – United Nations Convention Relating to the Status of Refugees
ACP - Andean Counterdrug Program
APA – American Psychological Association
AUC – United Self Defense Force of Colombia
CHIP – Children's Health Insurance Program
DED – Deferred Enforced Departure
DHS – Department of Homeland Security
DIHS – Division of Immigrant Health Services
DSHS – Washington State Department of Social and Health Services
DUCS – Division of Unaccompanied Children's Services
EOIR – Executive Office for Immigration Review
EXCOM – Executive Committee of the United Nations High Commissioner for Refugees
EU – European Union
EVD – Extended Voluntary Departure
EWS – Early Warning System
FARC – Revolutionary Armed Forces of Colombia
FTA – Free Trade Agreement
HOAS – Horn of Africa Services
HRW – Human Rights Watch
ICE – United States Immigration and Customs Enforcement
IDPs – Internally Displaced Persons
INA – United States Immigration and Nationality Act
INGO – International Non-Governmental Organization
IRC – International Rescue Committee
ISAP – Intensive Supervision Appearance Program
IIRIRA – Illegal Immigration Reform and Immigrant Responsibility Act of 1996
LIRS – Lutheran Immigrant and Refugee Services
LPR – Legal Permanent Resident
LURD – Liberian United for Reconciliation and Democracy
MAA – Mutual Assistance Association
NGO – non-governmental organization
NPREC – National Prison Rape Elimination Commission
NWDC – Northwest Detention Center
OECD – Organization for Economic Cooperation and Development
ORR – Office of Refugee Resettlement
PRM – Bureau of Population, Refugees and Migration
Project Soar – Project for Strengthening Organizations Assisting Refugees
PTSD – Post Traumatic Stress Disorder

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RCA – Refugee Cash Assistance

RCUSA – Refugee Committee United States of America

Real ID Act - Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005

ReWA – Refugee Women's Alliance

RMA – Refugee Medical Assistance

RTMS – Refugee Transitional and Medical Services

SSI – Supplemental Security Income

TANF – Temporary Assistance for Needy Families

TAR – Treatment Authorization Request

TPS – Temporary Protected Status

UN – United Nations

UNODC – United Nations Office on Drugs and Crime

UNHCR – Office of the United Nations High Commissioner for Refugees

URM – Unaccompanied Refugee Minors

USAID – United States Agency for International Development

USCIS – United States Citizenship and Immigration Services

USRAP – United States Refugee Admissions Program

USRP – United States Refugee Resettlement Program

Volag – Voluntary Agency

WHO – World Health Organization

Task Force Introduction

Every day, people flee their homes due to oppression, persecution, conflict, and danger. These people seek the safety and security that their homes can no longer provide. In 2009, conflict and persecution displaced an estimated 42 million people worldwide, including 16 million refugees and asylum seekers, and 26 million internally displaced people (IDPs).¹ For the 16 million refugees worldwide, there is hope of international intervention to protect and assist them; the United States' refugee resettlement program is one such intervention. The United States is in the unique position of being able to help some of these refugees as one of very few countries with a refugee resettlement program.² This report will critically examine current United States refugee resettlement policy and current trends in forced migration. Our goal is to propose changes in the United States' policy that will positively impact refugees, resettlement organizations, United States citizens, and certain other groups of forced migrants.

The United States has a historical precedent of welcoming persecuted people with open arms and has continued the ideals of its humanitarian tradition through its refugee resettlement program. The United Nations High Commissioner for Refugees (UNHCR) acknowledges that the United States has the largest refugee resettlement program in the world,³ but this report argues that the United States could do more. In the fiscal year 2008, the United States accepted 60,193 refugees, a mere fraction of the number of total refugees worldwide, and 20,000 refugees short of the ceiling for refugee admissions.⁴ In addition to the problem of low refugee admissions, refugees and asylum seekers are treated with suspicion and too frequently detained.

¹ UNHCR. "UNHCR annual report shows 42 million people uprooted worldwide." *UNHCR*, (16 June 2009), <<http://www.unhcr.org/4a2fd52412d.html>>.

² UNHCR. *The 1951 Refugee Convention Q & A*. UNHCR Media Services: 2007. (1)

³ UNHCR. "Resettlement." *UNHCR*, (January 2010), <<http://www.unhcr.org/pages/4a16b1676.html>>.

⁴ "Fiscal Year 2008 Refugee Arrivals." Office of Refugee Resettlement, January 2009, <<http://www.acf.hhs.gov/programs/orr/data/fy2008RA.htm>>; Batalova, Jeanne. 2009, "Spotlight on Refugees and Asylees in the United States," Migration Policy Institute (July 2009), <<http://www.migrationinformation.org/USFocus/display.cfm?id=734>>.

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This report contends that the United States can do better by reforming the admission process and admitting the highest number of refugees admissions that “ceilings” allow. Refugees face difficulties during and after resettlement, because the voluntary agencies (volags) that carry out refugee resettlement are overstretched and cannot provide refugees with all of the services they need. The United States government should partner with volags to provide standardized services and create capacity by involving members of the refugee community in the resettlement process. The United States must also turn its focus to new forced migration crises as it reforms its refugee policy. The new policy must take into account different refugee producing conflicts and forced migrant groups like IDPs and environmental forced migrants, protracted refugee crises, and forced migrants resulting from foreign interventions in which the United States is a participant. This report argues that the United States has the capacity and resources to enact policy changes that rely on community building for refugee self-help, achieving federally mandated goals, and using status to pressure the international community. Furthermore, some of our recommendations cut costs to make the whole package of recommendations more feasible.

Definitions of Common Terms

Language is important to the issue of forced migration. This report uses the 1951 Convention relating to the status of Refugees’ definition of refugee (sometimes referred to as “Convention refugee”), which is the international legal definition:

A person who is outside his or her country of nationality or habitual residence; has a well-founded fear of persecution because of his or her race, religion, nationality, membership of a particular social group or political opinion; and is unable or unwilling to avail himself or herself to the protection of that country, or to return there, for fear of persecution.⁵

⁵ UNHCR. *The 1951 Refugee Convention Q & A*. UNHCR Media Services: 2007. (1).

We use this definition solely to discuss refugees; all other groups of forced migrants are referred to by name, i.e. “environmental forced migrant.” This word choice reflects our understanding that it would be prohibitively difficult to completely reform international law regarding forced migration and refugees at this time. Instead, we suggest throughout our report, and especially in Section III, that other groups of forced migrants should qualify for refugee protection and assistance. Section III highlights the need for refugee-like protection and assistance for internally displaced persons (IDPs). IDPs also have a specific definition that we feel is valuable to mention, although it is not codified in international law as the definition for refugee is. Still, IDPs are widely recognized by the international refugee regime. According to the Guiding Principles on Internal Displacement, IDPs are part of a group that is defined as:

persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized State border.⁶

This definition shows that there is much wider variety in causes of general forced migration than refugee production; refugees are only produced through ethnic, social, political or other personal persecution, while forced migration can be the result of a broad range of environmental, economic, and political disasters. Section III will discuss IDPs and their similarities to and differences from refugees in more depth. It is also important to note that the international definition of refugee is different from the United States’ definition. Section I discusses this difference in greater detail.

The international refugee regime – a subsection of the international humanitarian regime – is comprised of the non-governmental organizations (NGOs) and international agencies that

⁶ “The Guiding Principles on Internal Displacement.” United Nations Office of Humanitarian Coordination, June, 2001, <<http://www.idpguidingprinciples.org/>>.

work on behalf of refugees. The UNHCR and the International Organization for Migration (IOM) are the main organizations involved in refugee and IDP crises. Since the UNHCR's mandate is to protect and assist refugees, it is a crucial organization for many of this report's recommendations. The IOM focuses on all types of migration, but plays a large role in refugee resettlement before refugees come to the United States. These organizations partner with smaller NGOs in attempts to create an effective protection and assistance regime for refugees around the world.

The United States only grants refugee status and resettlement to Convention refugees. Accepting Convention refugees is a significant humanitarian undertaking, but our report illustrates the neglect for other types of forced migrants in the admission process. Trends in forced migration are shifting to include new groups like environmental forced migrants and IDPs from foreign intervention, so updated language and mandates are needed to protect newer, less traditional forced migrant groups. This report argues that these other types of forced migrants can be protected by the international humanitarian regime under the framework of human security. For the purpose of this report, we define the objectives for human security as “[safeguarding] the vital core of all critical pervasive threats, in a way that corresponds with long-term human fulfillment.”⁷ This definition acknowledges that human security faces threats from a variety of forces, such as political, military, social, economic and environmental. UNHCR applies human security to refugees by arguing that “One of the main factors of human insecurity is precisely the lack of effective political and security mechanisms to address conflicts.”⁸ Human security, as these explanations show, provides an explanation for conflicts and disasters that produce forced migrants. Thus, human security mandates protection for forced migrants and

⁷ Alkire, Sabrina. “Conceptual Framework for Human Security.” *Commission on Human Security*, 16 February 2002, <humansecurity-chs.org/activities/outreach/frame.pdf>.

⁸ Ogata, Sadako United Nations High Commissioner for Refugees. “Human Security: a refugee perspective.” Keynotes speech at the Ministerial Meeting on Human Security Issues of the “Lysoen Process” Group of Governments, Bergen, Norway, 19 May 1999. <<http://www.unhcr.ch/refworld/unhcr/hcspeech/990519.htm>>

others in insecure situations through the international humanitarian regime. Human security is incredibly important for this Task Force because forced migration is shifting away from being predominantly refugees and conflict-induced IDPs to the afore-mentioned “new” forced migrant groups.

Report Organization

This Task Force report is organized around the stages of United States refugee policy, beginning with analysis of the United States’ admission and resettlement policies. The report then focuses on the period of refugees’ lives in the United States when Resettlement Cash Assistance ends, but when refugees are still vulnerable. Finally, the report moves outside of the United States with an analysis of future forced migration crises that the United States has the power to address. This report uses case studies throughout, particularly in Section III, where empirical evidence is most necessary due to the newness of the topics we introduce.

The first section of our Task Force report will critically examine the United States admissions and resettlement processes. Section I begins by arguing that refugee admissions policies often leave out the most vulnerable people by not fulfilling refugee admissions quotas and implementing biased admission practices. This section then argues that concerns for national security, specifically concerning potential terrorist threats in the post-9/11 United States, unfairly restrict certain groups deserving refugee status from entering the United States. Section I also critiques the United States’ mandatory detention of asylum seekers. This section argues that a national oversight system is necessary and that alternatives to detention for asylum seekers would be equally secure and vastly less expensive than current, often inhumane detention practices. In addition to its discussion of refugee admission policy, Section I discusses refugee resettlement policy in the United States through an analysis of volags in charge of refugee

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resettlement. Furthermore, this section argues that vulnerable groups need special attention during the resettlement process.

Section II focuses on resettled refugees in the United States after their Refugee Cash Assistance ends. This section argues that refugees are still vulnerable after their cash assistance ends and often need extended programs to ensure that they understand this country's health, legal and job systems, helping them become productive United States citizens. Section II begins by arguing that resettlement programs do not instill enough understanding of the United States' legal system, making it difficult for refugees to adjust to life in the United States. Next, Section II provides a discussion of refugee health, arguing that refugees need more time and support to complete health screenings, so health screening should be made mandatory, and state-based health services should be needs-based. This argument is extended to include mental health; refugees, as persecuted people, have experienced trauma and need support on multiple levels to recover mentally and emotionally. Section II ends by arguing that even though the United States makes a significant investment to help refugees attain self-sufficiency through resettlement programs like Refugee Cash Assistance, it could do more to help refugees through community organizations and capacity building within specific ethnic and refugee organizations.

Section III looks to the future of refugee crises in the 21st century, suggesting that the United States pay attention to human security problems as they relate to forced migration. This section argues that the United States has an obligation under the framework of human security to protect certain populations of forced migrants like IDPs and environmental forced migrants. The section begins with a discussion of current trends in the international refugee regime toward a "Cluster Approach" for IDPs and the acceptance of the framework of human security as a means to protect forced migrants. Next, Section III introduces environmentally displaced people as a group of forced migrants that should be afforded protection and assistance similar to what

refugees receive. This section argues that because the international refugee regime, notably the UNHCR, is creating procedures for protection and assistance for environmental forced migrants, the United States should do the same. Section III also argues that the international refugee regime should pay closer attention to marginalized refugee groups. This section uses a case study of the Kakuma refugee camp to argue that protracted refugees lack durable solutions; protracted refugee are thus “warehoused” in refugee camps with minimal assistance.⁹ This policy of warehousing refugees is inhumane, and the United States can exert the pressure necessary to change it. Finally, Section III uses a case study of the United States’ intervention in Colombia to analyze of how the United States’ foreign policy influences forced migration in countries where it intervenes. Section III argues that human insecurity produces forced migration, making the United States obligated to foster human security.

This Task Force report provides practical policy recommendations that concentrate on maximizing current resources for effective and inclusive refugee admissions and resettlement, building capacity for self-help within refugee communities, and providing assistance and protection for human security concerns as well as traditional Convention refugee crises. Our policy recommendations build on the United States’ existing refugee protection and assistance policies to ensure that our country will continue to serve refugees well through volags, community organizations, and government programming while maintaining fiscal responsibility that is important in light of the current global recession. Through our discussion of admission and resettlement concerns, difficulties refugees face after resettlement assistance ends, and future forced migration crises, this Task Force proposes policy recommendations that demonstrate how

⁹ Durable solutions are third country resettlement, local integration and repatriation. UNHCR. “Durable Solutions: The Ultimate Goal.” *UNHCR*. <<http://www.unhcr.org/pages/49c3646cf8.html>>.

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the United States will maintain its status as a preeminent refugee resettlement nation and safe haven while balancing both domestic and international needs.

Section I

Introduction

The United States receives tens of thousands of refugees and asylum seekers every year, both through its Refugee Resettlement Program (USRP) and asylum programs.¹⁰ Several bodies of the United States government, including the Bureau of Population, Refugees and Migration and the Office of Refugee Resettlement, are dedicated to admitting and resettling refugees of special humanitarian concern, in accordance with our tradition of being a safe haven for the oppressed.¹¹ However, our mechanisms for refugee admission and resettlement represent an imperfect response to the changing refugee needs of this new decade. Of late, the United States' tendency to treat refugees and asylum-seekers as criminals and enemies has overshadowed our humanitarian traditions. We argue that the administration must reevaluate our refugee admissions and resettlement programs to ensure that our humanitarian goals are met.

In this section, we provide a brief overview of the current programs for refugee and asylum admission and refugee resettlement, and identify areas that require reform. In particular, we have found that the United States government must revise both admissions and resettlement policies for refugees to offer a less defensive, more equitable admissions and resettlement process that protects those who are most vulnerable and most in need. Chapter 1 identifies weak points in asylum and refugee admissions and provides recommendations for a fairer and more equitable admissions process. Chapter 2 discusses the impact of anti-terrorism legislation on the admissions process and recommends revisions to this legislation. Chapter 3 discusses the negative impact of the detention of asylum seekers and provides some alternative courses of action. Chapter 4 evaluates current resettlement programs and provides recommendations to

¹⁰ Erin Patrick, 2004, "The US Refugee Resettlement Program," Migration Policy Institute, <<http://www.migrationinformation.org/USFocus/display.cfm?ID=229>>.

¹¹ Office of Refugee Resettlement, 2008, "History," U.S. Department of Health and Human Services, <<http://www.acf.hhs.gov/programs/orr/about/history.htm>>.

improve the cost-efficiency and accessibility of the resettlement regime. The final chapter discusses innovative ways in which the United States government can better meet the needs of vulnerable refugee groups such as unaccompanied minors, single-parent families, and disabled and elderly refugees. In conclusion, we provide a number of policy recommendations to create an admissions and resettlement regime that is more efficient, more equitable, more cost-effective, and in agreement with the humanitarian goals of this administration.

Chapter 1

Evaluating Refugee and Asylum Admissions

Introduction

Since the passage of the Refugee Act of 1980, the United States has undertaken a leadership role in the resettlement of refugees and the granting of asylum. Notwithstanding the recent global recession, the United States continues to receive more refugees and asylum seekers than any other OECD country. It is also one of only thirteen countries worldwide that participates in largescale refugee resettlement.¹² However, there are a number of indications that the admissions processes for asylum seekers and refugees are far from ideal. Despite increases in demand for third-country resettlement, the number of refugees admitted to the United States continues to fall short of ceilings every year. Furthermore, the humanitarian migrants that are granted asylum in the United States appear to be accepted based on factors other than the validity of asylum claims. In brief, the United States is not admitting those refugees and asylum seekers most in need of protection. This is evidenced both by the inequitable nature of a majority of asylum decisions and by the large and growing shortfalls in annual refugee admissions.

There are a number of reasons for the evident disjuncture between the United States' humanitarian goals and actual resettlement and asylum outcomes, but in this report we will focus on the principle issue areas that contribute most prominently to the problems outlined above. First, the shortfalls in refugee resettlement can be attributed to a lack of coordination between various government bodies as to the goals of the United States Resettlement Program (USRP). Second, the discrepancies in asylum admissions can in part be attributed to restrictive policies embodied in the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) and Real ID Act of 2005 which, among other things, limit asylum seekers' access to legal

¹² Chad C. Haddal, 2009, "Refugee and Asylum seeker Inflows in the United States and Other OECD Member States," Congressional Research Service, <www.crs.gov>.

resources during both affirmative and defensive admissions processes. Finally, the United States designates Temporary Protected Status (TPS) to populations of concern that do not qualify for refugee status rather than seeking more durable solutions to humanitarian crises.

In this chapter, we will provide background information on refugees, asylum seekers and other humanitarian migrants and the admissions processes associated with each of these categories.¹³ Then we will use empirical data to demonstrate that there are discrepancies in the admissions processes for asylum seekers and refugees. We will provide explanations for these discrepancies, focusing primarily on the lack of consensus on desirable resettlement outcomes and on the constraints on asylum seekers' legal resources during the admissions process. Finally, we will provide policy recommendations to address these issues. In particular, we will argue that the State Department, the USCIS and various other government bodies need to come to a consensus as to the goals of the USRP and that immigration legislation should be revised to create a more equitable asylum process.

The Process: Resettlement, Asylum and Temporary Protected Status

Under the United States Immigration and Nationality Act (INA) as amended by the Refugee Act of 1980, a refugee is a person who is outside his or her country of nationality – or in the case of a person having no nationality, country of residence – and is unable or unwilling to return because of a well-founded fear of persecution.¹⁴ This definition parallels the 1951 UN Convention and the 1967 UN Protocols on Refugee Status Determination, with some addendums. The United States President can grant refugee status to persons still within their

¹³Ruth E. Wasem and Karma Ester, 2008, "Temporary Protected Status: Current Immigration Policy and Issues," Congressional Research Service, < www.crs.gov >.

¹⁴ Refugee Council USA, 2006, "Eligibility for U.S. Resettlement," <<http://www.rcusa.org/index.php?page=eligibility-for-u-s-resettlement>>, 3.

countries of residence under special circumstances, but refugees can also be excluded from protection based on factors such as health concerns or criminal records.¹⁵

An asylum seeker, like a refugee, is someone who has fled his or her country for the abovementioned reasons but whose claim for refugee status has not yet been definitively evaluated.¹⁶ Humanitarian migrants are migrants who have come to the United States to escape “extreme poverty, deprivation, violence and the dislocation brought on by famines or natural disasters” but who do not qualify for refugee status.¹⁷ The United States accepts refugees and asylum seekers as well as other humanitarian migrants, but does so through separate programs.

Established refugees, unlike asylum-seekers and other migrants of humanitarian concern, are selectively chosen for resettlement in the United States while they are still abroad.¹⁸ In order to qualify for resettlement, a refugee must fall under one of three priority categories. Priority One (P-1) refugees are individuals referred for resettlement in the United States by the UNHCR, a non-governmental agency (NGO), or a United States embassy. These are refugees for whom no other durable solution is viable. Priority Two (P-2) refugees are groups of special concern as designated by the Department of State. These groups are in danger of persecution due to their particular nationalities, ethnicities, religions, locations or a combination of these characteristics.¹⁹ Priority Three (P-3) refugees are individuals who have immediate family in the United States who were either resettled as refugees or granted asylum after arrival. This category is only open to certain nationalities. In 2009, eighteen different nationalities qualified for P-3 processing.²⁰

¹⁵ Refugee Council USA, 2006, “Eligibility for U.S. Resettlement,” 3.

¹⁶ Stephen Castles and Mark J. Miller, *The Age of Migration: International Population Movements in the Modern World* (London: The Guilford Press, 2009), 189.

¹⁷ Ruth E. Wasem and Karma Ester, 2008.

¹⁸ Marc R. Rosenblum and Idean Salehyan, “Norms and Interests in US Asylum Enforcement,” *Journal of Peace Research* 41 No. 6 (2004), 678.

¹⁹ Refugee Council USA, “Eligibility for U.S. Resettlement,” 1.; Bureau of Refugees, Population and Migration, 2008, “Refugee Admissions and Resettlement,” U.S. Department of State, <<http://www.state.gov/g/prm/c26471.htm>>.

²⁰ Refugee Council USA.

Asylum seekers, humanitarian migrants who claim to be refugees but who have not been established as refugees, are not considered for admission unless they are already within United States borders and wish to remain.²¹ There are two processes, affirmative and defensive, through which asylum seekers can pursue protection in the United States. Regardless of their immigration status, asylum seekers may apply for affirmative processing by submitting an I-589 form to a USCIS Service Center within one year of their arrival. The asylum seeker is then interviewed by an immigration officer, who accepts or rejects the asylum claim. Defensive processing is applicable only to those asylum seekers that are facing deportation. For example, if an asylum seeker applies for affirmative processing and the application is rejected, he or she may undergo defensive processing. Asylum seekers also undergo defensive processing if they are apprehended by immigration authorities without proper documents. In defensive processing, an asylum seeker must appear before an Immigration Judge and defend his or herself against removal from the United States.²²

The United States seeks to protect all migrants of humanitarian concern, but not all such migrants qualify for permanent asylum under the INA. However, a large number qualify for temporary forms of protection, such as Temporary Protected Status (TPS). TPS is a temporary immigration status granted to nationals who have arrived in the United States from countries designated for TPS by the Secretary of Homeland Security. Countries are designated for TPS based on the presence of an ongoing armed conflict, environmental disaster, or other circumstances that prevent nationals from returning home safely. The designation is effective for a period of six to eighteen months, after which nationals from those countries are expected to

²¹ Roger Charlton et. al, "Identifying the Mainsprings of US Refugee and Asylum Policy: A Contextual Interpretation," *Journal of Refugee Studies* 1 no. 3/4 (1988), 245.

²² U.S. Citizenship and Immigration Services, 2008, "Obtaining Asylum in the United States: Two Paths," Department of Homeland Security, <<http://www.uscis.gov/portal/site/uscis/menuitem>>.

return home.²³ Countries currently designated for TPS include Haiti, Burundi, El Salvador, Honduras, Nicaragua, Somalia and Sudan.²⁴

Problematic Resettlement and Asylum Outcomes

It is the historic policy of the United States to protect migrants of special humanitarian concern, in accordance with our “tradition of being a safe haven for the oppressed.”²⁵ However, it is impossible for the United States to admit all deserving refugees and asylum seekers, and in fact, less than one percent of those seeking admission are allowed into the United States every year.²⁶ Given these limitations, an important question to ask is whether current admissions processes afford protection to those individuals and groups who need it most. Unfortunately, there are a number of indications that the current admissions system falls short of this goal.

Failure to Meet Annual Resettlement Ceilings

The number of refugees worldwide is not shrinking. The estimated total number of refugees and asylum seekers is between ten and fourteen million, and it has continued to grow since its most recent low point in 2005.²⁷ Furthermore, the recent global recession may cause shortages of vital resources in many countries, leading to food-based displacement and conflict and swelling the number of refugees and asylum seekers in need of resettlement.²⁸ At the same time, the United States’ annual refugee admissions ceilings have been steadily declining over the

²³ U.S. Citizenship and Immigration Services, 2009, “How Do I Apply for Temporary Protected Status (TPS)?” Department of Homeland Security, <<http://www.uscis.gov/portal/site/uscis/menuitem>>; Ruth Wasem and Karma Ester, 5.

²⁴ Ruth Wasem and Karma Ester, 5.

²⁵ Office of Refugee Resettlement, 2008, “History,” Department of Health and Human Services, <<http://www.acf.hhs.gov/programs/orr/about/history.htm>>.

²⁶ Erin Patrick, 2004, “The US Refugee Resettlement Program,” Migration Policy Institute, <<http://www.migrationinformation.org/USFocus/display.cfm?ID=229>>.

²⁷ U.S. Committee for Refugees and Immigrants, 2006, “World Refugee Survey 2006,” <www.refugees.org>; Stephen Castles and Mark J. Miller, 190.

²⁸ Chad C. Haddal, 1.

course of last decade, reaching a low of 70,000 in 2003.²⁹ The refugee admissions ceiling only recently increased to 80,000 in response to an anticipated influx of refugees from Iran, Iraq, Bhutan and Southeast Asia.³⁰ As such, the demand for resettlement far exceeds the number of refugees that the United States is willing to accept.

Despite this growing demand, admissions totals have consistently fallen below annual ceilings by tens of thousands. Furthermore, the shortfall in admissions has increased significantly in the last decade. As a point of comparison, admissions between 1990 and 1999 comprised between 85 and 95 percent of ceilings, with an average annual shortfall of about 10,000 refugees. Between 2000 and 2008, however, refugee admissions rarely exceeded 80 percent of admissions ceilings, with an average annual shortfall of over 27,000 refugees.³¹ The cumulative shortfall in admissions between 2000 and 2009 was approximately 244,000 refugees, as compared to the cumulative shortfall of approximately 97,500 refugees between 1990 and 1999.³² Considering that admissions ceilings have fallen from a peak of 142,000 in 1992 to 80,000 in 2009, these numbers demonstrate that the United States is not providing protection to as many refugees as resources allow.³³ If the goal of the USRP is to respond to refugee needs in whatever capacity possible, these significant and increasing shortfalls represent a critical failure.

Evidence of Discriminatory Asylum Decisions

Under both national and international law, asylum must be granted to any person with a “credible fear of persecution” on account of his or her race, religion, nationality, political

²⁹ Erin Patrick, 3.

³⁰ Jeanne Batalova, 2009, “Spotlight on Refugees and Asylees in the United States,” Migration Policy Institute, <<http://www.migrationinformation.org/USFocus/display.cfm?id=734>>.

³¹ David A. Martin, *The United States Refugee Admissions Program: Reforms for a New Era of Refugee Resettlement* (Washington, D.C.: Migration Policy Institute, 2005), 17.; Daniel C. Martin and Michael Hoeffler, 2009, “Refugees and Asylees: 2008,” DHS Office of Immigration Statistics, <http://www.dhs.gov/xlibrary/assets/statistics/publications/ois_rfa_fr_2008.pdf>.

³² David A. Martin, 17; Erin Patrick, 3.

³³ Jeanne Batalova, 3.

opinion, or membership in a particular social group.³⁴ The 1951 Convention and the INA prohibit American foreign policy considerations or other extraneous factors from influencing asylum decisions. Furthermore, the Executive Office for Immigration Review (EOIR) includes in its mission statement a commitment “to providing fair, expeditious and uniform application of the nation’s immigration laws in all cases.”³⁵ However, asylum decisions are often predicated factors other than the actual evidence of persecution presented by or on behalf of asylum seekers. This places deserving and vulnerable asylum seekers in danger of deportation, potentially violating the principle of non-refoulement.

A number of academic studies demonstrate strong correlations between asylum decisions and factors such as the demographic characteristics of individual asylum seekers, as well as the geopolitical relations between the United States and sending countries. These same studies indicate weak correlations between asylum considerations and evidence of persecution. For example, a 2004 study conducted at the University of California, San Diego found that applicants from communist countries were more likely to receive asylum grants during the Cold War, but not after, regardless of human rights practices in sending countries. The same study found that applicants from countries engaged in trade with the United States are at a significant disadvantage.³⁶ In a similar vein, a study conducted at the University of Texas at Dallas found that applicants from Spanish or Arabic-speaking countries, female applicants, applicants with families, and Judeo-Christian applicants are less likely to receive asylum.³⁷ The study also found

³⁴ U.S. Citizenship and Immigration Services, 2008, “How is an Individual Found to Have a Credible Fear of Persecution?” Department of Homeland Security, <<http://www.uscis.gov/portal/site/uscis/menuitem>>.

³⁵ Transactional Records Access Clearinghouse, 2006, “Immigration Judges,” Syracuse University, <<http://trac.syr.edu/immigration/reports/160/>>.

³⁶ Marc R. Rosenblum and Idean Salehyan, 685-686.

³⁷ Linda C. Keith and Jennifer S. Holmes, “A Rare Examination of the Typically Unobservable Factors in U.S. Asylum Decisions,” *Journal of Refugee Studies* 22 No. 2 (2009), 231-232.

that the type of evidence offered by asylum seekers did not significantly impact asylum outcomes, excepting physical evidence of torture.³⁸

The disposition of the presiding immigration judge also impacts asylum decisions, despite the EOIR's stated objective of providing "uniform" application of the law. A 2006 study conducted at Syracuse University found that in a sample of about 300,000 cases, ten percent of Immigration Judges denied asylum in 86 percent or more of their decisions, whereas another ten percent denied asylum in only 34 percent of their decisions. About 0.5 percent of judges denied asylum in over 90 percent of their decisions.³⁹ In addition to these judge-by-judge disparities, the study found that legal representation has a significant impact on asylum decisions. Asylum seekers without attorneys were denied asylum in 93.4 percent of cases, whereas asylum seekers with attorneys were denied in only 64 percent of cases.⁴⁰ This suggests that asylum decisions are often based on factors other than the validity of individual asylum claims.

Perpetually Extending Temporary Protected Status

The United States has frequently chosen to grant Temporary Protected Status (TPS) rather than permanent asylum to groups emigrating in large numbers from a single country, even when the cause of displacement is unlikely to be short-lived.⁴¹ TPS recipients cannot apply for permanent residence or citizenship, but TPS can be extended via discretionary procedures such as Deferred Enforced Departure (DED) or Extended Voluntary Departure (EVD).⁴² It is often difficult or impossible to assess whether the disasters necessitating TPS have ended, resulting in numerous extensions for some groups. For example, Salvadorans, Nicaraguans and Hondurans were granted TPS in response to Hurricane Mitch in 1999. The most recent extension for these

³⁸ Linda C. Keith and Jennifer S. Holmes, 233.

³⁹ Transactional Records Access Clearinghouse, 4.

⁴⁰ Transactional Records Access Clearinghouse, 3.

⁴¹ Ahilan T. Arulanantham, "Restructured Safe Havens: A Proposal for the Reform of the Refugee Protection System," *Human Rights Quarterly* 22 (2002), 14.

⁴² Ruth E. Wasem and Karma Ester, 3-4.

groups expires in 2011, twelve years after the proximate cause of displacement has lapsed.⁴³

Conversely, it is difficult to assess whether new groups are eligible for TPS. Despite a series of four hurricanes that destroyed fifteen percent of Haiti's national economy in mid-2009, Haitians were not granted TPS until January 15th of this year.⁴⁴ These cases suggest that geopolitical concerns, rather than exigent circumstances, often determine which nationalities receive TPS and for what duration.⁴⁵ In sum, TPS is a highly problematic immigration category that can lead to the repatriation or the ongoing threat of repatriation for migrants deserving of permanent asylum.

Explaining Problematic Outcomes

There is no single reason why deserving refugees and asylum seekers are denied admission to the United States. The admissions processes for refugees and asylum seekers are tremendously complex, requiring the cooperation of foreign governments, Congress, the State Department, the Department of Homeland Security the USCIS and, in the case of eligible refugees, the United Nations, the Office of Refugee Resettlement (ORR), and a plethora of non-governmental organizations. Furthermore, refugee resettlement and asylum procedures are distinct processes and as such, each is subject to a different set of obstacles. However, the major flaws in the current admissions systems for refugees and asylum seekers can be largely attributed to two causes: a lack of consensus between the various government bodies as to the goals of these programs and restrictive immigration policies designed to keep asylum seekers out.

The Refugee Admissions Process

The United States Refugee Admissions and Resettlement Programs are managed conjointly by the Department of Homeland Security, the USCIS, the Department of State, the

⁴³ David Herbert, "Obama Punts on Reforming Immigration Program," *The National Journal*, March 23, 2009, 1.

⁴⁴ David Herbert, 3.; Julia Preston, 1.

⁴⁵ Federation for American Immigration Reform, 2010, "Temporary Protected Status," <<http://www.fairus.org/site/News2?page=NewsArticle&id=16761>>.; Healthcare Mergers, Acquisitions & Ventures, 2008, "Extension of Temporary Protected Status (TPS) for Salvadorans Demonstrates That Program Should Be Revised or Terminated, Says FAIR," NewsRx.com.

ORR, and the President. Ceilings for refugee admissions are issued on an annual basis by the President in consultation with Congress.⁴⁶ The Department of State, in particular the Bureau of Population, Refugees and Migration (PRM), provides funding for the admissions process and sets the criteria for eligible applicants. Individual admissions decisions are made by USCIS representatives based on these criteria, often in consultation with the UNHCR.⁴⁷ However, there is no consensus between the Administration, the PRM and the Department of Homeland Security as to the principal aims of the Refugee Admissions Program.⁴⁸

There are multiple points of divergence that need to be addressed. First, there is a lack of consensus as to whether resettlement is an option reserved for those refugees whose lives are in immediate danger, or if resettlement should be considered a viable solution to protracted refugee situations.⁴⁹ Second, there is contention over whether more resources should be allocated to foreign assistance than to resettlement or vice versa. Although resettlement is a more stable, long-term solution for refugees, it is also more costly than feeding and sheltering refugees in camps.⁵⁰ This issue is covered in more detail in the third section of this report.

Perhaps most importantly, there is a lack of consensus as to whether annual refugee resettlement ceilings are targets to be met, or just ceilings. The PRM and USCIS tend to treat annual ceilings as limits, not goals. However, resources are allocated to refugee resettlement based on the Presidential Determination for ceilings made at the beginning of the fiscal year, suggesting that the administration intends for the ceilings to be met.⁵¹ For the USRP to be as

⁴⁶ David A. Martin, 15.

⁴⁷ U.S. Committee for Refugees and Immigrants, 2010, "How Refugees Come to America," <http://www.refugees.org/article.aspx?id=1082&subm=40&ssm=47&area=About%20Refugees>.

⁴⁸ David A. Martin, 9, 14.

⁴⁹ David A. Martin, 9-10.

⁵⁰ David A. Martin, 13-14.

⁵¹ David A. Martin, 15-16.

effective as possible, the administration, the Department of State, and the DHS need to come to an agreement on these issues.

The Asylum Process

Immigration and asylum policies have become excessively restrictive over the course of the last two decades. In particular, the IIRIRA and the Real ID Act have made significant changes to the asylum process.⁵² Both laws have made the requirements for admission prohibitively stringent. For example, the IIRIRA places a one-year limit on asylum applications, establishes expedited removal proceedings for ineligible applicants, renders convicted criminals ineligible for asylum and prohibits applicants from working during the application process.⁵³ The Real ID Act requires asylum seekers to demonstrate that their race, religion, nationality, membership in a social group or political opinion represents a “central reason” for their persecution.⁵⁴ These restrictions effectively make asylum seekers “guilty until proven innocent.”⁵⁵

Due to these restrictions, asylum seekers are at a legal disadvantage in the admissions process. In addition, asylum seekers have limited access to legal assistance. No government paid legal aid is available to asylum seekers in the United States, and few non-profits have the resources to provide legal aid.⁵⁶ This is problematic even for asylum seekers undergoing affirmative processing, since the I-589 form is complicated and success rates are much higher among applicants who receive the help of a lawyer.⁵⁷ The fact that a large numbers of asylum seekers must defend themselves against deportation without legal aid explains, in part, the reliance of immigration judges on factors other than the evidence presented in court. Immigration

⁵² Linda C. Keith and Jennifer S. Holmes, 226.; Chad C. Haddal, 11.

⁵³ Chad C. Haddal, 11.

⁵⁴ Linda C. Keith and Jennifer S. Holmes, 227.

⁵⁵ Carol Bohmer and Amy Shuman, 11.

⁵⁶ Carol Bohmer and Amy Shuman, 35.

⁵⁷ Carol Bohmer and Amy Shuman, 43.; Armen H. Merjian, 9.

Judges are forced to filter through garbled testimonies, incomplete evidence, and generally inadequate information about the asylum seeker in question, encumbering their ability to make fair decisions.⁵⁸

Conclusions and Recommendations

In light of the issues discussed in this chapter and their implications for United States refugee and asylum policy, this Task Force endorses the following policy changes. First, we recommend that the President, the Secretary of State, the Secretary of Homeland Security, the Assistant Secretary for the PRM and the Director of the USCIS come to a consensus as to the goals of the United States Refugee Admissions and Resettlement Programs (USRAP and USRP). In particular, we recommend that the USRP should be open to refugees who are in protracted refugee situations as well as those that are in immediate danger.⁵⁹ We also recommend that the annual ceiling for refugee admissions be considered a policy goal rather than a limit, since the Administration allocates resources to refugee resettlement based on the ceilings that are set.⁶⁰

Second, we recommend that the IIRIRA should be amended to provide a more equitable admissions process for asylum-seekers. The current restrictive policies are in conflict not only with this administration's humanitarian goals, but with the UNHCR's affirmation that deserving asylum-seekers must be admitted to the state in which they first seek refuge.⁶¹ In order to better adhere to this criterion, we recommend that asylum seekers should be provided with government-funded legal assistance during both affirmative and defensive asylum processes. These reforms will better ensure that asylum seekers are subject to fair adjudication and that deserving asylum seekers are granted admission to the United States.

⁵⁸ Carol Bohmer and Amy Shuman, 44-47.; Armen H. Merjian, 2.

⁵⁹ David A. Martin, 10.; David A. Martin, 15-16

⁶⁰ David A. Martin, 11.

⁶¹ UN High Commissioner for Refugees, 2000, "UNCHR Commentary on the Draft Directive on Temporary <Protection in the Event of a Mass Influx," www.unhcr.org/refworld/docid/437c5ca74.html.

Finally, we recommend that TPS should be amended so that its recipients are given more direct access to asylum procedures. Furthermore, we recommend that extensions on TPS should be limited to a maximum of two years, after which beneficiaries must either return to their countries of origin or receive permanent protection. This is an important amendment because TPS recipients who are subject to the threat of deportation every six to eighteen months cannot lead productive lives in the United States. In general, a greater effort should be made to grant refugee status to TPS recipients who are unable to return home so that entire communities are not kept in limbo between protection and deportation.

Chapter 2

National Security versus Humanitarian Concern: How the Material Support Bar Inadvertently Shuts Out Those Most in Need of Protection

Introduction

Since September 11, 2001, the United States government has increased counter-terrorism measures in order to deal with individuals who the government believes pose a risk to United States interests, citizens, and property. An important method of protecting national security is through restricting entry to dangerous individuals who are affiliated with terrorist groups. However, the increased restrictions on refugee admissions and resettlement through the Material Support Bar have adversely impacted asylum seekers and refugees who are in real need of resettlement and who do not pose a risk to national security.

This task force will argue that amendments to the Immigration and Nationality Act along with other counter-terrorism laws endorsed post-9/11 have adversely and unfairly affected many asylum seekers and refugees who are seeking resettlement in the United States. The United States government should implement exemptions so that individuals who do not pose a risk to national security can undergo the admissions and resettlement processes without delay. The interpretations of “material support” and “terrorist organizations” should also be revised to encompass a greater humanitarian concern. Overly broad consideration for national security cannot overpower an accurate measurement of need demonstrated by some of the most vulnerable refugees.

Policy Problems of the Material Support Bar

The Immigration and Nationality Act (INA) was created in 1952 as a compilation of various statutes and government laws regulating immigration to the United States. Since then, it has been amended many times. Most relevant to this chapter is the addition of the phrase material support in 1996 pertaining to individuals who seek refugee status and resettlement in the

United States, but who are considered to have supported terrorist organizations. The Material Support Bar restricts entrance to those the United States government suspects of supporting terrorism and therefore of being a threat to national security.⁶² As will be shown, current interpretations of the Material Support Bar by United States immigration officials are restricting deserving refugee and asylum seekers from being considered for resettlement in the United States.

Since the 9/11 tragedy, refugees and asylum seekers are facing additional challenges through the resettlement application process. The USA PATRIOT Act (2001) and the REAL ID Act (2005) were passed by Congress as anti-terrorism measures, consequently expanding the definitions of material support and terrorist organizations.⁶³ Specifically, the Material Support Bar prohibits admission for individuals who “commit an act that the actor knows, or reasonably should know, affords material support, including a safe house, transportation, communications, funds, transfer of funds or other material financial benefit” to terrorist groups.⁶⁴ This list of material support is not exhaustive and Department of Homeland Security (DHS) officials and immigration officials have the discretion to determine if an act can be considered support. Asylum seekers and refugees who are determined by the United States government to have assisted terrorist organizations are barred from being resettled in the United States. Beyond those who are known members and representatives of terrorist organizations, even applicants who are indirectly linked to American defined terrorist groups can be rejected by immigration officials.

⁶² Sridharan, Swetha (2008). "Material Support to Terrorism - Consequences for Refugees and Asylum Seekers in the United States." Migration Information Source.

<<http://www.migrationinformation.org/Feature/display.cfm?id=671>>.

⁶³ Ibid.

⁶⁴ U.S. Citizenship and Immigration Services (N/D). "Immigration and Nationality Act." U.S. Department of Homeland Security.

<<http://www.uscis.gov/portal/site/uscis/menuitem.eb1d4c2a3e5b9ac89243c6a7543f6d1a/?vgnnextchannel=f3829c7755cb9010VgnVCM10000045f3d6a1RCRD&vgnextoid=f3829c7755cb9010VgnVCM10000045f3d6a1RCRD>>.
(accessed 24 January 2010).

The renovation of the Material Support Bar after 9/11 has produced a stark and devastating change in the refugee admissions and resettlement process. For example “prior to September 2004, the Material Support Bar was not so broadly written or as strictly interpreted to exclude even those forced to provide small amounts of support under duress.”⁶⁵ However, the bar is now interpreted so that giving a glass of water to an illegally armed group can be considered material support and thus qualifies a refugee to be barred from resettlement in the United States.⁶⁶ The fear of terrorism has created nearly impossible barriers for maintaining a refugee program that recognizes real need for resettlement.

Anti-terrorism measures, exemplified by the Material Support Bar, have perpetuated an unnecessary bias against refugee and asylum seekers who have been affected, mostly for the worse, by persecution and terrorism themselves. A Georgetown Law Center study estimates that the DHS's strict interpretation of the Material Support Bar “has prevented the resettlement of thousands of victims of terrorism.”⁶⁷ Although it is important to strengthen the United States' national security, there are huge flaws in the Material Support Bar that have adversely affected the resettlement process for individuals who are desperately fleeing persecution and who are in reality not a threat to American security.

How the Material Support Bar has Impacted Refugees and Asylum Seekers

There are many problems with how the Material Support Bar is currently enforced by immigration authorities. First, the definition of terrorist organizations does not take into consideration why certain groups use force, nor does it consider what type of government regime is being resisted. Second, the interpretation of material support is too strict to take into consideration all involuntary support, support under duress and force, and insignificant support.

