

U.S. Refugee Policy: Taking Leadership

A Report to Congress

JUNE 1997

June 5, 1997

The Honorable Newt Gingrich, Speaker of the House of Representatives
The Honorable Richard A. Gephardt, Minority Leader of the House of Representatives
The Honorable Trent Lott, Majority Leader of the Senate
The Honorable Thomas A. Daschle, Minority Leader of the Senate

On behalf of the U.S. Commission on Immigration Reform, it is my pleasure to submit our interim report on U.S. refugee policy.

This Commission was mandated by the Immigration Act of 1990 [Public Law 101-649] to examine and make recommendations regarding the implementation and impact of U.S. immigration policy. Refugee admissions, mass migration emergencies, and asylum constitute important components of U.S. immigration policy that must be considered in the context of both their domestic and international ramifications.

To learn about the domestic effects of U.S. refugee policy, the Commission held public hearings and consultations in such diverse sites as Seattle, Washington; Orange County and Fresno, California; St. Louis, Missouri; Lowell, Massachusetts; and Miami, Florida. To better understand the international aspects of our policies, the Commission undertook site visits to Bosnia, Croatia, Germany, Haiti, Cuba, and Kenya, in addition to holding discussions with representatives of the U.N. High Commissioner for Refugees [UNHCR] and the International Organization for Migration [IOM] in Geneva and in field offices.

The U.S. is entering an era that requires changes in our refugee policy. The end of the Cold War has ushered in new challenges along with new opportunities to promote policies that address the causes and consequences of refugee movements. The recommendations in this report promote a comprehensive and coherent U.S. refugee policy that will permit the U.S. to assert international leadership and implement responsible

domestic programs. The U.S. government must have the capacity to detect the causes of the movements early on to better prevent them through political, diplomatic, and economic initiatives; to assist in caring for and protecting the refugees overseas who are forced to leave their countries; to resettle effectively the few for whom U.S. resettlement is the only or best option; to adopt a viable plan to respond to mass migration emergencies that immediately affect our own nation; and to operate an effective asylum system that protects the *bona fide* refugee while deterring those who are not. Because domestic and international policies affect and are affected by each other, this report emphasizes the need for White House leadership in coordinating and overseeing decisionmaking on refugee policy throughout the federal government.

The Commission could not have produced this report without the cooperation of the Executive Branch and both Houses of Congress. We look forward to working with the Senate and House subcommittees responsible for immigration and refugee policy, as well as the federal agencies responsible for administering our refugee programs. The Commission also thanks the many representatives of state and local government and private agencies who shared their experiences and perspectives regarding refugee policy and its implementation.

Our special thanks go to the UNHCR and IOM for making our overseas site visits so productive. The field staff of these international agencies, along with the nongovernmental agencies with whom they work in providing assistance to refugees, displaced persons, and returnees, truly exemplify professionalism and competence, often under the most trying circumstances. We hope these recommendations will help them in their important work.

Sincerely,

Shirley Mount Hufstедler
Chair

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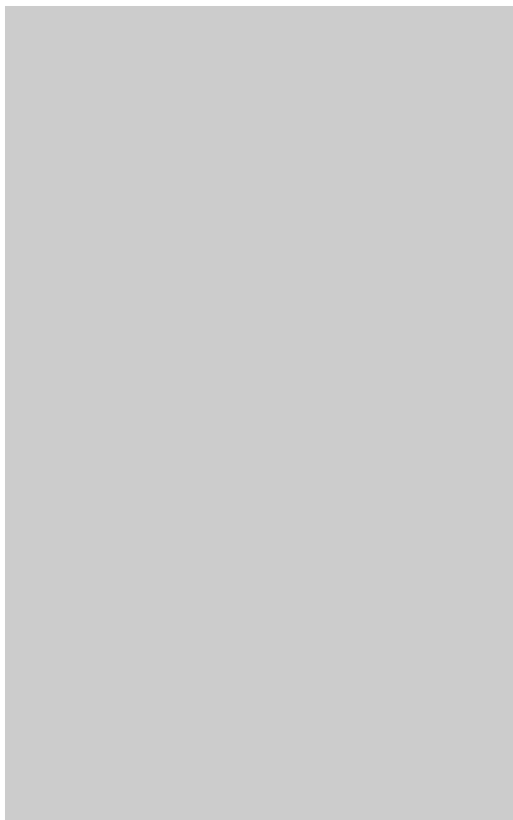
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*Somali "women at risk,"
Kakuma refugee camp in Kenya
[Photo: CIR staff]*