⁶⁵ Aber, Shaina et al. “Unintended Consequences: Refugee Victims of the War on Terror.” *Georgetown Journal of International Law* 37 (2006): 759-863).

⁶⁶ This was stated by U.S. Embassy staff at a 2004 briefing to the UNHCR on how the material support bar applies to refugees (Aber et al., 801).

⁶⁷ Aber et al., 780.

Third, a refugee whose application is deferred or rejected because of the Material Support Bar faces continued difficulties in finding resettlement, even if they are in real fear of persecution and pose no risk to the United States' national security.

Defining Terrorist Organizations

The definition of terrorist organizations is very broad and there is much discretion in determining what groups qualify as Tier III terrorist organizations.⁶⁸ For example, Migration Information Source notes that “many prodemocracy groups still fall under the definition of terrorist organization,” thus the UNHCR is not able to refer individuals affiliated with such groups for resettlement.⁶⁹ The 2006 Georgetown University Law Center report notes that “[t]he definition of terrorist organization is based on whether illegal violence was used, not on the character of the organization, the nature of the conflict, or the type of government in question.”⁷⁰ Therefore, any two people using illegal force, for any reason, could conceivably be labeled a terrorist organization under the Material Support Bar. These interpretations of terrorist organizations are overly broad and run the risk of labeling groups fighting repressive regimes as terrorist organizations, even if they are fighting to escape unjust and inhumane persecution.

Sometimes it is difficult for refugees to prove that he or she was unaware of aiding a terrorist group, a challenge that is not compensated for in current refugee policy. The Material Support Bar states that individuals are only restricted if he or she “knows, or reasonably should know” that the act “affords material support” to a terrorist organization.⁷¹ It is difficult for

⁶⁸ The US Department of State maintains a list of foreign terrorist organizations, categorized as Tier I to III. The US government classifies these organizations from most dangerous (Tier I) to less dangerous (Tier III) (US Department of State - Foreign Terrorist Organizations). The Department of State determines only Tier I and Tier II organizations. Department of Homeland Security and other immigration officials have the ability to designate Tier III organizations and thus have the power to block a resettlement application [Sridharan (2008)].

⁶⁹ Sridharan (2008).

⁷⁰ Aber et al., 780.

⁷¹ U.S. Citizenship and Immigration Services (N/D). "INA: Act 212 - General Classes of Aliens Ineligible to Receive VISAs and Ineligible for Admission; Waivers of Inadmissibility." U.S. Department of Homeland Security. <<http://www.uscis.gov/propub/DocView/slbid/1/2/31?hilite=>>>. (accessed 24 January 2010).

refugees and asylum seekers to prove ignorance, even if they were truly unaware of any affiliation with terrorist groups. The process of proving ignorance “is a difficult burden given the lack of available evidence generally, and the difficulty in substantiating a prior mindset,” thus “[i]ndividuals who provide support to organizations designated as terrorist by the U.S. government are irrevocably presumed to have knowledge that the provision of support to the organization was prohibited under U.S. law.”⁷² Under these provisions, it is not unlikely that an individual who offers aid in any way, even a glass of water, to a so-called terrorist dressed in civilian clothing can be considered affiliated with a terrorist organization and thus banned from resettlement. For example, a Colombian refugee was barred resettlement in the United States when he inadvertently transported some Revolutionary Armed Forces of Colombia (FARC) members on his vehicle that was set up to deliver farm workers to and from their homes.⁷³ Considering that irregular warfare associated with terrorist organizations presumes that fighters will not wear uniforms, this example shows how the Material Support Bar can be absurdly applied by immigration officials. The devastating effects of the Material Support Bar fall squarely and unfairly on the refugee in need of protection.

Defining Material Support

The interpretation of material support is so strict that even forced or insignificant support can bar an individual from resettlement in the United States. For example, Anwen Hughes, the Senior Counsel in the Refugee Protection Program at Human Rights First, testified before a Senate subcommittee in April 2007 about the United States government's unnecessary exclusion of child soldiers based on the Material Support Bar. Hughes stated:

We are currently experiencing a crisis in the U.S. asylum and refugee resettlement system, in which refugees who were victims of serious human rights abuses are being excluded from protection under immigration provisions intended to bar those who

⁷² Aber et al., 782.

⁷³ Aber et al., 805.

victimized them. Child soldiers in need of refugee protection represent a subset of those affected by this insanity.⁷⁴

Although child soldiers who fight alongside rebels are considered part of terrorist organizations, it is often forced conscription that sustains the support. One of the flaws of the Material Support Bar is that it does not exempt these forced services, even though it is clear that these children are in great need of protection.

There are other situations in which support is coerced from refugees, many times under violent force or the threat of violent force. Refugee Council USA notes that even “medical professionals who have provided medical care to persons who have 'engaged in terrorist activity' - either under duress or pursuant to the Hippocratic Oath—are barred from admission to the United States as terrorists.”⁷⁵ For example, in Colombia, where guerrilla and paramilitary forces control much of the rural areas, it is common for these groups to “demand *war taxes* [emphasis added] from citizens—extorting money, goods, or services as both a source of revenue and a form of persecution.”⁷⁶ In studying a group of Colombian refugees who are residing in Ecuador and seeking resettlement in a third country, the Georgetown University Law Center found that 70 to 80 percent of these refugees were forced to pay war taxes or provide support in the form of funds, goods, or services to unlawfully armed groups.⁷⁷ In these examples, we see that refugees are forced to comply under threats or use of force and many are in need of protection through resettlement. However, the strict definition of material support under the Material Support Bar can be a deciding factor for rejecting refugees with such legitimate needs.

⁷⁴ Human Rights First (N/D). "Refugees at Risk under Sweeping 'Terrorism' Bar."

<http://www.humanrightsfirst.org/asylum/asylum_refugee.asp>. (accessed 22 January 2010).

⁷⁵ Refugee Council USA (2009). "The Problem of Terrorism-Related Inadmissibility Grounds (TRIG) and the Implementation of the Exemption Authority for Refugees, Asylum Seekers, and Adjustment of Status Applicants." <<http://www.rcusa.org/uploads/pdfs/TRIG%20Background%202007-28-09.pdf>>. (accessed 30 January 2010).

⁷⁶ Aber et al., 773.

⁷⁷ Aber et al., 788.

As a very telling example, a Colombian woman was imprisoned inside her home by a FARC member along with her children. She was ineligible for resettlement because she was determined to have provided shelter for her prisoner while trapped in her home.⁷⁸ Colombian refugees, like this woman, know that serious reprisals are certain if they do not comply. The numbers show that most refugees were coerced into providing support.⁷⁹ Yet, under the Material Support Bar, there is no guideline for determining between voluntary and involuntary support in all resettlement applications.

The strict interpretation of material support has also greatly limited the number of individuals referred for resettlement by the UNHCR. The UNHCR can legitimately assume that certain refugees will most definitely be rejected under United States immigration authorities' judgment that they have provided support to terrorist groups. Until September 2004, the UNHCR referred a total of 288 Colombian refugees to the United States. After the stricter definitions of material support were put in place, the number of referrals quickly dwindled to only 15 refugees between September 2004 and early 2006. The cases that were not referred were considered by the UNHCR "as raising potential material support issues."⁸⁰ This example shows how many refugees and asylum seekers can be rejected for possible resettlement in the United States because of the strict interpretation of support. This ignores the actual need of refugees to be resettled and the degree to which they face the threat of persecution if resettlement is not possible.

Coping with Rejection

The effect of application denial can be very harsh for refugees and asylum seekers. Refugee and asylum seekers denied resettlement due to the Material Support Bar face

⁷⁸ Refugee Council USA (2006). "Material Support Duress Case Examples." <<http://www.rcusa.org/uploads/pdfs/ms-caseexamples11-01-06.pdf>>. (accessed 22 January 2010).

⁷⁹ Aber et al., 788.

⁸⁰ Aber et al., 776.

stigmatization when they are associated with terrorists and considered too dangerous to resettle in the United States. This branding can encourage other receiving countries to hastily reject their applications. Those who already have refugee status may face delays in resettlement because they have been deemed complicit under the Material Support Bar.⁸¹

A 2006 Georgetown University Law Center study offers a good example of the unnecessarily strict definitions within the support bar and of how its application can greatly hinder those fleeing persecution:

A woman gang-raped, abducted, and held hostage by rebels of the Liberians United for Reconciliation and Democracy (LURD) was forced to perform a variety of household tasks, including cooking and laundry. DHS has placed her resettlement case on indefinite hold because the Department considers the laundry and cooking services that she provided material support to a terrorist organization.⁸²

Under the Material Support Bar, there is still no policy to excuse services provided under duress. For Colombian refugees who face secondary persecution in Ecuador, “the persecution is linked to the persecution they suffered in Colombia.”⁸³ Often, armed groups from Colombia will target “certain refugees as 'military objectives,' offering bounties for the assassination or kidnapping of Colombian civilians who have crossed into Ecuador.”⁸⁴ These examples show how those “affiliated” with terrorism are often the victims of terrorism. Indefinite deferral for some refugees and asylum seekers means continued persecution and the dangers of continued suffering.

Ongoing Problems with the Material Support Bar and Recommendations

The Material Support Bar is a good indicator of how anti-terrorism measures have overshadowed humanitarian considerations. Many of the refugees who are rejected for resettlement under the Bar are not a danger to the United States. In the 2006 Georgetown

⁸¹ Aber et al., 777.

⁸² Aber et al., 797.

⁸³ Aber et al., 817.

⁸⁴ Aber et al., 817.

University Law Center study, only 3 percent of those interviewed provided support to terrorist groups voluntarily.⁸⁵ Since 2006, The United States government has tried to address some of the unintended consequences of the Material Support Bar. On January 19, 2007, Homeland Security Secretary Michael Chertoff announced that he would exempt eight groups from the material support provisions so they could seek resettlement in the United States. These groups include “the Karen National Union and Karen National Liberation Army, Chin National Front and Chin National Army, Chin National League for Democracy, Kayan New Land Party, Arakan Liberation Party, Tibetan Mustangs, Cuban Alzados, and Karenni National Progressive Party.” Furthermore, Chertoff extended the waiver to refugee and asylum seekers who provided material support in duress when involved with terrorist groups identified in Tiers I to III.⁸⁶

Although the exemptions represent a greater humanitarian concern by the United States government towards refugees, some problems still remain with the material support provisions. These provisions remain in order to prohibit any chance that terrorists and their supporters will immigrate to the United States. The United States government can do much more to reverse the unfair and counterproductive effects of the Material Support Bar. Ultimately, the goal would be to allow refugees who are of no threat to the United States to normally enter the pool of resettlement applicants. This requires that the process for determining terrorist organizations and what constitutes material support be reformed.

Reinterpreting Material Support and Granting Exemptions to all Refugees Acting out of Duress or Ignorance

Since June 2009, there have been more than 10,500 exemptions for refugees to resettle in the United States. However this Task Force agrees with RCUSA's consideration that the

⁸⁵ Aber et al., 806.

⁸⁶ U.S. Department of Homeland Security (2007). "Statement by Homeland Security Secretary Michael Chertoff on the Intention to Use Discretionary Authority for Material Support to Terrorism." <http://www.dhs.gov/xnews/releases/pr_1169465766808.shtm>. (accessed 24 January 2010).

exemption process is “very slow, piecemeal, and centralized.”⁸⁷ RCUSA notes that “[h]undreds of refugees and asylum seekers have had their cases put 'on hold' and thousands of applicants for adjustment of status...have not been able to obtain green cards or reunite with family members”⁸⁸ As seen in the aforementioned examples, forced kidnapping can still be interpreted as support. Coerced war taxes can still be considered funding of a terrorist group under some cases. Child soldiers who are forcefully conscripted into rebel groups are providing services as support. We recommend that the definition for material support should be interpreted with greater humanitarian consideration in mind. Consequently, the process for determining exemptions would not be so overwhelming.

The Department of Homeland Security currently lacks a procedure to deal with certain groups that do not squarely fall into the duress exemptions. These include those who aided Tier III groups that are not listed by the government, those who provided support to terrorists in services (e.g. child soldiers), those who provided medical care according to the Hippocratic Oath to terrorist groups, and the immediate relatives of these individuals.⁸⁹ This Task Force agrees with RCUSA's recommendation that The United States government should extend legislation so that these groups that are currently denied exemptions may also be pardoned if the individuals represent no realistic threat to national security.⁹⁰ As seen from the evidence, most refugees provide support under duress or ignorance, showing that they are not members or willing supporters of terrorist organizations. The support offered under these circumstances should not be considered material support at all under the Material Support Bar. If the UNHCR determines

⁸⁷ “The Problem of Terrorism-Related Inadmissibility Grounds (TRIG) and the Implementation of the Exemption Authority for Refugees, Asylum Seekers, and Adjustment of Status Applicants.” Refugee Council USA (RCUSA).

⁸⁸ Ibid.

⁸⁹ Ibid.

⁹⁰ Ibid.

that resettlement in a third country is the best solution for protecting a certain refugee, the United States must put this consideration ahead of its heightened fear of terrorist attacks.

Although certain groups have been exempt for providing support under duress, the process for determining exemptions must be streamlined and expeditious. To achieve this, immigration officials need to be trained to recognize cases in which refugees gave material support and services to illegally armed groups under duress or out of ignorance. Officials from the Department of Homeland Security need a set of guidelines for evaluating these cases. The government must educate immigration officials of duress, including examples, so they can replicate the process of exemption with similar applicants. Officials should review a resettlement application with the assumption that the applicant is a bona fide refugee in need of resettlement instead of first assuming that the individual is likely affiliated with a terrorist organization. This would require immigration officials to be trained to see refugees as persons in need of protection instead of enemies.

Reinterpreting the Definition of Terrorist Organizations

Along with revising the limits of material support to exclude support under duress and ignorance, Congress must also revise the definition of 'terrorist activities' as it applies to resettlement. This recommendation by our Task Force coincides with RCUSA's suggestion that the "overly broad definition of 'terrorism'" should be made "consistent with the rest of the U.S. Code and with the common understanding of the term 'terrorism.'"⁹¹ The term terrorist organizations remains too vague and the qualifying criteria for this category has a counterproductive, blanketing effect. The term represents the United States government's effort

⁹¹ "The Problem of Terrorism-Related Inadmissibility Grounds (TRIG) and the Implementation of the Exemption Authority for Refugees, Asylum Seekers, and Adjustment of Status Applicants." Refugee Council USA (RCUSA).

to include all groups that could potentially harm the homeland, but its application to all groups that use unlawful force, despite their reasons, is too strict.

Individuals in opposition to repressive regimes that persecute based on political beliefs, race, ethnicity, and religion are doubly punished if they are labeled terrorist supporters by the United States' immigration officials. Although Congress pardoned eight groups in particular, Migration Information Source maintains that there are other groups who are harshly branded as terrorist organization when they are prodemocracy movements resisting repressive governments.⁹² In its effort to support democracy movements globally, the United States is being counterproductive if it unjustly punishes those individuals who lead prodemocracy movements by labeling them terrorists or terrorist supporters. Furthermore, the United States government exempts applicants who can prove that they did not know a certain individual or group was engaged in terrorist activity. Yet, the procedure for doing so is very difficult for a resource-poor refugee or asylum seeker.

To achieve our Task Force and RCUSA's recommendation, the Obama Administration should amend the definition of terrorism under the Material Support Bar to be consistent with the rest of the United States Code. Title 18,2331 of the United States Code defines international terrorism as activities that are criminal in the occurring State, but that seem to be intended to “intimidate or coerce a civilian population... to influence the policy of a government by intimidation or coercion..., or to affect the conduct of a government by mass destruction, assassination, or kidnapping”⁹³ The determination of terrorist organizations should follow this guideline. The specific circumstances that motivate groups to act against a government should

⁹² Sridharan (2008).

⁹³ Legal Information Institute (N/D). “US CODE: Title 18,2331.” Cornell University Law School. <http://www.law.cornell.edu/uscode/18/usc_sec_18_00002331----000-.html>. (Accessed 11 February 2010).

also be considered so that benign prodemocracy groups are not mistakenly considered terrorists and potential enemies to the United States.

The DHS must also be required to only exclude applicants who are known members of designated terrorist organizations that have been recognized as such.⁹⁴ This means that applicants can only be turned away if it can be proven that they voluntarily supported a terrorist group that has been certified as one of the Tier groups. There should be no doubt if a group qualifies as a terrorist organization. Again, this would require the United States government to consider the reasons and methods of fighting for these armed groups. There must also be consensus among all authorities as to which groups qualify as Tier III organizations so that this is not decided in an ad hoc and inconsistent method.

Conclusion

Material support is being interpreted almost as any sort of support, in any quantity and under any circumstance. This interpretation ignores the experiences of those who are traumatized by terrorism and who most likely provided insignificant support or coerced support. Those who were forced to participate in training or fighting and those who experienced violence from unlawfully armed groups are especially in need of protection from persecution. Although the United States government has taken some steps to reconcile national security interests and humanitarian concern, the process of identifying the most vulnerable refugees has not been streamlined nor has it been very forgiving on refugees. The narrow and biased nature of the material support bar, motivated by fear of any possibility of terrorist attacks, currently overshadows this greater humanitarian concern.

⁹⁴ “The Problem of Terrorism-Related Inadmissibility Grounds (TRIG) and the Implementation of the Exemption Authority for Refugees, Asylum Seekers, and Adjustment of Status Applicants.” Refugee Council USA (RCUSA).

Chapter 3

The Detention of Asylum Seekers in the United States

Introduction

Current United States policy has failed to uphold its humanitarian tradition of protecting refugees and asylum seekers due largely to flawed “blanket” methods, which treat immigrants as one homogeneous group without valid documents. The two organizations that are primarily responsible for such sweeping measures are the Department of Homeland Security (DHS) and its subsidiary agency, the United States Immigration and Customs Enforcement (ICE). Both organizations follow certain immigration protocols, which lay the foundation for the unnecessary detention and mistreatment of thousands of asylum seekers in the United States. Detention under ICE custody is widely controversial due to the negligence and mistreatment of asylum seekers through methods such as confining them within prison-like facilities and abusing their basic rights to health, privacy, and legal representation.

In this chapter we will argue that the United States’ policy towards asylum seekers needs to be drastically reformed to prevent injustices and inhumane practices from being brought upon asylum seekers. Policy reforms are necessary if the United States wants to continue to uphold its humanitarian tradition and be a haven for those seeking asylum. Policy reforms are also required to remove unnecessary restrictions that delay the legal process of attaining asylum status. Furthermore, we will argue that the current administration needs to reduce the amount of taxpayers’ dollars spent on detention facilities, which could be more efficiently spent on alternatives to detention. As a result, asylum seekers whose immigration status is pending will benefit by increased mobility and access to services. In addition, a burden for the American taxpayer will be alleviated in the midst of a recession.

To support our arguments, we will examine certain issues pertaining to the detention of asylum seekers. These issues include the ICE's approach of mandatory detention for asylum seekers, lack of oversight, inadequate detention living conditions and their negative impacts on detainees, privatization of detention facilities, health care deficiencies, the ICE's restrictions to legal justice, and the high costs of detention. Finally, recommendations for the Obama Administration to consider conclude this chapter.

Flaws in United States Detention Practices

The ICE's initial process for detaining asylum seekers

The ICE's initial determination whether to detain asylum seekers upon arrival is problematic because the ICE uses a blanket, perfunctory approach. The ICE's approach is not based on "individualized determination, but rather on whether a person possesses valid documents," and disregards the fact that a large number of individuals fled their home countries without time to gather their legal documents.⁹⁵ Those who are found to be without valid documents at United States entry points are then placed into mandatory detention under the expedited removal process. Thereafter, asylum seekers are only permitted to apply for asylum if they pass a "credible fear" screening interview, which can be difficult. Asylum seekers who meet the credible fear standard should be eligible for an asylum court hearing; however they are unnecessarily detained while their asylum cases are pending. It is inhumane for ICE protocol to immediately force asylum seekers into stressful situations and make them suffer the mental, physical and financial tolls of detention *before* filing their asylum claims to court. As a result, asylum seekers face taxing obstacles from the start, which are imposed by the ICE's process of mandatory detention and restrictions on access to immigration court hearings.

⁹⁵ Human Rights First, *U.S. Detention of Asylum Seekers: Seeking Protection, Finding Prison*, June 2009 (New York), 32.

One of the ICE's primary justifications for immediate detention is that the alternative could result in thousands of undocumented aliens. This justification is problematic because ICE policy is seen as using "detention as a deterrent to other would-be asylum seekers" rather than a last resort.⁹⁶ Using detention as a deterrent ultimately equates to making detention as awful as possible in the hopes that detained immigrants will give up legal claims and accept deportation.⁹⁷ These issues demonstrate that detention facilities' conditions are in desperate need of reform.

Lack of Oversight

The ICE lacks adequate mechanisms to supervise the conditions under which thousands of asylum seekers are detained. It has failed to prevent many injustices brought upon detainees. Improved oversight is essential to eliminating abuse and violence towards detained asylum seekers, but the current lack thereof negatively impacts detainees' lives. Detention centers need greater transparency in dealing with complaints of abuse and in their investigation process. Currently, it is difficult to acquire statistics on complaints and instances of abuse, and consequently detained asylum seekers' voices go unheard and they endure terrible detention conditions. Typically, when state based immigrant organizations take up complaints regarding detention conditions with the ICE and the Department of Homeland Security (DHS), the complaints process is inconsistent, difficult to monitor, and difficult to maintain.⁹⁸ Another problem in current oversight structures is that the ICE has been criticized for operating without information systems, critical planning and management tools, uniform medical and mental

⁹⁶ Frelick, Bill. (2005). "US Detention of Asylum Seekers and Human Rights," *Migration Information Source*, <<http://www.migrationinformation.org/USfocus/display.cfm?ID=296>>.

⁹⁷ ACLU. *Detention in the Age of ICE, Immigration and Human Rights in Massachusetts*, December 2008 (ACLU Massachusetts), 49.

⁹⁸ ACLU, *Conditions of Confinement in Immigration Detention Facilities: Briefing*, June 2007 (ACLU New York), 16.

screenings, and medical record systems while detaining immigrants.⁹⁹ The lack of an overarching national oversight framework exacerbates the ICE's poor organization and management at the expense of the detainee.

It must be noted that the DHS is indeed pushing reform in oversight mechanisms and therefore should be recognized for making some progress. The DHS is in the process of creating an Office of Detention Oversight in response to several national immigration organizations' requests that the government create stronger enforceable standards for the custody of immigration detainees.¹⁰⁰ Once the Office of Detention Oversight begins its operations, better transparency through investigations of systemic complaints and unannounced inspections of all detention centers should help create more humane living conditions for detainees.¹⁰¹

Mistreatment and abuse of asylum seekers within inadequate detention facilities

Detention centers' security personnel often treat detained asylum seekers as criminals and subject them to inhumane treatment. Typically, security personnel are not held accountable for abusive treatment of detainees due to the lack of oversight and enforceable standards for ICE detention centers. For example, twenty detainees at the New Jersey Hudson County Jail reported physical and verbal abuse, including being called names such as "faggots," "motherf---ers," "spicks," and "cockroaches."¹⁰² There have also been reports of sexual abuse in detention facilities; however, it is difficult to determine the extent of the problem because victims of sexual abuse do not always file complaints or speak up for fear of threats from the abuser and of

⁹⁹ Congressional Quarterly, Inc. *Testimony hearing: Immigration Detention Management; Committee: House Homeland Security; Subcommittee: Border, Maritime and Global Counterterrorism*, Dec 2009 (Washington, DC).

¹⁰⁰ ACLU, *Conditions of Confinement in Immigration Detention Facilities: Briefing*, June 2007 (ACLU New York), 16.

¹⁰¹ Department of Homeland Security (DHS). (Oct 2009) "Secretary Napolitano and ICE Assistant Secretary Morton Announce New Immigration Detention Reform Initiatives," *DHS*, <http://www.dhs.gov/ynews/releases/pr_1254839781410.shtm>.

¹⁰² ACLU, *Conditions of Confinement in Immigration Detention Facilities: Briefing*, June 2007 (ACLU New York), 10.

emotional and physical isolation.¹⁰³ Moreover, victims of sexual abuse find it difficult to reach out for help due to the restrictions on visitations and inadequate ICE complaint mechanisms. The National Prison Rape Elimination Commission (NPREC) finds that many men and women are unable to come forward with complaints of sexual abuse due to fear of retaliation, resulting trauma, or lack of access to attorneys or family. One detainee, Mayra Soto, testified before NPREC, but she is one of the few who actually came forward with sexual abuse complaints, whereas others who don't speak out against their abuser internalize feelings of trauma and isolation. Mayra Soto testified in 2003 that while waiting for her attorney, a guard entered the holding cell with his pants unzipped and ordered her to perform oral sex on him twice.¹⁰⁴ Additionally, unnecessary strip searches demonstrate security personnels' inhumane mistreatment of detainees by subjecting them to humiliation and degradation. One detainee at the Northwest Detention Center (NWDC) described being stripped completely naked without his consent several times, particularly after attorney visits.¹⁰⁵ Overall, detainees suffer from unnecessary mistreatment and abuse, instigated largely by poorly trained security personnel.

Detention centers' security personnel further mistreat detainees by employing punitive disciplinary procedures like "segregation" that should be reserved only for criminal offenses or major misconduct. Detainees who have been segregated are put in isolation cells. Subsequently guards bring meals to the cell, restrict or deny visitation rights, take away personal comfort items such as skin lotion, and deny canteen rights.¹⁰⁶ Disciplinary segregation is widely abused among detention centers in response to minor offenses. For example, one detainee reported being placed

¹⁰³ ACLU, *Conditions of Confinement in Immigration Detention Facilities: Briefing*, June 2007 (ACLU New York), 11.

¹⁰⁴ ACLU, *Conditions of Confinement in Immigration Detention Facilities: Briefing*, June 2007 (ACLU New York), 11.

¹⁰⁵ Seattle University, School of Law in collaboration with OneAmerica, *Voices From Detention: A Report on Human Rights Violations at the Northwest Detention Center in Tacoma, Washington*, July 2008 (Seattle, WA), 43.

¹⁰⁶ *Ibid.*, 39.

in segregation for two days as punishment for simply arguing with another detainee.¹⁰⁷ Some facilities also utilize the inhumane punishment of extreme temperature in segregation cells. In Massachusetts and elsewhere detainees have reported that such punishment is known as “cold rooms,” where one is made to sit in an extremely cold room for hours or days with little or no clothing.¹⁰⁸ Consequently, detainees such as Jorge, a detainee at the Plymouth detention facility, suffer from sleep deprivation, hunger and depression in cold rooms:

When Jorge was arrested by ICE and taken to Plymouth, he was put through the standard intake process. A staff member asked him about his mood, and he told her that he was sad and depressed about being arrested and about having to be away from his family. He was handcuffed and sent to the suicide watch room, where he stayed from 10 p.m. on a Friday until approximately 12 noon on Monday, at which point a mental health worker saw him and ordered him released. He reports that the room was extremely cold and that he was made to remove all of his clothes and given only a paper gown to wear. The gown quickly tore and he asked for a new gown and a blanket, but the guard laughed at him and told him there was nothing he could do. He reports that the guards gave him a sandwich but he was too upset to eat. He tried to keep himself warm by moving around and did not sleep during the approximately 60 hours he spent in the room because he was so cold.¹⁰⁹

Jorge’s account shows detention guards using segregation inappropriately and is further evidence that improper training can lead to mistreatment of detained asylum seekers. Moreover, detention centers such as the Northwest Detention Center (NWDC) disregard the National Detention Standards in terms of segregation of the mentally ill or disabled. The National Detention Standards state that detention centers should recognize that a “mentally incompetent individual unable to appreciate the difference between...right and wrong-is not capable of acting in accordance with those norms. Therefore, he/she is not responsible for his/her wrongful actions.”¹¹⁰ However, NWDC’s security personnel demonstrated poor handling of a certain situation where, according to several detainees, the NWDC placed “mentally incompetent”

¹⁰⁷ ¹⁰⁷ ACLU, *Conditions of Confinement in Immigration Detention Facilities: Briefing*, June 2007 (ACLU New York), 9.

¹⁰⁸ ACLU, *Detention and Deportation in The Age of ICE, Immigrants and Human Rights in Massachusetts*, Dec 2008 (ACLU of Massachusetts), 42.

¹⁰⁹ *Ibid.*, 42.

¹¹⁰ Seattle University, School of Law in collaboration with OneAmerica, *Voices From Detention: A Report on Human Rights Violations at the Northwest Detention Center in Tacoma, Washington*, July 2008 (Seattle, WA), 49.

detainees in segregation as punishment for their “disruptive behavior” (such as yelling or screaming).¹¹¹ The NWDC dealt with this situation incorrectly by disregarding the vulnerability of mentally unstable detainees and unnecessarily traumatized them through segregation.

Detention officers’ abuse of segregation for minor offenses is a violation of detainees’ rights.

National Detention Standards are unenforceable and guards and Correction Officers are often not held accountable. Several detainees in Massachusetts, who had previously been incarcerated as criminal inmates, reported to ACLU that the treatment of immigration detainees is significantly worse than that of criminal inmates.¹¹² Detained asylum seekers deserve the same, if not better, treatment and protection offered to criminal inmates. It is shameful that the United States’ criminal inmates receive better treatment than asylum seekers do.

Another systemic problem in detention facilities is inadequate food, which negatively impacts detainees’ diets and overall health. Inadequate food is frequently a result of the negligence of private, profit-driven detention centers. For instance, at the privately owned NWDC, several detainees reported that they received an insufficient quantity of food, were often hungry after meals, and received food of poor quality.¹¹³ Poor quality of food served in detention often results in digestive problems, poor nutrition, and ongoing hunger, and the food itself is often described as bad, watery, tasteless, rotten, overcooked, and cold.¹¹⁴ At the NWDC, a detainee reported that one can fill out a form to request vegetarian options; however they need a note from either a doctor or someone in the religious community stating that being vegetarian is for health or religious reasons.¹¹⁵ A detainee must acquire a note from a doctor or religious figure

¹¹¹ Ibid., 49.

¹¹² ACLU, *Detention and Deportation in The Age of ICE, Immigrants and Human Rights in Massachusetts*, Dec 2008 (ACLU of Massachusetts), 38.

¹¹³ Seattle University, School of Law in collaboration with OneAmerica, *Voices From Detention: A Report on Human Rights Violations at the Northwest Detention Center in Tacoma, Washington*, July 2008 (Seattle, WA), 50.

¹¹⁴ Ibid., 50.

¹¹⁵ Ibid., 50.

from outside of the detention center, but this is very difficult as will be discussed later in this chapter. Other detention centers do not even offer alternate arrangements for those who need special diets for medical reasons such as high blood pressure or diabetes, or for religious reasons.¹¹⁶ Detention centers' neglect of detainees' diets is a serious concern because it infringes on their right to good health, and therefore constitutes inhumane treatment.

Privatization of Detention

The current administration must address the challenge of privately owned detention facilities, which are not held accountable for their terrible conditions and yet still accumulate major profits. One of the world's largest private detention corporations, the GEO Group Inc., profits off of the "detention business." It has been paid millions by the United States government, and has accrued contracts worth more than \$588 million in federal tax dollars since 1997.¹¹⁷ Regrettably, The GEO Group's profits have often arisen from facilities where abuse and negligence is being brought upon detainees. Negligence within detention is due largely to the fact that private detention companies' primary focus is to maximize profits. As a result, detainees endure cutbacks in the forms of overcrowding, lack of recreational services, inadequate food, and poorly trained guards. Furthermore, private corporations play a significant role by fulfilling what should be ICE's responsibilities, which are to "conduct most of the "on-site monitoring" of its detention facilities, annually assess compliance with detention standards at the facilities, and manage two of ICE's three alternative-to-detention programs."¹¹⁸ Since the DHS is not directly involved in privatized detention centers, inspections are rare. Consequently, terrible detention

¹¹⁶ ACLU, *Detention and Deportation in The Age of ICE, Immigrants and Human Rights in Massachusetts*, Dec 2008 (ACLU of Massachusetts), 44.

¹¹⁷ Rosa, Erin. "GEO Group, Inc: Despite a Crashing Economy, Private Prison Firm Turns a Handsome Profit." Copywatch.org, (March 2009), <<http://www.copywatch.org/article.php?id=15308>>.

¹¹⁸ Migration Policy Institute, "Testimony of Donald Kerwin, Vice President for Programs Migration Policy Institute: Hearing on "Moving Toward More Effective Immigration Detention Management." Before the Committee on Homeland Security, Subcommittee on Border, Maritime, and Global Counterterrorism, U.S. House of Representatives Washington D.C. (Dec 10 2009) <<http://www.migrationpolicy.org/pubs/Testimony-12-10-2009.pdf>>., 11.

conditions can go unchecked for long periods of time. The above problems are significant because the ICE relies on private corporations to hold over 67 percent of its detainees, and many of the detention centers are run inadequately since they are not held accountable by law.¹¹⁹ For example, the NWDC's prison administrator was charged by federal prosecutors in September 2008 with "knowingly and willfully making materially false, fictitious, and fraudulent statements to senior special agents" with the ICE.¹²⁰ Furthermore, a February 2008 audit found that over a period of more than two years ending in 2005, GEO hired nearly 100 guards without performing the required criminal background checks.¹²¹ In conclusion, corporations in the detention business maximize profits at the expense of the detainees' money and overall well-being.

Health Care Deficiencies

Detention centers across the country present a systemic problem of deficient health care services, leaving thousands of detainees to suffer from various conditions. Health care deficiencies in detention are disconcerting since detainees' basic rights, and more importantly, lives are at stake. Reform in detention health care is also crucial to detainees' lives because currently, unattended illnesses and poor health physically restrict detained asylum seekers. Subsequently, detained asylum seekers are restricted from seeing attorneys or attending their court hearing, thereby impairing their immigration cases. Detainees suffer from unattended health issues due to a number of factors such as failure to use interpreters, which can result in receiving misdiagnosis, being given the wrong kind of medication, and experiencing delays in medical treatment.¹²² For instance, Mary T.'s account from Texas in April 2008 demonstrates

¹¹⁹Detention Watch Network. "About the U.S. Detention and Deportation System." Detention Watch Network. <<http://www.detentionwatchnetwork.org/aboutdetention>>. (Accessed Feb 1, 2010).

¹²⁰ Rosa, Erin. "GEO Group, Inc.: Despite a Crashing Economy, Private Prison Firm Turns a Handsome Profit." Corpwatch.org, (March 2009), <<http://www.corpwatch.org/article.php?id=15308>>.

¹²¹ Ibid.

¹²² Human Rights Watch. *Detained and Dismissed, Women's Struggles to Obtain Health Care in United States Immigration Detention*, 2009 (U.S.A.), 15.

major delays in treatment and a lack of communication, which resulted in serious health complications:

I was starting to go blind. I had complained for 15 days about the blindness. I sent many sick calls. In June 2007 the officers called medical. I could only see shades of people. I couldn't see numbers or letters. An officer asked me, "How come you are always sleeping? You're not like that." They called to inform the doctors (the doctors tell them whether to send us). The officer called and said I was diabetic and needed to be seen. Then the nurse saw me. I told her, "I can't see. I'm blind. It has been 15 days." They checked my sugars. They were 549. The nurse asked, "Why didn't you tell us?" I was about to go into a diabetic coma or have a heart attack because my blood sugar was so high.

Mary T.'s account illustrates the overall disorganized nature of health care in detention facilities and neglect of detainees, many of whom have treatable afflictions. Another health care deficiency is staffing shortages, which are caused partly by the administrative process of pre-approving medical care outside of the detention facility. The Division of Immigrant Health Services (DIHS) must pre-approve any medical care performed outside of the facility, except for emergency services. The on-site clinic is small, so detainees frequently need outside medical services. In order to obtain a pre-approval, the facility's medical providers must submit a Treatment Authorization Request (TAR) to DIHS headquarters. However, the TAR process is disorganized: a major weakness is that the system results in frequent delays or denials of necessary health care for detainees.¹²³ Both governmental and nongovernmental bodies have criticized DIHS for tracking cost savings from TAR denials and employing only three or four nurses to evaluate TAR submissions from around the country.¹²⁴ In addition to the inadequacies of the TAR process, DIHS and facilities' on-site clinics have failed to transfer records, keep records adequately, and dispense medication properly.¹²⁵ Deficiencies in health care for detained

¹²³ Human Rights Watch. *Detained and Dismissed, Women's Struggles to Obtain Health Care in United States Immigration Detention*, 2009 (U.S.A.), 15.

¹²⁴ Human Rights Watch. *Detained and Dismissed, Women's Struggles to Obtain Health Care in United States Immigration Detention*, 2009 (U.S.A.), 15.

¹²⁵ ACLU, *Conditions of Confinement in Immigration Detention Facilities: Briefing*, June 2007 (ACLU New York), 7.

asylum seekers have only been exacerbated by the ICE's lack of management, improper record keeping, and understaffing for the purpose of cost-savings. Moreover, health care deficiencies seriously violate detainees' rights to health care and to life.

Limited Access to justice

It is unnecessarily difficult for detained asylum seekers to contact the outside world in order to access legal assistance. Detention centers present barriers to communicating with the attorneys such as unreliable phones, strict visitation rules, and lack of adequate meeting rooms. At the NWDC for instance, detainees and attorneys expressed concern about the lack of adequate meeting rooms and insufficient training of officers monitoring attorney rooms.¹²⁶ Detainees at the NWDC were even concerned about having legal mail opened and read and about privacy when conversing with their attorneys on the phone or in person.¹²⁷ Furthermore, limited access to legal assistance is problematic because most detainees cannot afford to pay for an attorney and the availability of free legal assistance is limited. More than a third of detained asylum seekers remain unrepresented.¹²⁸ This is largely due to the fact that the United States government does not provide funding for legal representation of asylum seekers and immigrants.¹²⁹ Detention centers' restrictions and inadequacies need to be reformed because they impede detainees' ability to access legal assistance from the outside world.

The Cost of Detention and Viable Alternatives to Detention

The cost of detention is a pressing matter for the current administration. Federal money could be distributed in a more cost-effective way through alternatives to detention like release on parole or other programs. Alternatives to detention should be considered because in the midst of

¹²⁶ Seattle University, School of Law in collaboration with OneAmerica, *Voices From Detention: A Report on Human Rights Violations at the Northwest Detention Center in Tacoma, Washington*, July 2008 (Seattle, WA), 35.

¹²⁷ *Ibid.*, 35.

¹²⁸ Human Rights First, *U.S. Detention of Asylum Seekers: Seeking Protection, Finding Prison*, June 2009 (New York), 44.

¹²⁹ *Ibid.*, 44

a recession, the United States' economy is burdened by the weight of high detention costs. The differences in cost between detention and its alternatives are significant, therefore creating an incentive for the government to adopt alternatives to detention. Detention is extremely costly considering that detainees can spend up to years in detention. The ICE pays \$95 a day on average per detainee, but supervised alternatives-to-detention programs cost much less – about \$10 to \$14 a day, and release on parole costs approximately the same as an alternative to detention program.¹³⁰ Unfortunately, the ICE's new parole policy that was instated in 2007 makes it very difficult for detainees to be granted release on parole due to the long list of qualifications.¹³¹ The new parole policy makes what was already a difficult process even more so, and as a result the rate of release for asylum seekers already dropped from 41.3 percent to 4.2 percent between 2004 and 2007.¹³² Furthermore, not enough of the ICE's budget and energy is being put towards alternatives-to-detention programs, despite the significant cost-savings of alternative programs. The ICE has not implemented a nationwide program of alternatives to detention for all eligible immigration detainees.¹³³ Although Congress has increased funding for alternative programs in the past few years, these funds are comparatively small in contrast to ICE's \$1.7 billion budget allocation for detention bed space expansion. The ICE has budgeted only 2.6 percent of its \$2.4 billion detention and removal budget for alternatives to detention programs.¹³⁴ Alternative programs' major cost-savings stem from using additional measures to monitor individuals who have been released from detention, rather than expensive facilities. These measures can include in-person reporting, curfews, reporting by telephone, and home visits by representatives of the

¹³⁰ Human Rights First, *U.S. Detention of Asylum Seekers: Seeking Protection, Finding Prison*, June 2009 (New York), 47.

¹³¹ Human Rights First, *U.S. Detention of Asylum Seekers: Seeking Protection, Finding Prison*, June 2009 (New York), 34.

¹³² *Ibid.*, 31.

¹³³ Human Rights First, *U.S. Detention of Asylum Seekers: Seeking Protection, Finding Prison*, June 2009 (New York), 65.

¹³⁴ *Ibid.*, 65.

overseeing organization. Alternative programs to detention also include legal services, ensuring that asylum seekers are informed about their rights, and screening for family or community ties or using community groups as sponsors.¹³⁵ Participants in alternative programs are also eligible for certain federal programs such as Supplemental Security Income (SSI) that help them financially.¹³⁶ The ICE's alternative program, the Intensive Supervision Appearance Program (ISAP), is one of the most restrictive programs and includes electronic monitoring. Under ISAP, participants receive a list of free legal and social service providers, as well as information on transportation, translation services, educational institutions, consulate contacts, and homeless shelters.¹³⁷ Due in part to increased freedom of movement, alternative programs' participants have very high "appearance rates" for their immigration court hearings – ranging from 93 to 99 percent on average.¹³⁸ The ICE reported that 87 percent of its ISAP participants appeared for their court hearings.¹³⁹ Alternatives to detention benefit asylum seekers by providing humane monitoring mechanisms and legal services to inform them about their rights and immigration cases. In addition to benefiting asylum seekers, alternative programs would save the government millions of dollars.

Recommendations

This chapter has argued that detention needs to be reformed to solve the outlined problems. The DHS's and ICE's processes of admission and detention of asylum seekers has caused asylum seekers to get caught in a web of inadequate United States policy and inadequate

¹³⁵ Ibid., 63.

¹³⁶ National Immigration Law Center (NILC), "Guide to Immigrant Eligibility for Federal Programs: Overview of Immigrant Eligibility for Federal Programs." NILC Publications (April 2009). <http://www.nilc.org/pubs/Guide_update.htm>. 1.

¹³⁷ Ibid., 65-6.

¹³⁸ Human Rights First, *U.S. Detention of Asylum Seekers: Seeking Protection, Finding Prison*, June 2009 (New York), 64.

¹³⁹ Lin, Serena and Donald Kerwin, *Immigration Detention, Can ICE Meet Its Legal Imperatives and Case Management Responsibilities?* Sept 2009 (Migration Policy Institute), 32.

detention facilities. Therefore, our Task Force provides the following recommendations to the Obama administration as a way to help resolve these issues.

First, we recommend that the ICE eliminate the mandatory detention and expedited removal processes and instead allow asylum seekers to either be put on parole or in an alternative program that requires monitoring. Subsequently, the asylum seeker could proceed with the credible fear screening interview and his or her immigration court hearing without the restrictions that detention facilities impose. Second, we recommend that the ICE cut back on the requirements for applying to release on parole. Releasing more detainees on parole will increase the number of legally represented asylum seekers and provide them better access to legal information and social services. Our third recommendation is that more detainees be put in alternative programs and that more of the ICE's budget be directed towards alternative programs to detention to cope with monitoring a larger size of released individuals. We also recommend that the DIHS improve the efficiency of detention centers' health care procedures by using interpreters when necessary, increasing the number of medical staff to be able to handle TARs, and removing administrative obstacles to receiving medical attention for detainees. Furthermore, there should be a national oversight framework that strengthens the Office of Detention Oversight's role as a monitoring body. This body should monitor every detention center and county jail with ICE contracts. Moreover, this body's oversight should attempt to achieve greater transparency in detention facilities' operations and access to information. Finally, we recommend that there be legally enforceable detention standards so that all United States detention centers are held accountable for their failures.