*Destroyed home, Sarajevo
[Photo: CIR staff]*



INTRODUCTION

Since its very beginnings, America has been a refuge for the persecuted—a “city on the hill” beckoning the victims of political, religious, ethnic, and other forms of repression. That tradition continues to this day. Through both our admissions policies and, equally importantly, through our support for international protection and assistance, the United States leads the world in responding to refugee and related humanitarian crises.

On its overseas site visits, the Commission witnessed the desperate plight of those forced to flee their homes. Existence in refugee camps is often tenuous. The Somali women of Dadaab, Kenya refugee camp, for example, face frequent rapes and assaults; many Sudanese adolescent males are dying from malnutrition-caused anemia; youngsters are forcibly recruited for military service; children born and raised in refugee camps have little hope for the future.

We also observed the daunting challenges faced by refugees able to return to their home countries. Though the Dayton Accords signaled the formal end to conflict in the former Yugoslavia, many refugees’ homes, local schools, and medical facilities were destroyed; others are no longer welcome or safe in their old neighborhoods because a different ethnic group has taken them over. Haitian refugees have returned to greater political freedom, but their problems are far from over as their government tries to address the damage done by years of exploitation and neglect.

As new emergencies arise, and as new possibilities to avert or resolve refugee crises emerge, U.S. leadership faces new challenges and new opportunities. With the end of the Cold War, millions of refugees have been able to return to their countries of origin. Many more have been forced to leave their homes. In the 1990s, complex factors precipitated the population displacements in and from such

Since its very beginnings, America has been a refuge for the persecuted—“a city on the hill” beckoning the victims of political, religious, ethnic, and other forms of repression.

Chart 1.
Total Displaced Persons: 1996

Source: U.S. Committee for Refugees. *World Refugee Survey 1997.*

Chart 2.
Major IDP Populations: 1996

| COUNTRY | NUMBER |
|------------------------|---------------------|
| Sudan | 4,000,000 |
| Afghanistan | 1,200,000 |
| Angola | 1,200,000 |
| Bosnia and Herzegovina | 1,000,000 |
| Liberia | 1,000,000 |
| Iraq | 900,000 |
| Sri Lanka | 900,000 |
| Sierra Leone | 800,000 |
| Colombia | 600,000 |
| Azerbaijan | 550,000 |
| Turkey | 500,000 - 2,000,000 |
| Burma | 500,000 - 1,000,000 |
| South Africa | 500,000 |
| Lebanon | 450,000 |
| Peru | 420,000 |
| Burundi | 400,000 |
| Russian Federation | 400,000 |
| Zaire | 400,000 |
| Georgia | 285,000 |
| Cyprus | 265,000 |

Source: U.S. Committee for Refugees. *World Refugee Survey 1997.*

**Chart 3.
 Populations of Concern to UNHCR: 1995**

*Others includes asylum seekers, persons in refugee-like situations who have not been formally recognized as refugees, UNHCR-assisted victims of armed conflict in the former Yugoslavia, various groups of concern in the Commonwealth of Independent States, and others similarly situated.

Source: UNHCR, Food and Statistical Unit, Division of Programmes and Operational Support

**What is
 International
 Protection?**

Most people can look to their own government to guarantee and protect their basic human rights and physical security. But in the case of refugees, the country of origin has proved itself unable or unwilling to protect those rights. UNHCR is mandated to ensure that refugees are protected by their country of asylum, and assists that government as far as possible in that task.