Chapter 4

Streamlining and Improving the Accessibility of Current Resettlement Programs

Introduction

When a refugee is approved for resettlement in the United States they are assigned a "voluntary agency" or volag that is their recourse during the resettlement period. These agencies have very little state supervision and vary greatly in both the services they offer and the amount of time they support refugees. Currently there is very little guiding policy that all resettlement organizations are required to follow. This Task Force will argue that since the most recent United States' legislation on refugee resettlement was passed over thirty years ago, the United States must examine the resettlement process and pass legislation to streamline this process to assure that all refugees receive equal and adequate support regardless of the voluntary resettlement agency they are assigned to. Such legislation would also assure that the policy is more relevant to our current society.

The Refugee Act established the Federal Refugee Resettlement Program that provides resettlement services to refugees entering the United States with the goal of helping them achieve economic success as quickly as possible.¹⁴⁰ However, this act was passed in 1980 and much about refugees has changed since then, causing the legislation to become out of date. The law was originally drafted in a context of resettling refugees from South East Asia, but today refugees come to the United States from all over the world.¹⁴¹ Furthermore, the cost of living has greatly increased, and due to an increased reliance on computers and technology, labor based jobs that refugees would be likely to work have become scarcer. The Refugee Act established

¹⁴⁰ United States. 1980. *Refugee act of 1980: conference report to accompany S. 643*. Washington: U.S. Govt. Print. Off.

¹⁴¹ Refugee Council USA "The U.S. Refugee Admissions and Resettlement Program at a Crossroads." Recommendations by the Refugee Council USA

the Office of Refugee Resettlement under the Department of Human and Health Services.

However, this department has very little contact with the refugee cases once they arrive for resettlement in the United States. The government trusts the volag the refugee is assigned to “[ensure] that refugees are welcomed at the airport; [arrange] for their housing, furniture and basic household supplies; [conduct] orientation; and [prepare] a resettlement plan.”¹⁴² For the most part, these volags work hard to meet the needs of the refugee cases they serve. However, in reality the resettlement process has very few standardized requirements from the federal government, so as a result, refugee assistance is unequal between states and volags. The guidelines that do exist mapped out in the Refugee Act of 1980 are vague. Paragraph (8) of the Refugee Act gives the federal government the power to establish criteria requirements for volags receiving government grants based on efforts to reduce welfare dependency, and arrange effective local nonpublic sponsorship, employment support and job skills training, and English language training.¹⁴³ While all of these are beneficial goals, they can be interpreted in many ways due to a lack of standardizing criteria. There are ten different volags that the United States Department of State recognizes to resettle refugees in the United States and each of them could interpret these guidelines in ten different ways.¹⁴⁴ This can result in some refugees getting insufficient initial support upon arrival.

These inconsistencies in volag’s services can affect refugees in job training and employment. For example, based on the fact that new immigrants to the United States reach economic self-sufficiency, build social capital, and learn English more quickly if they find a job early, the Refugee Act emphasizes the importance of volags in assisting refugees in finding

¹⁴² World Relief Volunteer Handbook. Page 9: World Relief Seattle, 2009.

¹⁴³ United States. 1980. *Refugee act of 1980: conference report to accompany S. 643*. Washington: U.S. Govt. Print. Off.

¹⁴⁴ "Voluntary Agencies." The Office of Refugee Resettlement.

<http://www.acf.hhs.gov/programs/orr/partners/voluntary_agencies.htm>. (accessed February 2, 2010).

employment.¹⁴⁵ One organization might view “employment training” to mean a one hour seminar on the importance of finding a job. Other volags might interpret this guideline and decide they need workshops on employment, a specific employment department working to find openings, job skills classes, and English language curriculum built around job skills training.

The vast differences between volags greatly affect refugees. Every refugee entering the United States must be sponsored by a resettlement agency and volags are the only agencies certified to resettle refugees.¹⁴⁶ Therefore, most refugees entering the United States are very dependant on these voluntary agencies. While they all might have the same goal of assisting newly arriving refugees to reach self-sufficiency as quickly as possible, volags all have different mandates and reasoning for doing so. Many volags are religious and see helping refugees as a part of their spiritual mandate, while other volags view resettlement as simply important to a society’s social welfare with out any spiritual mandate whatsoever. While each volag partners with government to complete the same job, they do not all view their job in the same way. Examples of the extreme differences between each volag’s mission and mandate can be found in the Case Studies section of this chapter highlighting three different volags local to the Seattle area. A refugee has no say in the volag they are assigned regardless of religious affiliation or personal preference.

While there are benefits to keeping the resettlement process in the hands of private organizations, it would benefit all refugees greatly if the state invested the resources into finding out whose programs create the greatest possibilities of success and implemented streamlined policy according to these findings. This chapter will discuss factors that cause the current legislation on refugee resettlement in the United States to be outdated and vague and present

¹⁴⁵ Mott, Tamar. 2009. *African refugee resettlement in the United States*. El Paso: LFB Scholarly Pub.

¹⁴⁶ World Relief Volunteer Handbook. Page 9: World Relief Seattle, 2009.

reasons this outdated legislation creates inequalities in the resettlement services refugees entering the United States receive. We will discuss ways to streamline the resettlement process to ensure state support and quality control while maintaining the role of private organizations in resettlement, and present policy suggestions for improved legislation. To do so, the chapter will compare case studies of resettlement agencies local to Seattle on a smaller level as well as compare success different states on a larger level. Success will be defined in much the same terms as the Refugee Act describes: striving toward self-sufficiency through employment and English language training.

Policy Issue

Not all volags are equal. They vary greatly in factors including budget and resources, the amount of time each refugee spends as an official “case” and receives support, the number of cases each caseworker takes on at a time, and the quality of services such as ESL classes offered. These differences have serious implications for the success of refugees integrating into The United States.

Definition of Resettlement Period

Each volag has a different standard for how they define the actual resettlement period. Resettlement agencies work with refugees directly 90 to 180 days after arrival.¹⁴⁷ That means some volag’s resettlement periods last twice as long as others. This arbitrary time variation is not a just system. If funding were equal to all volags the resettlement period would be able to be expanded and adapted to meet the needs of the refugees individually. While the argument could be made that the longer the resettlement period the better off the refugee would be, this may not be true in all cases. Each refugee is unique and comes into America with varying degrees of social and language skills needed to succeed independently in the United States. A volag that has

¹⁴⁷ World Relief Volunteer Handbook. Page 9: World Relief Seattle, 2009.

a standardized resettlement period of 180 days may be wasting resources on cases that are independent and on their way to self-sufficiency in 90 days. On the other hand volags with resettlement periods of 90 days may be cutting some cases off from needed resources too soon because they do not currently have the funds to maintain support for any longer than a 90-day period.

Funding

Making changes in the definition and time length of the resettlement period would not be possible without updated legislation to standardize finances that volags receive from the government that are currently very unequal. Each volag has very different financial resources available to them. Financial resources come from a combination of the federal Reception and Placement Fund, other government grants, and private donations.¹⁴⁸ The grants and private donations vary greatly making each volag have vast differences in the amount of resources they have. The only standardized number is the Reception and Placement fund that each volag is given to put towards the resettlement of newly arriving refugees. This fund gives volags \$850.00 per refugee upon arrival and must cover all of their resettlement fees including initial rent, furniture, household supplies, and initial groceries before food stamps.¹⁴⁹ Several volags give any funds left over from the Reception and Placement fund to the refugee to start a bank account once they have all of the required documents.¹⁵⁰ In the current economic crisis, \$850.00 cannot possibly meet all the needs the Reception and Placement fund is required to cover, so volags work hard to procure donations both financially and as gifts in kind such as furniture and utensils. Furthermore, the entire Reception and Placement fund often must be spent securing housing for the newly arriving refugee(s) because apartments and homes for rent often require a

¹⁴⁸ World Relief Volunteer Handbook. Page 11: World Relief Seattle, 2009.

¹⁴⁹ United States. 2007. *Refugee resettlement program*. [Hyattsville, Md.]: U.S. Dept. of Health and Human Services, Social Security Administration, Office of Refugee Resettlement. Page 7

¹⁵⁰ World Relief, personal experience gained through Internship

first and last months deposit upon the start of a lease. Without private donations all that is required for reception and placement would not be provided. Since volags rely on private donations from churches, corporations, and individuals, which vary greatly in the amount of donations they procure, some refugees enter the United States with much more assistance than others. Private donations should not be discouraged, but they should be used as a way to increase services above and beyond the required criteria standards the Federal government sets. Private donations should not be the only way that the bare minimum requirements for the reception of a new refugee could be met because each volag has differing amounts of private support they can recruit.

Another flaw with volags financial recourses is that \$850.00 cannot buy the same thing in every area of the United States. For example, the average cost of a home in Washington State is over \$200,000 more than the average price of a home in the State of Nebraska.¹⁵¹ Although the cost of living is increasing, government funding to volags resetting refugees has not been improved. A local Seattle volag, the International Rescue Committee, explains in their annual report that “[the United States] government funding for refugee resettlement had remained virtually unchanged over the past three decades. As a result, the IRC provides its own funds to help meet refugees’ needs.”¹⁵² Volags are being forced to rely more heavily on private donations to meet basic needs of refugees entering the United States. While this may be possible to do without cutting other areas of service for the more established volags with an ample amount of private family and corporate donations, it takes a greater toll on others who do not have these resources. Funding to volags need to be adjusted to meet the increasing cost of living.

Public Versus Private Resettlement

¹⁵¹ "US Home Prices." Trulia: Real Estate Search. <http://www.trulia.com/home_prices/>. (accessed February 2, 2010).

¹⁵² Steve Manning and Peter Brio, *IRC 2008 Annual Report*, ed. Steve Manning, 21, <<http://www.theirc.org/about/financial-information>>. (accessed February 24, 2010).

Although the resettlement program needs to be more standardized in the United States, it would not be beneficial to make it a completely state run public system. There has been great debate since the time of the Refugee Act of 1980 about the benefits of private versus public resettlement. Currently there is heavy reliance on private sponsorship of refugees through volags, but there are some cases where resettlement is done publicly. The State of Iowa, for example, is a recognized volag even though it is not a complete private sponsorship.¹⁵³ The Refugee Act emphasizes moving refugees out of state hands and into private sponsorship as quickly as possible. Currently agencies are rewarded with grants for “arranging for the effective local sponsorship and other nonpublic assistance for refugees resettled by that agency.”¹⁵⁴ Essentially states are rewarded for quickly getting refugees out of their hands. The greater success a volag has of getting refugees off state run support programs such as Transitional Cash and Medical Assistance and social welfare services such as Transitional Assistance for Needy Families (TANF) the greater they will be rewarded through grants.¹⁵⁵ This may encourage volags to push refugees off state run programs too soon in order to receive more financial support.

However, studies show that private support can be even more effective than public. Experimentation with moving the resettlement process completely outside the hands of the state began in 1985 with the Wilson/Fish Amendment to the 1980 Refugee Act.¹⁵⁶ This amendment allowed for funding for experimental programs to resettle refugees completely through private organizations. These programs experimented with resettling refugees without ever putting them on Refugee Cash Assistance or other forms of state run welfare programs. In a 1999 study

¹⁵³ "Bureau of Refugee Services." Iowa Department of Human Services.

<<http://www.dhs.state.ia.us/Consumers/RefugeeServices/RefugeeHome.html>>. (accessed February 2, 2010).

¹⁵⁴ United States. 1980. *Refugee act of 1980: conference report to accompany S. 643*. Washington: U.S. Govt. Print. Off.

¹⁵⁵ United States. 2007. *Refugee resettlement program*. [Hyattsville, Md.]: U.S. Dept. of Health and Human Services, Social Security Administration, Office of Refugee Resettlement.

¹⁵⁶ Sargent, Paul, Charles F. Hohm, and Robert Moser. 1999. "A Qualitative Comparison of the Effectiveness of Private and Public Refugee Resettlement Programs: The San Diego Case". *Sociological Perspectives*. 42 (3). Page 409

comparing the success of the Wilson/Fish Program in San Diego County to the success of refugees who were publicly sponsored reveals some interesting results. The privately sponsored refugees through the Wilson/Fish program reported earlier entry into their first jobs.¹⁵⁷ However, privately sponsored refugees did not fare better in every category. State supported refugees reported high levels of education and training since entering the United States.¹⁵⁸ This study demonstrates that there is no one method of resettlement that is clearly more beneficial than another. A combination of public and private support is the best way to meet refugee's needs. The public support can meet immediate physical needs and the private support creates relationships to aid refugees in navigating the first few months in the United States. Further research, experimentation and study are needed to find which areas are better in the hands of private organizations and which are better in the hands of the state. However, current findings indicate that privately sponsored refugees enter employment sooner and reach a level of self sufficiency sooner than those on state supported welfare programs.

Data Collection

In order to draft new legislations that will effectively update and unite the resettlement process it is necessary to have detailed and accurate information on what has worked and what needs improvement, which is currently very difficult to find. There are very few relevant case studies available, and the available studies that are often as out of date as the legislation. For example the San Diego case study previously mentioned was conducted in 1999, now almost 11 years ago, and it is one of the more recent studies on the subject. Besides a lack of case studies with specific purposes, there is also a lack in statistical data on the success of refugees in the

¹⁵⁷ Sargent, Paul, Charles F. Hohm, and Robert Moser. 1999. "A Qualitative Comparison of the Effectiveness of Private and Public Refugee Resettlement Programs: The San Diego Case". *Sociological Perspectives*. 42 (3). Page 409

¹⁵⁸ Sargent, Paul, Charles F. Hohm, and Robert Moser. 1999. "A Qualitative Comparison of the Effectiveness of Private and Public Refugee Resettlement Programs: The San Diego Case". *Sociological Perspectives*. 42 (3). Page 412

United States.¹⁵⁹ After a refugee has completed the initial resettlement phase of their transition to the United States, the government does very little to keep track of their success. Long-term success of refugees adapting to our culture should be a number one indicator of the success of a volag and the resettlement process as a whole.

Policy Recommendations

When the federal government admits a refugee for resettlement in the United States they have a responsibility to ensure that there are systems and services in place that can effectively help that refugee transition to life in America. Currently the government is falling short in this responsibility. Therefore, this Task Force recommends that the Obama administrations increase coordination between government and volags, standardize the definition of the resettlement period, reform and standardize financial aid to volags, and increase research and data collection of success factor for refugees entering the United States.

Increased Coordination Between Government and Volags

Our Task Force recommends that the Obama administration take the suggestion of the Refugee Council USA in their reform proposal of the Refugee Act to enforce regular planning and management meetings with the Director of the Office of Refugee Resettlement.¹⁶⁰ This is a valuable suggestion because it would help eliminate coordination problems and increase communication between agencies.

Definition of Resettlement Period

Instead of some volags having a 90-day resettlement period and others having up to a 180-day resettlement period, the Obama administration should work to standardize this process

¹⁵⁹Sargent, Paul, Charles f. Hohm, and Moser Robert. 1999. 1999. "A Qualitative Comparison of the Effectiveness of Private and Public Refugee Resettlement Programs: The San Diego Case". *Sociological Perspectives*. 42 (3).
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¹⁶⁰ Refugee Council USA The U.S. Refugee Admissions and Resettlement Program at a Crossroads."
Recommendations by the Refugee Council USA

in a way that recognizes the uniqueness of each individual refugee's case entering the United States. Resettlement periods for all volags should be 90 to 180 days and come to a completion at a time that is right based the success of the individual case. Timing of case completion should be decided by when a refugee case meets certain requirements. With the vagueness of the current legislation on refugee resettlement in the United States this proposal would be impossible, but reformed legislation based on research of factors that create the most success for refugees could improve the situation. A better-organized method should be a much more efficient and cost effective way to define the resettlement period.

Financial Reform

Our Task Force recommends that an amendment be added to the Refugee Act making it required for the Reception and Placement Act to be reviewed every year to be adjusted with inflation and the local cost of living so that instead of being a flat fee the government pays to volags they would receive the real price according to the local cost of living.

Increased Research

The Task Force also endorses the recommendation of the RCUSA to increase data collection and research to better discover the most efficient, cost effective and helpful ways to assist refugees in their transition to the United States. The RCUSA recognized a lack of data collection to be a huge problem and gave the suggestion to create partnerships with academic institutions to report on the current needs and success of refugees for future policy amendments. If research is done on a regular basis then in thirty years from now the United States will not encounter the same problem of outdated legislation. Another necessary reform is creating a system with a more free method of sharing data between different volags and each other as well as the Department of State. This will ensure that no refugee is placed into a resettlement agency that has fewer advantages than others.

Chapter 5

Resettling the America Most Vulnerable Refugee Groups

Introduction

The resettlement process is a stressful and challenging period for refugees and asylum seekers as they work to become integrated members of American society. Refugees' resettlement experiences vary greatly depending on their sponsoring voluntary agency's ability to address the special needs of vulnerable refugees and provide adequate assistance in linking refugees to mainstream social support systems within their new host community. As described in the previous chapter, the ORR coordinates all refugee resettlement processes within the United States through several unique programs that provide refugees with necessary opportunities and resources. In addition to serving refugee communities and successful asylum seekers, the ORR's Division of Refugee Assistance also serves Haitian and Cuban entrants, certain Amerasians immigrants from Vietnam, victims of human trafficking, unaccompanied alien children with no lawful immigration status, and survivors of torture. All of these distinct groups are collectively referred to and treated as 'refugees' in the context of the resettlement process.¹⁶¹ However, given limited financial and human resources, the sheer number of refugees in need of assistance has overburdened many of the ORR's programs. As such, the resources and attentiveness of voluntary agencies and national programs fall short of addressing the special needs of the most vulnerable refugees entering into the United States.

Policy Challenge

This chapter will address the policy challenge of balancing equitable treatment of all refugees with the special needs of the most vulnerable refugee groups under the current fiscal and feasible restraints on refugee resettlement programs as highlighted in following sections. By

¹⁶¹ Office of Refugee Resettlement. 2009. "About ORR: Divisions." US Department of Health and Human Services. <<http://www.acf.hhs.gov/programs/orr/about/divisions.htm>>.

identifying those groups that deserve special assistance, as determined by this Task Force, this chapter will bring attention to the most vulnerable groups among resettling refugee populations: unaccompanied minors, single-parent families, and disabled or elderly refugees. Through reviewing the effectiveness of national and local programs, we will illustrate gaps between the full needs of vulnerable refugee groups and the services provided to them. Through this analysis of current programs, we will provide recommendations for ways to create innovative and successful programs and models to address the needs of refugees as they resettle and integrate into a new nation and local community.

Unaccompanied Refugee Minors

Refugee minors separated from their parents or guardians during displacement enter their new host country without a support network. Alone and fearful, these minors face monumental challenges as they navigate the resettlement process unaided by family or friends. The UNHCR estimates that over half the global refugee population is under the age of eighteen.¹⁶² While the number of unaccompanied refugee minors (URMs) is a small fraction of this massive underage group, URMs account for about 700 children currently under the care of ORR throughout various states in the United States.¹⁶³ Prior to arrival, these minors “experience numerous traumatic situations when their lives are disrupted by the refugee experience. Some suffer from family separation as they flee persecution alone or become separated from their families during flight.”¹⁶⁴ Other minors, such as unaccompanied asylum seekers, face additional hurdles upon arrival as they are placed in child detention centers while their cases proceed through courts -

¹⁶² McBrien, Lynn. 2005. "Educational Needs and Barriers for Refugee Students in the United States: A Review of the Literature." *Review of Educational Research* 75, (3): 329. <<http://www.jstor.org/stable/3515985>>.

¹⁶³ Office of Refugee Resettlement. 2009. "Unaccompanied Refugee Minors." US Department of Health and Human Services. <http://www.acf.hhs.gov/programs/orr/programs/unaccompanied_refugee_minors.htm>.

¹⁶⁴ McBrien, Lynn. 2005. "Educational Needs and Barriers for Refugee Students in the United States: A Review of the Literature." *Review of Educational Research* 75, (3): 329.

often without the help of a guardian or lawyer.¹⁶⁵ As some of the most vulnerable refugees who cross our borders, URM's often lose social stability, access to healthcare, physical security, and education through the traumatic experience of forced displacement. As such, URM's deserve additional social support and national assistance in overcoming some of the largest obstacles faced by refugee populations.

Creating a sense of protection and formal representation throughout the resettlement process is critical for helping highly vulnerable URM's ease into their new host environment. In resettlement, services and care for URM's are facilitated by the Division of Unaccompanied Children's Services (DUCS) and contracted voluntary agencies such as the Lutheran Immigration and Refugee Service (LIRS). These agencies work to ensure that URM's receive all necessary services available to them, including foster care services. However, due to either language barriers or age, URM's struggle to articulate their own specific needs and unique experiences as a refugee. Furthermore, URM's often have problems trusting social workers and fear figures of authority due to recent experiences. Instead of speaking out, they may keep secrets, stay silent, or tell thin stories or rehearsed lies – as they may have been previously directed to do in their home country. In addition, a child's level of communication can restrict their position along the journey of resettlement.¹⁶⁶ While resettlement agencies strive to represent the best interests of URM's, the true concerns and desires of quiet refugee children may be left unheard. For example, as URM's are placed into foster care or reunified with family members, there is little review of the appropriateness of the placement decision and very little weight given to the child's personal opinion. As a result, suitability assessments of foster care homes and

¹⁶⁵ Women's Refugee Commission. 2009. "Halfway Home: Unaccompanied Children in Immigration Custody." Women's Refugee Commission: 1. <<http://www.rcusa.org>>.

¹⁶⁶ Kohli, R. K. S. 2006. "The Sound Of Silence: Listening to What Unaccompanied Asylum-seeking Children Say and Do Not Say". *British Journal of Social Work*. 36 (5): 720.

follow-up home studies conducted after reunification or resettlement are greatly lacking, yet necessary to assess whether or not a minor will be able to adapt to their new environment.¹⁶⁷

Education is crucial to supporting URM's heal emotionally and socially, yet the educational opportunities available to them are often insufficient for URM's to thrive in their new host country. Attending school allows these vulnerable refugees to restore a sense of normalcy and hope in their daily lives.¹⁶⁸ However, current trends show that refugee students are more vulnerable to failure in school in America.¹⁶⁹ Further, the spotlight of academic failure within student groups can cause depression for refugee students.¹⁷⁰ Partnerships linking school districts with refugee community-based organizations are one method to improve the academic performance of refugee students and to bridge cultural gaps between guardians, schools and staff through tutoring, workshops and advocacy.¹⁷¹ In addition, schools provide a safe space for URM's to restore a sense of belonging within "new and unfamiliar social, cultural, economic, political and spatial landscapes."¹⁷² Schools, as well as libraries and parks, allow children to meet friends, restore opportunity, relationships and security.¹⁷³ Without encouragement and special assistance from guardians or school faculty trained to help URM's adapt and learn, many refugee children end up dropping out of school, thus losing an important healing and learning opportunity. For these minors, educational support may be the most simple and direct way to help them overcome monumental challenges as a refugee and move on towards a fulfilling and secure life.

¹⁶⁷ Women's Refugee Commission. 2009. "Halfway Home: Unaccompanied Children in Immigration Custody." Women's Refugee Commission: 19. <<http://www.rcusa.org/>>.

¹⁶⁸ McBrien, Lynn. 2005. "Educational Needs and Barriers for Refugee Students in the United States: A Review of the Literature." *Review of Educational Research* 75, (3): 338. <<http://www.jstor.org/stable/3515985>>.

¹⁶⁹ Ibid. 332-333.

¹⁷⁰ Ibid. 341.

¹⁷¹ Support, Prevention and Intervention. 2009. "Refugee School Impact Grant." Seattle Public Schools. <<http://www.seattleschools.org/area/spi/refugee.index.dxml>>.

¹⁷² Sampson, Robyn and Sandra M. Gifford. 2010. "Place-Making, Settlement and Well-being: The Therapeutic Landscapes of Recently Arrived Youth with Refugee Backgrounds." *Health & Place*. 16, (1).

¹⁷³ Ibid.

Single-Parent Families

Refugees in America often identify securing employment and childcare, and navigating refugee and public welfare systems as their most pressing challenges during resettlement.¹⁷⁴ Single-parent families, especially those without supportive relatives or ethnic and social networks in their community, must confront these challenges alone. While the ORR's Refugee Social Services Program and many local community-based organizations provide refugees with employment services and access to childcare, the refugees can perceive public social support programs like these to be confusing and foreign, or even degrading. Many refugee families are more familiar and comfortable with depending on friends or family for support first. Only once those resources are exhausted do they look to professional social services.¹⁷⁵ Additionally, refugees may be deterred from accessing social services because of "language difficulties, social isolation, inadequate information, immigration status, bureaucratic processes, perceived racism, and staff attitudes."¹⁷⁶ Thus, families without accessible social support networks between relatives and ethnic groups may feel isolated in their new host environment. Despite well-intended efforts to provide formal public social support, such programs are often disconnected and ineffective at addressing the special needs of vulnerable refugee families.

Without exception, refugee adults are expected to find employment within one year of being admitted into resettlement by ORR. However, most newcomers face the challenge of unrecognized foreign academic or professional credentials, forcing them to take on positions far below their experience or education level. Resettlement agencies quickly shuffle refugees into available positions, providing them with minimal job training and English courses to perform

¹⁷⁴ Stewart, Miriam, et al. 2008. "Multicultural Meanings of Social Support among Immigrants and Refugees." *International Migration* 46, (3): 140.

¹⁷⁵ Ibid. 140.

¹⁷⁶ Ibid. 143.

their new job. Refugees themselves recognize that “further education is paramount in securing stable incomes, and achieving upward social mobility, better future and professional ambitions,” yet current employment services provided to refugees do not support further education either in the form of internships, work-study, or apprenticeship programs.¹⁷⁷ With narrowed professional options, refugees settle for low-wage hourly jobs that provide little financial stability for their families.

As single-parent refugees struggle to secure employment, their concerns for the welfare and care of their children causes them further anxiety and desperation. Refugee resettlement workers across the country identify childcare as “a significant issue impacting employment and ultimately self-sufficiency of refugees.”¹⁷⁸ Childcare presents a major challenge to single-parent families, who “have little or no familiarity with formal, regulated child care systems. The concept of planning and organizing childcare arrangements is often new to individuals who previously could rely on a larger network of informal community support.”¹⁷⁹ While the Child Care and Development Fund and the Temporary Assistance to Needy Families (TANF) grants financial assistance to subsidize the costs of childcare for refugee families, resettlement agencies and refugees are often unaware of such programs. Furthermore, for those who do wish to access such funding, the application process has been regarded as “too involved for refugees to undertake alone,” making the minimal financial assistance unjustifiable for the amount of effort required to get it.¹⁸⁰ Families are put on long wait lists; state funds become depleted and unavailable; application processes can take up to two months to get approved – all the while, single-parents are looking for employment.

¹⁷⁷ Stewart, Miriam, et al. 2008. “Multicultural Meanings of Social Support among Immigrants and Refugees.” *International Migration* 46, (3): 139.

¹⁷⁸ Fidazzo, Gina, et al. 2006. “Enhancing Child Care for Refugee Self-Sufficiency.” *Bridging Refugee Youth & Children’s Services*: 6. <<http://www.brycs.org/documents/EnhancingChildCare.pdf>>.

¹⁷⁹ *Ibid.* 8.

¹⁸⁰ Fidazzo, Gina, et al. 2006. “Enhancing Child Care for Refugee Self-Sufficiency.” *Bridging Refugee Youth & Children’s Services*: 14. <<http://www.brycs.org/documents/EnhancingChildCare.pdf>>.

The combined challenge of securing employment and childcare is extremely stressful for single-parent refugees lacking familial support to maintain work schedules without being concerned about the welfare of their children. For these individual parents, childcare directly relates to their ability to sustain long-term employment, earn higher incomes, or become self-sufficient.¹⁸¹ Parents may be put in the position of being offered immediate employment while it may take months for financial assistance for childcare to start up. Other refugees might be offered a swing-shift position, making it difficult for parents to align their work schedule with mainstream childcare hours. For refugee families that depend on public transportation, the location of their job in contrast to the location of available childcare may make for an impossible commute. Finally, refugee women who feel a cultural obligation to stay home to care for their children are instead forced into employment by ORR expectations. If resettlement agencies are to address the full needs of single-parent refugees, more services and structural support for securing employment and childcare are essential to ensure the self-sufficiency of these families.

Disabled and Elderly Refugees

During displacement, disabled and elderly refugees often lose contact with traditional caregivers – extended families, neighbors – leaving them extremely vulnerable and unsupported.¹⁸² Refugees with disabilities “remain among the most hidden, neglected and socially excluded of any population in the world today.”¹⁸³ Elderly refugees may be of an age that they can no longer work to support themselves and often struggle to build new social support networks. The ORR’s Services to Older Refugees Program helps refugees link up with mainstream aging services in their local community, yet this program depends greatly on the

¹⁸¹ Ibid. 15.

¹⁸² Women’s Refugee Commission. 2008. “Disabilities among Refugee and Conflict-Affected Populations.” Women’s Commission for Refugee Women and Children: 2.
<http://www.womensrefugeecommission.org/docs/disab_fulll_report.pdf>.

¹⁸³ Ibid. 2.

efforts of refugees to actively pursue such services.¹⁸⁴ However, due to physical and social barriers, both disabled and elderly refugee populations are less likely to access mainstream assistance programs offered to other refugees.¹⁸⁵

The limited resources are made available to disabled and elderly refugees who cannot provide for themselves are far from fulfilling their special needs as they struggle to integrate into American society. In order to meet their immediate needs, elderly and disabled refugees may be eligible to receive Supplementary Security Income (SSI) and medical benefits. However, their long-term care is left undefined. Unless these refugees succeed in becoming naturalized citizens, many individuals risk losing financial assistance post-resettlement, leaving them in extreme poverty. The long-term health care of refugee groups like these will be discussed further in Section Two of this Task Force. To better address the needs of elderly and disabled refugees, the United States may have to reevaluate its moral obligations to refugees who are physically or mentally unable to contribute to the labor force, taxes, or society in general.

Concluding Policy Recommendations

First and foremost, this Task Force feels that refugee resettlement services and policies must incorporate a better understanding of the gap between refugees' perspectives of social support and their actual needs for support and resources. By looking at the ways in which refugees seek support – primarily through social/ethnic networks before more formal/foreign models – it becomes apparent that refugees should be provided with more structure to support each other. ORR's Ethnic Community Self-Help Program helps to fund refugee community-based organizations to develop their capacity to serve more refugees. By refocusing ORR funds and efforts towards more 'self-help' or self-sustaining organizations, refugees may be more

¹⁸⁴ Office of Refugee Resettlement. 2009. "About the ORR: Divisions." US Department of Health and Human Services. <<http://www.acf.hhs.gov/programs/orr/about/divisions.htm>>.

¹⁸⁵ Women's Refugee Commission. 2008. "Disabilities among Refugee and Conflict-Affected Populations." Women's Commission for Refugee Women and Children: 2. <http://www.womensrefugeecommission.org/docs/disab_fulll_report.pdf>.

likely to access all of the social-support benefits entitled to them. Incorporating refugee perspectives into social support policy would increase refugees' trust in social agency workers, as they would represent their ethnic community and have gone through the refugee experience themselves. This model of "self-help" programs would also create fulfilling employment opportunities for refugees resettling in America.

To address the needs of URM, American teachers who frequently work with refugee minors must be provided with additional training to make them more familiar with the child's situation as a refugee. Recognizing that these students may need additional tutoring will allow them to better adapt to their new surroundings and encourage them to further their education. ORR's URM Program already tries to place children into an area with nearby families of the same ethnic background when possible.¹⁸⁶ Providing URM with the opportunity to interact more with people of their own ethnicity in schools is important for finding a sense of normalcy in their lives. Refugee or ethnic community-based organizations should coordinate with local schools to help foster safe places for refugee students to engage with their peers through after school programs or sport events.

To help relieve the stress of securing employment as a newcomer, ORR and state employment services should aim to help refugees apply their foreign academic credentials through a wider range of supported programs. Many refugees come into America with good education and significant professional experiences, yet they are placed into positions far below their skill levels. While language is a significant barrier for many refugees, allowing them to study and work simultaneously would help refugees achieve upward social mobility. Internship or apprenticeship programs would allow refugees to acquire language and practical skills while

¹⁸⁶ Office of Refugee Resettlement. 2009. "About the ORR: Divisions." US Department of Health and Human Services. <<http://www.acf.hhs.gov/programs/orr/about/divisions.htm>>.

applying their previous knowledge and experience.¹⁸⁷ ORR should help support refugees by linking them to mainstream internship and apprenticeship programs in their local community. Facilitating the transfer and recognition of foreign credentials – degrees, certificates, and professional resumes - would help refugees make more lateral career moves in the United States.

Similarly, it is imperative for young refugee adults over the age of 18 to be allowed to attend school to further their education and careers rather than going straight into the workforce. Academic scholarships, internships, and apprenticeship programs are all important for the long-term self-sufficiency of this age group of refugees. Without further education or skilled training, many young adult refugees are restricted to unskilled labor and earn wages below the poverty line. The ORR's Refugee Social Services Program needs to extend its employment services to better reflect the goal of self-sufficiency *and* upward social mobility for young refugee adults. In order to promote self-sufficiency of single-parent refugee families, states must expand the social support infrastructure to meet all childcare needs of refugee communities. Streamlining the childcare subsidy application process is critical to provide families with timely support as they search for employment.¹⁸⁸ The ORR should also promote the awareness of resettlement agencies and refugee community-based organizations about the childcare programs available to refugees that are not being utilized. Furthermore, the ORR should also adjust employment standards to allow for parents to remain at home to provide care for their children. One option may be to create a reasonable process for refugees to become licensed as childcare providers. This process would offer employment opportunities for single parents and women and provide a

¹⁸⁷ Stewart, Miriam, et al. 2008. "Multicultural Meanings of Social Support among Immigrants and Refugees." *International Migration* 46, (3): 144.

¹⁸⁸ Fidazzo, Gina, et al. 2006. "Enhancing Child Care for Refugee Self-Sufficiency." *Bridging Refugee Youth & Children's Services*: 7. <<http://www.brycs.org/documents/EnhancingChildCare.pdf>>.

more familiar style of childcare for refugee ethnic communities who formally relied on friends and family in their home communities to share childcare needs.¹⁸⁹

Elderly and disabled refugees will also benefit from increased structural support of refugee self-help organizations. By supporting the creation of a better sense of community among refugees, elderly and disabled refugees gain a better chance of building relationships with new potential caregivers in their neighborhood. Our Task Force agrees with the argument that “supportive ethnic communities also make a tremendous difference in adjustment. Nothing is as important as friends – not food, shelter, work or even language... Newcomers need people from their own culture to orient them to America.”¹⁹⁰ With little excess in funding available to the ORR, refugees may have to depend on each other for support, possibly sharing food or housing. However, it is impractical to expect refugee communities to take on the full responsibility of integrating future refugees. Rather, the United States should reevaluate moral obligations to take in refugees that may be unable to contribute services, labor or income taxes. If additional financial support is not readily available to support the special needs of these vulnerable refugees, the United States must assess the current capacity to take in these refugees, rather than simply resettling them into impoverished refugee communities.

¹⁸⁹ Ibid. 21.

¹⁹⁰ Pipher, Mary Bray. 2002. *The Middle of Everywhere*. New York: Harcourt. 70-71.

Section II

Introduction

The second section of this Task Force report focuses on the difficulties refugees face after their initial resettlement in the United States, and aims to provide the Obama Administration with holistic policy suggestions to better help resettled refugees live secure, healthy, and productive lives in the United States. This Task Force holds that, without increased long-term attention and resources allocated to refugees after their initial resettlement – specifically regarding health, financial, and legal services – refugees will have greater difficulty becoming permanently established and self-sustaining in the United States. It is important to remember in making policy suggestions of this nature that regardless of the data and statistics, refugees are human beings with their own voices and stories. There is no all-encompassing solution or formula to solve the difficulties that refugees encounter; each case should be taken as such, and should have a culturally sensitive plan that is tailored to the refugees' situations. The United States, as a country of resettlement, has a commitment to provide the resources and support required to aid resettled refugees in a smooth and successful integration. Without long-term attention to education, health, financial, and legal services, resources invested in refugees' initial months of resettlement may not be enough to help refugees become self-sufficient.

In Section II of this Task Force, Chapter 6 addresses the hurdles refugees face to secure legal and social adjustment resources during and after the initial resettlement process. This chapter emphasizes the importance of access to legal knowledge and English proficiency in the integration process. The next chapter details the refugee experience within the American healthcare system and the current gaps in healthcare provisions for refugees. This chapter on healthcare seeks to outline ways in which the federal government can reform the healthcare system to better assist refugees in achieving long-term health and wellness. Chapter 8 of this

section specifically addresses mental health and psychological trauma among resettled refugees.

Many refugees resettled in the United States have experienced extreme trauma that can have adverse psychological effects upon resettlement, acting as a barrier to effective integration and wellbeing. The chapter argues that mental healthcare must be extended beyond the initial period of resettlement by primarily fostering community support and practical care to ensure ultimate psychological healing. Chapter 9 argues that the United States has made a significant financial investment in resettled refugees, and in order to receive a return on this investment, the government ought to provide the means for refugees to become solvent, economic contributors in their new home, for the betterment of themselves and the country.

As a country of refugee resettlement, the United States has taken on a great responsibility, both financially and morally, to ensure that refugees are placed in a safe, sustainable situation. The United States must be prepared to aid refugees to the best of its ability to ensure that refugees become established and integrated members of society. It is extremely important that the United States lives up to its obligations as a global humanitarian power by giving resettled refugees the tools they need to become self-sufficient in this crucial time of transition. We urge the Obama Administration to provide long-term attention and resources for refugees post resettlement, especially regarding health, financial and legal services, so that refugees will have a greater chance of becoming permanently established and self-sustaining residents of the United States.

Chapter 6

Initial Adjustment Period

Introduction

The United States is the land of opportunity, freedom and dreams. Despite this, refugees encounter difficulties in resettling, securing jobs, and living a decent life in the United States. In addition, some refugees face deportation back to their country of origin. It is important to remember that refugees come from different backgrounds and experience different levels of persecution. For example, some refugees spend more years in refugee camps than others, while some suffer from more discrimination in their countries than others. There are refugees who could not go to school and there are refugees who fled because of their education background. Despite the situation that they were in, all refugees must adjust to a new environment once they are resettled in the United States. According to the 2009 World Refugee Survey, the United States is doing an excellent job in terms of freedom of movement and the right to earn a livelihood where refugees are not restricted.¹⁹¹ This means that refugees were able to choose their place of residence and were free to travel, as long as it was not back to their home country. On the other hand, the United States is ranked bottom for refoulement, physical protection, and detention.¹⁹² The United States had over 100 cases of refoulement, and over 100 refugees and asylum seekers were arbitrarily detained just in 2009.¹⁹³

Policy Statement

The purpose of this chapter is to address legal problems that arise after refugees' period of resettlement assistance ends. For example, it is a widespread problem that many resettled refugees do not know that they are supposed to apply for a LPR status after resettled in the

¹⁹¹ World Refugee Survey, 2009, "Refugee Rights Report Card," U.S. Committee for Refugees and Immigrants, <<http://www.refugees.org/FTP/WRS09PDFS/ReportCard.pdf>>.

¹⁹² Refoulement means that states can expel and return refugees to their country of origin.

¹⁹³ World Refugee Survey, 2009, "Refugee Rights Report Card," U.S. Committee for Refugees and Immigrants, <<http://www.refugees.org/FTP/WRS09PDFS/ReportCard.pdf>>.

United States for a year. In addition, many refugees lack English proficiency when they first arrive in the United States. Both of these affect refugees in the long run as they struggle to integrate into American society. In order to help refugees achieve positive and successful integration in the United States' society, the United States needs to provide refugees with more access to legal resources that guide them through the whole resettlement process up until they get citizenship. The United States should create an environment where refugees are provided with legal resources to be well protected and safe.

Problems during the initial adjustment process

Integrating into American society can be difficult for refugees, especially when the process for acquiring United States citizenship is confusing, employment opportunities are scarce, and the culture and the language are different from their countries of origin. Special attention should be paid to legal problems that arise during the initial adjustment process including their legal status and economic self-sufficiency.¹⁹⁴ These obstacles during the initial adjustment period can become problematic in the long term if they are not dealt with during the resettlement period. Refugees have difficulties because they become involved in various situations where they face challenges such as being detained, deported, and unemployed. Teaching refugees about the law and culture of the United States will help refugees adapt better to their new home.

Legal Status – Deportable refugees

Refugees face certain legal criterions that they must accomplish during the initial adjustment process in order to have a positive long term stay. First, according to United States Citizenship and Immigration Services, a refugee is “required by law to apply for lawful

¹⁹⁴ Newland, Kathleen, Hiroyuki Tanaka, and Laura Barker, 2007, “Bridging Divides: The Role of Ethnic Community-Based Organizations in Refugee Integration” Migration Policy Institute, <http://www.migrationpolicy.org/pubs/Bridging_Divides.pdf>.

permanent resident (LPR) status one year after entering the U.S. in refugee status.”¹⁹⁵ However, there is currently no system to inform refugees that they must apply for LPR status.¹⁹⁶ A refugee can then obtain citizenship after five years as a legal permanent resident. Both statuses can be difficult to acquire for refugees because of the language barrier and the complex legal system that they have to overcome. Furthermore, due to the complicated resettlement process, some refugees do not know that they have to get legal permanent residence status a year after they arrive. For some refugees who are deportable because the refugee’s country of origin had signed a repatriation agreement with the United States, not applying for LPR status means they can be deported. The lack of LPR status is also problematic for some refugees who were randomly selected for investigation due to national security reasons. Every refugee is at risk if they do not obtain LPR status, thus it is a significantly important adjustment process that refugees need to know about.

Refugees are detained, and sometimes considered deportable, if they do not apply for LPR status timely in one year. The main reason refugees are detained is because they are found guilty of a criminal offence.¹⁹⁷ The deportation of a criminal refugee is especially problematic because the crime can be anything from petty shoplifting to violent crime. The DHS and the ICE target refugees who have been arrested or convicted of criminal offences to be detained. Once arrested, government officials can easily access their current refugee status and see whether or not they have successfully become a legal permanent resident.¹⁹⁸ If a refugee has not filed an application to become a legal permanent residence, then they are immediately taken away to

¹⁹⁵ U.S. Citizenship and Immigration Services, 2008, “Asylee of Refugee Adjustment to Lawful Permanent Resident (LPR) Status,” Department of Homeland Security.

¹⁹⁶ Human Rights Watch, 2009. “Jailing Refugees: Arbitrary Detention of Refugees in the US Who Fail to Adjust to Permanent Resident Status.” Human Rights Watch. <<http://www.hrw.org/en/node/87369/section/1>>; Florian Purganan, interview by author, Kent, WA, February 8, 2010.

¹⁹⁷ Florian Purganan, interview by author, Kent, WA, February 8, 2010.

¹⁹⁸ Ibid.

detention.¹⁹⁹ In most cases, the refugees did not know they had to get LPR status after one year of physical resettlement in the United States. According to Florian Purganan, an immigration and citizenship law attorney, a refugee can retain refugee status for an indefinite amount of time, as long as the status is not terminated.²⁰⁰ Refugee status can be terminated if a country's condition has changed, if there is a fraud in the application, if a refugee had been resettled somewhere else, or if he or she is convicted of a crime.²⁰¹ However, once arrested, refugees cannot be released by simply explaining that they did not know about the process. David Thomas' experience below demonstrates how a refugee without LPR status can be detained if convicted of a criminal offence:

David Thomas²⁰², a refugee from Liberia, resettled in the U.S. after fleeing from a civil war when he was thirteen years old. Eight years later in 2008, he pled guilty to damaging a public telephone, where he served thirty days in jail. On normal conditions, he would be released, but he was taken into custody by ICE and was detained because he had not applied to become a lawful permanent resident seventeen years ago when he was fourteen. Currently, he is being detained for an unknown amount of time and also has been transferred to a different detention center in a different state without the state notifying his family. This is also affecting David's family as well. Without David, his family cannot pay rent every month and support his twin girls. The difficulty with David's case is that he was transferred without his family knowing, so his family cannot get an attorney for him.²⁰³

If David had known to get LPR status, his chances of getting detained would have been lower.

However, it is not guaranteed even if he were a legal permanent resident. Refugees can be detained and deported even if they are LPRs, unless they are legal citizens.²⁰⁴

In addition to the problems some refugees can face when not knowing to apply for LPR status, these refugees can face even worse problems when detained. Detained refugees have an

¹⁹⁹ Human Rights Watch, 2009. "Jailing Refugees: Arbitrary Detention of Refugees in the US Who Fail to Adjust to Permanent Resident Status." Human Rights Watch. <<http://www.hrw.org/en/node/87369/section/1>>.

²⁰⁰ Florian Purganan, interview by author, Kent, WA, February 8, 2010.

²⁰¹ Ibid.

²⁰² For confidentiality purposes, pseudonyms have been given by the Human Rights Watch.

²⁰³ Human Rights Watch, 2009. "Jailing Refugees: Arbitrary Detention of Refugees in the US Who Fail to Adjust to Permanent Resident Status." Human Rights Watch. <<http://www.hrw.org/en/node/87369/section/1>>.

²⁰⁴ Florian Purganan, interview by author, Kent, WA, February 8, 2010.

incredibly difficult time getting released from detention. Normally, refugees are held on a \$50,000 bond, but it is very unlikely for refugees to be able to pay since they often work low paying jobs.²⁰⁵ To overcome this challenge, refugee families can go to bond agencies where they can put up their house or car for sale and lower their bond to about \$10,000, which is still an exorbitant sum.²⁰⁶ Furthermore, once in detention, access to legal services is reduced and the cost of legal representation is often prohibitively high. In addition, refugees cannot be released by paying the bond once they enter the removal proceedings.²⁰⁷ Since it is important for refugees to apply for LPR status on time, there is a need to alert refugees of when to apply.

Refugees can still be detained even with LPR status if convicted of a crime. The only way to avoid detention is by obtaining citizenship.²⁰⁸ Still, like the process of applying for LPR status, the process of obtaining citizenship is problematic and confusing for refugees. For example, many Cambodian refugees face similar situations to David's; these cases illustrate the vulnerability refugees face until they obtain citizenship. The only difference is that the Cambodian refugees were all residents of the United States who successfully received LPR status. In the 1970s and 1980s, roughly 145,000 Cambodian refugees made up a significant portion of the United States' refugee population.²⁰⁹ The United States provided public assistance to help the Cambodian refugees find low-income jobs and assimilate into American life, but regardless of the assistance to support their families, Cambodian refugees were not ready to face the challenges and the violence that awaited them in their new communities. Cambodian children were quickly integrated into a lifestyle of crime where gang activities was common among black

²⁰⁵ Ibid.

²⁰⁶ Ibid.

²⁰⁷ Human Rights Watch, 2009. "Jailing Refugees: Arbitrary Detention of Refugees in the US Who Fail to Adjust to Permanent Resident Status." Human Rights Watch. <<http://www.hrw.org/en/node/87369/section/1>>.

²⁰⁸ Florian Purganan, interview by author, Kent, WA, February 8, 2010.

²⁰⁹ Bill Ong Hing, 2005. "Detention to Deportation – Rethinking the Removal of Cambodian Refugees." UC Davis Law Review, Vol. 38, 2005.

and Latino gangs.²¹⁰ Cambodians often ended up detained because they would take part in activities including fights, drug dealing, and killing. Until recently, the United States could not deport refugees back to Cambodia because the two countries did not have a repatriating agreement. However, the United States began deporting refugee criminals back to Cambodia since 2002 because Cambodia signed a repatriation agreement with the United States.²¹¹ Since 2002, deporting Cambodians has been an ongoing problem because the United States is deporting refugees back to a place where they can be discriminated against and even killed. Not to mention, Cambodian refugees have been residents of the United States most of their lives and do not have a memory of Cambodia. Likewise, the Supreme Court also acknowledged that deportation “may result...in loss of...life; or of all that makes life worth living.”²¹² However, Congress has absolute power of the right to deport non-citizens. In terms of the legal aspect of deportation, it does not violate international refugee standards. Article 33 of the Convention specifically states that:

1. A refugee shall not be expelled or returned to the borders of a country where his life or freedom will be threatened on account of—(a) his race, religion, nationality or membership of a particular social group or political opinion; or (b) external aggression, occupation, foreign domination or events seriously disturbing the public order in either part or the whole of that country.
2. The benefit of this section shall not be claimable by a person in respect of whom there are reasonable grounds for regarding him or any aspect of the matter as a danger to the security of the country in which he is, or who, having been convicted of a serious crime, constitutes a real danger to the community of that country.²¹³

Therefore, Article 33 suggests that a refugee can be returned if the refugee is “convicted of a serious crime” or is a “danger to the community.” The following is a story of a Cambodian

²¹⁰ Ibid.

²¹¹ Ibid.

²¹² *Ng Fung Ho v. White*, 259 U.S. 276, 284, 1922. Bill Ong Hing, 2005. “Detention to Deportation – Rethinking the Removal of Cambodian Refugees.” *UC Davis Law Review*, Vol. 38, 2005.; Ibid.

²¹³ “UNHCR, 2002. “Additional UNHCR Observations on Article 33(2) of the 1951 Convention in the Context of the Draft Qualification Directive.” UNHCR <<http://www.unhcr.org/refworld/docid/437c6e874.html>>.

refugee who faced deportation due to a serious crime and felony that the United States thought as a “danger to the community:”

Mao So, a fifteen year old, began to sell drugs to high school students. He made an average of \$500 a day. Later, he joined a gang and became a major drug dealer throughout the United States. However, everything fell apart when he was caught dealing drugs after paying in cash for a brand new Integra. After serving his sentence, he was immediately deported back to Cambodia.²¹⁴

Not all drug dealers are a threat or danger to the community. Refugees can learn from their mistakes and help the community in return. Some are able to appreciate their parents more, become closer to family and friends, find employment, and enjoy life.²¹⁵ Some, on the other hand, can work in their own communities in a non-governmental organization to help educate drug users of the effect of drugs and to prevent the spread of HIV.²¹⁶ Just because refugees made one mistake does not mean they are a threat to the country. The next case is about a Cambodian refugee who was charged with indecent exposure, a crime where one’s genitals are revealed in public:

Sor Vann, a thirty year old construction worker, was not arrested because of a serious crime. Instead, he was caught urinating in public. He was lucky to get only six years of probation the first time, but even before he completed his six-year term, he was caught urinating in public again. Urinating in public is only a misdemeanor, but Sor Vann’s case was considered a felony because he urinated in public a second time before his probation had ended. After serving four years in prison, he too was sent back to Cambodia.²¹⁷

If refugees do not pose a threat to the United States, it should be legally acceptable to not deport refugees back to Cambodia. It is irresponsible for the United States to deport Cambodian refugees back to the country where they were persecuted during the Khmer Rouge regime. In

²¹⁴ Bill Ong Hing, 2005. “Detention to Deportation – Rethinking the Removal of Cambodian Refugees.” UC Davis Law Review, Vol. 38, 2005.

²¹⁵ Bill Ong Hing, 2005. “Detention to Deportation – Rethinking the Removal of Cambodian Refugees.” UC Davis Law Review UC Davis Law Review, Vol. 38, 2005.

²¹⁶ Matt Ozug, 2008. “Making a Home in an Unfamiliar Homeland.” NPR <<http://www.npr.org/templates/story/story.php?storyId=89067164>>.

²¹⁷ Bill Ong Hing, 2005. “Detention to Deportation – Rethinking the Removal of Cambodian Refugees.” UC Davis Law Review UC Davis Law Review, Vol. 38, 2005.

addition, the United States played a significant role by getting Cambodia involved in the Vietnam War, including secretly bombing Cambodia.²¹⁸ The Vietnam War caused Cambodia to destabilize, which is when the Khmer Rouge came to power committing genocide of two million Cambodians.²¹⁹ The United States should do more to help refugees resettle into safe communities instead of resettling them into the center of gang and crime neighborhoods, which are the kind of violent environments that Cambodian refugees are used to.²²⁰ In addition, the United States should help refugees avoid being detained because once deported back with a criminal offence, it is almost impossible to file an asylum claim and reenter the United States.²²¹ If the United States had resettled Cambodian refugees in safer communities and given them legal resources to apply for citizenship, then they would not have been at risk of being detained or deported. It is vital to understand the traumatic background that refugees come from. Since it is already a challenge for them to assimilate into a new culture, the United States should do better than to place refugees into similar situations as in their home country where violence was a daily routine.

Refugees do not always have to be convicted of criminal offence to be detained and deported. Some refugees were detained in 2001 and 2002 following random investigations by the United States government in order to get information about terrorist activities from the September 11th attack.²²² The United States mainly targeted people of Arab and Muslim backgrounds, although some Somali refugees were also interrogated regarding the United States' suspicion of ties to Al Qaeda.²²³ Investigations proved that none of these refugees had ties to terrorist activities, but in the course of the investigations, many were detained for not obtaining LPR status. As a result, many of the refugees with Arab and Muslim backgrounds were deported

²¹⁸ Ibid.

²¹⁹ Ibid.

²²⁰ Florian Purganan, interview by author, Kent, WA, February 8, 2010.

²²¹ David S Weissbrodt, 2005. *Immigration Law and Procedure* 5th edition, California: West Group.

²²² Ibid.

²²³ Florian Purganan, interview by author, Kent, WA, February 8, 2010.

back to their country of origin. However, if refugees are not charged with anything, they should not have to be detained.²²⁴ The United States needs a better system of helping refugees through the resettlement process so that innocent refugees will not be deported.

Economic Self-Sufficiency

Refugees entering the United States face language barriers that cause miscommunications and misunderstandings. Furthermore, knowing English is a significant indicator of who integrates quicker into the American society. Refugees who lack English skills tend to be unemployed or earn lower wages compared to refugees with better English abilities.²²⁵ Achieving economic self-sufficiency early in the resettlement process is important for upward mobility in the long run, but it is very difficult to obtain for refugees who lack a functional command of English. Therefore, the United States should be obligated to help refugees learn English and integrate, instead of leaving them on their own.

Without a good foundation of English, refugees find it difficult to apply for LPR status as well as to find jobs. Many refugees who arrive in the United States not only lack English language skills, but also are illiterate in their native languages because they had no previous educational background. Refugees fluent in both English and their native tongue have an advantage because they can take part in the skilled labor force. However, as the case study below illustrates, even refugees with English proficiency can still encounter problems understanding the intricacies of the United States job market and legal system. The case study below illustrates the difficulties an Iraqi refugee faced acquiring LPR status despite understanding English better than other refugees:

Mr. Alrais fled Iraq in 2008 because life was threatened while working as an interpreter for the U.S. Army in Iraq. He and his family feared for their lives so they came to the

²²⁴ Ibid.

²²⁵ Kathleen Newland, et al. 2007, "Bridging Divides: The Role of Ethnic Community-Based Organizations in Refugee Integration."

U.S. However, Mr. Alrais could not find a job due to the recession at the time so he had no choice but to work for the Army as a translator once again. The only problem was that he was working abroad in Iraq. One year after arrival, his wife and his children successfully were granted LPR status, but his application was denied by USCIS because he had not been physically in the U.S. for one year. Although he was working on a U.S. military base, it did not count toward his stay in the United States. His case is still pending and he will come back end of this month to plead his case. The question we must ask now is whether it would have better if he had stayed in the U.S. without a job.²²⁶

Just like Mr. Alrais, hundreds of Iraqis who worked as interpreters for the United States before arriving as refugees sought resettlement because they risked their lives.²²⁷ Although Mr. Alrais' case is still pending so it is not certain that he will be denied LPR status yet, the United States should at least let refugees know that the time abroad will not count towards the one year.

Despite their service to the United States, Iraqi refugees are also encountering difficulties finding employment. The Internal Rescue Committee in New York reported that Iraqis all over, even those who arrived with an education, are having trouble finding jobs because of the recession.²²⁸ Ironically, the United States government is looking for more Arab speakers familiar with the Middle East. However, if the United States does not work with USCIS, then no one will be able to work with the United States military until refugees get LPR status after one year.

Some refugees arrive with education and experience working as professionals in their home countries. However, the United States does not recognize the work, education, and experience that these refugees come in with.²²⁹ These particular refugees have an advantage over those who do not have experience in the workforce or lack English speaking abilities, but still

²²⁶ Katie Fretland, 2010. "Despite Aiding U.S., Iraqi Is Denied a Green Card," *New York Times*, January 7, U.S. section, National edition.

²²⁷ Yvonne Abraham, 2009 "We owe Iraqis a lot more" *The Boston Globe*, July 19, Local section.

²²⁸ Krik Semple, 2009. "Iraqi Immigrants Struggle to Adjust to Life in the U.S.," *New York Times*, August 12 N.Y. section, New York edition.

²²⁹ Alexandra Zavis, 2009. "Iraqi refugees find U.S. life not what they expected" *Los Angeles Times*, August 24, Lifestyles section.; Ephrem M. Andemariam, 2007. "The Challenges and Opportunities Faced by Skilled African Immigrants in the US Job Market." *Journal of Immigrant & Refugee Studies* 5 (2007).

have a difficult time in the job market. Not only interpreters, but lawyers, as the case below shows, are having trouble finding jobs to match their educational and experiential levels:

Anonymous: After a long journey resettling in the United States, a women who worked as a lawyer in Iraq for two decades cannot find a job. The United States will not recognize her law degree because education is different and she would have to start from the beginning.²³⁰

This refugee faced discrimination in the workplace because employers are biased of the quality of education and training that refugees get in their home countries. Employers also worry that refugees are not as proficient in English as typical Americans and have accents that may hurt a company's reputation in the high skilled work force.²³¹ Studies have shown that Asian, Latin American, and African refugees tend to face more discrimination than those of European descent.²³² The problem with the United States is that they do not consider what refugees can bring to the companies, such as new knowledge, skills, ideas, and innovation just to name a few. The United States should give refugees a chance at working in high skilled American jobs, especially if they have the qualifications and credentials to do so.

Conclusions and Recommendations

The first step to prepare refugees to be successful in the United States in the long run is to automatically give refugees lawful permanent residence when they are admitted in the refugee resettlement program. Refugees are already extensively screened, so it is not necessary for them to be detained and/or deported just because they did not know they needed to update their legal status. In addition, making LPR status automatic would reduce the stress that refugees have over unfamiliar processes. Furthermore, if granted LPR status upon arrival, then random

²³⁰ Alexandra Zavis, 2009. "Iraqi refugees find U.S. life not what they expected" *Los Angeles Times*, August 24, Lifestyles section.

²³¹ Ephrem M. Andemariam, 2007, "The Challenges and Opportunities Faced by Skilled African Immigrants in the US Job Market." *Journal of Immigrant & Refugee Studies* 5 (2007).

²³² Newland, Kathleen, Hiroyuki Tanaka, and Laura Barker, 2007, "Bridging Divides: The Role of Ethnic Community-Based Organizations in Refugee Integration" Migration Policy Institute, <http://www.migrationpolicy.org/pubs/Bridging_Divides.pdf>.

investigations would not cause any harm to refugees who did not commit any harm to the public. This policy would show that the United States values refugees and demonstrate fairness for those who need the protection. Granting automatic LPR status will show what United States was founded on. The United States should be a safe haven, not a place to be interrogated and detained.

The United States should also stop detaining and deporting refugees, who all fled their home countries for a valid reason. If deported, refugees may be persecuted and will not have legal protection once again. The United States should also close the legal loopholes that allow for detention of refugees. In the case of Cambodian refugees, they are now deportable and the United States is not taking responsibility for their actions that resulted from their actions in Cambodia. As the Cambodian case studies earlier in this chapter showed, the United States government can significantly help refugees by placing them in safer communities.

State and local governments should inform refugees of their economic and social rights under the Constitution to help them be successful in the long run. Furthermore, state and local government officials should work to destroy the negative effects language barrier has on refugees by translating paperwork and instructional documents into refugees' native languages or offering more services with interpreters. Non-profit organizations and community groups can also offer more ESL classes and opportunities in vocational training that can help refugees secure better jobs.

A simple way to explain the current yardstick for accepting refugees is, "People who should get in, do get in; people who should not get in are kept out; and people who are judged deportable are required to leave."²³³ Instead of judging refugees deportable, the United States should start thinking about how it can help refugees in the long term. The United States has a

²³³ Susan Martin, 2009, "Waiting Games: The Politics of US Immigration Reform." *Current History* 108.

responsibility to care for and support those who fled persecution until they are ready to be independent members of American society.

Chapter 7

Refugee Health and Health Services

Introduction

In today's mobile world, diseases know no boundaries. Migrating people translate to migrating diseases, resulting in populations being exposed to new illnesses. Increased exposure to such new disease makes it imperative that countries provide access to proper health care in order to assist those in need and protect the public health of all of its residents. Refugees moving to the United States face many challenges, but with poor health, it is even more difficult to function and become a self-sustaining member of society. According to the United States Committee for Refugees and Immigrants, "A successful resettlement includes positive long-term health outcomes."²³⁴ Though there are programs aimed at covering the health concerns of refugees, there are still problematic gaps in coverage. After their direct governmental refugee resettlement assistance ends, post-resettlement refugees have the daunting tasks of navigating the unfamiliar and complex United States healthcare system and abiding timeframes of eligibility in order to receive essential healthcare. The current United States system for managing refugee health has inadequacies in coverage and is insensitive to refugee needs, hindering the ability of many refugees to become integrated into American society. In order to improve the current United States health care system for refugees, a federal policy – including federal standards for the admissions process, state minimum eligibility and long-term, culturally sensitive support for resettled refugees – needs to be established.

Policy Problems in Health Issues in Resettlement

Initial Health Issues Prevalent Among Refugees During Resettlement Period

²³⁴ U.S. Committee for Refugees and Immigrants, 2010, *Refugee Health*.
<<http://www.refugees.org/article.aspx?id=2080&subm=178&area=Participate&>>.

Refugees have undergone an incredibly long process to resettle in the United States. During the post-admissions period, refugees begin to adjust to life in the United States with the help of resettlement agencies and limited government assistance. Throughout this time, refugees receive inadequate and irregular health care.

Prior to entering the United States, a refugee receives an overseas health screening to determine his or her eligibility for entering the country. Refugees tend to have increased health morbidity, resulting in the United States taking public health precaution by excluding refugees from coming to the United States with specific infectious diseases. ‘Class A conditions,’ such as active cases of tuberculosis, prohibit a refugee from proceeding to the United States. ‘Class B conditions’ are typically diseases or disabilities requiring follow-up health testing once in the United States, but do not prevent entry into the country.²³⁵

After arrival into the United States, time restrictions on health programs are a huge restriction for refugees. A resettled refugee has ninety days to receive a domestic health assessment financed by the government. This limited time period is problematic because it occurs when refugees are concurrently trying to establish a home, job, and education, all of which often take precedence over health concerns.²³⁶ If a refugee does not receive a health assessment during the first ninety days, states typically rely on Medicaid reimbursement to the health providers conducting the health screening. Medicaid funding differs by state, resulting in variation among the quality and scope of refugees’ initial health screening occurring after the allotted time period.²³⁷ Refugees typically arrive in the United States from areas of poor hygiene

²³⁵ Cochran, Jennifer and Paul L. Geltman, 2007. “Chapter 11 US Medical Screening for Immigrants and Refugees.” *Immigrant Medicine* (October 2007): 3.
<http://74.125.155.132/search?q=cache:Dd1sdWSn7O4J:www.thelancetglobalhealthnetwork.com/wp-content/uploads/2008/03/walker_ch011-a03454.PDF>.

²³⁶ Cochran et al. (October 2007): 5

²³⁷ Geltman, Paul L. and Jennifer Cochran. February, 2005. “A Private-Sector Preferred Provider Network Model for Public Health Screening of Newly Resettled Refugees.” *American Journal of Public Health* 95, no. 2 (2005)
<<http://www.ncbi.nlm.nih.gov/pmc/articles/PMC1449151/>>.

with untreated illness. It is crucial refugees receive an initial health assessment in the United States as soon as possible to remove health-related obstructions to resettlement.

A second time restriction for resettled refugees occurs during obligatory vaccination. The Department of Homeland Security's United States Citizenship and Immigrant Service made it mandatory for refugees to comply with vaccination requirements prior to applying for Legal Permanent Resident status, which takes place one year after the refugee arrives in the United States.²³⁸ The government highly recommends refugees receive their necessary vaccinations during their initial health assessment to ensure timely prevention of diseases and to fulfill necessary health requirements while the government covers the costs. While it is ideal to receive vaccinations during the initial health assessment, refugee populations struggle to follow time restrictions while creating new daily routines in an unfamiliar location and culture.

The voluntary nature of the domestic health assessment for resettled refugees is problematic. Because the screening is not mandatory and resettled refugees can go without an assessment for a lengthy period of time, refugees later seek health services when they are no longer covered by the government. The assessment is crucial in ensuring a refugee's success in the United States by providing initial care to unmet health needs. Refugees must be made aware of the time constraints on the health assessment, as well as the importance of the screening for their own health and the health of their communities.

The refugee health assessment presents itself as an additionally difficult task due to refugees' wide-ranging historical, cultural, and economic backgrounds. Some refugees come from countries with higher quality health care systems than others. The epidemiology of health conditions among newly arrived refugees is also incredibly complex since many refugees come

²³⁸ Centers for Disease Control and Prevention. *CDC Domestic Refugee Health Program: Frequently Asked Questions* (2007). <<http://www.cdc.gov/ncidod/dq/refugee/faq/faq.htm#9>>.

from areas where tropical diseases like malaria or schistosomiasis are endemic, which are not frequently seen by American physicians.²³⁹ Tackling health issues early in the resettlement stage will greatly increase a refugee's ability to become a self-sustaining member of society, preventing expensive emergency care in the future. Refugees are a vulnerable population requiring immediate and long-term care focusing on a wide range of medical conditions.

Chronic Health Issues Prevalent Among Refugees Post-Resettlement

Refugees are often unaware or unable to navigate the complex healthcare structure of the United States and are further hampered by language barriers. Lower incomes cause and exacerbate chronic health issues prevalent among refugees after the resettlement period by affecting health coverage and food security.

Employment is seen as the backbone of the refugee resettlement program. However, self-sufficiency remains incredibly difficult as the United States economy is in a recession, and jobs are scarce.²⁴⁰ When there is a lack of jobs, there is greater competition; due to refugees often lacking English skills and non-transferable credentials, refugees are more likely to enter any low-income jobs available, which are frequently jobs without any health benefits. In the most recent congressional report provided by the Office of Refugee Resettlement, the average hourly wage of an employed refugee during a five-year population survey in 2007 was \$9.30.²⁴¹ Numerous refugees are unable to obtain health benefits through their employer if they are working in low-income jobs and earning an average hourly wage under \$10. According to the United States Bureau of Labor Statistics, the estimated average wage hourly for Americans is \$20.32, over

²³⁹ Kemp, Charles, and Lance A. Rasbridge, 2006, "Refugee Health." *Refugee and Immigrant Health*, <http://bearspace.baylor.edu/Charles_Kemp/www/refugee_health_problems.htm>.

²⁴⁰ Emery, Theo, 2009, "Iraqi Immigrants: Refugees in a Land of No Opportunity." *Time*, 19 June, <<http://www.time.com/time/world/article/0,8599,1905274,00.html>>.

²⁴¹ Office of Refugee Resettlement, 2007, *Report to Congress*. Page ii.

double the hourly income for refugees.²⁴² The large difference in income between refugees and the general United States population describes the increased vulnerability of refugees in the United States, and the need for assistance services. According to a Departments of Labor, Health and Human Services, and Education, and related agencies appropriations bill for 2010, “Preliminary data indicates that the economic downturn has made it increasingly difficult for arriving refugees to achieve self-sufficiency.”²⁴³ Refugees are increasingly affected by changes in employment rates and the economy; their success in the United States highly depends on the economic climate and available services.²⁴⁴

Examining the experience of a refugee resettlement agency’s efforts to find employment for recently resettled refugees facilitates understanding the difficult task of finding a job as a refugee in today’s economy. Robin Dun Marcos, the executive director at the International Rescue Committee in Phoenix, Arizona, described this challenge:

“In the first three months of the 2008 budget year, her [Robin Dun Marcos] agency found jobs for 100 refugees. In the same period this year [2009], only 28 found work. In 2007, the agency considered 80% of the refugees settled by her [Robin Dun Marcos] office to be self-sufficient. This year (2009), so far, it’s just 10%.”²⁴⁵

The stark difference in job availability for resettled refugees in a matter of two years is reflective of the changing economy and the economic difficulties refugees are facing.

Economic vulnerabilities directly affect refugees’ health. Without the funds to buy healthy food, refugees will purchase cheap food high in fat and sugar.²⁴⁶ Due to unhealthy eating habits, refugees face the serious risks associated with poor nutrition. Prior to arrival in the United

²⁴² U.S. Bureau of Labor Statistics, 2007, *May 2008 National Occupational Employment and Wage Estimates*, May. <http://www.bls.gov/oes/current/oes_nat.htm>.

²⁴³ Departments of Labor, Health and Human Services, and Education, and Related Agencies, 2010. “House Report 111-220.” *Library of Congress*. <http://thomas.loc.gov/cgi-bin/cpquery/?&dbname=cp111&sid=cp111OobVL&refer=&r_n=hr220.111&item=&sel=TOC_662017&>>.

²⁴⁴ Departments of Labor, Health and Human Services, and Education, and Related Agencies.

²⁴⁵ Emery, Theo.

²⁴⁶ Heartland Alliance, 2010, *Refugee Health Education and Promotion*.

<<http://www.heartlandalliance.org/whatwedo/our-programs/directory/refugee-health-education.html>>.

States, lack of food diversity and irregular access to food are leading causes of malnutrition.

Many refugees faced inadequate nutrition and food security in their home countries as well as in refugee camps and detention facilities.²⁴⁷ Once resettled to the United States refugees often

consume foods high in fat, sodium, and sugar due to their availability and affordability.²⁴⁸

Children of non-English speaking parents have an increased risk of consuming American junk foods due to parents being unfamiliar with the nutritional value of food commonly sold in the United States.²⁴⁹ Along with health hazards associated with food of low nutritional value, there is also the problem of a total lack of food for refugees.

Food security promotes a healthy lifestyle, which is crucial for a refugee's successful resettlement. Food insecurity means a lack of available and nutritious food, often leading to health problems. In a 2006 pilot study on food insecurity among recently resettled Liberian refugees, results showed that eighty-five percent of households were food insecure and forty-two percent experienced child hunger. Households indicating signs of hunger were typically of a lower income level, and language barriers presented a serious challenge for the primary shopper.²⁵⁰ Refugees should be made aware of chronic health problems related to poor nutrition to prevent serious health issues in the future.

There is a unique relationship between health and poverty, specifically in regards to eating habits among refugees. Heart problems, diabetes, and obesity are chronic health issues associated with cheap American junk food become refugee health problems, creating further

²⁴⁷ UNHCR/WFP, 2006 *Acute Malnutrition in Protracted Refugee Situations: A Global Strategy* (January 2006): 6. <<http://www.unhcr.org/469b6b0c2.html>>.

²⁴⁸ Heartland Alliance.

²⁴⁹ Van Hook, Jennifer, Kelly S. Balistreri, and Elizabeth Baker, 2009. "Moving to the Land of Milk and Cookies: Obesity among the Children of Immigrants." *Migration Information Source* <<http://www.migrationinformation.org/Feature/display.cfm?ID=739>>.

²⁵⁰ Hadley, Craig, and Daniel Sellen, 2006. "Food Security and Child Hunger among Recently Resettled Liberian Refugees and Asylum Seekers: A Pilot Study." *Springer Science*.

strain on America's health care system.²⁵¹ In addition to health problems related to the unhealthy American diet, some refugees come from homelands or refugee camps plagued by health problems associated with malnourishment.²⁵² However, once in America, the relationship transitions to a correlation of poverty and obesity due to the low nutritional value of cheap, fat laden, food.

Problematic Gaps with Initial Health Coverage for Resettled Refugees

The process for refugees to apply for health services is incredibly difficult due to numerous programs with varying eligibility requirements, time limitations, and unavailable information about the types of services offered. It is necessary refugees are made aware and have access to healthcare in the United States.

One of the initial health services available to refugees is Refugee Medical Assistance (RMA), a federal program that is part of the Division of Refugee Assistance. A refugee can apply for RMA and utilize its services for up to eight months after his or her arrival date into the United States. While covered by RMA, the state receives reimbursement for medical screening and treatment, such as vaccines. Refugees who are determined ineligible for programs like Temporary Assistance for Needy Families (TANF) and Medicaid typically utilize RMA.²⁵³ As with many other services available to refugees, RMA is problematic due to time constraints and inconsistencies with the program. First of all, the program is only offered up to eight months after a refugee arrives in the United States. During the first eight months living in the United States, refugees are often overwhelmed with moving, managing finances, enrolling children in schools, taking training classes, and overcoming cultural barriers. Establishing immediate

²⁵¹ Hossain, Parvez, Bisher Kavar, and Meguid El Nahas, 2007. "Obesity and Diabetes in the Developing World." *The New England Journal of Medicine*.

²⁵² Mamoun, Nuha, Susan Homedia, Mustafa Mabyou, and Hussan M. Ahmen Muntasier, 2005. "Prevalence, Types and Risk Factors for Malnutrition in Displaced Sudanese Children." *American Journal of Infectious Diseases*.

²⁵³ Office of Refugee Resettlement, 2007.. *Divisions* (May 13).
<<http://www.acf.hhs.gov/programs/orr/about/divisions.htm>>.

healthcare is usually a lower priority. In order to use RMA, a refugee must be made aware of the service and apply within his or her own state. Each state has different requirements for RMA, TANF, and Medicaid, making the process of determining eligibility difficult, especially during the limited time frame.

A second initial health service available to resettled refugees is the Refugee Preventive Health Program. The program is part of the Division of Refugee Assistance through the Office of Refugee Resettlement (ORR), and provides screenings as well as preventative treatment to refugees. Preventive health programs are an important part of obtaining self-sufficiency for refugees, however the Refugee Preventive Health Program is problematic due to its inconsistencies across states. Each state may determine the extent of their Refugee Preventive Health Program, creating discrepancies in quality of care from state to state. According to ORR's funding history, in 2009 the omnibus enacted appropriations for preventive health was one seventy-fifth of a percent of the total budget.²⁵⁴ Preventive health programs for refugees could greatly reduce the strain on the healthcare system by decreasing the high cost of preventable emergency care and shrinking the number of refugees with chronic health issues caused by a lack of proper nutrition.

Educational programs aimed specifically at refugees are a health prevention strategy that ought to be expanded upon. Along with nutrition classes, prenatal education would greatly reduce ill health affects in the future and reduce the necessity of emergency care. A study conducted about Somali prenatal care and education in the United States found that Somali women in the United States typically do not seek out prenatal care until the second or third trimester in the pregnancy, resulting in increased rates of delivery and newborn complications. A culturally sensitive educational video about the necessity of prenatal care was produced and

²⁵⁴ Office of Refugee Resettlement, 2009, *Divisions*, May 13.
<<http://www.acf.hhs.gov/programs/orr/about/divisions.htm>>.

shown to a participant group of Somali women. The study participants found the video to be incredibly helpful.²⁵⁵ Prenatal care is important for maintaining the health of the mother and child. Culturally sensitive education for refugees with particular health needs could greatly reduce the number of complications associated with an absence of prenatal care.

Inadequacies of Long Term Healthcare Programs for Post-Resettlement Refugees

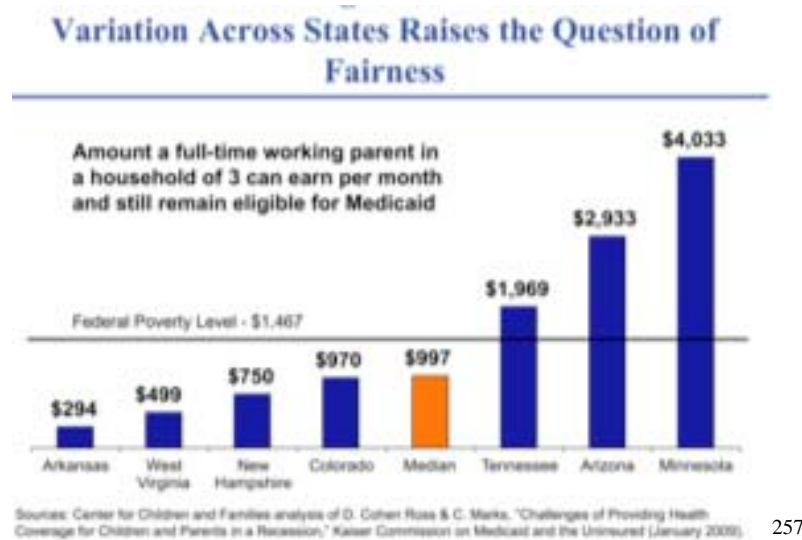
As with initial difficulties navigating the United States healthcare system, long-term services are just as, or even more, complicated. Due to the vulnerability of refugees, specifically in regards to health, it is important the healthcare needs of refugees are met. Private insurance is expensive and may not be adequate for or provide coverage for refugees with significant healthcare needs. Federal programs like Children's Health Insurance Program (CHIP) and Medicaid act as safeguards to prevent people from becoming uninsured. The programs are available to refugees who are either not eligible for employer-based health insurance, unable to afford private insurance, or if employer-based and private insurance are no longer able to provide coverage during economic declines.²⁵⁶

Under the Social Security Act, Medicaid provides medical assistance to low-income individuals and families. Providing guidelines to states, the United States Federal Government supports Medicaid programs through matching grants. Each state determines its own admissions process, eligibility requirements, and amount of assistance provided to Medicaid participants, resulting in large variations across the states. This is often problematic due to discrepancies among funding levels between states, resulting in assistance based on availability as opposed to

²⁵⁵ DeStephano, Christopher C, Priscilla M. Flynn, and Brian C. Brost, 2009 "Somali prenatal educational video in a United States obstetric clinic: A formative evaluation of acceptability." *Elsevier*, December.

²⁵⁶ Wachino, Vikki, Cindy Mann, and Martha Heberlein, 2009, "Building on a Solid Foundation: Medicaid's Role in a Reformed Health Care System." *Georgetown University Health Policy Institute* Vo. 1. <<http://ccf.georgetown.edu/index/building-on-a-solid-foundation>>.

need. The graph below, figure one, displays the amount a full-time working parent in a household of three can earn per month and still remain eligible for Medicaid.



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Figure 1

While some states provide health coverage through Medicaid to a large proportion of those in need, other states have incredibly low-income levels of eligibility due to a lack of financial resources, leaving vulnerable refugees uninsured and healthcare needs unattended.

Complex eligibility criteria for Medicaid can be incredibly difficult to understand for refugees with language barriers. Navigating the Medicaid structure in a state with seventy eligibility categories is difficult for anyone, especially a refugee who is not fluent in the administrative language.²⁵⁸ This can discourage refugees from applying for necessary health services, leaving their needs neglected. Medicaid is a cornerstone of the United States healthcare system, providing coverage to many in need, but there are large discrepancies across states and programs that require reformation on a national level.

A second government program that warrants discussion is CHIP. Refugees who are ineligible for Medicaid, but are unable to afford private health insurance, have the option of

²⁵⁷ Wachino et al. (2009): 10.

²⁵⁸ Wachino et al. (2009): 9.

enrolling their children in CHIP. Like Medicaid, CHIP eligibility and coverage are determined by states differently, resulting in inconsistencies from state to state. CHIP can also be incredibly difficult to navigate, specifically for refugees with language barriers. States can choose to keep CHIP as a separate entity, include CHIP in part of a Medicaid extension program, or combine Medicaid and CHIP funds.²⁵⁹ Variation across states complicates eligibility requirements, resulting in discrepancies in coverage for refugees depending on where one lives. Though CHIP provides much needed coverage to refugees, state discrepancies and complex structuring complicate a system intended for vulnerable people, like refugees, seeking healthcare.

Policy Reform Recommendations

By requiring refugees to receive a domestic health assessment and setting federal standards of care, refugees will have a positive, first time interaction with American healthcare. Refugees can then build off that contact and preliminary relationship in the future. Educational information needs to be available to refugees with content specific to healthy nutrition to prevent chronic diseases associated with a poor diet. RMA ought to be extended to one year to ensure refugees are able to utilize services and receive necessary treatment prior to applying for Lawful Permanent Resident Status. Finally, Medicaid and CHIP are foundations to build off of with the goal of creating a simplified, accessible healthcare system for those in need. Currently, the largest problem for refugees with Medicaid and CHIP is inconsistencies across states. By switching to a federally mandated system for eligibility, state-to-state variation would decrease significantly and state financial resources would not be the deciding factor in eligibility. With a national minimum eligibility requirement, large gaps in coverage, as demonstrated by figure one depicting eligibility requirements across states, would be eliminated.

²⁵⁹ U.S. Department of Health and Human Services, 2009, "CHIP State Plan Amendments." *Centers for Medicare and Medicaid Services*, November 2.
<http://www.cms.hhs.gov/LowCostHealthInsFamChild/06_CHIPStatePlanAmendments.asp>.

It is imperative refugees have access to, and are made aware of, the federally funded domestic health assessment available to them. Ninety days represents a highly limited time period for newly arrived refugees to seek healthcare. Resettlement agencies assisting refugees ought to ensure refugees receive the necessary health assessment during the ninety-day period, and stress the importance of health to refugees.

Mandatory health screening, required testing, orientation, and education should become consistent and thorough across states. A mandatory screening ensures refugee health needs are attended to, and the vaccinations required within the year would be covered by the health assessment. Making health screening mandatory would lead to standardization of the components of a health assessment. The domestic health assessment is typically the first interaction refugees have with the United States healthcare system. Currently, some states, but not all, take this initial contact with refugees to familiarize them with the system, providing information (available in a variety of languages) about available government health services. With a mandatory screening process and standards, all states would give thorough health examinations and assistance navigating the health care system. During the health screenings, states should educate refugees about nutrition, contraceptive use, substance abuse, and other issues for vulnerable populations.²⁶⁰ Current assessments may test for only one or two diseases, but extensive testing for various diseases prevalent among refugees should be mandatory. Variation between states about the extensiveness of health screening can greatly affect a refugee's health and a refugee's first impression of the United States healthcare system.

In order to avoid chronic health issues prevalent among refugees, it is essential nutritional information be provided to refugees when they initially arrive in the United States. Learning about proper nutrition and how to maintain a healthy diet could reduce the risk of diabetes and

²⁶⁰ Wachino et al. (2009): 5-6.

obesity in the future. Nutritional classes specifically for refugees could prevent chronic health issues that put further strain on the United States healthcare system. Culturally sensitive educational classes tailored for pregnant refugees ought to be available as well. Pregnant women are a group with particular health needs and education needs to accessible for refugees about prenatal care in the United States

Food insecurity is another issue requiring attention. It is important that refugee resettlement agencies ensure refugees are made aware of food stamp programs and that these programs are easy to navigate for refugees. The application process for food stamps ought to be simplified for refugees and available in a variety for different languages.

There are problematic gaps in coverage regarding health services utilized by refugees. RMA has very inflexible and limited time restrictions. A simplified RMA program could be extended to one year. Extending the coverage to one year would allow for refugees to become more self-sustaining members of society before getting cut off from refugee medical coverage. Extending RMA coverage to one year is logical because one year after arrival, refugees are required to apply for Lawful Permanent Resident Status and must have all required vaccinations, which would be covered under RMA. Financially, it would be difficult to extend RMA beyond a year because there are a limited number of resources, but it is appropriate to cover refugees for a longer period of time, rather than the maximum eight months.

Like health assessments, variation across states is a complication for the RMA program. RMA is affected by state regulations for Medicaid and TANF, and due to state inconsistencies in eligibility for Medicaid and TANF, there are also inconsistencies in eligibility for RMA. Establishing a national eligibility minimum for all federally funded health services regarding refugees ensures that states provide adequate services to relocated populations.

Mandatory refugee health prevention programs also need to be implemented in all states. Prevention programs are some of the best tools for battling chronic diseases and expensive emergency room visits. Through prevention programs, the United States would be making an investment in the health of refugees and reducing preventable emergency costs in the future. Culturally sensitive education programs for refugees, specifically regarding health risks for the vulnerable population, ought to be required and established across states. The ORR budgeting for health prevention programs is less than one percent of their budget, leaving much room for improvement and flexibility in shifting budgets.

A national eligibility standard for Medicaid could greatly simplify the program and reduce discrepancies across states.²⁶¹ If a national standard were implemented, states would have to increase eligibility, which is costly. While it is not any cheaper for the federal government to pay for the increase in eligible recipients, the federal government has greater economic capacity than states and can deficit spend.²⁶² Furthermore, with proper investment in preventative care, health care costs could be reduced by relieving the costly burden of chronic diseases like diabetes.

The health of refugees demands attention both initially and in the long-term. Currently, programs like refugee health assessment, RMA, refugee preventative programs, Medicaid and CHIP are in place and ought to be expanded upon. It is crucial for the success of refugees that functioning programs are in place to assist them in becoming permanently established members of society. Without proper attention given to refugee health, it will be almost impossible for refugees to become integrated, self-sustaining members of society.

Conclusion

²⁶¹ Wachino et al., 2009: 20

²⁶² Wachino, 2009: 20. : A larger federal funding role can bear unexpected risks. These risks, which would increase Medicaid expenses, include changes in the economic climate and growing health care costs. The federal government is capable of assuming increased costs associated with increased eligibility, and distribute the costs equitably across states.

Poor health hinders a refugee's ability to become a permanently established, self-sustaining member of society. Refugees are incredibly vulnerable to poor health due to global migration with irregular and often inadequate health care throughout the migration and resettlement process. It is important refugees have knowledge and access to quality and culturally sensitive care during their resettlement process and are able to continue receiving healthcare during the post-resettlement period. Initial health services are optional and have very specific timeframes of eligibility. Long-term health services available to refugees have problematic gaps in coverage due to inconsistencies across states regarding eligibility requirements. Medicaid, CHIP, and other government programs aimed at providing health services for those in need offer the foundational support for developing a health system that is both accessible and effectively consistent across states. Health services need to be readily available for vulnerable populations, specifically refugees. Fair, federal minimums ought to be established to ensure equality of care across states. Accessing health services needs to be a more simplified process to ensure refugees have the care they require to become productive members of society.