. . . [S]tates may not refoule, or forcibly return, refugees to a territory where they face danger. They may not discriminate between groups of refugees. They should ensure that refugees benefit from economic and social rights, at least to the same degree as other foreign residents of the country of asylum. Finally, states have an obligation to cooperate with UNHCR. And, for humanitarian reasons, states should permit the admission of at least the spouse and dependent children of any person to whom temporary refuge or asylum has been granted.

UNHCR. 1996. *Protecting Refugees: questions & answers*. Geneva.

Chart 4.
Major Refugee Source Countries: 1996

Palestinians 3,718,500*
Afghanistan 2,628,550*
Bosnia/Hercegovina 1,006,450*
Liberia 755,000*
Iraq 608,500*
Somalia 467,100*
Sudan 433,700
Sierra Leone 350,000*
Eritrea 343,100*
Vietnam 288,000
Croatia 300,000*
Burundi 285,000*
Rwanda 257,000
Azerbaijan 238,000*
Angola 220,000*
Tajikistan 215,600*
Armenia 197,000*
Burma 184,300*
China (Tibet) 128,000
Bhutan 121,800*

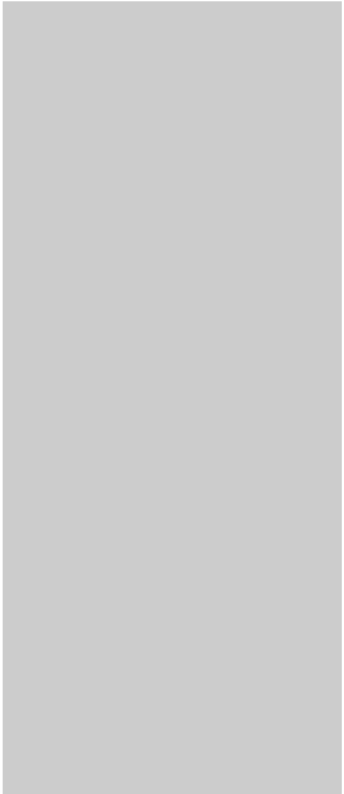
■ less than 250,000 (7) ■ 250,000 - 1 million (10) ■ more than 1 million (3)

Source: U.S. Committee for Refugees. *World Refugee Survey, 1997*. [*Number reported from sources varies widely.]

varied places as Bosnia, Rwanda, Liberia, Afghanistan, Chechnya, and Albania. These complex movements require equally complex responses both to resolve the existing crises and to avert future emergencies. Repatriation, reconstruction, and democracy-building efforts in Central America, Cambodia, Haiti, Bosnia and elsewhere point to the significant investment in time, money, and personnel required to bring stability to these troubled areas and, thereby, avert future crises.

The vast majority of the refugees and displaced persons from these and other countries remain within their own region. Increasingly, they are internally displaced within their own countries. The U.S. Committee for Refugees [USCR] estimates that at present there are 14.5 million refugees and asylum seekers worldwide, with almost 19 million additional persons who are internally displaced [IDPs]. By contrast, in the early 1980s, USCR counted fewer than 10 million refugees worldwide and did not even estimate the number of IDPs. While most refugees fall under the United Nations High Commissioner for Refugees [UNHCR] mandate, only a small minority of the internally displaced persons receive international assistance and protection. They become of concern to the UNHCR as a result of a request from the Secretary General or competent organs of the United Nations or because of their proximity to assisted refugee and returnee populations. The UNHCR reports 26 million “persons of concern”—including more than 13.2 million refugees, 4.6 million internally displaced persons, 3.3 million returnees still in need of assistance and protection, and 4.9 million other persons of concern.