Chapter 8

Mental Health and Long-term Care of Resettled Refugees

Introduction

The United States is an important third country of resettlement for many of the world's refugees, and the 'distant' traumas of torture, family loss, and memories of war accompany those fleeing persecution. Refugees are at considerable risk of developing Post Traumatic Stress Disorder (PTSD), psychosis, and other mental health disorders that make normal resettlement activities – integrating into a new school system, learning English, finding a job – extremely difficult.²⁶³ The past stresses of flight combined with the present stresses of resettlement can create a cycle of trauma that, without care and intervention, may result in depression, family tension, and suicide.²⁶⁴ Currently, the World Health Organization (WHO) estimates that over fifty percent of refugees have some sort of mental health problem, and will unlikely fully recover within the first few months of resettlement.²⁶⁵ The failure to fully address mental health among resettled refugees has long-term consequences that will affect the success of resettlement programs refugee livelihoods, and future generations.

Historically, the United States has been a mainstay of protection and recovery for the world's refugees and most vulnerable. In his opening speech at the Conference on Children and Armed Conflict: Risk, Resilience and Mental Health, Deputy Assistant Secretary of the United States Department of State David Robinson acknowledged the critical situation of child soldiers, refugees, and vulnerable populations facing the reality of violence, trauma, and family separation

²⁶³ Sher, Leo. "A Model of Suicidal Behavior Among Depressed Immigrants," *Expert Reviews*, Neurother. 10 (2010): 5-7.

²⁶⁴ Keyes, Emily F., Catherine F. Kane. "Belonging and Adapting: Mental Health of Bosnian Refugees Living in the United States." *Issues in Mental Health Nursing* 25 (2004): 809-831.

²⁶⁵ WHO. 2010. "Mental health of refugees, internally displaced persons and other populations affected by conflict." World Health Organization, Health Action in Crisis.
<http://www.who.int/hac/techguidance/pht/mental_health_refugees/en/>.

around the world.²⁶⁶ According to Robinson, addressing the mental health of both children and adults is necessary—not only to protect the human rights of an entire generation—but also to prevent future violence and insecurity.²⁶⁷ The mental health of refugees is an issue of increasing urgency in the twenty-first century and requires this nation's immediate attention. Without addressing mental health and providing culturally appropriate resources for refugees to live with and recover from trauma, other resettlement programs that are implemented and funded to assist the community are rendered considerably less effective.²⁶⁸

Policy Problems and Oversights

Refugees at Risk: a Well-Founded Fear

The need for consistent mental health care for refugees is of immediate concern because of the traumas people necessarily face to gain refugee status. Refugees, by their very legal definition, have a “well-founded fear of persecution.”²⁶⁹ Those refugees granted Priority One access to resettlement by the United States Department of State Office of Admissions have experienced a long list of traumas that could include threats to life, severe physical abuse, sexual abuse, and psychological harm, along with many other barriers to health and wellbeing.²⁷⁰ For refugees to have a strong claim to legal refugee status, they must prove their own extreme vulnerability and need for protection.²⁷¹ The need for resources, training, and solutions to this epidemic of mental health issues among refugees is urgent, especially because it involves a

²⁶⁶ Robinson, David. 7 December 2009. “Conference on Children and Armed Conflict: Risk, Resilience and Mental Health, Opening Remarks.” U.S. Department of State, Diplomacy in Action. Washington, DC. <<http://www.state.gov/g/prm/rls/remarks/133318.htm>>.

²⁶⁷ Robinson, 2009.

²⁶⁸ Watters, Charles. “Emerging Paradigms in the Mental Health Care of Refugees.” *Social Science & Medicine* 52 (2001): 1711.

²⁶⁹ UNHCR. 1 September 2007. “Convention and Protocol Relating to the Status of Refugees.” <<http://www.unhcr.org/3b66c2aa10.html>>.

²⁷⁰ Patrick, Erin. 2004. “US In Focus: The US Refugee Resettlement Program. Migration Policy Institute.” <<http://www.migrationinformation.org/USFocus/display.cfm?ID=229>>.

²⁷¹ Department of State, Bureau of Population, Refugees, and Migration. September 2006. “Access to the U.S. Refugee Admission Program.” Office of Admissions. <<http://www.rcusa.org/index.php?page=eligibility-for-u-s-resettlement>>.

future part of American society. The United States has a responsibility to ensure that resettlement really is a durable solution and refugees are given the opportunities and support networks they need in order to succeed. Addressing the long-term mental health of refugees with histories of trauma is important to enable refugees to become permanently established and self-sustaining in the host country. Without this holistic acknowledgement of healthcare continuing throughout post-resettlement, other programs and resources available to the refugee community may not be fully effective.

Voluntary Agencies (Volags) and Non Profit Organizations (NGOs)

Voluntary agencies and NGOs are key in providing refugees with a safe and successful resettlement experience, but few are equipped to deal with mental health issues. Once Resettlement Cash Assistance is terminated after 90 to 180 days, these organizations usually lack the resources and manpower to continue supporting refugees with long-term mental health issues. Valuable programs for the wellbeing and resettlement of refugees cannot be stretched to meet the needs of the community on a long-term scale, and many of these organizations are painfully aware of their inability to fully address trauma recovery.²⁷² When refugee organizations are only equipped to provide short-term aid, it can jeopardize refugees' ability to become fully established and self-sufficient, particularly when daily life is complicated by psychological trauma.

Despite these difficulties and shortcomings, several organizations have implemented exemplary programs to support refugees who have experienced trauma. Located in Seattle, Washington, the Refugee Women's Alliance (ReWA) is a nonprofit organization that works with local refugee families to provide ESL classes, job support, childcare, and other educational

²⁷² Refugee Women's Alliance. 2010. <http://www.rewa.org/>; World Relief. 2010. <http://www.worldreliefseattle.org/about.htm>.

services.²⁷³ ReWA is well aware of the psychological symptoms of guilt, depression, and anxiety that are a part of many refugees' lives, and has recently become a licensed mental healthcare provider to increase the psychological care available in their pre-established Family Support Program.²⁷⁴ ReWA's mental health program is a key example of implementing mental healthcare in local organizations that are already invested in the refugee community. The program focuses on meeting immediate physical needs together with long-term mental health and emotional support. However, organizations like ReWA do not usually have the funding to provide refugee support after the initial resettlement period, and many resettled refugees with serious mental health traumas are left without resources. Even the excellent work of organizations like ReWA is rendered incomplete at best and ineffective at worst without funding for long-term investments in the lives of refugees.

Lack of Long-Term Care and Unique Challenges

Because resettlement programs can only focus on short-term physical and mental health coverage, many refugees are set up for mental health complications in the future. This limited care can hinder successful integration, cause a severe increase in stress, and may require expensive health treatments later on. Even after refugees have been 'resettled,' they must still find employment, learn English, enroll in classes if possible, repay travel debts, and maneuver through the many steps of citizenship and naturalization.²⁷⁵ While these tasks can be challenging to native-born residents, refugees also live with the complicating effects of trauma, torture, and severe loss. Mental health disorders resulting from trauma are long-term issues that may require a lifetime of healing and recovery.²⁷⁶

²⁷³ Refugee Women's Alliance. 2010. Services. <<http://www.rewa.org/services.html>>.

²⁷⁴ Refugee Women's Alliance. 2010. Family Support Program. <<http://www.rewa.org/family-support.html>>.

²⁷⁵ See chapter 6, section 2.

²⁷⁶ Watters, 2001.

While the experience of trauma does not necessarily preclude a healthy, secure life after resettlement, it does present additional challenges to refugees working to adapt and create a new life in the United States. According to the American Psychological Association (APA), those who have encountered serious trauma—either before or after resettlement—can encounter long-term symptoms that dramatically affect daily life.²⁷⁷ Some symptoms of psychological trauma are subtle and difficult to pinpoint, such as a lingering sadness, nervousness, nightmares, anxiety, or emotional withdrawal. Others are much more dramatic and include schizophrenia, thoughts or actions of self-harm, alcohol and drug abuse, and somatization.²⁷⁸ Somatization has been of particular concern to health professionals and clinics serving refugee populations.²⁷⁹ Without knowledge and training of the psychological foundations for this very real physical pain, refugees are often misdiagnosed, given multiple medications, and undergo expensive physical exams with few results.²⁸⁰ The insufficiency of mental healthcare for resettled refugees in the United States is an issue that, if not addressed, will continue to affect the resettlement process of refugees. Parents suffering from trauma and depression will also affect the wellbeing of their children and families.²⁸¹ When issues of psychological trauma are left unaddressed and unsolved after the initial resettlement assistance, refugees—future members of American society—are not equipped to fully recover from trauma. By neglecting long-term mental healthcare for refugees, severe PTSD and unchecked depression can lead to an inability to fully integrate into society or make use of other government-sponsored programs.

²⁷⁷ Keyes and Kane, 2004.

²⁷⁸ Somatization involves experiencing symptoms of physical pain or illness as a result of psychological or internalized emotional trauma.

²⁷⁹ International Rescue Committee. June 2009. “Iraqi Refugees in the United States: In Dire Straits.” <http://www.theirc.org/sites/default/files/resource-file/irc_report_iraqcommission.pdf>.

²⁸⁰ Waitzkin H, Magaña H. “The Black Box in Somatization: Unexplained Physical Symptoms, Culture, and Narratives of Trauma.” *Social Science & Medicine* 45 no. 6 (1997): 811-825; American Psychological Association. 2010. “Tips for recovering from disasters and other traumatic events.” <<http://www.apa.org/helpcenter/recovering-disasters.aspx>>.

²⁸¹ Fazel, Mina, Helen Doll, and Alen Stein. “A School-Based Mental Health Intervention for Refugee Children: An Exploratory Study.” *Clinical Child Psychology and Psychiatry* 14, no. 2 (2009): 297-309.

It can be very difficult to discuss the issue of refugee mental health without running the risk of presenting resettled groups as ‘sick’ or mentally disturbed. Rather, most refugees show extraordinary ability to adapt to a new life in the United States, despite barriers of past and present trauma. However, the psychological traumas and resulting symptoms many refugees experience take years to heal and do not disappear when the resettlement support cash runs out. It is of the utmost of importance to facilitate the successful long-term resettlement of refugees, acknowledging both their burdens of trauma and abilities to heal.

Resettlement Stresses and Mental Health: Barriers to Integration

The stresses of resettlement that refugees encounter often preclude full mental health and trauma recovery, while the lack of resources and a supportive community exacerbate the symptoms of mental trauma. In order to deal with traumatic events, the APA recommends a series of lifestyle decisions which include, among other things, building a support system of family, friends, and professionals, getting plenty of rest, and taking time off from “the demands of daily life.” The APA also recommends avoiding any major life decisions because they can be very stressful and exacerbate any experiences of trauma, leading to prolonged depression.²⁸² Unfortunately, refugees do not have the luxury or ability to take time off, avoid making major life decisions, or get plenty of rest. The demands of resettlement, finding a job, repaying the cost of travel, and adapting to a new life is incredibly stressful and time consuming, even without additional emotional, physical and mental burdens. Because the issues of psychological trauma among refugees are not being addressed in an effective, holistic manner, these psychological symptoms persist throughout a lifetime, affecting job performance, interpersonal relationships, and the ability to cope with everyday life.

Case Study: Cambodian Refugees in the United States

²⁸² American Psychological Association. 2010.

Refugee mental health is an issue that the United States must address on a long-term scale. In a study evaluating the mental health of resettled Cambodian refugees in Long Beach, California, researchers found that those who had experienced severe or multiple traumas prior to resettlement were still suffering from nightmares, depression, and other symptoms of PTSD nearly two decades later.²⁸³ While the resettlement phase of these refugees' journey was long over, the stress of living in the United States combined with PTSD and other psychological disorders had a significant impact on future life and integration. This study also noted that those without close family support, those with poor English language skills, and those who were unemployed had a significantly higher risk of displaying psychological symptoms of trauma.

Most of the refugees in the study had experienced trauma prior to resettlement, which was elevated by stressful experiences in the United States. In light of this evidence for prolonged trauma, the study concludes that "members of refugee communities can have substantial need for mental health services even years removed from their tribulations."²⁸⁴ Trauma exposure both before and after flight can increase the chance of prolonged mental disorder. This study calls into question the adequacy of mental health resources for refugee communities, especially years after the initial resettlement phase. The authors note that in order to protect vulnerable populations and expect them to integrate into the host society, more care and attention should be paid to mental health treatment and long-term solutions. As refugees continue to be resettled in the United States from conflict zones around the world, this study is a key example illustrating the immediate need for expanded mental healthcare and social awareness.

Holistic Mental Health: Supporting Families, Education, Employment, and Communities

For refugees who have experienced trauma—a growing issue for countries of

²⁸³ Marshall, Grant N., Terry L. Schell, and Marc N. Elliot. "Mental Health of Cambodian Refugees 2 Decades After Resettlement in The United States" *American Medical Association* 294, no. 5 (2005): 571-579.

²⁸⁴ Marshall, *et al.* 2005. p.577.

resettlement—holding down a job and becoming self-sufficient is extremely difficult to do in a short period of time. Lack of English language proficiency can also be a barrier for many refugees to effectively communicate mental health needs and understand treatment plans, even years after resettlement. This can prevent resettled refugees from making use of the general counseling system after government medical support has been terminated.²⁸⁵ Without language resources, either in the form of English language classes or translated health materials, refugees cannot even begin to access the mental health resources the United States has to offer.

Because voluntary agencies, NGOs, and even government programs are not fully equipped to provide for refugees in mental health crises, resettled refugees have few resources available to them. While many, if not all, refugees have experienced some degree of trauma during flight, while in refugee camps, and even during resettlement, not everyone develops severe mental health problems.²⁸⁶ However, each person exposed to trauma requires a degree of community support, resources to understand symptoms of trauma, and knowledgeable care.²⁸⁷ Those who are particularly vulnerable to psychological stress and trauma may be affected long after the resettlement process. In a recent report by the International Rescue Committee (IRC), Iraqi refugees in the United States are at a particularly high risk of having PTSD and other psychological problems from their flight and resettlement experiences.²⁸⁸ The authors suggest that finding employment quickly after arrival is unrealistic for many who have experienced trauma. Without immediate employment, refugees are dependent on voluntary agencies and government support to buy food, obtain medical checkups, and pay rent. However, if neither of these resources is equipped to help those with psychological trauma, these refugees are put in a

²⁸⁵ Sher, 2010.

²⁸⁶ UNHCR. 2002. "Refugee Resettlement: An International Handbook to Guide Reception and Integration" Part 3.1 - Planning for Optimal Mental Health: Responding to Refugee-related Trauma. 231-244.

²⁸⁷ Watters, 2001.

²⁸⁸ International Rescue Committee. 2009.

desperate situation. Without addressing mental health quickly, effectively, and sustainably, integration into the host society becomes increasingly difficult for refugees and their families.²⁸⁹

By failing to address mental health quickly and effectively upon arrival, the United States may actively hinder the livelihood and wellbeing of resettled refugees, and potentially compromise the resettlement work of other organizations. According to the UNHCR handbook for resettlement, an important factor in ensuring trauma recovery and sound mental health is the quality of the environment experienced by refugees post trauma and during resettlement.²⁹⁰ In short, a receptive, helpful, and caring environment can act as the utmost in mental health care, while a stressful resettlement experience hampered by hostility and lack of community support can severely exacerbate symptoms of trauma. For refugees with severe long-term psychological trauma, early intervention is important in order to facilitate resettlement and avoid any further health problems.

By addressing mental health on a holistic, long-term basis, past and present traumas will not become a barrier to resettlement, hindering the efforts and funding of other resettlement programs.²⁹¹ Unexplained chronic pain, mistrust, self-harm, and other symptoms of trauma make it very difficult, if not impossible, for resettled refugees to fully learn English, support a family, maintain a job, and integrate into the local community. To ignore mental health is to undermine the work of hundreds of organizations, millions of dollars, and the work of dedicated staff and volunteers in resettlement programs across the United States. Rather than being a secondary health issue, mental health is critical to the success of refugee resettlement and a healthy, self-sufficient lifestyle.

Early intervention for mental health treatment during and after resettlement will help stem

²⁸⁹ International Rescue Committee. 2009.

²⁹⁰ UNHCR. 2002.

²⁹¹ UNHCR, 2002. p.236

the cost of future healthcare for complex, systemic mental health problems. According to the UNHCR, an optimal approach to mental health treatment combines several strategies. Providing mental health care for refugees in both individual and family settings, as well as supporting “environmental conditions” like housing, employment and social support are essential to finding long-term solutions for refugees dealing with trauma.²⁹² The most effective mental health treatment on a long-term basis involves community support and education. This forms a ‘circle of care’ around refugees living with severe stress related to traumas before and after resettlement.

In a key example of holistic mental health care, the town of Geel, Belgium, cares for mentally ill patients in a unique way that involves the entire community—in family foster care.²⁹³ In a system dating back over seven hundred years, the town of Geel has cared for, monitored, and accepted the mentally ill in a manner difficult to find in many parts of the world. Though far from perfect, the story of Geel emphasizes that the communities’ acceptance and involvement in the lives of those with mental illness can be just as important as clinical treatment itself. In a 2003 study, researchers noted that Geel’s legend of community care is essential in implementing effective mental healthcare.²⁹⁴ The United States does not need to implement a foster system for the mentally ill in order to understand that community involvement and acceptance is crucial in any recovery process. For refugees dealing with trauma, community support is essential.

Community care can often be the most effective treatment for psychological trauma if paired with knowledgeable training and support. In a study in *Issues in Mental Health Nursing*, Bosnian refugee women describe their experiences from their own perspective in the study’s

²⁹² UNHCR, 2002. p.237

²⁹³ Goldstein, JL, and MML Godemont. “The legend and lessons of Geel, Belgium: a 1500-year-old legend, a 21st-century model.” *Community Mental Health Journal* 39, no. 5 (2003): 441-458.

²⁹⁴ Goldstein and Godemont, 2003.

attempt to fill the large gap between scientific studies and policy implementation.²⁹⁵ The authors of this study do not perceive the outcome of surviving war trauma as simply “negative mental health and maladaptation,” but rather choose to promote the recognition of refugees as survivors and remarkably resilient human beings with stories. Taking this into account, resettled refugees who live with emotional and mental trauma can function in the community, in a job, and with a family.²⁹⁶ In light of this research, facilitating programs that foster a sense of belonging, support, and community among refugee women is of the utmost importance in ensuring mental health, trauma recovery, and self-sustainability in the host country.²⁹⁷ In another study on Afghani refugees in the United States who had experienced trauma, researchers found that support groups and a community approach were far more effective than individual counseling sessions or psychiatric therapy.²⁹⁸ Social support is crucial for the recovery of post-traumatic symptoms, and without an investment in whole communities, organizations, and families, mental health will continue to be an escalating issue among resettled refugees.²⁹⁹

Policy Recommendations and Conclusion

Resettled refugees in the United States have fled their homelands in extreme circumstances. They have encountered war, death of family and friends, torture, sexual abuse, discrimination, loss of property, and treacherous journeys.³⁰⁰ Those who have been granted legal refugee status have very strong claims of ‘serious harm’ and have experienced significant trauma. While it is important to aid refugees in getting basic services, even the most basic aspects of resettlement can be compromised if mental health issues are not addressed. In order to become self-sufficient and integrated into the host community, resettled refugees require

²⁹⁵ Keyes and Kane, 2004.

²⁹⁶ Watters, 2001.

²⁹⁷ Keyes and Kane, 2004.

²⁹⁸ Lipson, Juliene G. “Afghan Refugees in California: Mental Health Issues” *Issues in Mental Health Nursing* 14 (1993): 411-423.

²⁹⁹ Keyes and Kane, 2004. p.812.

³⁰⁰ Department of State, Bureau of Population, Refugees, and Migration. 2006.

programs, community support, and resources to address mental health issues. However, if these programs do not have the funding or support to assist refugees after the initial resettlement period, neither can mental health issues be adequately addressed. As a country of refugee resettlement, the United States must recognize the full potential of refugee communities, their professional equality, social acceptance, and aspirations. These, according to Dr. Leo Sher from Columbia University's Department of Psychiatry, "may be the best forms of protection against mental health problems among immigrants."³⁰¹ Investing in trauma recovery for refugees on a long-term basis is an investment in community, family, employment, and future American generations.

Family Support: a Holistic Approach to Mental Health

As a country with a long history of refugee protection, the United States has a responsibility to support the ORR in implementing policy that will equip organizations to meet the mental health needs of refugees. Mental healthcare in conjunction with Family Support Programs like that at ReWA both support the family unit in practical ways and address trauma recovery. In order to provide the most effective trauma treatment for refugees, we advise the Obama Administration to support mental health and family programs like ReWA's and support other organizations around the country to emulate similar programs. We urge the Obama Administration to commit to funding these programs through the Office of Refugee Resettlement in order to ensure supportive, qualified care for the mental, social, and physical needs of refugees on a sustainable basis.

Using Available Resources: Educational Materials and Training

³⁰¹ Sher, 2010. p.7.

Service providers and organizations need to be aware and capable of dealing with emotional and mental stress in refugee populations, both during the initial resettlement phase and as a resource after resettlement. We recommend that the Obama Administration and the ORR address refugee mental health issues by supplying educational materials to voluntary agencies and NGOs working with refugee populations. The UNHCR, World Health Organization, and other health professionals have created an information bank on the recognition and treatment of mental health disorders in at-risk populations like refugees. These resources can be adapted as necessary and used by the ORR to train and educate healthcare workers, NGO workers, and the general American community. This information will help service providers and those involved in refugee resettlement to better serve refugees.

In order to begin this project, we propose that Obama Administration use resources like the manual, *Mental Health of Refugees*, which is intended to help health workers diagnose, treat, prevent and work with mental health issues. Each section addresses practical issues in refugee mental health, as the authors intended this manual to be used in cross-cultural environments, primarily addressing refugees within refugee camps. Many of these same symptoms, diseases, and treatment suggestions are applicable to refugees in the United States post resettlement.³⁰² An adaptation of this manual and others to address the mental health issues of resettled refugees in the United States would make excellent use of available resources provided by the international community. The Office of Refugee Resettlement needs to actively collaborate with the international community and implement these available resources on mental health to educate both resettled refugees and American communities on the effects and treatments of trauma.

Community Involvement: Forming a Circle of Care

This Task Force strongly urges the Obama Administration to invest in a system of

³⁰² UNHCR/WHO. 1996. "Mental Health of Refugees." <<http://www.unhcr.org/publ/PUBL/3bc6eac74.pdf>>.

community mental healthcare that addresses practical concerns such as housing, employment, parenting, and community involvement in order to provide effective care for traumatized refugees. This approach also utilizes organizations and programs already in place in the community.³⁰³ The United States must invest in training workers, religious leaders, and volunteers at NGOs and other organizations already involved with resettlement and invested in refugee wellbeing. In this system of community involvement, we recommend that the Obama Administration, in collaboration with the ORR, provide opportunities for those who work with traumatized refugees to meet together and with a mental health specialist to share experiences and receive additional training. This community training, professional counseling, and ability to debrief can act as a guard against burnout and emotional stress.³⁰⁴ By enabling community organizations to facilitate small groups, friendships, and a safe place to talk about refugee experiences, the United States can provide cost-effective and sustainable aid for the treatment of mental health problems among refugees.

Long Term Care: Thinking Beyond Resettlement

Healing must begin early and continue late to avoid long-term psychological damage. Long-term mental health programs for refugees, educational materials for the community, and service-provider training are crucial in this endeavor to promote refugee health, protection, and wellbeing. In a study based on the mental health screenings of refugees in Colorado, researchers found that successful programs maintained physical and mental healthcare providers in the same location. This was particularly helpful in treating cases of somatization and fostering a sense of security among refugee communities. Culturally sensitive and aware staff, and excellent communication between clinical staff, case managers, and refugees also ensured successful

³⁰³ Savin, Daniel, Deborah J. Seymour, Linh Nguyen Littleford, Julie Bettridge, Alexis Giese. "Findings from Mental Health Screening of Newly Arrived Refugees in Colorado." *Public Health Reports* 120 no. 3 (2005): 224-229.

³⁰⁴ UNHCR, 2002.

mental health treatment programs for refugees post resettlement.³⁰⁵ These strategies of NGO based support programs, practical care for refugee employment and parenting, and community involvement have been highly effective in treating mental health trauma and PTSD. We recommend that the Obama Administration implement these strategies on a long-term scale so that the United States can truly be a place of healing, support, and healthy integration for resettled refugees.

This Task Force commends the Obama administration for recently securing insurance coverage for Americans with mental health disorders.³⁰⁶ The need to address this long-term issue of psychological stress and treatment resources is urgent and apparent. We urge the Obama administration to extend the mandates of the Office of Resettlement and the United States Department of Health and Human Services to meet the needs of refugees who have experienced trauma on a long-term, sustainable basis.

³⁰⁵ Savin, *et. al.* 2005.

³⁰⁶ Pear, Robert. 29 January 2010. "New Rules Promise Better Mental Health Coverage." *The New York Times*. <<http://www.nytimes.com/2010/01/30/health/policy/30mental.html?ref=health>>.

Chapter 9

Why Financing for Programs Needs to be Continued Post-Resettlement: A Look at the Problems of Current Funding and Potential Solutions

Introduction

This chapter will analyze the financial options available to refugees and the importance of continuing financial support of refugees after they have gone through the resettlement process. The financial aspect to refugees' adjustment after resettlement assistance ends is just as crucial as any other part of the resettlement process. The Office of Refugee Resettlement (ORR) only offers cash assistance for up to eight months after a refugee's, asylum seeker's, or trafficked person's date of arrival.³⁰⁷ Problems do not go away once eight months have elapsed. Therefore, funding needs to be continued after the resettlement period officially ends, specifically for organizations that work directly with these refugees so that the organizations can continue to provide programs such as educational services, job training, skill training and communal resources to help refugees and the 1.5 generation become actively involved in their resettlement.³⁰⁸ The period after initial resettlement is critical to making sure refugees can become self-sufficient, which will influence the success of their children and subsequent generations.³⁰⁹ The lack of direct micro-finance loans to refugees is also problematic. Microfinance loans will allow refugees who are resettled in the United States the opportunity to increase their income, contribute to the economy, and reinvest in the United States. This chapter of the Task Force will advocate that a conscientious application of funding can be more

³⁰⁷ The Office of Refugee Resettlement. "Cash & Medical Assistance." last updated Sept 18, 2008. <<http://www.acf.hhs.gov/programs/orr/benefits/cma.htm>>. (accessed January 19, 2010).

³⁰⁸ The 1.5 generation is the generation of children who are born in a foreign country and then immigrate with their parents at a young age. The "half" generation refers to the fact that they are in between the first and second generations being influenced at a young age by both the country they left and the one they came to.

³⁰⁹ Self-sufficiency corresponds to earning a certain percentage above the poverty line. It also implies not being dependent on any cash assistance.

successful than the current approach, which ineffectively seeks to solve refugee problems with a single solution when each refugee has specific needs and problems.

This policy proposal defines the post-resettlement period as beginning when refugee cash assistance from the ORR is terminated, generally six to eight months after resettlement.³¹⁰

However, the problem lies within the lack of financial support for refugees after their initial resettlement. In addressing the needs of refugee policy, the post-resettlement period is a crucial time for refugees because as government support ends, many refugees become overwhelmed by their circumstances and succumb to poverty. Refugees are left on their own to figure out how to survive with insufficient means in a country they have only been in for a few months. Along with the financial obligation, it is the United States' obligation as a global humanitarian power to improve these peoples' lives. Furthermore, it is important to not only provide adequate funding for refugees post resettlement but also target the funding towards organizations, education, skills and job training, and loan programs so that refugees are able to achieve a level of economic stability. If the United States is able to provide enough support for these refugees at this important period following resettlement assistance's end, the percentage of those attaining self-sufficiency will increase.³¹¹ This policy paper will begin by addressing the United States' investment in the refugee resettlement process. Then it will analyze the funding and programs that are already in place for refugee resettlement on a national level before finally concluding with recommendations on how to best fund post- resettlement assistance.

The United States' Investment

The United States allocates hundreds of millions of dollars each year to provide assistance for refugees internationally, which makes it crucial to ensure that this money is being

³¹⁰ The Office of Refugee Resettlement. "Cash & Medical Assistance." last updated Sept 18, 2008. <<http://www.acf.hhs.gov/programs/orr/benefits/cma.htm>>. (accessed January 19, 2010).

³¹¹ Halpern, Peggy PhD. "Refugee Economic Self-Sufficiency: An Exploratory Study of Approaches Used in Office of Refugee Resettlement Programs." U.S. Department of Health and Human Services. Nov 2008 <http://aspe.hhs.gov/hsp/08/RefugeeSelfSuff/> (accessed February 8, 2010).

spent wisely. In 2009, the United States donated \$640,126,528 to the UNHCR.³¹² Accounting for over one-quarter of the UNHCR's budget, these funds were used to provide services and resources to refugees abroad and to help them resettle across the world with the intended goal to be one of the three durable solutions.³¹³ The size of this aid package demonstrates the significant investment that the United States has put into refugees before they come to the United States. Additionally, the United States Congressional Budget for 2008 provided \$169,141,966 to the Office of Refugee Resettlement (ORR) for Cash and Medical Assistance Awards.³¹⁴ This figure shows that the United States cares about refugees enough to invest a significant amount of money in the process of refugee resettlement. Further showing the importance of refugees, the Obama Administration has set the refugee quota of 80,000, meaning that the United States is prepared to accept that many refugees in the coming year.³¹⁵ Therefore, it is in the United States' best interest to provide the necessary and case-specific resources to refugees so that they may become economically sound rather than reliant upon welfare assistance.

From a financial perspective, the United States is making an investment in human capital. It has invested in protecting refugees abroad, providing assistance, and lastly taking upon itself the financial responsibility of admitting refugees into the United States. Given the capitalist economic system in which it participates, the United States should see its investment through so that it may benefit from the millions of dollars it annually invests in refugees. This is not to say that humanitarian aid is purely financially motivated; however, in looking at refugee

³¹² United Nations High Commissioner for Refugees. "Donors." as of December 18, 2009. <<http://www.unhcr.org/pages/49c3646c26c.html>>. (accessed January 22, 2010).

³¹³ United Nations High Commissioner for Refugees. "What We Do." as of December 18, 2009. <<http://www.unhcr.org/pages/49c3646cbf.html>> (accessed January 22, 2010).

³¹⁴ The Office of Refugee Resettlement. "FY 2008 Cash & Medical Assistance Awards." last updated February 3, 2009. <<http://www.acf.hhs.gov/programs/orr/funding/cma.htm>>. (accessed January 19, 2010).

³¹⁵ The Office of the Press Secretary. "President Obama Signs Presidential Determination Authorizing Up to 80,000 Refugee Admissions in the Fiscal Year 2010." The White House, Sept 30, 2010. <http://www.whitehouse.gov/the_press_office/President-Obama-signs-Presidential-Determination-Authorizing-up-to-80000-Refugee-Admissions-in-Fiscal-Year-2010>. (accessed January 19, 2010).

assistance and protection from the fiscal perspective, it seems rational that if the United States has invested a significant amount of money into getting refugees here, it should look to regain its investment. The United States will regain its investment through refugees becoming self-sufficient and thus contributing back to the United States economy. It is in the United States best interest to ensure that refugees in the United States are able to become solvent so that they can become productive members of society.

Where Funding Needs to be Directed

Resettlement funding needs to be going to organizations that work directly with those refugees seeking assistance. Initial funding is provided towards volags. When refugees come to the United States they are assigned to a volag and the direct funding from the government is used to provide initial “reception and placement” services for 30 days after the refugees’ arrival.³¹⁶ Volags then may provide cash assistance for four to six months after this.³¹⁷ However, the turnover rate for a volag is quite quick and insufficient to create a strong relationship between refugees and their case workers.³¹⁸ After this short period of time, refugees turn to Mutual Assistance Associations (MAAs). These agencies personally know refugees and their specific needs post-resettlement. Their ability to utilize funds efficiently makes them one of the best mediums through which to channel resources. Relationships between resettlement agencies and resettled refugees are important because they provide an additional level of social and financial stability to refugees who have previously lacked stability. Continued aid and services would be

³¹⁶ California Department of Social Services. “Voluntary Resettlement Agencies (VOLAGS).” January 2008. <http://www.dss.cahwnet.gov/RefugeeProgram/Res/pdf/FactSheets/VOLAGs_FactSheet.pdf>. (accessed February 8, 2010).

³¹⁷ The Office of Refugee Resettlement. “Synthesis of Findings from Three Sites.” Sept 2008. <http://www.acf.hhs.gov/programs/orr/resources/synthesis_of_finding5.htm>. (accessed February 8, 2010).

³¹⁸ Wisconsin Department of Children and Families. “The Path to Resettlement.” <<http://dcf.wisconsin.gov/refugee/resettlement.htm>>. (accessed February 8, 2010).

beneficial because refugees who received social and financial support from resettlement agencies can become more productive members of American society.³¹⁹

Currently, government funding to refugee resettlement organizations is insufficient.³²⁰ Many refugee resettlement and support agencies are understaffed, and some agencies are being forced to close due to limited funding.³²¹ For agencies that are still able to serve refugees, the funding is inadequate for obtaining basic supplies. It is illuminating to look at the wish lists of refugee organizations; for example the Refuge Women's Alliance Wish List was comprised of relatively inexpensive items that would directly benefit refugees, like school supplies.³²² These things are not costly, but the organizations recognize that they are important tools in helping those being resettled. Furthermore, the items requested are often things that can be used repeatedly by the organization to continually help those in the resettlement process rather than items that can only be used once. This means that once the organization has the item it will not be something that has to be continually provided by the government. If organizations were given these tools, they would be able to provide people services for an extended period of time after direct government financial support has ended.

Many refugees have the desire to succeed; all they need are the means to do so. For example, Tan Ly came to the United States as a refugee in 1979 from Vietnam and within 13 years had graduated from college, was hired at Hill Air Force Base where he is now chief

³¹⁹ The Office of Refugee Resettlement. "Part II: Program Description and Performance Analysis." *Annual Performance Plans and Reports*. 2005. <http://www.acf.hhs.gov/programs/opre/acf_perplan/ann_per/apr2005/apr_sg1_12.html>. (accessed February 7, 2010).

³²⁰ Deffenbaugh, Ralston H. Jr. and Heather L. Feltman. "U.S. refugee-resettlement program needs reform" *The Providence Journal*. April 30, 2009. <http://www.projo.com/opinion/contributors/content/CT_refugee30_04-30-09_S1E4VF6_v12.3e6a08c.html>. (accessed February 7, 2010).

³²¹ Forgrave, Reid. "Two Iowa refugee agencies to end resettlements." *The Iowa Register*. January 27 2010. <<http://www.desmoinesregister.com/article/20100127/NEWS/1270375/Two-Iowa-refugee-agencies-to-end-resettlements>>. (accessed February 8, 2010).

³²² Refugee Women's Alliance. "Donate." Copyright 2008. <<http://www.rewa.org/donate.html>>. (accessed January 19, 2010).

engineer, and built his own home.³²³ However, the current situation is different. The United States Refugee Resettlement program is now inadequate and inefficient due to an increase in the number of refugees that the United States accepts without a corresponding increase in budget. This increase in budget is needed for tailoring solutions to the needs of the diverse refugee population that the United States is receiving.³²⁴ There needs to be funding for MAAs because they are able to provide the individualized plans that refugees need. If MAAs were to receive the necessary funding to provide case-specific plans, then more refugees would become economically self-sufficient members of their communities.

Two programs in which there is a lack of funding by the United States for refugee support are towards refugee specific education and microfinancing programs. MAAs are important in this process because they are the organizations that help refugees find these resources. Providing educational resources for refugees is crucial because it will provide them with the skills needed to enter the work force. Additionally, there is not enough support for programs like Head Start, which is an early childhood development program. In a recent article focusing on the experience of refugee children, Tadesse et alia, look at the teaching methods and response by students and their mothers and conclude that it is beneficial for these children to have an education which encourages the interaction of a American education with the refugees' respective cultures.³²⁵ This is especially relevant to the 1.5 generation because they have to integrate into the American education system when they may know hardly any English at all.

The other area in which the United States does not invest enough is programs which provide microfinance loans to refugees. There are not enough of these programs despite the fact that they can be very beneficial. One program in operation is the Jumpstart Fund which using

³²³ Moulton, Kristen. "Today's refugees face harsher adjustment as program funding, flexibility lag." *The Salt Lake Tribune* (12 June 2009), <http://www.sltrib.com/ci_10678040>. (accessed January 22, 2010).

³²⁴ Moulton.

³²⁵ Tadesse, Selamawit, James Hoot and Ocie Watson-Thompson. "Exploring the special needs of African refugee children in U.S. schools." *Childhood Education*, 85.6 (2009): 352-357.

funding from the ORR provides microloans of \$500-\$10,000 to refugee entrepreneurs to start their businesses.³²⁶ These loans are not a lot, but after initial cash assistance, most refugees do not have much left. This added financial assistance can provide the necessary amount to elevate refugees from struggling to self-employment. This is something that should be encouraged because microfinance loans can help refugees become successful like Hussein Duale who started his own grocery store and café in Tukwila, Washington.³²⁷

In light of the current financial climate of global recession, it is important to note that rather than requiring more funding, the Obama Administration can provide the necessary services through a better and more equitable allocation of resources for refugees' post-resettlement assistance. The United States plays a critical role in the global refugee regime, and with financial resources already strained and a deficit at \$1.4 trillion in 2009, the United States needs to ensure that those refugees it admits are able to succeed so that the country can increase its income in the long term.³²⁸

Current Funding and the Economic Situation

The United States is still recovering from the global economic decline and its own recession, so it is important that governmental spending be effective and worthwhile. Being in an economic recession puts all spending under scrutiny. The United States government spends hundreds of millions of dollars on refugee resettlement, illustrating the importance of resettlement assistance. It should be equally important that the United States provide for those refugees that it resettles because if refugees do not become self sufficient it will only exacerbate

³²⁶ Jumpstart Fund. "Program Description." Copyright 2010.

<http://www.jumpstartfund.org/Program_Description.html>. (accessed February 9, 2010).

³²⁷ Jumpstart Fund. "Success Stories." Copyright 2010. http://www.jumpstartfund.org/Succes_Stories.html (accessed February 16, 2010).

³²⁸ Faler, Brian and Juliana Goldberg. "U.S. Deficit for 2009 Totals \$1.4 Trillion, Budget Office Says" *Bloomberg Press*. Oct 8, 2009. <<http://www.bloomberg.com/apps/news?pid=20601103&sid=aA8lChe4zUQU>>. (accessed January 19, 2010).

the social and economic problems associated with poverty that are seen in the United States. The problem with the period after resettlement assistance has ended is that when federal aid runs out, refugees do not have sufficient resources and are forced into the welfare system. Current government direct assistance is limited to the resettlement period in the form of cash assistance. There are different kinds of cash assistance. The first kind is federal assistance; however, this ends after 6-8 months. After this point, refugees have to go through the state cash assistance programs to receive assistance. This process varies by state, and each state has its own requirements. For example, the Washington State Department of Social and Health Services (DSHS) Refugee Cash Assistance (RCA) for a family of three is \$562 per month.³²⁹ However, eligibility requirements for state-based RCA programs are stringent, and while the aid given is helpful, it is not enough to help people achieve economic self-sufficiency. Additionally, because of the current economic climate in this example, the Washington State budget for the Economic Services Administration has decreased by 7.1 percent or \$159,306,494. This budget decrease means that assistance will be less available and people will have to look towards voluntary organizations to help them. Williams and Batrouney write that refugees have higher unemployment, lower earnings, and lower occupational attainment than other immigrants.³³⁰ While their conclusions are drawn from Australian data sets, the same problems which lead to their results can be found in the United States. For example, refugees are having a harder time finding entry level jobs in the United States.³³¹ The shortage of entry-level jobs makes the employment market more competitive. Refugees who may have been hired previously will not find jobs in the current market, leaving these refugees with few viable solutions for income

³²⁹ Washington State Department of Social and Health Services. "Refugee Cash Assistance." Modified August 31, 2009. <<https://fortress.wa.gov/dshs/f2ws03esaapps/onlinecso/rca.asp>> Accessed January 19, 2010.

³³⁰ Williams, L & Batrouney T. "Immigrants and poverty." *Australian poverty then and now*. Melbourne University Press, Melbourne. (1998).

³³¹ Gaynor, Timothy. "Iraqi refugees face poverty, eviction in U.S.: study." *Reuters*. June 16, 2009. <<http://www.reuters.com/article/idUSTRE55F62I20090616>>. (accessed January 22, 2010).

generation. It would be beneficial to the United States to provide funding post-resettlement in the form of education, job training and microcredit loaning. These programs would enable refugees to increase their own standard of living and contribute revenue to the United States economy rather than being reliant on welfare programs.

Programs Currently being Implemented

The following programs are ones that the United States has in place to provide refugees with assistance in the hopes that they become integrated members of their new home. These programs provide necessary services; however, they fall short of ensuring economic success for all refugees. The overarching American program is the Refugee Transitional and Medical Services (RTMS) program. This program seeks to help refugees and entrants into the United States in attaining self-sufficiency as soon as possible after their arrival. The three major programs under the RTMS program are Refugee Cash Assistance, the Matching Grant program, and the Wilson-Fish program.³³² For the fiscal year 2009, the United States Federal government granted \$269 million to the program. Government organizations hope refugees obtain self-sufficiency within 180 days of arrival.³³³ For 2010 the RTMS target for refugee self-sufficiency within 180 days is 81 percent of refugees.³³⁴ The target goal is problematic because if the minimum RTMS target is achieved then approximately 16,000 of the refugees admitted will not attain self-sufficiency. Additionally, one of the caveats to quantifying the results this way is that it omits those that receive Temporary Assistance for Needy Families (TANF) or other such welfare benefits who are not eligible for RCA. Therefore, there are refugees who do not receive

³³² Expectmore.gov. "Program Assessment." Assessed Fall 2005.

<<http://www.whitehouse.gov/omb/expectmore/summary/10003506.2005.html>>. (accessed January 19, 2010).

³³³ Department of Health & Human Service. "Refugee Transitional and Medical Services." Assessed Fall 2005.

<<http://www.whitehouse.gov/omb/expectmore/detail/10003506.2005.html>>. (accessed January 19, 2010).

³³⁴ Department of Health & Human Service. "Refugee Transitional and Medical Services." Assessed Fall 2005.

<<http://www.whitehouse.gov/omb/expectmore/detail/10003506.2005.html>>. (accessed January 19, 2010).

official cash assistance but are still reliant on other programs, and thus should not be considered as self-sufficient.

Another program available for to help refugees economically as part of RTMS is the Matching Grant Program, whose goal the ORR states “Is to help refugees, certain Amerasians, Cuban and Haitian entrants, asylum seekers, and certified victims of human trafficking attain economic self-sufficiency within four to six months from date of arrival into the United States.”³³⁵ The program meets its objectives by providing grants to volags to resettle newly arrived refugees and assist them in becoming economically self-sufficient within the first four to six months in the United States without accessing public assistance. The RTMS 2010 target goal of those participating in the Matching Grant program to achieve self-sufficiency within 180 days is 80.5 percent of those enrolled in the program, meaning that program anticipates nearly 20 percent of those enrolled to fail. Additionally, those refugees that lack certain skills are deemed ineligible to enroll in the Matching Grant program and are left to find their own means of survival. If these refugees are not successful they will likely live in poverty. For example, thousands of the approximately 19,000 Iraqi refugees who have resettled in the United States are living in poverty.³³⁶ This result is not beneficial to the United States. It is not in the United States’ best interest to put so much money into refugee resettlement programs and then let so many become further dependent on the United States. By supporting local educational and occupational training programs, the government can increase the number of those refugees that will provide a long-term economic contribution to the government.