By contrast, even the largest U.S. resettlement program of the past two decades—that of Southeast Asian refugees—brought no more than 168,000 refugees to this country in any one year. During the same period, the U.S. generally saw fewer than 100,000 asylum seek-



*Resident of Gasinci
refugee camp in Bosnia
[Photo: CIR staff]*

**Chart 5.
Major Destinations of Refugees
and Asylum Seekers: 1996**

Iran 2,020,000*
Jordan 1,362,500
Pakistan 1,215,700*
Gaza Strip 716,900
Guinea 650,000*
Yugoslavia 550,000*
West Bank 532,400
Russian Federation
484,000*
Zaire 455,000*
Germany 436,400*
Sudan 395,000*
Syria 384,400
Lebanon 355,100
India 352,200*
Tanzania 335,000*
Ethiopia 328,000*
Cote d'Ivoire 320,000
China 294,100*
Saudi Arabia 257,850
Azerbaijan 249,150*

■ less than 400,000 (10) ■ 400,000 - 1 million (6) ■ more than 1 million (3)

Source: U.S. Committee for Refugees. *World Refugee Survey, 1997*. [*Number reported from sources varies widely.]

ers per year come directly to our shores. This is not to say that these arrivals do not have profound consequences both positive and negative for the U.S. communities in which they reside. The Mariel boatlift in the early 1980s saw more than 125,000 Cubans arrive within weeks. Similarly, the more sustained movements of refugees from southeast Asia and the former Soviet Union continue to pose challenges and provide opportunities to this country. Nonetheless, the comparison between the number of international refugees and the numbers of those resettled in the U.S. underscores that nearly all refugees will remain outside of this country—a reality that U.S. refugee policy must reflect.

A majority of the world's refugees are in Africa and the Middle East. By USCR's count, Africa has more than 3.6 million refugees (down from 5.2 million in 1995 largely because of the recent return of Rwandans from Zaire [now Congo]) and the Middle East almost six million. Major source countries in Africa include Rwanda, Burundi, Liberia, Somalia, Sierra Leone, Sudan, and Eritrea. Each of these countries also has large numbers of internally displaced persons and returnees. Afghans, Iraqis, and Palestinians represent the major refugee groups in the Middle East. Europe follows with more than two million refugees, largely from the former Yugoslavia. South and Central Asian countries host another one million plus refugees, primarily from Afghanistan. Perhaps because of growing support for democracy, there has been a marked downturn in refugee movements in East Asia, Latin America, and the Caribbean, with exceptions such as the flight of Burmese to Thailand.

Despite the small percentage of the world's refugees who can be resettled in the United States, U.S. resettlement policies nevertheless can greatly influence the international response to refugees. U.S. pledges of resettlement and support for the protection mandate of UNHCR encourage other nations to provide first asylum to new arrivals and serve as an example to other resettlement nations.

Who Is a Refugee?

[A refugee is] any person who is outside any country of such person's nationality, or in the case of a person having no nationality, is outside any country in which such person last habitually resided, and who is unable or unwilling to return to, and is unable or unwilling to avail himself or herself of the protection of, that country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion, or . . . any person who is within the country of such person's nationality . . . and who is persecuted or who has a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion. The term "refugee" does not include any person who ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion.

Immigration and Nationality Act Section 101a(42)

Conversely, other countries point to U.S. decisions to interdict and return individuals without screening their claims about persecution as justification for their own refusal to accept asylum seekers.

U.S. adherence to international norms for the protection of refugees is essential to a well-functioning international system. The Commission believes U.S. policies should recognize that persons in life-threatening situations or subject to serious bodily harm who do not qualify under the refugee definition may also need protection and assistance from the United States.

The recommendations in this report support a comprehensive and coherent U.S. refugee policy that will permit the U.S. to assert international leadership and implement responsible domestic programs. The U.S. government must have the capacity to detect the causes of the movements to better prevent them through political, diplomatic, and economic initiatives; to assist in caring for and protecting the refugees overseas who are forced to leave their countries; to resettle the few for whom U.S. resettlement is the only or best option and provide sensible transitional assistance to them; to operate an effective system for protecting *bona fide* asylum seekers in the U.S. while deterring those who are not; and to adopt a humane and effective plan to respond to mass migration emergencies that immediately impact our own nation. Because domestic and international policies affect, and are affected by, each other, this report also emphasizes the need for White House leadership in coordinating and overseeing decisionmaking on refugee policy throughout the federal government.

RECOMMENDATIONS

A FOCAL POINT FOR U.S. LEADERSHIP

Demonstrating leadership in a new era requires that the U.S. government develop a coordinated, comprehensive approach to refugee policy and its implementation. This leadership will exert maximum effect if it comes from the White House.


The Commission recommends the designation of an office within the National Security Council to serve as the White House focal point for overseeing and coordinating all aspects of U.S. policies regarding domestic and international refugee and related humanitarian issues. The responsibility for refugee and related humanitarian issues now is divided among agencies scattered among several Cabinet-level departments. For example, the Department of State has lead responsibility for setting and implementing policies related to international refugee and humanitarian assistance and protection. The Department of Justice sets and implements asylum policy and the Department of Health and Human Services oversees the domestic assistance program for resettled refugees. Each department faces separate issues, but their overlapping areas of interest necessitate a high level of coordination to accomplish smooth, effective operations.

When refugee crises emerge, more than coordination is needed. Generally, only the President can make the final decision to put U.S. diplomatic, financial, and even military resources behind efforts to address major crises such as those that have occurred in the Great Lakes region of Rwanda, Zaire [Congo], and Burundi, and in Bosnia, Somalia, and northern Iraq.

Designation of a focal point within the National Security Council [NSC] will help ensure that the President receives the best intelligence needed to make informed decisions during international cri-

The National Security Council, in consultation with the Domestic Policy Council, is particularly well-suited to make sure that appropriate weight is given to national security, foreign policy, domestic interests, and humanitarian concerns.

ses and mass migration emergencies involving U.S. borders and ports. The NSC, in consultation with the Domestic Policy Council, is particularly well-suited to make sure that appropriate weight is given to national security, foreign policy, domestic interests, and humanitarian concerns. The NSC focal point would have an opportunity to assess and comment on the implications of various policy decisions for possible humanitarian crises, as well as alert the President and Cabinet members to looming crises that require early attention. The NSC has the confidence of the President in policy judgments and it can bring the key Executive Branch decisionmakers to the table in critical situations.



The Administration has taken steps in this direction with the designation of a Special Assistant to the President and Senior Director of the National Security Council for Democracy, Human Rights, and Humanitarian Affairs. Responsibility for refugee policy should be institutionalized at the NSC. And, the office should be provided the necessary resources and personnel to coordinate federal programs related to early warning of refugee and related humanitarian emergencies, preventive actions that address the causes of such crises, humanitarian assistance to refugees and internally displaced persons, U.S. resettlement of refugees, migration emergency planning, U.S. asylum and temporary protection policies, and domestic assistance for refugees and others of humanitarian concern. The aim of the NSC office should be to maximize consistency in policy formulation on domestic and international issues, enhance coordination among the lead agencies in developing and implementing policies that cross lines of authority,¹ clarify accountability through a

*Bosniac children at
Gasinci refugee camp
[Photo: CIR staff]*

¹ For example, through the formulation of a national strategy paper addressing all refugee issues.

coordinated review of appropriation requests of agencies implementing refugee programs, and expedite the appropriate tasking of agencies when an emergency arises.

*Sudanese children in Kakuma
refugee camp in Kenya
[Photo: CIR staff]*

INTERNATIONAL REFUGEE POLICY AND PROGRAMS

With the vast majority of the world's refugees and displaced persons remaining overseas, the U.S. must focus first and foremost on international refugee policy and programs. Our leadership can take many forms, including policy direction and guidance in international *fora*, financial contributions to assistance and protection programs, and last but not least, the example set through our own domestic refugee resettlement and asylum policies.

The Commission urges the federal government to continue demonstrating leadership in generating international responses to refugee and related humanitarian crises. The vast majority of the world's refugees and displaced persons are outside of the United States. The Commission is charged with taking a broad view of U.S. refugee policy to include not only domestic but also international policies and programs. The leadership the U.S. provides in responding to international crises is a key component of our refugee policy. The number of refugees and displaced persons requiring international assistance and protection continues to grow. Thus, the need for a continued, effective U.S. response remains. U.S. refugee policy should:

- **Anticipate and take action, when possible, to prevent refugee and related humanitarian emergencies from occurring;**

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- **Respond in a timely, humanitarian, and effective manner** when their prevention is not possible;
- **Facilitate protection of and assistance to refugees** regardless of their location—that is, in countries of first asylum as well as at the border and in the interior of the United States;
- **Endeavor to ensure, to the extent practicable, humanitarian aid and protection to those who are internally or externally displaced** by other situations that threaten life or liberty; and
- **Seek durable solutions** (repatriation, local integration, or third-country resettlement) for those who require international protection and assistance so as not to perpetuate long-term refugee displacements.