The third program included in the RTMS programs is the Wilson-Fish Program which connects the federal and local levels of refugee assistance; however, it is only available to

³³⁵ The Office of Refugee Resettlement. “Matching Grant Program.” Updated February 4, 2010. <http://www.acf.hhs.gov/programs/orr/programs/match_grant_prg.htm>. (accessed January 22, 2010).

³³⁶ Gaynor, Timothy. “Iraqi refugees face poverty, eviction in U.S.: study.” *Reuters*. June 16, 2009. <<http://www.reuters.com/article/idUSTRE55F62I20090616>>. (accessed January 22, 2010).

refugees for a limited period of time. The Wilson-Fish Program is a government funded program that provides refugee support by providing funding through agencies. This process needs to be encouraged for the post-resettlement period. While the Wilson-Fish Program does help after refugee cash assistance ends, the majority of the program's work is limited to resettlement programs. Wilson-Fish clients fall into either of two categories. In the first category, the state in which the refugee lives sub-contracts to resettlement agencies and other private organizations outside of the state welfare system to handle all elements of the resettlement program including refugee cash assistance. The second category is fully privatized programs implemented by a local refugee resettlement agency when a state decides to cease state level participation in the resettlement program.³³⁷ This program provides a link between federal and local agencies. The Wilson-Fish Program serves as a model for what can be achieved because while cash assistance is only provided for a maximum of eight months, the amount of time that services are available can be extended.³³⁸ It is crucial that these services be extended past the point that RCA eligibility ends because the services and skills the Wilson-Fish Program provides will help much more than giving refugees money. Refugees who receive Wilson-Fish Program services will be able more likely to move away from reliance on the government because they will be able to provide for themselves financially. As the Federal Grant states, "[Grant renewals are] contingent upon funding availability, grantee performance, and the best interest of the government."³³⁹ This last condition is key because renewals will not be necessary if refugees receive enough education and skills training with their first grant. Then the funds which would have been a renewal grant

³³⁷ Gilbert, Peggy. "Wilson-Fish Refugee Resettlement Programs." Institute for Social and Economic Development (ISED) From September 29, 2009. <<http://www.ised.us/projects/wilson-fish.html>>. (accessed January 23, 2010).

³³⁸ Federal Grant Wire. "Refugee and Entrant Assistance-Wilson/Fish Program (93.583)" 2010. <<http://www.federalgrantswire.com/refugee-and-entrant-assistancwilsonfish-program.html>>. (accessed February 8, 2010).

³³⁹ Federal Grant Wire. "Refugee and Entrant Assistance-Wilson/Fish Program (93.583)" 2010. <<http://www.federalgrantswire.com/refugee-and-entrant-assistancwilsonfish-program.html>>. (accessed February 8, 2010).

can be given to new refugees so that they too can become successful which is in the best interest of the government. It is through these three programs that most federal refugee aid is directed, however, the period for which these services are offered is limited. Therefore, to ensure refugee success, aid must be provided after this initial period.

What Resources are Available Post Resettlement

Since the government does not have any direct programs for this post-resettlement period, the majority of aid post-resettlement falls to agencies in the non-profit sector, towards which not enough attention and funding is being drawn. One agency that provides services post-resettlement is the International Rescue Committee (IRC). The IRC is a large-scale non-profit which helps refugees at all stages of their experience, helping refugees abroad and domestically during and after resettlement. As evidence of their assistance to refugees after resettlement, the IRC has programs such as the Project for Strengthening Organizations Assisting Refugees (Project SOAR), which assists organizations founded by refugees. The non-profit organizations Project SOAR serves seek to provide additional refugees resources. An example of a Project SOAR organization is a group of Vietnamese refugees in New Jersey who want to start a program to assist Vietnamese women who feel isolated in their communities.³⁴⁰ Funded in part by the United States Office of Refugee Resettlement, Project SOAR provides technical assistance in the area of organizational capacity building to ensure that the groups the IRC assists accomplish their goals.³⁴¹ However, the primary focus of the IRC is on international relief and response. The IRC states that “since 1933, the International Rescue Committee goes to crisis

³⁴⁰ The International Rescue Committee. “Project for Strengthening Organizations Assisting Refugees.” Copyright 2010. <<http://www.theirc.org/program/project-strengthening-organizations-assisting-refugees-soar>>. (accessed January 22, 2010).

³⁴¹ The International Rescue Committee. “Project for Strengthening Organizations Assisting Refugees.” 2010. <<http://www.theirc.org/program/project-strengthening-organizations-assisting-refugees-soar>>. (accessed January 22, 2010).

zones to rescue and rebuild. We lead refugees from harm to home.”³⁴² This statement does not address aid given to refugees post-resettlement. This critique is not meant to discount agencies like the IRC, which are admirable and ambitious, but rather to point out that large non-profit organizations are not as focused on issues that arise after resettlement as they could be. The IRC is important because it rescues these people from their situations, but for the most part this is where large organizations’ support ends. However, if a large percentage of those refugees who have been rescued and resettled in a third country are coming to the United States, then the United States government must take measures to ensure that these people become economically successful so that they can have a better life than the one they left. This way, the effort put in by international organizations is not wasted and the United States gains a new source of economic contribution.

This Task Force argues that the best way to succeed in helping refugees after resettlement assistance ends is through governmental financial support of local mutual assistance agencies, or “self-help” agencies. The international organizations whose resources and attention are broad and often unspecific cannot address all of the problems that refugees face. It is upon local agencies which the responsibility to provide the services needed to help refugees post-resettlement become economically self-sufficient falls. One of the largest services provided is the knowledge and dedication of the agencies’ employees. People that work with local agencies are not highly paid. For example, the REWA budget for 2008 was \$4,123,432; of this only, \$295,515 was dedicated to management and general costs including compensation of staff of over 150 members. This represents 7.1 percent of their total budget. The percentage of the REWA budget dedicated to paying its employees is small and it is important to keep these

³⁴² The International Rescue Committee. 2010. <<http://www.theirc.org/>>. (accessed January 22, 2010).

workers paid. There is not enough Federal governmental support providing resources to local agencies when they have the most interaction with refugees. This contact enables refugees to establish a trusting relationship with local mutual assistance agencies, making both parties personally connected to the process of achieving self-sufficiency. Refugees are placed in a new home with a new language in the United States, and look to the community and the organizations within it to help them through the process of incorporation. Community development is a crucial part to successful integration and participation for resettled refugees. In order to be successful, post-resettlement financial aid needs to be given to these agencies because they know refugees best, and work with refugees to determine what will provide the most aid to the refugees. The need for stability in the lives of refugees is key to the post resettlement period. Local organizations can provide that stability. To highlight the power and influence local organizations can have, this chapter will look at the MAA organization Horn of Africa Services.

Horn of Africa Services(HOAS)

Founded in 1992, the Seattle-based organization provides assistance to East African refugees and immigrants.³⁴³ It aims to provide services that will help refugees and immigrants become strong, contributory members to their communities both socially and economically. HOAS takes a holistic approach in providing advocacy and educational services. The organization uses this approach because they feel that it lends itself to a deeper understanding and tolerance in the communities and brings a positive-influence and self-reliance to peoples' lives. When they are no longer eligible for federal RCA, refugees go to local organizations like HOAS, which focuses on services after resettlement assistance has ended. The difference between the HOAS and the IRC or other volags is that HOAS's workers have familiarity with the issues faced by refugees post-resettlement. The director of HOAS writes that HOAS "staff

³⁴³Horn Of Africa Services. "Home." 2009. <<http://www.hoas.org/>>. (accessed February 9, 2010).

members have become the extended family of individuals and families in the areas we serve, which allows for high levels of trust, communication, and positive outcomes.”³⁴⁴ Creating an organization that helps refugees and the local community is the best way to ensure that refugees become successful post resettlement. In this time of recession, HOAS has made it their focus to provide skills to their clients that are relevant in the current economy and job market.³⁴⁵ The United States government needs to provide aid to refugees through these local organizations after resettlement assistance has ended. Providing such aid is a statement to refugees that not only that HOAS believe in them, but that the United States believes in them and is willing to provide them the tools to be successful. This statement’s impact would be powerful because refugees, like Tan Ly, will give back to the country if they have the means in this period post resettlement.

Recommendations

In looking at refugees’ needs post-resettlement, it is important to note the problems associated with a lack of funding for refugees at this point. Without proper resources made available to refugees post resettlement, the hundreds of millions of dollars spent by the United States on the refugee cause are not being used responsibly. The huge amount of taxpayer money at stake makes it important to fund local organizations because they can do the most to help refugees succeed. The Obama Administration needs to focus more attention on allotting funds to keep volunteers and workers at refugee support organizations because these workers and volunteers understand the resettlement process. Resettlement agency workers and volunteers are able to use their knowledge to provide better services to refugees post-resettlement, which could ultimately relieve financial burdens on refugees and the federal welfare system. The government needs to reward the commitment staff at refugee community organizations have to helping

³⁴⁴ Horn Of Africa Services. “Home.” 2009. <<http://www.hoas.org/>>. (accessed February 9, 2010).

³⁴⁵ Southern Sudanese Community of Washington. “Immigration and Resettlement Assistance.” 2008. <<http://www.sscw.org/taxonomy/term/27/9>>. (accessed February 23, 2010).

refugees. The government can do this by helping organizations compensate their staff so that those passionate about helping refugees can afford to continue to do so. By helping to keep the staff with these organizations, community organizations can help refugees become economically stable and the United States will benefit from these refugees' long-term economic contribution.

The United States should provide support for post-resettlement programs in the areas of educational and occupational opportunities because the United States will benefit if it is easier for the children of refugees to succeed. By training refugees and their children, the United States will provide resettled refugees with the means to become economically self-sufficient.

Educational programs, especially those with a focus on childhood education, are important because they provide youth with the necessary transition into becoming successful members of American society.

From an economic standpoint, providing assistance to refugees post-resettlement is a step towards ensuring that the United States' investment in refugees is worth the cost of resettlement aid and that refugees become able to contribute to and reinvest in the U.S. economy. It is in the United States' best interest to make sure that the refugees it has already spent millions of dollars to help are able to become productive citizens instead of being marginalized when refugee cash assistance is terminated. Providing economic resources such as microfinance loans are one way in which refugees can achieve economic self-sufficiency. The Obama Administration should consider providing funding for these loans through local organizations. This type of investment is more responsible than simply giving refugees money. Microfinance loans give refugees a sense of ownership in becoming self-sufficient. This will motivate refugees to work hard to succeed.³⁴⁶ This additional loan during the post-resettlement period can give them the means to

³⁴⁶ Johnson, Khari. "Microloans help San Diego refugees grow businesses, jobs." *All Voices*. February 2, 2010. <<http://www.allvoices.com/contributed-news/5152832-microloans-help-san-diego-refugees-grow-businesses-jobs>>. (accessed February 9, 2010).

create a lasting business on which they will pay taxes for years to come. Thus by providing a microfinance loan during this pivotal time, the United States will be able to collect revenue that surmounts the initial investment.

In conclusion, the United States spends hundreds of millions of dollars each year on helping refugees. However, the period after resettlement is one that is underfunded. By not allocating sufficient resources to refugees in this period, the government and taxpayers are losing the investment put into protecting refugees and resettling them in the United States. By providing adequate resources for educational and occupational refugee training, the United States will create a body of people that is invested in their new home emotionally and financially. Educational and occupational training will allow people to gain the skills necessary to enter the job market. Therefore, if the United States government helps refugees reinvest into the United States financially, refugees will work hard to maintain this level of economic success. The long-term benefits of funding post-resettlement for the United States could be significant. If the Obama Administration were to allot funding to local organizations, self-sufficiency programs will be the most efficient. These services and agencies are all that refugees have once government assistance ends, so it is important that refugee community organizations receive the funding they need. Refugees have overcome numerous obstacles to get to the United States, and they should not be left to fail when resettlement assistance ends, which is an insult to both refugees and the United States. However, the benefit of funding certain post-resettlement programs outlined above will create economic benefits for the United States and refugees.

Section III Introduction

While UNHCR has recently been involved in the protection of forced migrants who are outside of its traditional mandate, such as IDPs, the protection levels are not adequate and do not address all of the types of emerging forced migrants who need protection. These other forced migrants that often get overlooked are stateless persons, environmentally displaced persons, persons displaced due to foreign intervention, as well as IDPs. This section will introduce emerging concerns facing UNHCR and the international community, and recommend legally addressing these populations.

This section begins by analyzing how UNHCR has been pressured by the international community to expand its mandate to include other would-be refugees in its humanitarian protection and assistance, and the insufficient protection it has been able to offer. Chapter 10 addresses the circumstances where UNHCR has assisted other displaced populations such as internally displaced persons (IDPs). Additionally, the chapter introduces other forced migrants, known as regular and irregular secondary migrants, who cross international borders to flee persecution but also to escape economic and social suffering. This Task Force recommends the United States to address protection needs for all types of forced migrants through adopting already established regional conventions, extending protection, paying more attention to preparedness and contingency, to support UNHCR in facilitating a legal framework to address other types of forced migrants, and to strengthen the Cluster Approach to make it more effective.

Chapter 11 discusses how environmental conditions such as natural disasters and climate change impacts lead to forced migration. The chapter addresses how a lack of a legal framework results in neglect of environmentally forced migrants. We recommend recognizing environmentally forced migrants as a population that faces challenges comparable to Convention

refugees and to offer legal protection, to address climate change so as to prevent a massive migration scenario, and to distinguish environmentally forced migrants from economic migrants.

The next chapter evaluates the current conditions of refugee camps. Chapter 12 uses a case study to focus on the protracted refugee situation in Kakuma Refugee Camp located in Northwestern Kenya. The difficult conditions of the protracted camp refugee situations are revealed, stating insufficiency in food and water, low education standards, domestic violence, and general insecurity. We recommend improving camp conditions by providing sufficient humanitarian support, and offering durable solutions to refugees instead of warehousing them in camps.

Finally, Chapter 13 addresses the United States' humanitarian responsibility relating to forced migration as a result of its intervention in countries such as Colombia. The United States' response to foreign conflict has led to forced displacement or vulnerability to displacement in regions where it has intervened, directly or indirectly. Policy recommendations include ceasing funding for practices that result in forced migration, expanding farming programs that are alternatives to harmful practices, advising Colombia to stop all crop spraying, and acknowledging the ways in which intervention can directly or indirectly create displacement crises.

Chapter 10

International Refugee Regime and Forced Migrations

It is clear that, in the 21st century, the most common types of forced migrants are largely outside of the definition of Convention refugees. Present-day forced migrants flee a mixture of complex situations and seek safety in a variety of settings. This chapter will discuss how the UNHCR has been forced to step outside its original mandate to now protect and assist the wide range of forced migrants who need international attention and assistance. Additionally, the chapter will introduce other types of forced migrants known as regular and irregular secondary migrants, who cross international borders both to flee persecution and to escape economic and social suffering. Due to recent changes in forced migration patterns, the UNHCR has been forced to step outside of its long-established mandate of exclusively emphasizing refugee protection to assisting other displaced populations such as internally displaced persons (IDPs). From at least the 1970s, the UNHCR has aided persons still within their home countries.³⁴⁷ Because there is no other organization that has been specifically authorized to deal with forced migration populations, the international community assumes the UNHCR to have responsibility to intervene and provide assistance to all forced migrants despite their motivations. Regular and irregular migrants are beyond the reach of the UNHCR's mandate and are just beginning to receive attention as a vulnerable population. The problem is that the current international framework is inadequate to protect and assist the full range of forced migrants. In addition, there are other types of forced migrants besides Convention Refugees that are not being recognized.

The UNHCR's Involvement with non-Convention Forced Migrants

The historical precedent for the UNHCR to be called on by the international community in protecting and assisting displaced groups who fall outside the agency's mandate places too

³⁴⁷ Martin, Susan F. et al., *The Uprooted: Improving Humanitarian Responses to Forced Migration* (Maryland: Lexington Books, 2005), 85.

much pressure on the UNHCR, therefore limiting its capacity to help Convention refugees. The international community's involvement with forced migrants of Iraq in early 1990s illustrates that the international humanitarian regime lacks the official structures to reach the entire category of forced migrants. The Security Council Resolution 688, adopted on 5 April 1991, authorized humanitarian assistance to all those in need in northern Iraq without any mention of whether the Kurds in need of assistance were refugees or IDPs.³⁴⁸ The United States and the international community recognized that the Kurds did not cross an international border, but had the same or similar problems as Convention refugees in terms of need and protection. Thus, the international community, led by the United States, requested that IDPs located in northern Iraq be protected and assisted promptly because the UNHCR's framework did not include IDPs under the 1951 Refugee Convention. The consequence of the United States' request for assistance with Iraqi IDPs pressured the UNHCR to expand its scope to assist internally displaced populations. The bold decision to protect and assist the IDPs in northern Iraq allowed the UNHCR to reach other previously excluded forced migrants.³⁴⁹ Hence, in 1992, the United Nations Secretary General expanded UNHCR's responsibility to the IDPs by appointing a Special Representative for IDPs, and in 2005, the UNHCR and other members of the international humanitarian regime created the Cluster Approach for protecting and assisting IDPs.

Cases where states and interests exert pressure on the UNHCR illustrate the fact that forced migrants in need of aid include a variety of displaced people that the current international humanitarian framework leaves unidentified. The causes of forced migration are more varied than the conflicts that create refugees because non-refugee forced migrants flee to escape a

³⁴⁸ Suhrke, Astri. "Reflections on regime change," *Forced Migration Review*, February 7-8, 2003, 15. <<http://www.fmreview.org/FMRpdfs/Supplements/TrondheimConf.pdf>>.

³⁴⁹ Suhrke, 15.

variety of situations and seek safety in a variety of settings.³⁵⁰ For instance, Convention refugees flee persecution and are recognized after crossing an international border, while other forced migrants such as IDPs remain in their home countries seeking safety. Refugees receive the greatest attention from the international community because there is a legal response to their plight through the 1951 Convention. However, many people in the academic world and the humanitarian community push for a more inclusive classification of the term “refugee” to include other displaced populations such as IDPs. Susan F. Martin applies the concept of forced migrations to capture the full range of forced migrants stating, “This definition of forced migrants includes persons who cross international borders in search of refuge as well those who are internally displaced.”³⁵¹ This approach goes beyond the traditional exclusive vocabulary of Convention refugees to include other displaced populations such as IDPs, who demand similar attention but are still within their home countries. The former Representative of the UN Secretary-General on Internally Displaced Persons, Dr. Francis M. Deng also notes the resemblance of refugee and IDP needs during and after emergencies by arguing that IDPs have the same needs as refugees, but have not crossed international borders.³⁵² IDPs face challenges that are analogous to refugee problems, although IDPs have not crossed an international border to seek protection and assistance, which would make them eligible for the type of humanitarian aid that refugees receive. In practical terms, refugees and IDPs are confronted by many of the same threats and problems: lack of adequate shelter, food, water, sanitation and health care; risk of sexual and gender-based violence; vulnerability to human smuggling and trafficking; and inadequate access to justice.³⁵³ Needless to say, IDPs and refugees face human rights violations

³⁵⁰ Martin et al., 3

³⁵¹ Martin et al., 1

³⁵² Deng, Francis M. "Opening Remarks," *Forced Migration Review*, February 7-8, 2003, 5. <<http://www.fmreview.org/FMRpdfs/Supplements/TrondheimConf.pdf>>.

³⁵³ Feller, Erika, "UNHCR's role in IDP protection: opportunities and challenges," *Forced Migration Review*, December 2006, 12. <<http://www.fmreview.org/FMRpdfs/BrookingsSpecial/07.pdf>>.

including restrictions on freedom of movement; violations of land, housing and property rights; and forcible recruitment to the armed forces and militia groups.³⁵⁴ Refugees and IDPs display similar needs, yet the international humanitarian framework does not currently define IDPs or grant them equal and sufficient privileges and protection.

The definition of forced migration is too fluid because it allows former refugees to become newly classified as IDPs based on changing circumstances. The similarity between refugees and IDPs hints at the current problems that the definition of forced migration are fluid, and that the international humanitarian framework is incapable of reaching the growing numbers of forced migrants. A case in point is that of Burundi's refugee crisis in early 2000s. The repatriation of Burundian refugees from Tanzania illustrates how forced migrants move from one status to another during the period of displacement. Burundi's internal conflicts have lasted for decades, resulting in thousands of deaths and producing thousands of forced migrants, including refugees and IDPs. In 2003, there were approximately 639,000 Burundian refugees in neighboring countries, plus 200,000 living in Tanzanian settlements since 1972.³⁵⁵ As of November 2002, there were approximately 380,000 IDPs living in camps and an unknown number of men, women, adolescents and children who were otherwise dispersed in Burundi.³⁵⁶ Negotiations started in 1998, leading to a Peace Agreement in August 2000 (not all parties to the conflict agreed and the Agreement was fragile), so some refugees were able to return to their homes.³⁵⁷ Nonetheless, the returnees from Tanzania were not protected from the ongoing conflicts between the parties in Burundi; their homes and livestock were looted or destroyed in

³⁵⁴ Feller, 12.

³⁵⁵ Martin, Susan, "Burundi: out of Sight, out of mind?," *Forced Migration Review*, May 2003, 27. <<http://www.fmreview.org/FMRpdfs/FMR17/fmr17.10.pdf>>.

³⁵⁶ Martin, 27

³⁵⁷ Martin, 27

whole or in part and in some areas the water system had been destroyed.³⁵⁸ The returnees in Burundi later became IDPs illustrating the fact that forced migration statuses are excessively fluid.

During the period of repatriation, many returnees previously classified as refugees became internally displaced in their home country and the international humanitarian regime failed to reach them and provide assistance. This was the case for many Burundian refugees upon their return. The formerly regrouped IDPs, who were IDPs in camps established when the military removed the local population to facilitate their military operations, returned home only to be forced to flee from their homes to escape attacks from one or the other side of the conflict.³⁵⁹ For this reason, Burundian refugees who had initially been classified as refugees in Tanzania and other neighboring countries became IDPs due to the ongoing conflicts in their home country, trapped, and unable to receive and access humanitarian services from the international agencies such as UNHCR. Martin states, “Burundi epitomizes the worst way in which displacement as an issue of international concern comes to end – when the internally displaced are out of sight and hence out of mind of international actors.”³⁶⁰ Burundi's case points not only to the complexity of forced migration – how the Burundians can easily shift between ‘refugee’ and IDP in complex conflicts – but also how vulnerable populations like forced migrants suffer when they are caught between ongoing conflicts. Additionally, Burundi's case points out the fact that the current international humanitarian framework is insufficient to protect and assist the full range of forced migrants.

UNHCR’s Evolving Response: Challenges and Achievements

³⁵⁸ Martin, 27

³⁵⁹ Martin, 27-28

³⁶⁰ Martin, 28

The Guiding Principles were created in response to the needs of IDPs, however, without legal enforceability, the Guiding Principles are little more than words on paper. The Principles are intended to broaden the humanitarian assistance to the wide range of forced migrants. The Guiding Principles are not legally binding. Nevertheless, they have been instrumental in advancing IDP rights. Recently, there has been less emphasis on developing the Guiding Principles into international law.³⁶¹ The focus shifted toward incorporating the Guiding Principles into national legislation so as to promote their implementation and improve accountability for the protection of IDPs. While the Guiding Principles are intended to broaden the current approaches of humanitarian assistance to previously neglected groups, gaps and shortcomings of the international and national organizations to reach entire categories of the increasing numbers of forced migrants remain.

Encouraging nations to adopt and implement the Guiding Principles reveals the insufficiency of UNHCR to deal with the broad scale of forced migration. The participants at the “Ten Years of the Guiding Principles on Internal Displacement” conference highlighted that the Guiding Principles have become a key point of reference for the development of normative framework for the protection of IDPs in domestic laws and policies. For instance, Turkey incorporated the Guiding Principles in its Strategy document and used them as a basis for its Compensation Law.³⁶² Turkey’s Compensation Law shows how political commitment is instrumental in protection of IDPs as a way of alleviating crisis when displacements occur. Additionally, the Principles constitute the key reference for the National Policy for IDPs adopted

³⁶¹ Droege, Cordula, "Developments in the legal protection of IDPs," *Forced Migration Review*, December 2008, 9. <<http://www.fmreview.org/FMRpdfs/GP10/contents.pdf>>.

³⁶² "Achievements, challenges and recommendations Summary of outcomes of the GP10 Conference," *Forced Migration Review*, December 2008, 6. <<http://www.fmreview.org/FMRpdfs/GP10/contents.pdf>>.

by the Ugandan government in 2004.³⁶³ The development of normative framework for protection of IDPs through domestic laws means that local governments commit themselves to protect citizens against arbitrary displacement and guarantees their rights during displacement.³⁶⁴ However, challenges to the realization of IDP rights remain. The number of IDPs continues to increase, primarily as a result of the protracted situations of displacement and a number of states remaining committed to the doctrine of national sovereignty when it comes to dealing with internal displacement, limiting the protection of human rights of IDPs.³⁶⁵ Moreover, some of the weaknesses and gaps identified years ago by Dr. Deng and his colleagues are still visible. For example, non-state actors, such as militias, rebels, or terrorists are not traditionally bound by human rights law, so the option of derogation from human rights is open to them and apparently continues.³⁶⁶

One result of UNHCR being forced to step out of its original mandate to assist IDPs was the creation of the Cluster Approach in 2005, which has extended the current approach of humanitarian assistance but can impede and undermine the humanitarian efforts of the international humanitarian regime. The Cluster Approach is a division of labor mechanism to improve the gaps in the humanitarian response to IDPs and refugee circumstances.³⁶⁷ Under the Cluster Approach, UNHCR is the designated 'cluster' leader in three areas of conflict-induced displacement: emergency shelter, camp coordination and management, and protection.³⁶⁸ Beginning in 2006, the cluster approach was introduced in Chad, the Democratic Republic of Congo (DRC), Liberia, Somalia and Uganda, five African countries where previous

³⁶³ Diagne, Khassim and Hannah Entwisle, "UNHCR and the Guiding Principles," *Forced Migration Review*, December 2008, 35. <<http://www.fmreview.org/FMRpdfs/GP10/contents.pdf>>.

³⁶⁴ Diagne and Entwisle, 35.

³⁶⁵ "Achievements, challenges and recommendations Summary of outcomes of the GP10 Conference", 6-7.

³⁶⁶ Droege, 9.

³⁶⁷ Morris, Tim, "UNHCR, IDPs and clusters," *Forced Migration Review*, May 2006, 54. <<http://www.fmreview.org/FMRpdfs/FMR25/FMR25full.pdf>>.

³⁶⁸ Morris, 54.

humanitarian responses failed. The 2007 evaluation of the Cluster Approach revealed mixed results after interviewing IDPs, NGOs, government and UN partners in the cluster approach, and UNHCR staff at headquarters and in the field. The evaluation team recognized positive developments in the area of protection of IDPs. Crisp et al., expose that in the Democratic Republic of Congo (DRC), the return of almost 400,000 IDPs to their homes in South Katanga was facilitated by advocacy which led to adjustments in the deployment patterns of peacekeeping troops in order to secure key areas of return.³⁶⁹ Despite the cluster approach's success in coordinating more effective responses for IDP crises, the approach has the potential to weaken the humanitarian attempts.

The evaluators also discovered negative developments connected to the introduction of the Cluster Approach in the African countries that obscures and hinders humanitarian efforts to protect and assist the full spectrum of forced migration. The evaluators found that the process of cluster activation had not been effective, and many humanitarian actors in the field felt that it had been imposed on them with little consultation and with little support or guidance in the initial stages.³⁷⁰ The humanitarian coordination failed to materialize the envisioned provisions; for example, many IDPs interviewed by the evaluation teams were still living under flimsy plastic sheets, were forced to engage in exploitative casual labor arrangements, and had limited access to basic health care and sanitation facilities.³⁷¹ The implementation of the Cluster Approach is important progress, however, much remains to be done to enable its potential for positive impact on IDPs.

Although the Cluster Approach enabled the UNHCR to broaden its responsibility to IDPs, the new approach could be harmful because it does not take into account the difference in

³⁶⁹ Crisp, Jeff, Esther Kiragu, and Vicky Tennant, "UNHCR, IDPs and humanitarian reform," *Forced Migration Review*, December 2007, 12. <<http://www.fmreview.org/FMRpdfs/FMR29/12-14.pdf>>.

³⁷⁰ Crisp, Kiragu, and Tennant, 13

³⁷¹ Crisp, Kiragu, and Tennant, 13.

United Nations and NGO operational mandates. While many NGOs believe their primary goal should be humanitarian aid, the UN places humanitarian action subordinate to political objectives.³⁷² This disjuncture in primary objectives could threaten independent humanitarian actors' autonomy, undermining the entire mission to protect and assist the full spectrum of forced migration. The Cluster Approach was created to organize the often-duplicitous efforts of NGOs to better protect and assist IDPs, it can also complicate or even impede humanitarian efforts.³⁷³ The Cluster Approach creates additional bureaucracy, sometimes creating new and parallel 'cluster' structures rather than simplifying the existing platforms of meetings and exchange.³⁷⁴ The prioritization of the UN's political objectives essentially means the cluster approach empowers the UN over other humanitarian agencies. Under the approach, the UN and donors seek a determining role in the operations and agenda of aid actors and diverse independent voices are in danger of being sidelined, to the detriment of meeting needs.³⁷⁵ In their attempts to streamline and expand protection and assistance to IDPs, the UN humanitarian reforms could paradoxically pose a threat to the independence of humanitarian actors and the crucial diversity of approaches that are key to effective and meaningful humanitarian assistance.³⁷⁶

Beyond the UNHCR's Reach: Regular and Irregular Secondary Migrants

Although the needs of IDPs have recently been recognized by the UNHCR and several measures taken to formalize and establish guidelines through the Guiding Principles and the Cluster Approach, there are still various other displaced populations who are currently unnoticed and do not receive protection and assistance from the international regime. These displaced

³⁷² Stobbaerts, Eric, Sarah Martin, Katharine Derderian, "Integration and UN humanitarian reforms," *Forced Migration Review*, December 2007, 18. <<http://www.fmreview.org/FMRpdfs/FMR29/18-20.pdf>>.

³⁷³ Stobbaerts, Martin, and Derderian, 18.

³⁷⁴ Stobbaerts, Martin, and Derderian, 18.

³⁷⁵ Stobbaerts, Martin, and Derderian, 18.

³⁷⁶ Stobbaerts, Martin, and Derderian, 20.

populations are “an increasing number of irregular migrants [who] have protection needs resulting from conditions in the country of origin unrelated to conflict or political persecution.”³⁷⁷ Their displacements may arise from climate change, environmental degradation, natural disaster or serious economic and social distress.³⁷⁸ There are other displaced populations not included in the traditional models of forced migration, namely Convention refugees and IDPs. Alexander Betts argues to expand the current models and challenges the forced migration model proposed by Martin et al., which emphasizes inclusion of 'would-be refugees' trapped in their home countries. Betts expands this concept to include other displaced populations who have migrated because of "serious economic and social distress" but do not conform to the 1951 Convention definition of a refugee and are unrecognized and unprotected by international humanitarian law. Migratory movements have become more complex and are increasingly 'mixed' as people's motivations for moving differ, yet the structure of the UNHCR is insufficient to address the challenges presented by mixed migration.

Forced migrants who move from one country to another in search of a better life, especially when the initial host state is corrupt, underdeveloped, and unable to provide basic needs illustrates the fact that today's migratory movements have become 'mixed,' and the international humanitarian regime lacks the structures to reach the entire category of forced migrants. Such movement is known as irregular secondary movement. Susan E. Zimmermann asserts, “Irregular secondary movements are ones that occur from initial areas of safety to newer destinations for the purpose of claiming asylum, irrespective of whether persons have been officially recognized as refugees previously, and in the absence of authorization or (usually)

³⁷⁷ Alexander Betts, "Towards a 'soft law' framework for the protection of vulnerable migrants," *New Issues in Refugee Research*, August 2008, 2.

³⁷⁸ Betts, 2.

sufficient documentation for travel.”³⁷⁹ The individuals who chose to migrate are not only concerned with receiving recognition and protection but are also compelled by other motives such as employment, education, and a better standard of living in a third state. In addition, Zimmermann reveals that “Irregular secondary movements can be about seeking to achieve secure legal status, in order to avoid such issues as police bribery, exploitation, and precarious living conditions that are widely faced without formal status in nearby areas.”³⁸⁰ The refugees engaged in secondary irregular movements challenge the traditional view of refugees escaping persecution and conflicts. Developed states in the West are possible permanent homes by the refugees engaged in secondary irregular movements. The refugees seek out states that offer legal and socio-economic security, which are among some of the major long-term durable solutions. Such movements may be seen as voluntary by most host states, but most of the refugees would not have been in the position to embark on a secondary movement had it not been for conflict, serious civil disorder, or persecution within their home countries.³⁸¹ Mixed motivation migratory movements indicate that the current international humanitarian regime overlooks the complexities of forced migration and the existing system is inadequate to deal with the increasing numbers of forced migrants today.

Policy Recommendations

Adopt Existing Regional Conventions

This Task Force recommends that the United States adopt some of the already established regional conventions on forced migration as well as extend protection to regular and irregular secondary migrants. An ideal model for protecting forced migrants other than Convention refugees is that of Organization of African Unity's (OAU), Convention which broadens the

³⁷⁹ Susan E. Zimmermann, "Irregular Secondary Movements to Europe: Seeking Asylum beyond Refuge", *Journal of Refugee Studies*, 22:1., (March 2009): 74-75

³⁸⁰ Zimmermann, 78.

³⁸¹ Zimmermann, 93.

definition of refugees to include others neglected by the 1951 Convention and sets out other important provisions. National and regional approaches based on the OAU Convention definition of a refugee are the best ways to guarantee legal protection for the vast majority of today's refugees who flee conflict and other forms of serious harm. In addition to protecting those who flee persecution, OAU's regional treaty protects individuals who "owing to external aggression, occupation, foreign domination, or events seriously disturbing public order in either part or the whole of his country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality".³⁸²

Other regional approaches have already followed OAU's example. The 1984 Cartagena Declaration on Refugees expanded the definition of protected refugees in the Latin American region.³⁸³ The Cartagena Declaration also covers the full range of forced migrants who flee from conflict and non-conflict harm. Moreover, the forty-five-member state Asian-African Legal Consultative Organization adopted the OAU refugee definition in its revision of the Bangkok Principles on the Status and Treatment of Refugees.³⁸⁴ Such approaches are instrumental because they expand humanitarian protection and assistance to the various types of displaced populations, such as conflict and environmentally induced IDPs.

Respect mandates and autonomy of partners

The United States should pressure the UNHCR to respect the autonomy of its partners while implementing the Cluster Approach as a general rule. The Cluster Approach does undermine the autonomy of vital partners because it empowers the UN over other humanitarian agencies and creates a room for UNHCR domination. Independent voices are easily side-lined

³⁸² African Union, "1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa," Africa-Union.org, <http://www.africa-union.org/Official_documents/Treaties_%20Conventions_%20Protocols/Refugee_Convention.pdf>.

³⁸³ Martin, 22.

³⁸⁴ Martin, 22.

and their agendas disregarded. Thus, the Cluster Approach should respect the mandates and nature of all participating organizations, including national and local actors, as well as recognizing the level of commitment to the cluster's activities that each can afford. The UNHCR should be more cooperative with the participating organizations in implementing the Cluster Approach so it is not recognized as dominating. It is important to clarify the commitment of each cluster member at the country level as soon as possible to enable a transparent and effective distribution of labor, thus ensuring predictability and accountability in responding to the needs of the people.³⁸⁵

Improve regional and national preparedness

The United States must pay more attention to advancing local and national preparedness and contingency. The recent humanitarian reforms, such as the Cluster Approach, emphasize protection and assistance of displaced populations. While the Cluster Approach is coordinating more effective responses for IDPs, the approach disregards preparing and involving national and regional authorities of the affected geographies and populations. A coordination mechanism that excludes organizations, whether they are local government, cannot be an effective mechanism.³⁸⁶ Therefore, host governments should prepare better for forced migrant populations. In addition, national and regional bodies must cooperate with other organizations, such as the UN, the International Committee for the Red Cross/Red Crescent in preparing for various emergencies. In particular, the UNHCR and the international community must strengthen local, national and regional capacities for disaster management.³⁸⁷

Apply the existing international norms

³⁸⁵ Jury, Allan and Giammichele De Maio, "Cluster approach –a vital operational tool," *Forced Migration Review*, December 2007, 37. <<http://www.fmreview.org/FMRpdfs/FMR29/17.pdf>>.

³⁸⁶ Mister, Robert. "Reform in focus: the IFRC perspective," *Forced Migration Review*, December 2007, 17. <<http://www.fmreview.org/FMRpdfs/FMR29/17.pdf>>.

³⁸⁷ Mister, 17.

UNHCR should play a facilitative role in designing and overseeing a soft law framework that would include existing international norms to protect regular and irregular secondary migrants. The current international laws and covenants relating to are instrumental in advancing the protection and assistance of regular and irregular secondary migrants. International human rights law, in particular, highlights a range of obligations that states already have towards vulnerable migrants.³⁸⁸ Applying the existing international norms to protect regular and irregular secondary migrants would resemble the creation and application of the Guiding Principles based on current international laws, which have been instrumental in protecting IDPs. UNHCR would not take on institutional responsibility for the protection of vulnerable migrants, which would be outside of its normative and operational mandate.

³⁸⁸ Betts, 2.

Chapter 11

Environmentally Displaced Persons

Introduction

Humans have been migrating due to environmental conditions for all of human history. As one of the best survival strategies, migration has led to communities, tribes, and individuals to migrate from their homes to relocate on new land as the seasons change or as natural disasters occur. However, this traditional coping method is likely going to progress into a much more massive migration crisis as climate change continues to alter weather patterns in the extreme and migration must now comply with international borders. Although there is not a perfect prediction of how environments will be affected by climate change, the lack of a legal framework to deal with the environmentally displaced leaves the international community completely unprepared. Furthermore, based on available predictions, we can assume that at least hundreds of millions, but quite possibly billions, of people will be affected by climate change. These climate change effects are already generating humanitarian aid, as the United Nations estimated that in 2007, all but one of its emergency appeals for humanitarian aid were climate-related.³⁸⁹ Thus, environmentally displaced persons need to receive recognition by UNHCR and other international humanitarian organizations as people who require assistance in the same manner as those who are deemed Convention Refugees. They must be recognized as having legitimate fears resembling those faced by Convention Refugees, and must not be mistaken as economic migrants.

Environmental Displacement

Environment based migration can imply a number of different situations, including migration due to slow-onset environmental change, sudden-onset environmental change, and

³⁸⁹ "Report to the European Council on Climate Change and International Security." *Population and Development Review*. vol. 34, no. 3 (September 5, 2008): 587

purposeful environmental change, such as change due to development projects. While the first two types of migration have similar disaster potentials, the third type of migration rests on a very different scale, and would require a more extensive investigation. For the purpose of this Task Force, this chapter will focus on slow-onset environmental change and sudden-onset environmental change as the catalysts for migration.

Slow-onset environmental change refers to foreseeable consequences of climate change, such as rising sea level, harsher droughts, and more destructive floods. These gradual environmental changes may have more of an impact on the movement of people than sudden-onset events such as cyclones, hurricanes, tsunamis, and tornados.³⁹⁰ The rising of sea levels associated with climate change is a good example of a slow-onset environmental change.

Rising Sea Levels and Statelessness

The greatest threat posed by rising sea level is that it will increase the number of stateless persons. The rising of sea levels will inevitably leave some coastal regions submerged under water, but the biggest concern lies within the small island states that may become completely submerged under water, leaving its inhabitants literally stateless. A one meter rise in sea level could make the Maldives, the Marshall Islands, Kiribati, and Tuvalu uninhabitable.³⁹¹ Overall, 145 million people are predicted to be at risk if the sea level rises one meter, and three quarters of this population resides in East and South Asia.³⁹² The bulk of the population that will be effected by climate change will be in the developing world, which will record “99 percent of climate-related deaths and 90 percent of economic losses,” even though they are less than 1

³⁹⁰ Laczko, F., Azhazarm, C. “Migration, Environment and Climate Change: Assessing the Evidence.” In *Introduction and Overview: Enhancing the Knowledge Base*. (2009): 14-15. <http://publications.iom.int/bookstore/free/migration_and_environment.pdf>.

³⁹¹ Biermann, Frank, and Ingrid Boas. “Protecting Climate Refugees: The Case for a Global Protocol” (October 15, 2008): 10, <<http://www.environmentmagazine.org>>.

³⁹² Klugman, Jeni et al. “Human Development Report 2009: Overcoming barriers: Human Mobility and Development.” Geneva: Human Development Report Office. (2009): 45

percent responsible for carbon emissions related to climate change.³⁹³ Of the more than 600 million people living in these low-lying coastal areas, 438 million live in Asia and 246 million live in the poorest countries of the world, particularly South Asia and East Asia.³⁹⁴ Essentially, the people who already suffer from poor health conditions or unemployment are “rendered more vulnerable to the effects of climate change.”³⁹⁵ However, the funding allocated to assist the developing world in adapting to climate change is much lower than the funding allocated to wealthier nations, even though climate change impacts will most severely affect the developing world. The Netherlands, Venice, London, and New York are projected to construct floodgates and other barriers to protect their lands from flooding at \$51 billion, which is 128 times more than the funding pledged to developing countries for adaptive measures, illustrating the funding gap between developed and developing states.³⁹⁶ While it is important to address the impact of climate change on all states, wealthy states must not ignore the needs of the developing world.

The UNHCR recognizes statelessness and has plans for the years 2010 and 2011 to address the needs of the stateless, but the international community must support the UNHCR’s mission. Currently, “at least 77 countries do not grant nationality to persons born on territory who would otherwise be stateless,” and there are approximately 12 million stateless persons today.³⁹⁷ Those who are denied nationality are also often denied education, healthcare, and legal employment,³⁹⁸ which lead to illegal labor, abuse, and exploitation.³⁹⁹ To date, the UNHCR has set its first goal for the years 2010 to 2011 to be called “Favorable Protection Environment:

³⁹³ Funk, McKenzie. “Come Hell or High Water.” *World Policy Institute* vol. 26, no. 2 (Summer 2009): 94, <<http://www.mitpressjournals.org/doi/pdf/10.1162/wopj.2009.26.2.93?cookieSet=1>>.

³⁹⁴ Kolmannskog, Vikram Odedra m.s. “Future Floods of Refugees: A comment on Climate Change, conflict and forced migration” Oslo: Norwegian Refugee Council. (April 2008): 16

³⁹⁵ “Report to the European Council,” 589

³⁹⁶ Funk, “Come Hell or High Water,” 99

³⁹⁷ “Global Strategic Priorities.” in *UNHCR Global Appeal 2010-2011*: 13

³⁹⁸ “Addressing Statelessness.” in *UNHCR Global Appeal 2010-2011*: 40

³⁹⁹ “Addressing Statelessness,” 40

Promote a favorable protection environment for all populations of concern to the UNHCR.”⁴⁰⁰

This goal aims to reach 8 of the 77 countries to improve legislation to grant nationality to persons who would otherwise be stateless, and to have at least half of the 12 million stateless people be granted nationality.⁴⁰¹ While this goal is a step in the right direction, the question remains as to what would happen to the more than 300,000 citizens of the Maldives when their country is submerged under sea. As none of the islands comprising the Maldives measure more than 1.8 meters above sea level, a 1 meter rise in sea level will have a significant impact.⁴⁰² As the UN High Commissioner for Refugees Antonio Guterres stated, “if [rising sea levels submerge states], not only states, but cultures and identities will be drowned.”⁴⁰³ These small island states will face the brunt of climate change when they lose their territory, which may “fuel the politics of resentment between those most responsible for climate change and those most affected by it” if the international community fails to address these threats.⁴⁰⁴ Preventative measures must be taken to minimize this potential climate change impact, or else a very difficult question of statelessness involving entire nations will take place.

Natural Disasters: Haiti Case Study and IDPs

A good example of a sudden-onset environmental change is the 7.0 magnitude earthquake that hit Haiti in January 2010. Response to the natural disaster by the international community was immediate, and this disaster produced, for the first time, a joint-UN team responsible for assessing protection issues in Haiti. The five-member team included officials from the Office of the High Commissioner for Human Rights and the UNHCR. Furthermore, it

⁴⁰⁰ “Global Strategic Priorities,” 10-11

⁴⁰¹ “Global Strategic Priorities,” 13

⁴⁰² “The Maldives Country Profile.” *BBC News*, (May 6, 2009), <http://news.bbc.co.uk/2/hi/south_asia/country_profiles/1166511.stm>; “The Maldives Country Profile.”

⁴⁰³ Fleming, Melissa. “Climate Change Could Become the Biggest Driver of Displacement: UNHCR Chief.” *UNHCR News Stories* (December 16, 2009), <<http://www.unhcr.org/4b2910239.html>>.

⁴⁰⁴ “Report to the European Council,” 590

was the first time that two Geneva-based offices worked together as a protection team during such a crisis.⁴⁰⁵ The United States' response to the crisis was to grant Temporary Protected Status to Haitian immigrants who already resided in the United States on the day of the earthquake as a means of protecting those who had previously faced deportation.⁴⁰⁶ While these Haitians will receive documents allowing them to live and work legally in the United States for a limited time, those who were in Haiti during the earthquake and wish to immigrate to the United States will receive no such protection. The organization Human Rights First is concerned that this may mean repatriation for those who risk traveling to the United States and has reminded the United States of its obligation under international law to not "repatriate any individuals who are refugees at risk of persecution," in accordance with the principle of *non-refoulement*.⁴⁰⁷ In addition to concerns of repatriation, victims of natural disasters, especially vulnerable groups such as the poor, often become IDPs rather than cross international borders.⁴⁰⁸ As the poor do not ordinarily have the means to move far, any natural disaster further impedes such movement.⁴⁰⁹ In addition, natural disasters typically devastate one region of a country but not others, allowing people to migrate to safer regions within their own country. Thus, the increase in the number of people who become IDPs following natural disasters is a significant migration concern.

IDPs are, however, often overlooked, and approximately only half of the world's 26 million IDPs receive aid from the UNHCR, the International Organization for Migration (IOM), and others organizations.⁴¹⁰ Accordingly, the UNHCR has included IDP concerns in its 2010 to

⁴⁰⁵ "Joint UN Team to Assess Protection Issues in Quake-Hit Haiti." *UN News Centre*. (January 22, 2010), <<http://www.un.org/apps/news/story.asp?NewsID=33557&Cr=haiti&Cr1=>>.

⁴⁰⁶ "IRC Supports Protection of Haitian Nationals in U.S." International Rescue Committee. (January 16, 2010), <<http://www.theirc.org/news/irc-supports-protection-haitian-nationals-us-6732>>.

⁴⁰⁷ Acer, Eleanor. Statement: "U.S. Extends Temporary Protected Status for 18 months to Haitian Nationals." Human Rights First. (January 15, 2010), <<http://www.humanrightsfirst.org/media/asy/2010/alert/566/index.htm>>; Mason, Elisa. "Guide to International Refugee Law Resources on the Web." *Law and Technology Resources for Legal Professionals*. (March 5, 2009), <<http://www.llrx.com/features/refugee.htm>>.

⁴⁰⁸ Klugman, "Human Development Report 2009," 45-46

⁴⁰⁹ Klugman, "Human Development Report 2009," 45-46

⁴¹⁰ Klugman, "Human Development Report 2009," 63

2011 goals. UNHCR admits that in 24 of the countries where they are involved, IDP protection has not been addressed in a manner consistent with the *Guiding Principles*.⁴¹¹ The target for the upcoming years is to reach at least 13 of the 24 countries in improving the manner in which IDP protection is addressed.⁴¹² In addition, the 2005 adoption of the Cluster Approach by the UN and other humanitarian organizations was aimed to reach more IDPs, leading to an enhanced responsibility of various organizations to support IDPs.⁴¹³ Particularly for the UNHCR, IDP concerns became a key responsibility.⁴¹⁴ However, unlike the UNHCR's mandate on refugees, the Cluster Approach relies on inter-agency coordination and does not designate a single agency to look after IDPs.⁴¹⁵ The result is potential miscommunication and slow response, as compared to assigning a single agency to look after IDPs.

Overall, the reasons for human displacement are not limited to conflict or violence, but can include environmental degradation in the form of natural disasters or climate change-related events. In some cases, environmental changes can represent more of a hazard for human displacement than conflict. In 2008, while 4.6 million persons were internally displaced due to conflict or violence, 20 million persons were displaced due to extreme weather events.⁴¹⁶ Natural disasters and environmental degradation continue to be major drivers of shorter-term displacement and migration, as compared to other events.⁴¹⁷ Shorter-term displacement and migration will be on the rise as climate change-related events such as cyclones, floods, and droughts force people out of their homes.⁴¹⁸

No Legal Framework that Addresses the Environmentally Displaced

⁴¹¹ "Global Strategic Priorities," 11

⁴¹² "Global Strategic Priorities," 11

⁴¹³ "Working with the Internally Displaced" in *UNHCR Global Appeal 2010-2011*: 44-46.

⁴¹⁴ Working With the Internally Displaced, 46

⁴¹⁵ Working With the Internally Displaced, 44

⁴¹⁶ Laczko, "Migration, Environment and Climate Change," 5

⁴¹⁷ Warner, Koko et al, "In Search of Shelter: Mapping the Effects of Climate Change on Human Migration and Displacement." Cooperative for Assistance and Relief Everywhere, (May 2009): iv

⁴¹⁸ Warner, "In Search of Shelter," iv

While the UNHCR has recently gotten involved in natural disaster relief—specific examples include the 2004 Indian Ocean tsunami, the 2008 Cyclone in Myanmar, and most recently the 2010 earthquake in Haiti—it is not within the UNHCR’s official mandate to assist those who are victims of natural disasters or environmental degradation.⁴¹⁹ Only under “exceptional circumstances” such as the tsunami or the earthquakes does the UNHCR get involved.⁴²⁰ It is therefore unclear whether all victims of natural disasters from here on will receive assistance from the UNHCR, or if only certain types of natural disaster victims will qualify. Statelessness and internal displacement are common consequences of environmental degradation, but these two cases are not formally addressed in the 1951 Convention relating to the Status of Refugees. In addition, because the Convention focuses on individualized persecution, it “does not recognize situations of generalized violence (such as wars), natural disasters, and large-scale development projects as legitimate causes of flight.”⁴²¹ However, UN High Commissioner for Refugees Antonio Guterres has recently begun to meet officials and taken part in events and discussions on climate change and its effects on forced migration.⁴²² Guterres has suggested that “there may be a need for new legal instruments,” and that “we could explore the idea of temporary protection schemes” as a way to protect the environmentally displaced. Other steps have also been taken to address statelessness and IDPs, most notably in the UNHCR document titled “Global Appeal 2010-2011,” listing the goals of the UNHCR for the upcoming years.⁴²³ Additionally, although “not explicitly woven into its mandate,” the UNHCR is “becoming the UN agency responsible for monitoring the situation of stateless people”⁴²⁴

⁴¹⁹ “Protecting Refugees & the Role of UNHCR, 2008- 2009.” UNHCR Background. (September 1, 2008): 19

⁴²⁰ “Protecting Refugees & the Role of UNHCR,” 7

⁴²¹ Mason, “Guide to International Refugee Law.”

⁴²² Fleming, “Climate Change Could Become the Biggest Driver.”

⁴²³ Fleming, “Climate Change Could Become the Biggest Driver.”

⁴²⁴ “Protecting Refugees & the Role of UNHCR,” 19

While the UNHCR promises to look after IDPs and the stateless, it is still unclear what the official response will be when climate change alters the environment or when more natural disasters occur. As UNHCR Chief Spokesperson Melissa Fleming states, the UNHCR does not have an established presence in Haiti because its mandate is “mainly” involved in situations where “targeted persecution or widespread violence” leads to forced migration.⁴²⁵ A clear legal framework must be established regarding environmental displacement, so that all victims of forced migration receive protection.

Lack of Consensus on What Term to Use: Protection Gap

Emerging literature on the subject of environmental forced migration use a number of different terms for the same concept, including but not limited to “environmental refugee,” “climate refugee,” “environmentally-displaced,” “environmentally induced,” “forced migrants,” and “ecological migrants.”⁴²⁶ There is no consensus on what term to use because of two issues: 1) it is difficult to isolate environmental factors from other migration motivations, such as economic motivations, and 2) there are possible institutional and governance implications in defining this range of environmentally related migration.⁴²⁷ It is difficult to distinguish an environmental factor from an economic factor because the two concerns often go together. Also, the terms “environment” and “economic” can imply a “sphere outside of politics,” making it easier to treat one as the other, but not treating either one with the same privileges as a Convention Refugee.⁴²⁸ A simple example of how the two concepts can be mistaken for each other is given by Funk, who states that “when a boy leaves drought in the Sahel to work in Europe, did climate change push

⁴²⁵ “UNHCR Reiterates Strong Commitment to Help Humanitarian Effort in Haiti.” *UNHCR News Stories*. (January 19, 2010), <<http://www.unhcr.org/4b55bec59.html>>.

⁴²⁶ Warner, “In Search of Shelter,” 2

⁴²⁷ Warner, “In Search of Shelter,” 2

⁴²⁸ Kolmannskog, “Future Floods of Refugees,” 9

him, or did economic opportunity pull him?”⁴²⁹ Possible implications associated with defining a proper term for an environmentally displaced person rest on the idea that one term could imply a voluntary movement that does not require any legal protection, while another term would imply legal protection. This lack of consensus on what term to use leads to “public misperception that many of those seeking asylum are so-called environmental migrants and not refugees entitled to protection by law.”⁴³⁰ Guterres recognizes this potential “protection gap,” stating that some people may have “no choice but to leave uninhabitable homelands” and face this protection gap, as they “do not meet the strict legal definition of a refugee.”⁴³¹ Moreover, as climate change progresses, cases that do not fit perfectly into either category may occur, as people migrate due to gradual environmental degradation, such as rising sea levels.⁴³² This distinction between migrant and forced migrant must be made very carefully so as to properly identify groups of people that need legal protection from those who do not.

Environmentally Displaced Persons Do Have a Well-Founded Fear

Many environmentally forced migrants face challenges and have similar needs as those who are conflict displaced, but their protection largely depends on international organizations including them in their mandates.⁴³³ The question is, as Biermann asks, “Why should inhabitants of some atolls in the Maldives who require resettlement for reasons of a well-founded fear of being inundated by 2050 receive less protection than others who fear political persecution?”⁴³⁴ What must be understood is how seriously forced migrants wish to be relocated to safety. Funk paints a picture of Bangladeshis who have been forced out of their homes due to environmental extremes and wish to relocate in India, despite being unwelcomed, stating that “to reach high

⁴²⁹ Funk, “Come Hell or High Water,” 94

⁴³⁰ Kolmannskog, “Future Floods of Refugees,” 9

⁴³¹ Fleming, “Climate Change Could Become the Biggest Driver.”

⁴³² Warner, “In Search of Shelter,” v

⁴³³ Kolmannskog, “Future Floods of Refugees,” 5

⁴³⁴ Biermann, “Protecting Climate Refugees,” 13

ground in India, Bangladeshis fleeing their flooded, polluted plains and rice paddies sneak across the longest border fence in the world—1,500 miles and growing—evading guards who have orders to shoot on sight.”⁴³⁵ Physical danger, however, is not the only concern for the environmentally displaced, as they also worry about food, water, shelter, healthcare needs, *and* potential sexual or gender-based violence.⁴³⁶ The well-founded fear associated with Convention Refugees is not limited to the conflict displaced, but also encompasses environmentally forced migrants.

Policy Recommendations

Avoid Dangerous Climate Change from Occurring

This Task Force recommends that the United States first focus on preventing massive flight from occurring in the first place, and this will be done by addressing climate change. This recommendation resembles the requests made by those small island states that are most likely to face statelessness first due to rising sea levels. Pacific ambassadors and the Chair of Alliance of Small Island States both argue that the initial step that should be taken to help those facing environmental displacement is to reduce global carbon outputs.⁴³⁷ Before we consider an evacuation scenario as the obvious next stage, we must also focus on lessening possible environmental degradation. Pacific ambassadors stressed in interviews that they identify as “sovereign people with rights to land, culture and a future of their choosing,” and that “fleeing was not an option.”⁴³⁸ Ambassadors are aware that they are viewed by outsiders to be “climate

⁴³⁵ Funk, “Come Hell or High Water,” 93

⁴³⁶ Kolmannskog, Vikram. “Climate Change, Disaster, Displacement and Migration: Initial Evidence from Africa.” Norwegian Refugee Council. (December 2009) : 7

⁴³⁷ McNamara, Karen Elizabeth, and Chris Gibson. “‘We do not want to leave our land’: Pacific ambassadors at the United Nations resist the category of ‘climate refugees’” *Geoforum* 40 (2009): 475-483: 480

⁴³⁸ McNamara, Gibson, “We do not want to leave our land,” 482

refugees in waiting.”⁴³⁹ Rather than give up, they say, we should focus on curbing climate change so that there remains a chance that their people will not have to flee.⁴⁴⁰

Responsibility to curb climate change rests on the wealthy industrialized nations that have caused the majority of greenhouse gas emissions. These nations have the greatest “moral, if not legal, responsibility for the victims of global warming.”⁴⁴¹ Curbing climate change can be done if we work off of the Copenhagen Conference, which came to the agreement that “climate change is one of the greatest challenges of our time,” and that “a strong political will to urgently combat climate change” will be emphasized in the future.⁴⁴² The Conference also referred to forced migration concerns, stating that the conference “recognize[s] the critical impacts of climate change and the potential impacts of response measures on countries particularly vulnerable to its adverse effects.”⁴⁴³ Moreover, the conference was successful in that it 1) raised the climate change issue to the highest level of government; 2) reflected a political consensus on the need to globally respond to climate change, and 3) negotiations resulted in decisions to implement “rapid climate action.”⁴⁴⁴ At this point, industrialized nations should resume their discussions about raising emission cuts into the “minus 25 or 40 percent range that science has indicated would avoid the worst climate impacts.”⁴⁴⁵ The United States must lead in these discussions and fully cooperate with the agreements.

Offer Legal Protection for the Environmentally Displaced

⁴³⁹ McNamara, Gibson, “We do not want to leave our land,” 482

⁴⁴⁰ McNamara, Gibson, “We do not want to leave our land,” 482

⁴⁴¹ Biermann, “Protecting Climate Refugees,” 13

⁴⁴² “Advance Unedited Version: Decision -/CP.15.” Copenhagen Accord. (December 18, 2009): 2, <<http://www.efficiencylaw.com/uploads/file/Copenhagen%20Accord.pdf>>.

⁴⁴³ “Advanced Unedited Version 2.”

⁴⁴⁴ “UNFCCC Press Briefing on the outcome of Copenhagen and the way forward in 2010.” United Nations Framework Convention on Climate Change. <<http://unfccc.int/2860.php>>.

⁴⁴⁵ “Senior UN Climate Change Official Calls for United Global Action to Forge Rapid Accord.” *UN News Centre*. (January 22, 2010), <<http://www.un.org/apps/news/story.asp?NewsID=33565&Cr=climate+change&Cr1>>.

We recommend that the United States invest in adaptive measures should such a massive migration scenario prove unavoidable. Protection and support of the environmentally displaced must be made a priority. They must be recognized by the international community as being equally vulnerable and receive the same aid as Convention Refugees, all the while keeping in mind the unique needs of the environmentally displaced. A characteristic of the environmentally displaced that is different from those who are displaced by conflict or persecution is that in some circumstances, returning to a homeland may be impossible. Those displaced by climate change may require permanent resettlement, as states disappear under water and people become stateless. This gap in protection should be addressed by the Executive Committee of the United Nations High Commissioner for Refugees (EXCOM), as each year, member governments discuss protection issues with UNHCR and its partners and adopt new conclusions.⁴⁴⁶ The next Executive Committee will meet in the fall of 2010, and at that time, the United States must introduce the concerns that are facing the environmentally displaced. Part of these discussions should address the issue of legal terminology, and begin to establish a formal term used for the environmentally displaced. Along with legal terminology, a legal framework specifically addressing the environmentally displaced should be explored. The UNHCR has pledged its support to any State that invests in preventative and adaptive measures to these challenges, and the United States should take advantage of this opportunity.⁴⁴⁷

Conclusion

It is not impossible to assist the environmentally displaced in the same manner that Convention Refugees have been assisted. The January 2010 earthquake in Haiti demonstrates this optimistic attitude within some of the government officials of the United States. Cooper and

⁴⁴⁶ Mason, "Guide to International Refugee Law."

⁴⁴⁷ United Nations High Commissioner for Refugees. "Climate Change and Statelessness: an Overview." *UNHCR Environment*. (May 15, 2009)

Landler from the New York Times report how administration officials are optimistic that the “White House can handle Haiti without neglecting its other concerns,” and that there only exists a problem if “the whole government isn’t functioning properly.”⁴⁴⁸ They also report that the United States is not emotionally detached from those who suffer from environmental damage, stating that “the heart-rending tragedy in Haiti may make it impossible for the United States to ignore it once the news media attention goes away.”⁴⁴⁹ This energy that the United States has right now in aiding Haiti must not be lost: it must be used to influence the international community in helping those who are most vulnerable.

⁴⁴⁸ Cooper, H., Landler, M. “U.S. Mulls Role in Haiti after the Crisis.” *New York Times*. (January 17, 2010).

⁴⁴⁹ Cooper and Landler, “U.S. Mulls Role in Haiti.”

Chapter 12

Protracted Refugee Situation: The Kakuma Refugee Camp

Introduction

At the inception of the 1951 Refugee Convention, it was thought that refugee crises would be small-scale and/or temporary crises like the “combat-related” displacement crisis in Europe following World War II, or the cases of individual refugees who fled from the Soviet Union.⁴⁵⁰ Thus the 1951 Convention was initially founded on Eurocentric principles and has been forced to look outside of that framework as displacement crises have moved away from Europe to areas like Africa, Asia, and the Middle East since the end of the Cold War.⁴⁵¹ The 1951 Convention assumed that refugees would occasionally come from large-scale war situations, like World War II, or individualized political protest, like Soviet defectors. This chapter challenges the assumptions of the 1951 Convention, arguing that as the nature of refugee-producing conflicts have changed, refugees have changed as well. Refugee crises are now often protracted, meaning refugees are not able to return home for ten or more years. The United States must pressure the international refugee regime to create mechanisms to respond to the changing needs of refugees as crises become increasingly protracted.

This chapter addresses the problems of protracted refugee situations. This chapter uses the case study of the Kakuma Refugee Camp in northwestern Kenya to show the problems endemic to protracted refugee conflicts. We argue that Kakuma is a representative case of a protracted refugee crisis as it is now understood: a multi-nationality, rural encampment of refugees in a country of asylum. Our Task Force includes this case study because the author is a refugee with first-hand experience of life in Kakuma. His experience is incredibly valuable for

⁴⁵⁰ Malkki, Liisa. “Refugees and Exile: From ‘Refugee Studies’ to the National Order of Things.” *Annual Review of Anthropology* 24 (1995) 495-523; 499

⁴⁵¹ Keely Charles. “The International Refugee Regime(s): The End of the Cold War Matters.” *International Migration Review* 35 (Spring 2001): 303-314. 304

our Task Force, as he shares his insight on the problems refugees face at Kakuma that might be overlooked. This chapter provides a case study supported by references to bring light to the problems refugees in protracted camp situations face, a brief explanation of problems for refugees in other kinds of protracted situations, and policy recommendations to respond to these problems.

We also recognize that protracted refugee crises are moving away from resembling the Kakuma case. To reconcile that potential, we will include more information about urban and self-settled protracted refugee crises at the end of the case study and in our policy recommendations. Currently, many protracted refugees are “self-settled,” and live in urban areas, as is seen with Iraqi refugees in Syria and Jordan.⁴⁵² While camps are concentrated and everyone in camps is a refugee, the same is not true for self-settled refugees in urban areas. For these refugees, the host community may be equally impoverished, and thus resentful of refugees’ assistance from humanitarian agencies. The international refugee regime is confronted with two types of protracted refugee situations that have significant differences in their locality and host-refugee relations regarding aid. Despite these differences, this Task Force argues that all refugees in protracted crises are confronted with universal problems – the lack of food, general insecurity, and lack of education and livelihood – no matter if they settle in an urban area or a camp. For that reason, our Task Force argues that Kakuma is a valid case study of a protracted refugee situation and that meaningful policy recommendations can be made from this case study.

The problem with protracted refugee camp situations is ongoing; this case study presents problems for one camp in particular. The problems presented through the Kakuma case study have implications for many other protracted refugee situations and are thus useful for this Task Force’s policy recommendations. In Kakuma, the most pressing problems are insufficient

⁴⁵² Crisp, Jeff. 2009. Interview by Alexandra Barbee. Geneva, Switzerland, April 2.

humanitarian aid, specifically food and water; general insecurity, including both domestic violence and problems between the refugees and the host community; and a lack of educational and livelihood opportunities. The problems in Kakuma are especially severe because with protracted conflict in many of the refugees' countries of origin, host communities that are hostile to local integration, and very limited opportunities for third country resettlement, none of the UNHCR's durable solutions are possible for Kakuma's refugee population.⁴⁵³ Given that refugees have no other relatively safe legal options but to stay in Kakuma, it is imperative that the problems in Kakuma be addressed.

Case Study Background information

The Kakuma Refugee Camp is located in the arid and semi-arid part of Northwestern Kenya, halfway between the cities of Lodwar and Lokichoggio. Kakuma is 100 kilometers from the Sudan boarder and 1000 kilometers from Kenya's capital city, Nairobi. Refugees in Kakuma Refugee Camp have been in the camp since 1992, and it is believed that some nationalities will never be able to go home. The Kakuma Refugee Camp is home to 12 different nationalities. These nationalities are Sudanese, Somali, Ethiopian, Congolese, Rwandese, Burundian, Eritrean, and Ugandan; Sudanese refugees are the majority in the camp and Eritrean and Ugandans are the minority.

Kakuma is an incredibly difficult place for refugees to live. The extreme heat and blazing sunlight, harsh physical terrain, and frequent sandstorms make it difficult for refugees to engage in means of food or income generation beyond the UNHCR ration. Because of and in addition to the inhospitable climate, food and water is scarce. The lack of income or food generation

⁴⁵³ Durable solutions are third country resettlement, local integration and repatriation. UNHCR. "Durable Solutions: The Ultimate Goal." *UNHCR*. <<http://www.unhcr.org/pages/49c3646cf8.html>>.

presents a huge challenge to refugees in their efforts to offset food and water scarcity, and maintain an acceptable standard of living.

In addition to the harsh conditions in the camp, refugees at the Kakuma camp are survivors of organized violence and civil war. These refugees are incredibly vulnerable, and affected by post-traumatic stress, as “conditions during warfare and flight to refugee camps may put persons with pre-existing severe mental illnesses at particular risk of neglect, abandonment or abuse.”⁴⁵⁴ Kakuma provides a place of refuge to women who were victims of rape and violence; people who fled genocide, clan fighting and ethnic, political, or religious persecution; and people who fled organized physical and sexual abuse. Some refugees were separated from or lost their families, and witnessed multiple deaths or disappearances of close relatives. The trauma all of Kakuma’s refugees have experienced further makes Kakuma a difficult place to live.

Refugees at Kakuma do not have strong foundations to even hope that conditions in the camp will improve, or that they will be able to return home. Kakuma refugees’ home countries are engaged in conflicts that are not likely to end soon, due to the conflict, famine and general deficiencies they face. The near-impossibility of peace in the home countries in the near future means repatriation is not a viable option for many refugees in Kakuma, as “the interplay of war, drought and poverty deepens the crisis and makes rebuilding a slow and more difficult process.”⁴⁵⁵ Because it is unlikely that there will be widespread, voluntary repatriation soon, it is imperative that the United States pressures UNHCR and the Camp Management cluster improve conditions in Kakuma so that it will be a livable solution – but not a durable solution – for refugees.

⁴⁵⁴ Kamau, Michael. “Psychiatric disorders in an African refugee camp.” *Intervention* 2 (2004): 84-89.

⁴⁵⁵ Imhoff, Frank: “Focusing on the future at Kakuma Refugee Camp in Kenya” Worldwide Faith News archives. 9th June 2001. 25th February 2010.

Urgent Problems in Kakuma

This case study argues that the biggest problems for refugees in protracted situations, like the refugees in Kakuma, are food security, physical security, and educational and job skills training workshops. This section will argue that Kakuma's problems are especially dire for protracted refugees. The UNHCR is not doing all it can to remedy conditions in the camp, nor to find durable solutions for camp refugees, so it is imperative that conditions in Kakuma improve so refugees can maintain a basic standard of living while they have no where else to go. Kakuma's problems are of concern to the United States because not only will some Kakuma refugees resettle there, but the United States is a large donor to the UNHCR, and has the power to pressure the UNHCR to improve conditions in Kakuma.

Food and Water Insecurity

Food and water security are huge issues in Kakuma. Without adequate food and water, refugees face immense difficulties in carrying out their daily tasks, and maintaining personal health. The water in the camp is insufficient and cannot meet the demands of the Kakuma refugee population. The refugees in Kakuma receive only 14 liters of water per person on daily basis, which in my experience is not enough to meet the necessary requirements such as cooking, drinking and washing. Pittaway and Bartolomei add that the refugees in Kakuma have to wait in the line for several hours at the water taps and then walk long distances to their homes carrying jerry cans of water.⁴⁵⁶ Some refugees who do not arrive on time or who are weak physically are not able to receive their daily share of the water. Food rations in the camp are also insufficient.⁴⁵⁷ Additionally, the World Food Program's Food Basket necessary for minimum survival must include adequate macronutrients, micronutrients, and provide a minimum daily kilocalorie intake

⁴⁵⁶ Pittaway, Eileen and Bartolomei, Linda: "Field Trip to kakuma Refugee Camp Kenya." UNSW Center for Refugee Research. Jan 2005.

⁴⁵⁷ Pittaway and Bartolomei

of 2100 kilocalories.⁴⁵⁸ Despite its efforts, the minimum nutritional standards have not been consistently met. Until 1997, refugees received about 1,700 kilocalories daily.⁴⁵⁹ Since food rationing improvements in 2003, refugees only receive 2,000 kilocalories per day, but it is not always sufficient in terms of palatable food that is reasonably easy to prepare given the charcoal and water rations refugees have to cook with.⁴⁶⁰ Some items in the food basket are not perceived as palatable to certain refugee groups without complimentary food items like salt and sugar, which are much more difficult to attain. To solve this problem, refugees sell or trade parts of their food basket for items like salt, sugar, or more wheat flour, the preferred staple for many refugees.⁴⁶¹ Refugees should receive enough food that they can cook with reasonable ease and that is palatable to them to maintain all normal activities. It is not clear that the current food ration at Kakuma is providing refugees with enough food that meets these requirements.

Physical insecurity

Kakuma is incredibly unsafe, especially for refugees in their vulnerable state. As it is too dangerous for UNHCR camp management officials to patrol the camp, much of the violence goes unreported or under-reported.⁴⁶² Kakuma is fraught with refugee-refugee violence and refugee-host community violence. Protracted stays in refugee camps often lead refugees to develop “negative coping strategies” that make camps even less secure.⁴⁶³ Refugees in Kakuma are not safe due to ethnic and clan fights, “increasing incidents of internationality and inter-

⁴⁵⁸ Ochola, Sophie. “Report of the Food Consumption Survey in Dabaab and Kakuma Refugee Camps.” *World Food Program in Collaboration United High Commissioner for Refugees*. March 2004, 3.

⁴⁵⁹ Rev. Thoolen, Fran. “Impressions from Kakuma Camp, Kenya.” Pontifical Council for the Pastoral Care of Migrants and Itinerant People. <http://www.vatican.va/roman_curia/pontifical_councils/migrants/pom2003_91/rc_pc_migrants_pom91_Thoolen.html#_ftnref1>.

⁴⁶⁰ Ochola, 3.

⁴⁶¹ Ochola, 4.

⁴⁶² Crisp, Jeff. “A State of Insecurity: the political economy of violence in refugee-populated areas of Kenya.” *New Issues in Refugee Research* 16 (1999)

⁴⁶³ Betts, Alexander. 2009. *Protection by persuasion: international cooperation in the refugee regime*. Ithaca: Cornell University Press: 15.

ethnic fights, thuggery and banditry have resulted in a situation of hazard and risk.”⁴⁶⁴ In addition to general safety concerns, there is not a special police administration in the camp to control and regulate the peace, nor is there a judicial system specifically for the refugee population. Thus, many disputes in the camp are dealt with violently. The Kenyan justice system, which Kakuma technically falls under the jurisdiction of, does not appropriately deal with problems within the camp. Instead, certain powerful refugee groups carry out powerful forms of justice within Kakuma; for example, Sudanese ‘bench judges’ have assumed “powers of arrest, adjudication and punishment... and wield immense (and sometimes arbitrary) power.”⁴⁶⁵ The lack of a fair judicial system in Kakuma results in the escalation of violence, such that a disagreement between two individuals leads to inter-family conflict and later becomes a clan-to-clan fight. The lack of a judicial system and UNHCR oversight creates a culture of insecurity in Kakuma that must be remedied.

In addition to disputes with the Turkana host community, the economic differences between refugees in Kakuma and the host community lead to problems. Refugee relations to the host community are generally worse as the Turkana have been known to do great harm to the refugees. Many refugees in Kakuma are actually more resource-rich than their non-refugee host community counterparts, leading to tension.⁴⁶⁶ The International Rescue Committee has reported increased theft in Kakuma by Turkana people, especially as some Sudanese refugees have been repatriated.⁴⁶⁷ When I was in Kakuma, the Turkana came at night and looted refugee belongings, raped refugee women and sometimes they even killed them. Just as intra-refugee conflicts create

⁴⁶⁴ Pittaway and Bartolomei

⁴⁶⁵ Crisp, 5

⁴⁶⁶ Crisp, 6

⁴⁶⁷ “Life in the Kakuma Refugee Camp.” *The International Rescue Committee*. July 2008. <<http://www.theirc.org/photo-essays/photo-essay-jo-offer-kenya>>.

insecurity in Kakuma, conflicts between refugees and the Turkana host community contribute to insecurity as well.

Domestic violence is a widespread, but under-recognized problem that contributes to general physical insecurity in the Kakuma refugee camp. In Kakuma, the common Western idea that domestic violence is physical and/or psychological abuse that occurs between members of a household or relationship did not apply. The refugees tended not to view a man hitting his wife as abusive, but rather as a corrective action to be used when the wife does something wrong. This type of domestic violence is seen as normal among certain refugee communities in Kakuma.⁴⁶⁸ The commonality of domestic violence makes it a contributing factor to the general feeling of insecurity in Kakuma.

In addition to domestic violence, sexual violence is incredibly common in Kakuma. Sexual violence affects the most vulnerable populations in Kakuma – women, girls, and unaccompanied minors.⁴⁶⁹ A range of factors contribute to the high incidence of violence against women, including conflict between clan groups and with the local Turkana people, a high rate of alcoholism, lack of economic independence and an almost complete lack of social structure.⁴⁷⁰ I saw that women and girls are in the minority in the camp and in some age brackets are outnumbered three to one by men and boys. This gender-ratio disparity dramatically compounds women and girls' degree of risk. The abduction and sale of young girls as brides, forced marriage of widows, and physical and sexual abuse of those in mixed marriages are common occurrences.⁴⁷¹ Women are raped and sexually mutilated by gangs of men. Women who are raped by rival groups, especially those who give birth to babies, are stigmatized and harassed and

⁴⁶⁸ Crisp, 5

⁴⁶⁹ Crisp, 5

⁴⁷⁰ Pittawa and Bartolomei

⁴⁷¹ Crisp, 6.

are in urgent need of protection.⁴⁷² Yet for most of these women there is simply no protection available.

It is imperative that the United States pressures the UNHCR to improve conditions of security in the Kakuma refugee camp. Refugees cannot live their lives with any shred of normalcy if violence – between refugees, between refugees and the Turkana host community, and domestic and sexual violence – is omnipresent.

Education

Education is crucial for peace building in the Kakuma refugee camp. Education provides children and youth with age-appropriate activities and provides possible income generation help to adults. While only about 50 percent of the camp's children are enrolled in school, Kakuma's educational system is comparatively much better than other refugee school programs.⁴⁷³ Kakuma is placing more emphasis on education due to the support of United Nations, Lutheran World Federation (LWF) and Jesuit Refugee Services (JRS). Now, in Kakuma, there is free Primary School and Secondary School education. Many refugees realize that education will provide them with more opportunities after they leave the camp, whether they resettle in a third country, integrate locally in Kenya, or repatriate. The organizations in charge of education in Kakuma have realized educational opportunities are necessary, and popularized the idea that "there is a process to shape future leaders from kindergarten through primary and secondary school and up to university through distance learning."⁴⁷⁴ Now, most of the adolescents in Kakuma understand that with good education and useful skills, they will have a better chance for success upon repatriation, resettlement, or local integration.

⁴⁷² Pittaway and Bartolomei

⁴⁷³ Rev. Thoolen

⁴⁷⁴ Pittaway and Bartolomei

Education is very important for the refugee children and youth, just as educational programs and income-generation training are important for adults. The education program in Kakuma is mainly provided by Jesuit Refugee Services (JRS). During my stay in the camp, I know that adult education program is also offered in the camp so that both refugee men and women can learn mathematics and how to read and write in English and Kiswahili. Despite the efforts to teach adults, the literacy rate is still very low in Kakuma.⁴⁷⁵ It might be more important that adults receive training in income-generating projects rather than basic educational skills, as income-generating projects have the potential to concretely improve the lives of refugees in Kakuma.

In addition to the basic adult curriculum, Peace Education is also taught to bring peace building awareness to refugees. Peace education is meant to “enable and encourage people to think constructively about issues, both physical and social and to develop constructive attitudes towards living together and solving problems that arise in their communities through peaceful means.”⁴⁷⁶ Peace education also endeavors to develop critical thinking capacity in students so that they actually and collectively solve problems.⁴⁷⁷ This type of education is extremely important for refugees. Peace education, like education in income-generation, has practical applications in the lives of refugees in Kakuma.

The United Nations has the opportunity to ensure that a Peace Initiatives and Sport activity in the camp promotes peaceful coexistence among the Refugees. The LWF camp manager Graham Davison argues that peace is crucial for the camp, and believes activity programs for men and women of all ages will help contribute to peace building.⁴⁷⁸ Due to a

⁴⁷⁵ Rev. Thoolen,

⁴⁷⁶ INEE ‘Peace Education Programme.’ Inter-Agency Network for Education in Emergencies 2008. http://www.ineesite.org/index.php/post/peace_education_programme/.

⁴⁷⁷ INEE ‘Peace Education Programme.’

⁴⁷⁸ Imhoff

population of diverse ethnicity and backgrounds, tension often arises, and the activities for both men and women are able to cool down the conditions in Kakuma.⁴⁷⁹ Education and income-generation training are a significant step towards peace building, as they create a sense of normalcy and give refugees a productive activity despite the camp's tense conditions.

My Life in Kakuma

I know from my own experience that refugees in Kakuma camp celebrate important events such as African Refugee Day and International Women's Day. African Refugee Day is held on June 20th of every year. During this day all, the refugee communities in the camp will assemble in small field where every ethnic group will show its culture and dance. This process goes on for the most part of the day until one of the UNHCR officials comes to center of the field and give a speech. The speech is mainly about the peace building process in these war torn countries and the future of refugees at Kakuma. In addition to the World Refugee Day, refugees in Kakuma also celebrate International Women's Day, which is held on March 9th every year. During this day refugees perform their cultural dances and students from high school and primary school perform short play and drama. Sounds of drums and flutes fill the air as refugees performed cultural dances and recited poems in praise of women and men who have been instrumental in supporting the empowerment of women in the camps. One year, a group of young mothers, some as young as 16, sang a Sudanese song encouraging girls to attend school. Both women and men played an important role by authorizing women to undertake tasks in the camp.

I know from my own experience that on this day general community education on early marriage, female circumcision, wife inheritance, early pregnancy, child abuse, spouse abuse,

⁴⁷⁹ Imhoff

child labor, forced marriage, HIV/AIDS and other sexually transmitted diseases is also given by members from Gender and Equality Department in the camp. The Gender and Equality Department trained a number of refugees from all the communities in the camp so that they go back to their community and conduct a workshop in order to teach their people the negative impact on these challenges posed by the cultural practice. Such workshop increases the awareness of these harmful practices and the incurable HIV/AIDS. Women and men are taught how to have safe sex while children and unmarried youth were taught to abstain. Youth are also told not to have sex outside wedlock.

Case Study Conclusion

In conclusion, the prolonged wars, which have displaced these miserable refugees in Kakuma, made it hard for them to go back to their country. This leaves refugees with no solution, thus their stay at Kakuma camp seems to be more permanent in the foreseeable future. According to a report by BBC News, the UN is planning to double Kenya food aid.⁴⁸⁰ These new moves by the UN to increase food supply in Kenya will significantly help the refugees in Kakuma camp too. BBC News reports “the World Food Programme (WFP) will now feed 3.5 million people hit by drought and high food prices. Many families are struggling to find food for one meal a day, it said. The Kenyan government declared a national disaster in January following the failure of the short rains in south-eastern and coastal areas.”⁴⁸¹ The refugees in the camp also have hope of being resettled to either European countries or United States. This thought of resettlement gives the refugees a boost of morale and a justification of their stay in a refugee camp. When I was leaving in the camp, I saw elders come together and make a sacrifice and then chant prayers. In their prayer they ask God to prolong their life and send them to a place

⁴⁸⁰ Kenya: UN agency not confident needed food supplies will be made. “BBC Monitoring Africa 30 June 2005.

⁴⁸¹ Kenya: UN agency not confident needed food supplies will be made. “BBC Monitoring Africa 30 June 2005.

with no war and better life. Listening to their prayers and the place being described, no doubt that place is none other than United States or European countries such as England, Norway and Holland.

To some other refugees who have no resettlement case, business is their only solution. They work hard and make money while they are in the camp. Education is a major concern for most teenagers and young adults. I have been through this and I know how it feels for one to go through low quality refugee school. I always wanted to see a miracle happen and see myself in an American university, and now that miracle happened. But none of these dreams worked for me as my high school years came consecutively without me leaving the camp. It's somewhat bitter to graduate in these refugee schools. This is because of low quality education offered which in turn lead to low grade in national examination. To sum up, Kakuma refugee camp is a place where I grew up and it is a historical place for most of refugees who had their primary and secondary education there.

Application of the Kakuma Case Study

The Kakuma refugee camp provides insight into the problems refugees in protracted situations face. Protracted refugees cannot return home, nor can they integrate locally or be resettled in a third country of asylum; instead they are forced into an "indefinite exile," unable to even make a home in the refugee camps.⁴⁸² The lack of access to durable solutions is the same for protracted refugees across the world, both camp and self-settled refugees. Our focus on Kakuma presents the case against warehousing refugees for the duration of their exile.⁴⁸³ The Kakuma case study demonstrates the need to focus on increasing refugees' skills to enable refugees to become self-reliant through income generating projects. The case study also shows

⁴⁸² Betts, 15.

⁴⁸³ The average length of a protracted refugee situation is 17 years. Betts, 15.

that refugee camps need to offer positive coping mechanisms like educational programming and organized activities. These activities facilitate peace building and increase general security in the refugee camp. Finally, the case study argues for more protection in refugee camps for vulnerable groups like women, children, and unaccompanied minors.

The problems this case study outlines are incredibly pertinent, as currently more refugee crises are becoming protracted. While we acknowledge refugee camps were founded to provide short-term aid, this Task Force argues that refugee assistance and protection mechanisms must adapt to changing refugee crises.⁴⁸⁴ For the current state of global refugees, adaptation of protection and assistance means creating different programs for self-settled refugees, and addressing the fact that host communities may have needs that are similar to refugees' needs. Treating host communities' needs as important for refugees would increase safety of refugee camps by making refugees less a target for theft and burglary. While aiding host communities is important for all refugee situations, this change is especially important for self-settled refugees, as they have even less protection than refugees in camp situations. Acknowledging that protracted refugees will likely stay in refugee camps or self-settled communities in first countries of asylum makes it necessary for the international community to provide long-term assistance and protection related to safety, food security, and education and income generation programs so that refugees can have an acceptable quality of life in their exile.

Policy Recommendations

This chapter has shown both the grave difficulties for protracted refugees and the international community's inability to provide durable solutions for protracted refugees. In response to both these problems, we present two parallel policy recommendations to improve the lives of protracted refugees in camps and to offer durable solutions for protracted refugees.

⁴⁸⁴ Crisp, Jeff. 2009. Interview by Alexandra Barbee. Geneva, Switzerland, April 2.

It is imperative that conditions in refugee camps improve, as protracted refugees spend upwards of five years in camps. This Task Force argues that the United States must use its political power over the UNHCR as a major donor to implement a resource mobilization strategy that takes advantage of the fundraising opportunities associated with the process of humanitarian reform to provide refugees with increased food and water rations, and more educational opportunities.

The UNHCR must be pressured to reinvent its camp management strategies to include measures that will allow refugees to have quality of life. In the short-term, the UNHCR should provide food baskets with an emphasis on foods refugees actually eat, meaning rations should include wheat flour, sugar and/or salt to make other grains palatable as porridges, and greater micro- and macro-nutrient diversity. In the long-term, the UNHCR should make schooling mandatory for all refugee children to ensure equal access to education, and provide youth and adults with training in income-generating projects and job skills. These long-term policy recommendations will ensure that protracted refugees will have opportunities upon resettlement, local integration, or repatriation, as well as a better quality of life while in refugee camps.

Security is also a huge guarantor of better quality of life within refugee camps, especially for protracted refugees. The United States should pressure the UNHCR to deploy more police at refugee camps. As the case study showed, UNHCR camp staff does not currently prioritize safety in the camps. The United States is in the position to pressure the UNHCR to take camp safety more seriously. In addition to increasing police forces in camps, the UNHCR should establish a formal complaint system for refugees to air grievances instead of solving them violently, and create a refugee justice system so that justice will be standardized and fair. These measures will greatly increase justice in the camps; in doing so, it will increase security for protracted refugees.