*Somali women residents of
Kakuma refugee camp in Kenya
[Photo: CIR staff]*



The United States should serve these goals through:

- **Preventive diplomacy and other actions** that address the causes of refugee and related humanitarian emergencies and, thereby, reduce the likelihood of their occurrence;
- **Policy leadership** in the international refugee system through which the vast majority of refugees receive assistance, protection, and durable solutions;
- **Timely and appropriate financial contributions** designed to address the causes, consequences, and solutions to refugee and related humanitarian emergencies;

**Chart 6.
1997 U.S. Migration
and Refugee Assistance Account**

Source: Department of State, Bureau of Population, Refugees and Migration

- **Support for programs that target assistance and protection to the most vulnerable populations**, with particular regard for the needs of women and children who comprise the vast majority of the world's refugee and displaced populations; and
- **Clear, comprehensive, and consistent domestic refugee policies** that adhere to recognized international norms for the protection of refugees and others facing life-threatening situations.

**Chart 7.
U.S. Contributions* Relative to Other
Countries: 1996**

| COUNTRY | CONTRIBUTION \$ PER CAPITA | CONTRIBUTION TOTAL \$ |
|----------------------|-------------------------------|--------------------------|
| Norway | \$13.25 | \$58,297,834 |
| Denmark | \$12.60 | \$65,507,230 |
| Sweden | \$10.42 | \$91,731,953 |
| Netherlands | \$ 5.09 | \$78,875,566 |
| Luxembourg | \$ 4.72 | \$1,887,174 |
| Switzerland | \$ 4.63 | \$32,880,104 |
| Finland | \$ 3.32 | \$16,930,168 |
| Liechtenstein | \$ 3.17 | \$94,961 |
| United States | \$ 1.47 | \$388,792,372 |
| Ireland | \$ 1.38 | \$4,976,523 |
| Belgium | \$ 1.22 | \$12,483,315 |
| Japan | \$ 1.13 | \$142,633,003 |
| Canada | \$ 1.10 | \$33,085,740 |
| United Kingdom | \$ 1.10 | \$54,747,538 |
| Australia | \$ 1.03 | \$18,797,686 |
| Kuwait | \$ 0.83 | \$1,500,000 |
| Saudi Arabia | \$ 0.53 | \$10,300,000 |
| Germany | \$ 0.52 | \$43,454,808 |
| Italy | \$ 0.38 | \$21,559,888 |
| Spain | \$ 0.28 | \$10,886,661 |

Source: U.S. Committee for Refugees, *World Refugee Survey 1997*
* Contributions to UNHCR, IOM, and UNRWA.

The Commission reinforces the need for creative approaches to address issues that are now impeding effective responses to international refugee and related humanitarian emergencies. The most pressing of these are:

- **Early Warning of Humanitarian Crises.** Most humanitarian emergencies that generate large-scale movements of refugees and other displaced persons are predictable to some degree. Many people know that a potential crisis is brewing long before the first persons take flight. The key is to transform such generalized knowledge into the specific information needed for action plans to prevent the crisis, if possible, or to respond more effectively and quickly if not.

- **Preventive Actions.** Even more problematic than the capacity to sound early warnings is the will and capacity among national and international agencies to respond to them. Preventive action can involve a wide array of strategies, ranging from diplomacy, to economic sanctions to, as last resort, military intervention. While the United States is not the only country with the capacity to take such actions, our unique role as the remaining superpower makes it imperative that we understand how to use these tools most effectively and when it is in our national interest to do so.