The second policy response to protracted refugee crises addresses the cause of protracted exile; namely the lack of available durable solutions for protracted refugees. The United States already accepts refugees from protracted situations, and many refugees from the Kakuma refugee camp. This Task Force argues the United States can and should accept more protracted refugees. Chapter 1 proposes that the United States accept the full number of refugees its ceilings will allow; this chapter agrees. This chapter also argues that the United States give protracted refugees an admissions priority, as this would allow more refugees a way out of bad conditions in refugee camps or self-settled communities in first countries of asylum. The United States can again use its political leverage as a wager to create more durable solutions for protracted refugees. The United States can pressure the other Western countries with refugee resettlement programs to follow its example and admit more protracted refugees. Protracted refugees must be offered durable solutions, and the United States is instrumental in providing the durable solution of resettlement.

This Task Force acknowledges that the United States government will not change on its own. We urge people in the United States to write to members of Congress to raise the issues of these refugees suffering in Kakuma. We also urge people to write to the government of the host countries requesting better conditions for refugees in camps in their countries. As a refugee, I can also urge other refugees who are now living in the United States who are originally from Kakuma camp to come out talk about the conditions of refugees leaving in Kakuma thus increasing their awareness. If the world learns that there are people suffering in a refugee camp in Kenya, we do something to better conditions for protracted refugees.

Chapter 13

United States' Accountability for Forced Migration: A Geopolitical Strategy for Humanitarian Aid

This chapter evaluates the humanitarian responsibility of the United States in nations in which it has directly or indirectly intervened. In the last decade, the United States government's War on Terrorism and War on Drugs have displaced millions of people without adequate protection and compensation. Regardless of pre-existing precarious political situations, the United States has a specific responsibility to forced migrants from and within the nations of intervention. We will demonstrate the overt and subtle ways in which United States' foreign policy is also policy that has caused displacement and continues to augment circumstances for displacement. Using a case study of United States' intervention in Colombia, this chapter will link the economic efficacy of Plan Colombia, current foreign aid, and ongoing trade negotiations to the humanitarian negligence of the United States' foreign policy. United States policy must initiate humanitarian accountability that is equitable to the degree of crisis caused by foreign intervention, using human rights as a condition for foreign aid and alliances and through strengthened democracy.

The crises that cause forced migration are rarely brief, and the ongoing quality of crisis corresponds to ongoing internal and international displacement. Given the protracted nature internal displacement in Colombia, durable solutions require a reassessment of how the nation's political trajectory will affect returns. If foreign policy is displacement policy, then a past and present of prioritizing geopolitical control in Colombia by financing a corrupt military will continually subvert the democratic conditions necessary for return. Humanitarian aid like food assistance and temporary protection cannot be more than a suppression of crisis if the policies

and foreign spending of the United States continue to contribute to displacement, undermining civil development and democratization.

Summary of Colombian Displacement and United States Intervention

United States' intervention in Colombia articulates the intricacies of how United States policy and financial aid can dramatically cause and perpetuate displacement, and how policy must extend beyond typical humanitarian aid in order to provide adequate compensation. Colombia is often overlooked as a nation with an IDP crisis – but with 2,935,832 forced migrants, 2,577,402 of whom were internally displaced between 1995 and 2008 – Colombia has one the most severe and protracted crises in the world.⁴⁸⁵ In the September 2009 issue of *Forced Migration Review*, Thais Bessa suggested that this oversight is partially due to an association of forced migrants with extreme civil war and failed states, while Colombia is considered to be a relatively stable state with a stable income.⁴⁸⁶ However, as a country that touts a partnership with Colombia, reinforced by \$6.03 billion of support, the United States has a specific obligation to recognizing and helping alleviate Colombia's humanitarian crisis.⁴⁸⁷ Not only has the United States' War on Drugs directly displaced thousands of farmers through massive and imprecise crop-spraying for coca eradication, but its financial investment in Colombia's military has had dubious consequences for civil society.⁴⁸⁸ The United States is obligated to provide more comprehensive humanitarian assistance and to refine its partnership with Colombia so that it is no longer a party to displacement. The priorities of the United States must focus on durable

⁴⁸⁵ IOM, 2010; Bessa, Thais. "Doubly Forgotten." In *Protracted Displacement*, 11. *Forced Migration Review* 33. Refugees Studies Centre: University of Oxford, 2009. <<http://www.fmreview.org/FMRpdfs/FMR33/FMR33.pdf>>.

⁴⁸⁶ Ibid.

⁴⁸⁷ Dion, Michell L., and Catherine Russler. "Eradication Efforts, the State, Displacement and Poverty: Explaining Coca Cultivation in Colombia During Plan Colombia." *Journal of Latin American Studies* 40, no. 03 (2008): 399-421.

⁴⁸⁸ Casteñeda, Dorly. "Peace in Colombia: Can the European Union and the US Collaborate?," January 2009. <<http://ilas.columbia.edu/images/uploads/workingpapers/Dorly%20Casteneda-%20Peace%20in%20Colombia,%20Can%20the%20European%20Union%20and%20the%20US%20Collaborate.pdf>>.

solutions to Colombian displacement, especially returns, and pressuring the Colombian government for human rights adherence.

In the case of Colombia, we address current forced migration as caused by complex land disputes and paramilitary offenses, both of which have been caused or are perpetuated by United States foreign aid. Although guerrilla groups are often blamed as the cause of civil war and resulting forced migration, the legacy of Plan Colombia and paramilitaries, who were responsible for 37 percent of displacement in 2008, are significant contributors to the problem of forced migrants and particularly IDPs in Colombia.⁴⁸⁹ This section of this chapter focuses on the instability and injustice in Colombia funded directly through Plan Colombia, involving coca eradication schemes and the funding of Colombia's military. Two major causes of problematic land appropriation are briefly discussed here. The remainder of this section addresses the offenses of paramilitaries and the evidence of their cooperation with the Colombian military. Plan Colombia demonstrates the willingness of the United States' policy to place political goals ahead of humanitarian or human rights concerns.

Plan Colombia created and supports displacement throughout Colombia as part of the United States' War on Drugs. Between 2001 and 2005, under Plan Colombia, the United States aided and conducted massive coca eradication spraying campaigns that destroyed licit and illicit crops alike.⁴⁹⁰ The Colombian government continues these campaigns that force rural farmers to leave their damaged land. During the first two years of Plan Colombia, UNODC reported that massive crop spraying displaced 71,000 people by destroying their agricultural means of

⁴⁸⁹ Paramilitaries refer to right-wing organizations or individuals, usually land owners and businessmen, who have armed themselves against guerrillas for the protection of their land and families. Organized paramilitary groups usually belong to the United Self Defense Forces of Colombia (AUC). For the purposes of this chapter, the AUC and independent paramilitaries will collectively be referred to as "paramilitaries" unless specifically indicating the AUC; Human Rights Watch. "Paramilitaries' Heirs: The New Face of Violence in Colombia," February 3, 2010.
⁴⁹⁰ Dion and Russler. "Eradication Efforts."

subsistence.⁴⁹¹ Most of the abandoned land is then claimed by paramilitaries and the government, while some of it is later tended to by squatters. Squatting, and government and paramilitary land seizure remain problems for farmers who are able to and wish to return to their land.⁴⁹² Land displacement is especially important to indigenous communities for whom land is both economically and culturally significant.

Targeted military violence has led to the repossession of much of Colombia's land, creating an overwhelming majority of victims who are disproportionately rural or more socialist. Between 4 and 6.8 million hectares of land have been re-appropriated and misappropriated through violence and the threat of violence from paramilitary groups.⁴⁹³ Many reports confirm the enduring presence of paramilitary groups intimidating, extorting, and murdering civilians as a means of maintaining control in the region. Colombia's paramilitaries act as smaller subsets of the Colombian military, executing missions or tactics that are categorically illegal for the Colombian military. Not only are they directly violent towards civilians, but civilian interaction with paramilitaries – especially extortion – often rouse the suspicion of guerrillas who speculate that civilians are state supporters.⁴⁹⁴ Paramilitaries are reported to have at times permitted and facilitated the growing and trafficking of drugs, accepted bribes, and massacred civilians. In 2008 alone, 169 people were killed in 37 massacres.⁴⁹⁵ Victims tend to be rural, poor, and indigenous or Afrocolombian. Union leaders and their families are targeted as guerrilla sympathizers and especially subject to paramilitary violence.⁴⁹⁶

⁴⁹¹ Dion and Russler. "Eradication Efforts."

⁴⁹² Amnesty International. "Everything Left Behind: Internal displacement in Colombia," 23, 015; Human Rights Watch. "Colombia: Displaced and Discarded," October 13, 2005.

⁴⁹³ Amnesty International. "Everything Left Behind"; Human Rights Watch. "Breaking the Grip?," October 16, 2008. <<http://www.hrw.org/en/reports/2008/10/16/breaking-grip-0>>; Human Rights Watch. "Paramilitaries' Heirs."

⁴⁹⁴ Human Rights Watch. "Displaced and Dispossessed."

⁴⁹⁵ Echavarría, Carlos Franco. "Colombian official says security and human rights improving." *BBC Monitoring Latin America*, December 13, 2009.

⁴⁹⁶ Amnesty International. "Everything Left Behind."

Colombia's military is also known for human rights abuses, bringing into question how the more than \$4 billion of Plan Colombia aid given directly to the military has been spent. The issue of extrajudicial killings – resulting in “false positive” victims, who are then counted as defeated guerrillas – continues to be a source of discomfort for United States policy makers.⁴⁹⁷ While thousands of cases are under investigation, many of those militia members committing the murders have been promoted.⁴⁹⁸ False positive victims are almost always poor and young, and increasingly are Afrocolombian.⁴⁹⁹ The Colombian military has also been historically tied to paramilitaries, engaging in trade, alliances, and bribery.⁵⁰⁰ The former director of Colombia's national security agency, Jorge Noguén, among over a hundred other politicians charged with paramilitary collusion, is currently on trial for wiretapping politicians, journalists and trade unionists for paramilitaries.⁵⁰¹ The corrupt relationship between the independent military and paramilitary in Colombia calls into question how the billions of dollars of aid given to Colombia by the United States is used. Accountability for how United States' foreign aid is spent continues to be a policy problem that ultimately contributes to Colombian displacement because it finances ongoing coca eradication spraying and the work of dubious governmental activities in collusion with parastate militaries.

Summary of Foreign Investment and Recent Developments

⁴⁹⁷ Alsema, Adriaan. “Progress on the False Positives Cases: A case of false hope?” *Colombia Reports*, January 15, 2010. <<http://colombiareports.com/opinion/the-colombiamerican/7686-progress-on-the-false-positives-cases-just-a-case-of-false-hope.html>>; Civico, Aldo. “Human Rights in Colombia: Rep. Jim McGovern (D).” *The Huffington Post*, February 1, 2010. <http://www.huffingtonpost.com/aldo-civico/human-rights-in-colombia_b_443818.html>.

⁴⁹⁸ Alsema, Adriaan. “Governor Convicted for Paramilitary Ties.” *Colombia Reports*, September 12, 2009. <<http://colombiareports.com/colombia-news/news/5881-governor-convicted-for-paramilitary-ties.html>>.

⁴⁹⁹ Human Rights Watch. “Displaced and Dispossessed.”; Amnesty International. “Everything Left Behind.”; Human Rights Watch. “Breaking the Grip.”

⁵⁰⁰ Alsema, Adriaan. “Governor Convicted.”; Human Rights Watch. “Paramilitaries’ Heirs.”

⁵⁰¹ Alsema, Adriaan. “52 Congress Candidates are ‘Suspicious’: El Espectador.” *Colombia Reports*, January 17, 2010. <<http://colombiareports.com/colombia-news/news/7704-52-congress-candidates-are-suspicious-el-espectador.html>>; Begg, Kirsten. “Uribe Defends Government in Heater Live Debate.” *Colombia Reports*, February 4, 2010. <<http://colombiareports.com/colombia-news/news/8033-uribe-defends-government-in-heated-live-debate.html>>.

The guerrilla war and displacement crisis continue to bring Colombia significant aid from the United States and the European Union (EU). Of this aid, that which is given directly to Colombia – instead of to INGOs and foreign programs – must be considered an opportunity to improve democratic governance in Colombia. The political relationship between the United States and Colombia provides multiple avenues for the United States to help Colombia achieve greater accountability and democracy. Accountability and democracy will provide the primary scaffolding for ending displacement and facilitating returns.

Foreign spending demonstrates the values and long-term aspirations of the United States. Foreign spending through Plan Colombia does not favorably reflect the humanitarian concerns of the United States. Under Plan Colombia, the United States has given \$6.03 billion to Colombia. Of this money, 67 percent has been directed to the Colombian military for anti-narcotics missions.⁵⁰² Both humanitarian aid and military aid for Colombia, including Plan Colombia, come from USAID. The 2009 Budget Justifications report for USAID stated that the Economic Support Fund would continue its “comprehensive campaign against narcotics trafficking and terrorism” but the report showed that under the Andean Counterdrug Program, through which all USAID money is granted to Colombia, only \$5,900 was allocated to combat terrorism in Colombia for 2009.⁵⁰³ No humanitarian assistance was allocated or scheduled for 2008 or 2009, although Social Services and Protection for Especially Vulnerable People has received between \$31,000 and \$36,000 for each of the years 2007, 2008, 2009.⁵⁰⁴ Thus, of the \$543,863 given to Colombia through the ACP, a disproportionately small amount of it is directly aiding IDPs or

⁵⁰² Casteñeda, Dorly. “Peace in Colombia.”; Human Rights Watch. “Displaced and Dispossessed.”

⁵⁰³ Rice, Condoleezza. “Foreign Operations Congressional Budget Justifications for the Fiscal Year of 2009.” United States Department of State, February 29, 2008, 41, 267.; Rice. “Foreign Operations Congressional Budget Justifications, 2009,” 98; The ACP budget for Colombia allocated \$3,150 under Nonproliferation, Antiterrorism, Demining and Related Programs and \$2,750 for Counter-Terrorism under the Peace and Security line item, respectively.

⁵⁰⁴ Rice. “Foreign Operations Congressional Budget Justifications, 2009,” 628.

combating the guerrillas' terrorism that causes the conflict in the first place. By contrast the EU gave over \$17 million USD in food and humanitarian aid in 2008.⁵⁰⁵

Given the relationship between the government of Colombia and paramilitaries, and Colombia's ongoing coca eradication spraying, it is disconcerting to see such a large amount budgeted for Colombia's military. The United States has struggled to get an affirmative response from Colombian President Alvaro Uribe that paramilitaries are being eliminated that is substantiated by evidence. President Uribe and the Colombian government are repeatedly not held accountable for how aid is spent, suggesting that the United States is willing to continue to blindly deliver money to foreign governments. This is an inaccurate message that disadvantages the United States and prevents the desired results of aid.

In 2009 and 2010, United States-Colombian relations have returned to the headlines over several issues, including defense spending, foreign military base occupation, and the ongoing free trade agreement (FTA) negotiations. Each of these issues occurs within the realm of leverage that the United States has with its best Latin American ally. This leverage can be used to improve United States-Colombian relations and to strategically restructure Colombian politics to be more conducive to peace and returns.

Between 2003 and 2006, the government of Colombia under Uribe implemented a massive demobilization campaign that claimed to have dismantled 37 armed groups belonging to a major paramilitary organization called the United Self Defense Force of Colombia (AUC). Demobilization was voluntary and, as predicted, the demobilization was largely unsuccessful.⁵⁰⁶ In early February 2010, Human Rights Watch (HRW) issued a report in sequence with a 2006

⁵⁰⁵ European Commission Humanitarian Aid. "Annual Report on Humanitarian Aid." DG for Humanitarian Aid (ECHO), 2009. <http://ec.europa.eu/echo/index_en.htm>.

⁵⁰⁶ Human Rights Watch. "Displaced and Dispossessed."; Human Rights Watch. "Paramilitaries' Heirs."

report that details the failings and fallout of the demobilization campaign.⁵⁰⁷ HRW states that the demobilizations failed largely because the campaign made little effort to dismantle criminal networks and financial and political support structures. The government also did not require identity verification for those who voluntarily returned and it is suspected that the use of stand-ins has allowed the real carriers of power to remain intact. Residual financial, political, and black market networks have been assumed by successor groups, HRW claims, such that violence in the country can continue with little disturbance.⁵⁰⁸

Continued paramilitary violence and human rights abuses committed by the Colombian military do not reflect the goals of Plan Colombia nor the humanitarian standards of the United States. Uribe and his administration have continued to declare that the demobilizations were a success.⁵⁰⁹ The director of the Presidential Human Rights Program in Colombia firmly stated that “Paramilitarism in Colombia is extinct and its leaders are in jail.”⁵¹⁰ In a live debate on February 3, 2010, Uribe claimed that he and his administration were unaware of “parapolitics” and cited several examples of ex-officials who are now on trial for involvement with paramilitaries.⁵¹¹ Whether successor groups are the resurgent remains of the AUC or neoparamilitaries that have assumed odd illicit networks is still debated.⁵¹² Paramilitaristic violence and “false positives” produced by paramilitaries and the Colombian military are still real and present threats contributing to displacement in Colombia.⁵¹³

⁵⁰⁷ Human Rights Watch. “Paramilitaries’ Heirs.”

⁵⁰⁸ Ibid.

⁵⁰⁹ Brice, Arthur. “Gangs Tied to Paramilitaries cited in Colombia Violence.” *CNN*, February 3, 2010, sec. Latin America. <<http://edition.cnn.com/2010/WORLD/americas/02/03/colombia.violence/>>.

⁵¹⁰ Stone, Hannah. “Paramilitarism is Extinct’: Govt Rejects HRW Report,” February 4, 2010. <.

⁵¹¹ Begg, Kirsten. “Uribe Defends Government in Heater Live Debate.” *Colombia Reports*, February 4, 2010. <<http://colombiareports.com/colombia-news/news/8033-uribe-defends-government-in-heated-live-debate.html>>.

⁵¹² Brice. “Gangs Tied to Paramilitaries.”

⁵¹³ Ford, Doug. Regional Summary. World Refugee Survey 2004: The Americas and the Caribbean. U.S. Committee for Refugees, 2004. <<http://www.refugees.org/article.aspx?id=1163>>.

The drug war and paramilitary presence, to which the United States indirectly and directly contributes, continues to impede the progress of returns by continuing to threaten farmers and rural Colombians. The United States must restructure the finances and programs of the War on drugs so that they do not simultaneously encourage military and paramilitary offenses or displace rural Colombians. This drug war reform will also link Colombia's responsibility to redistribute stolen land.

Because traditional coca eradication tactics have failed, simultaneously augmenting the displacement crisis, the United States has had to develop additional methods for dealing with coca farming. After observing that coca crops were at the same growth level and in some cases higher than in 2000 because replanting – which was often forced by guerrillas – was offsetting the effects of spraying, USAID and an organization in the Netherlands began to implement a new program in 2007 designed to wean farmers off of coca and onto legal cash crops.⁵¹⁴ The premise of the program is that because regional security is limited by the degree to which existing coca crops are fought for by guerrillas and paramilitaries, growing different crops would lead to a more stable area. The program does not address the long-term problem of farmers being forced to grow coca. While the program has shown promise, decreasing coca production in the tiny region of Vista Hermosa by 75 percent, a significant obstacle that remains is the absence of land titles, which local bureaucracies are slow to issue.⁵¹⁵ Obtaining credit for new agricultural investments is nearly impossible without land titles, though in many cases the Netherlands and USAID provide a six month transition stipend. The other substantial obstacle is recovering land from stolen paramilitaries. Repossessing stolen land is required under Colombia's Justice and Peace Law, but recently developed commissions have yet to invest adequate resources in the

⁵¹⁴ Dion and Russler. "Eradication Efforts."; Forero, Juan. "Colombian Farmers Get Broad Incentives to Forgo Coca Crops." *The Washington Post*. Vista Hermosa, Colombia, May 22, 2009, sec. Foreign.

⁵¹⁵ Ibid.

collection of information for land restitution.⁵¹⁶ The United States should actively seek to improve Colombian infrastructure for land restitution and redistribution.

Although recent developments suggest that the United States is restructuring Plan Colombia, the Obama Administration has not described the new plan as either solving old accountability and displacement issues, or increasing civil and political stability in Colombia for the purpose of returns. For the fiscal year of 2011, the United States is scheduled to decrease its anti-narcotics assistance to Colombia by 9 percent to \$460 million.⁵¹⁷ This money will be offset by an additional \$160 million in transition assistance from the Department of Defense. This budget announcement occurred as predicted six months after the United States and Colombia solidified a pact that allows the United States to occupy seven military bases in Colombia.⁵¹⁸ While the bases will not permit the use of United States military force, President Obama has discussed use of the bases as part of the declining Plan Colombia financing and as an “update” to the ongoing “security agreement” the nation has with Colombia, referring to Plan Colombia.⁵¹⁹ The deal has been criticized by neighboring Latin American countries as part of the United States military expansion into South America and the Caribbean.⁵²⁰ There has also been criticism in the United States by Representative Jim McGovern of Massachusetts, who explained that either the bases are not necessary or their necessity was poorly articulated by the Pentagon.⁵²¹

⁵¹⁶ Human Rights Watch. “Paramilitaries’ Heirs.”

⁵¹⁷ Cuadros, Alexander. “U.S.-Colombia Defense Accord to Offset Drop in Aid, Uribe Says.” *Business Week*, February 5, 2010. <<http://www.businessweek.com/news/2010-02-05/u-s-colombia-defense-accord-to-offset-drop-in-aid-uribe-says.html>>.

⁵¹⁸ Boadle, Anthony. “Obama Denies U.S. Creating Military Bases in Colombia.” *Reuters*, August 7, 2009. <<http://www.reuters.com/article/idUSTRE5765HL20090807>>.

⁵¹⁹ The Associated Press. “U.S. Close to Deal With Colombia on Base Access.” *The New York Times*, July 16, 2009, sec. International / Americas.

<http://www.nytimes.com/2009/07/16/world/americas/16colombia.html?_r=1&fta=y>; Boadle. “Obama Denies Creating U.S. Creating Military Bases.”

⁵²⁰ Romero, Simon. “Increased U.S. Military Presence in Colombia Could Pose Problems With Neighbors.” *The New York Times*, July 23, 2009, sec. International / Americas.

<<http://www.nytimes.com/2009/07/23/world/americas/23colombia.html>>.

⁵²¹ Civico. “Human Rights in Colombia.”

Like the military bases, which create a geographic intimacy between the United States and Colombia, the FTA being negotiated by the two nations also provides an opportunity to improve Colombian governance with United States' influence.⁵²² Instead of being an exclusively geofinancial development, FTAs can be seen as privileges for nations that behave admirably. HRW has demanded that the Obama Administration take ongoing human rights violations into account as it proceeds with negotiations, stating that, based on a recent human rights advocacy letter signed by 53 member of United States Congress, FTA negotiations could halt because of violations.⁵²³ While acknowledging the real concern for human rights in Colombia, the U.S. Ambassador to Bogota, William Brownfield also stated that HRW does not speak for the United States government.⁵²⁴ However, military expansion and trade agreements are prime opportunities for the United States to declare human rights and anti-corruption as terms for continued support and partnership with Colombia. These opportunities likewise provide points of humanitarian leverage for the United States in other international affairs.

Policy Recommendations

The following recommendations for United States' policy address the ways intervention directly or indirectly creates displacement crises. Given the case of United States intervention in Colombia, the Task Force argues that the following recommendations are critical for preventing and ceasing to contribute to forced migration in both Colombia as well as other nations in which the United States has intervened, or is planning to intervene. We recognize that the implications of the United States' tactical response to foreign conflict regarding, for instance, drugs and terrorism, irresponsibly forces displacement or augments vulnerability to displacement. These

⁵²² Chronicle Staff. "Colombia 2010: Uribe Yes, FTA No." *Latin Business Chronicle*, February 5, 2010, sec. News. <<http://www.latinbusinesschronicle.com/app/article.aspx?id=3973>>.

⁵²³ Begg, Kirsten. "HRW Not the Mouthpiece of US govt: Ambassador." *Colombia Reports*, February 4, 2010. <<http://colombiareports.com/colombia-news/news/8052-hrw-not-the-mouthpiece-of-us-govt-ambassador-.html>>; Civico. "Human Rights in Colombia."

⁵²⁴ Begg. "HRW Not the Mouthpiece."

policy recommendations are designed to approach the humanitarian strategy of the United States' foreign interventions generally or in Colombia when specified.

Given the low to negative success rate of spray eradication methods for coca farms, the United States should advise Colombia to stop all spraying immediately. Spray eradication has had poor results, and in some areas, coca farming has actually increased. The detriment of broad, untargeted spraying has included the destruction of licit crops, increased involvement of guerrillas and paramilitaries who manage the crops, massive flight as a result of the two previously mentioned problems, and subsequent flight caused by the lack of markets and deteriorating infrastructure due to declining population. The United States should cease both funding spray eradication via anti-narcotics aid to Colombia and selling tariff-free herbicide to Colombia for the purposes of spraying.

The United States must condemn premature returns and support INGOs who are working to monitor and develop proper conditions for return. The Early Warning System (EWS) in Colombia, which issues security reports about citizens' risk was initially primarily funded by the USAID. Regardless of effectively monitoring security in order to prevent displacement, the program is in danger of disappearing now that the USAID is relinquishing financial responsibility.⁵²⁵ Because the primary requirement for returns is long-term security, the EWS is integral to promoting and retaining returns under safe conditions. The United States should continue to fund the EWS until sufficient alternative funding is secured. President Uribe's Administration has repeatedly encouraged IDP returns to regions that did not meet international standards, and USAID has encouraged involuntary returns by providing housing subsidies exclusively for returning IDPs, ignoring IDPs who refuse to return to violent regions.⁵²⁶ These are dangerous practices that must stop immediately. The practice of using the rate of return as a

⁵²⁵ Human Rights Watch. "Paramilitaries Heirs'."

⁵²⁶ Human Rights Watch. "Displaced and Dispossessed."

litmus for area stability has the dilemma of incentivizing returns and ultimately promoting premature returns, using civilian risk as an indicator of security. The United States must deliberately cease to exploit civilian's risk in this way and condemn governments, like Colombia, when they do.

The United States must commit in increasing democracy in Colombia through its partnership with the government and through the development of civil society. No intervention may permit a privileged relationship between the United States and undemocratic government. Democracy requires the free and influential participation of civil society, including free speech, free press, free personal beliefs, voting, representation, and political organizing without fear of reprisal. A privileged relationship might temporarily or strategically excuse either party from accountability for strategic political convenience. Citizens in undemocratic countries have too few protections and are the most vulnerable to displacement and subsequent victimization. When the United States allies with undemocratic governments, it must take special care to protect the civilians of that government.

Subsequently, through ongoing partnership and the leverage allotted by trade negotiations, the United States is able to aid Colombia in the development of its democratic and transparent state. The Colombian government, as well as the governments of Iraq and Afghanistan, have been accused of such undemocratic practices of gratuitously regulating and threatening journalists, inhibiting labor organizing and in some cases directly harming its citizens. In Colombia, current FTA negotiations provide a prime opportunity for the United States to require a higher standard of democratic practices from its business and political partners. The United States must make clear that it will not "do business" with or provide military aid to corrupt governments.

The development of civil society includes helping establish civil-based infrastructure with high community participation. The United States must also consider creating a program similar to the Truth and Reconciliation Commission in South Africa to help heal some of the distrust and fear that has metastasized over the last 40 years of war in Colombia. In several countries where the United States has recently intervened, deep-seated tensions and violence are preventing returns or security. In the former Yugoslavia and now in Iraq, this is surfacing as homogenized neighborhoods, which only further divide and alienate civil society. After years of supporting violence, even “necessary” violence, in Colombia and other nations where American intervention has caused violence and displacement, the United States has a humanitarian responsibility to promoting healing within civil society and between civilians and their government. Increased community participation increases democratic efficacy and ensures the longevity of both returns and prevention of flight.

The United States must continue and expand farming programs for new returnees that provide alternatives to coca farming, thereby decreasing the likelihood (and cause) of drug related conflict involving guerrillas and paramilitaries. In addition, the United States should encourage and aid the Colombian government in recovering stolen land from paramilitaries and in hastening the issue of land titles, which will make returns economically viable if conditions for security have been met.

The Task Force recognizes that intervention and conflict are part of the United States’ long term participation in the global community. However, during intervention planning and execution, the United States must insist that all systems and infrastructure to be attacked will also be accompanied by viable, grassroots alternatives. Attacked systems include civil and governmental organizations and services, public and private land, and resource access, among others. The dissolution of infrastructure can force people to migrate and can prevent their return,

causing and exacerbating crises like that which exists in Colombia. Above all, forced migrants are never to be unanticipated or considered collateral damage for whom no viable alternatives and durable solutions are provided or planned. In other words, the number of IDPs and refugees resulting from a conflict should not continue to increase years after the United States has begun a financial or military intervention as in the case of Colombia.

Conclusion and Final Policy Recommendations

Our Task Force on United States refugee and resettlement policy identified various forced migration issues relevant to the Obama Administration. We outlined the issues that emerge in the admissions and resettlement process, the challenges in the period after refugee assistance runs out, and the current inability of the international humanitarian regime to address the most pressing forced migration concerns of the new millennium. During the admissions process, current United States policy and forced migration framework fail to accept the most vulnerable, unnecessarily detain and violate the rights of asylum seekers, fail to offer sufficient and equitable support to all refugees, and fails to give needed additional assistance to the most vulnerable groups, including women, children, and the elderly. After official resettlement assistance ends, many refugees are left in extremely vulnerable situations. They are unaware of their legal standing and in jeopardy of deportation, are unable to navigate the United States' complex healthcare system, lack resources to address mental health concerns, and are never able to flourish economically. Finally, the United States is engaged internationally with a framework that fails to sufficiently address different types of forced migration. We believe that by adopting the following recommendations, the Obama administration could mitigate many hardships that refugees and forced migrants face here and abroad.

Section I: Reforming the Admission Process for an Improved and More Equitable

Treatment of Asylum Seekers and Refugees

Historically, the United States government organizations, including the Bureau of Population, Refugees and Migration and the ORR, have worked together with states and volags to receive and integrate refugees into American society. However, this bureaucracy is increasingly failing to resettle as many vulnerable refugees as possible, uphold high standards of human rights, and ensure the successful incorporation of resettled refugees into American

society. The current admission system fails to admit those with the greatest need for protection due to lack of coordination and restrictive policies towards asylum seekers, and quotas for refugee admissions are often left unfilled. Increasingly harsh anti-terrorist regulations are actually preventing innocent, vulnerable people from receiving protection. Furthermore, the unnecessary detention of many asylum seekers leads to human rights abuses in detention centers across the country. For those refugees outside the country and asylum seekers who are offered refugee status and resettlement in the United States, the framework of assistance offered through volags and state support is inconsistent and often insufficient. Finally, the most vulnerable populations, including unaccompanied minors and the elderly, are given inadequate assistance. This Task Force recognizes that United States policy must be amended to address these issues so the admissions and resettlement process admits those in the greatest need, adheres to basic principles of human rights for all refugees and asylum seekers, and prepares admitted refugees for successful integration into the American society.

Chapter 1 highlighted how due to a lack of coordination between government agencies, the policies of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) and Real ID Act of 2005, and the problematic use of Temporary Protected Status rather than long-term solutions, the United States fails to adhere to its humanitarian goals. This Task Force recommends that the President, Secretary of State, Secretary of Homeland Security, the Assistant Secretary for the PRM, and the Director of the USCIS reform the goals and procedures of the U.S. Refugee Admissions and Resettlement Program to assist refugees in both immediate and protracted crisis and to treat refugee ceilings as policy targets rather than caps. Furthermore, we recommend that the IIRIA and REAL ID be changed to limit the admission of asylum seekers qualitatively rather than quantitatively and to create mechanisms for giving government-subsidized legal assistance to asylum seekers as they go through processing. Finally, the Task

Force recommends that the Obama administration work to abolish Temporary Protective Status in favor of granting refugee status to those who are unable to return home.

In Chapter 2, our Task Force identified how anti-terrorist legislation, including the USA Patriot Act and the REAL ID Act, sets excessively strict definitions for material support and ultimately have prevented refugee status being granted to those in need. Our Task Force recommends that the definitions of material support and terrorist organization be made more concise, removing the vagueness that is currently present; furthermore, authorities should determine asylum and refugee status on a case-by-case basis to ensure that no vulnerable, innocent person is excluded from resettlement in the United States. Additionally, certain vulnerable groups such as child soldiers, doctors, and their families, should qualify as groups ‘under duress’ for the Material Support Bar. Furthermore, the definition of terrorist organization should be re-evaluated to align with international standards to consider the motivations and methods of each group. Finally, the review process must be standardized so that the acceptance of asylum pleas is not left up to the discretionary power of immigration officials.

Chapter 3 highlighted the problems with the United States’ detention system, including thousands of unnecessary detentions annually, the misuse of taxpayer money, and the gross mistreatment of asylum seekers. Our Task Force recommends that the Obama Administration address these challenges by considering alternatives to detention, improving conditions and treatment of asylum seekers, and creating systems of accountability to ensure that human rights are respected in detention facilities. We recommend that mandatory detention be eliminated in favor of an expedited reform process that grants asylum seekers access to their families and legal council while cutting back on requirements for release and parole. The ICE’s mandate and budget must be reformed to include alternative programs such as parole and detainee assistance in the form of translators, legal assistance, and healthcare. The Obama Administration should

work to develop a national oversight framework strengthening the Office of Detention's role in monitoring every detention center. Finally, the DHS must make United States detention centers legally accountable for any human rights violations that may occur.

In Chapter 4, we highlighted the outdated nature of the United States resettlement structures, disparities in the standards and amount of support offered to refugees by the different volags and how these inefficiencies and discrepancies hinder refugees as they strive to become self-sufficient and adapt to American society. Our Task Force recommends that American resettlement structures be reformed so that all refugees receive equal support from their volag. The Reception and Placement Act should be reviewed every year and aid to volags adjusted to local costs of living and inflation. The length of time for Refugee Cash Assistance provided through volags must be standardized to 90 to 180 days, and standards for self-sufficiency, rather than a specified length of time, should be used to determine when during that period cash assistance should end. Finally, we recommend that the Obama Administration invest in research on the needs of refugees and promote the open sharing of information between government agencies and volags.

Chapter 5 of our Task Force focused on how the resources of voluntary agencies are insufficient to address the needs of the most vulnerable refugees, including unaccompanied minors, the disabled and elderly, and single-parent families. We recommend that the Obama Administration consider increasing ORR funding and support of ethnic self-help networks, investing in the education of minors, and providing economic and job assistance to single-parent families. Refugees should be connected with more ethnic self-help mechanisms such as the ORR's Ethnic Community Self-Help Program to create trust in resettlement mechanisms and help refugees become self-sufficient. The ORR should invest in additional training for teachers who work with URM's and should make every effort to place these minors in areas of similar

ethnic makeup where additional extra-curricular programs can be coordinated. The ORR's Refugee Social Services Program must assist younger refugees to obtain social mobility by providing academic scholarships, internships, and apprenticeships so they can become economically self-sufficient and avoid falling into poverty. The ORR should work to assist refugees, especially those in single-parent families, gain employment by securing foreign academic credentials, providing English language training, internships, and apprentice opportunities. The ORR must assist single-parent families by adjusting employment standards so parents can care for their children, promoting awareness of childcare services, and promoting community-based childcare.

Section II: Incorporation into American Life after Resettlement Assistance Ends

Many resettled refugees are still vulnerable and in need of assistance beyond the initial resettlement period to become healthy, productive, and independent members of American society. Refugee health can be jeopardized after resettlement aid runs out since many refugees are unable to navigate the complex American healthcare system, which is often inadequate in coverage and insensitive to refugee needs. Many refugees arrive with experiences of extreme trauma, and the lack of culturally sensitive mental health support, chronic understaffing, and underfunding are hindrances to the success of the few organizations that do provide such aid. Furthermore, the current legal system fails to sufficiently educate refugees of American law and culture and the process and benefits of gaining permanent residency and citizenship. As a result, many refugees are put in detention or even deported after committing a crime without knowing the extent of the consequences. In addition, without appropriate cultural and language education, many refugees are unable to become economically self-sufficient. Finally, the support for refugees after resettlement aid runs out is inadequate to allow them to become self-sufficient participants in the American economy. This Task Force recommends that the Obama

Administration provide more legal, health, and financial resources and reform legal processes to aid refugees in becoming permanent and self-sustaining members of American society.

In Chapter 6, our Task Force presented the various legal challenges faced by refugees and their families, especially in regards to obtaining the citizenship and permanent resident status that can prevent them from being deported. It also addresses the difficulties refugees face in adjusting to a new culture and language. The Obama Administration should work to ensure that resettled refugees receive the cultural and legal training and legal statuses necessary to become full members of American society. First, we recommend that the United States automatically give LPR status to all arriving refugees. Second, state and local refugee resettlement organizations should work with refugees to provide them with legal education on the benefits and processes of obtaining green cards if necessary and citizenship. Finally, the ORR should support more job training and language education so the refugees can become productive members of society and become self-sufficient.

In Chapter 7, our Task Force illustrated the inadequate state of health many refugees arrive in, the obstacles these refugees face in obtaining care and maintaining good health. These obstacles include strict time frameworks for applying for domestic health care assessments and vaccinations, certain chronic health issues, and the difficulties navigating the health care system after official assistance runs out. We recommend that the Obama administration first set standards for required initial health assessments and care so refugees can build a foundation for future interaction with the American healthcare system. Furthermore, refugees should be educated about food choices and healthy diet in the United States so they might avoid many preventable chronic diseases. In addition, RMA should be extended for one year to ensure that refugees receive sufficient treatment and are able to utilize subsidized services for mandatory screenings before applying for Lawful Permanent Resident Status. Finally, the minimum

offerings of Medicare and CHIP must be standardized to allow refugees to understand these systems and receive sufficient assistance.

In Chapter 8, our Task Force highlighted the continuing mental health obstacles refugees face even after resettlement aid runs out. Volags and NGO's often lack the resources to address such issues in a culturally sensitive way. We believe that the following recommendations to the Obama Administration have the potential to address these issues of mental health and help refugees become healthy, self-sustaining members of society. We recommend that the United States government, through the ORR and the United States Department of Health and Human Services, allocate funding to support resettlement organizations in expanding their aid past the initial resettlement period. Mental health education and treatment must be provided as part of a comprehensive package of family support, childhood education, parenting classes, language education, and job skill training. Bridging the gap between refugee programs and ethnically based community help programs is crucial in helping provide culturally appropriate and long-term mental health support to refugees recovering from trauma.

Chapter 9 highlighted that despite significant investments in refugee resettlement, funding allocations to assist resettled refugees after the official resettlement phase fails to lead refugees to financial independence. This Task Force recommends that funding be continued after official cash assistance ends. This funding should be concentrated in organizations that focus on education, English classes, and job training. Sufficient investment must be made in educating the children of refugees to help them avoid falling into lifelong poverty. Finally, the United States should consider investing in microfinance loans that allow refugees to start their own businesses and flourish financially.

Section III: Looking Beyond American Borders

The humanitarian responsibilities of the United States in regards to forced migration are not limited to what happens within our own borders, but extend to forced migration crises throughout the world. This responsibility compels the United States to interact with the international humanitarian regime to ensure that no vulnerable group goes unprotected. However, the framework of this regime is inadequate to effectively deal with forced migration crises of the new millennium. The UNCHR's mandate does not extend to all types of forced migration crises, including those involving regular and irregular migrants. As the world's climate changes, the international humanitarian regime confronts the crisis of environmental displacement without a prescription for how to effectively deal with such issues. UNHCR refugee assistance often leaves people in protracted refugee situations confined to insufficiently supplied camps. Finally, foreign intervention by the United States in places such as Colombia creates new displacement crises. This Task Force recommends that United States advocate internationally for reforms in UNHCR mandate and procedures to cover more types of forced migration, for stricter climate change treaties to help prevent environmental displacement and for the improvement of immediate and long-term assistance to those in protracted refugee situations. We urge the Obama administration to recognize that United States intervention policy must be reformed to consider and prevent new types of displacement.

In Chapter 10, our Task Force recognized that the 1951 Refugee Convention was insufficient to cover all types of forced migration and that the UNHCR's work has expanded beyond its initial mandate. We recommend that the Obama Administration work with the international humanitarian regime to adopt the expanded protection of forced migrations that has already been set out by the OAU's standards. The Cluster Approach must be reformed to better respect and coordinate all participating organizations. The United States must press the UNHCR to strengthen local, national, and regional capacity for disaster management. Finally, our Task

Force recommends that the United States work with the UNHCR to ensure that existing humanitarian and human rights law be used to protect all types of forced migrants.

Chapter 11 illustrated the growing problem of environmental displacement and the lack of international mechanisms to address this. The Task Force recommends that the United States government advocate for stricter international environmental standards to prevent climate change from occurring in the first place. Furthermore, The United States must recommend at the next Executive Committee of the UNCHR meeting that environmental refugees be recognized as equally vulnerable as Convention refugees and be granted equal legal protection. The United States should also recommend at this meeting that a legal term for the environmentally displaced be recognized and their rights be defined.

In Chapter 12, our Task Force used the case study of the Kakuma refugee camp to illustrate the issues of violence, poor education, and insufficient life necessities that often emerge in protracted refugee situations. We recommend that the Obama Administration both recognize that such camps were not meant for protracted stays by refugees and pressure the UNCHR to invest more in the support of refugee camps with the acknowledgement that none of the durable solutions are feasible for these refugees. At a basic level, the camps must receive better food, water, and security. In situations where refugees are kept in camps for long periods of time, it is imperative that the UNHCR provide long-term assistance such as education, job training, and economic development opportunities.

Finally in Chapter 13, the Task Force explored how United States intervention in foreign countries such as Colombia actually creates refugees and IDPs who are left without effective international or American assistance to deal with the violence and displacement in their communities. In the specific case of Colombia, we recommend that the United States cease funding for and advise Colombia to stop spraying fields. The United States must take special

care to invest in Colombian civil society and use its political and economic leverage and ongoing partnership with the government to aid Colombia in developing a democratic and transparent state. Finally, the United States should expand farming programs that provide returnees with alternatives to coca farming in order to decrease the likelihood of drug-related conflict. On a broader scale, we recommend that future foreign interventions be carried out in a way that minimizes displacement. Furthermore, we must invest in civil development wherever we intervene in national affairs, and any involvement must be carried out in democratically. To minimize displacement, the United States must cease any cooperation with foreign groups and governments that fail to meet standards for democratic governance.

Concluding Words

This Task Force has highlighted major problems in United States refugee policies during the admissions process, after resettlement assistance ends, and on a broader scale during international interactions. The admissions and resettlement processes must be reformed to admit the most vulnerable, protect the rights of refugees and asylum seekers, and ensure the successful integration of refugees as members of American society. The United States must extend assistance after official resettlement aid runs out to assist refugees to navigate the American legal and cultural system, maintain physical and mental health, and flourish economically. Finally, the United States must look beyond our borders at our role in creating refugee crisis and confront the flaws in the international humanitarian regime that fail to address new types of forced migration.

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