- **Emergency Responses.** Unfortunately, the circumstances that cause humanitarian emergencies often cannot be prevented. Despite decades of experience, however, emergency responses typically are “too little, too late.” Prompt and effective responses can decrease illness and death resulting from starvation, overcrowding, disease, and lack of shelter. Early responses can limit the security risks to neighboring countries that sometimes result from the large-scale movements of people during conflict. And, they can diminish the later cost of addressing the consequences of failed assistance and protection policies.

- **Internally Displaced Persons.** Few humanitarian issues generate greater controversy and require more leadership than the situation of internally displaced persons who seek refuge within the borders of their own country. More individuals are internally displaced because of repression and conflict than have sought or obtained refuge in other countries. In some cases, they remain in danger in their own countries because of an unwillingness on the part of

*Food distribution at Dadaab
refugee camp in Kenya
[Photo: CIR staff]*

neighboring countries to permit them to enter and seek asylum. Above all, there is a need for a clearer picture of the rights of IDPs to protection and assistance and the responsibilities of states and the international community towards them. More effective strategies to reach and provide assistance and protection to IDPs should be developed. These strategies should include guidelines and rules of conduct to help determine when, under what circumstances, and by whom to provide aid to IDPs and to help ensure that aid does not become politicized or serve to fuel a conflict.

- **Protection of Aid Workers.** In recent years, staff of the international organizations, government agencies, and non-governmental organizations providing assistance to refugees and internally displaced persons have come under deadly attack. Agencies such as the International Committee of the Red Cross [ICRC] that have had long histories of operating safely on both sides of conflicts are now increasingly the

targets of armed reprisals from military and paramilitary forces. Sometimes the attacks have led to the death of humanitarian aid providers and forced others to depart, leaving refugees and IDPs without outside help. Violent attacks upon humanitarian workers are wholly unacceptable; the protection of aid workers must be given high priority if effective assistance and protection is to occur.

- **Durable Solutions for Refugees and Internally Displaced Persons.** The decade of the 1990s has seen the end to many refugee

*Rwandan refugees return from Tanzania.
[A/P/Wide World Photos]*

and related humanitarian crises. Yet far too many individuals remain externally or internally displaced because of continuing conflict or repression in their home countries. Expanding repatriation opportunities while promoting local integration and third-country resettlement for those who cannot return home will help ensure that millions of refugees are not left without permanent solutions to their plight.

- **Institutional Roles and Relationships.** A number of these issues fall between the cracks of the U.S. government and international systems, producing conflicts or leaving gaps in institutional responsibility. Sometimes, too many agencies vie for participation; at other times no one steps forward to assume responsibility. Too often, the few agencies willing and able to assist and protect the victims of humanitarian crises become overextended. U.S. leadership in setting out a more effective humanitarian response system would help correct these problems.

- **International Responsibility.** A broader sharing of responsibility and commitment towards refugees will increase the effectiveness of responses to refugee and related crises. No one country, the United States included, has either the resources or the capacity to undertake all of the tasks necessary to prevent or respond effectively to refugee crises. The United States should lead efforts to develop more effective mechanisms for sharing of responsibility among nations able to do so.

As a matter of urgency, the Commission calls on the President to establish a senior-level taskforce, under the leadership of the NSC, to set criteria and guidelines for the involvement of U.S. military forces in humanitarian operations related to refugees and IDPs. In the past, the U.S. military occasionally has been involved in providing humanitarian assistance

to victims of conflicts or natural disasters. Since the end of the Cold War, however, as crises continue but superpower conflicts no longer impede international action, the U.S. military has been involved in

*U.S. military
loads flour for Sarajevo
[Department of Defense photo]*



numerous complex contingency operations. These have involved humanitarian as well as the more typical political and security aspects (e.g., Iraq, Somalia, Haiti, former Yugoslavia, etc.). The U.S. military also has continued to provide critical logistical support to the increasing numbers of humanitarian operations. Military resources and facilities have even been used to interdict and, in the case of Guantanamo Naval Base, to process and protect migrants.

The military is likely to continue to be involved in humanitarian operations, at least in the near future. Although the U.S. government has developed criteria for the participation of military forces in peacemaking and peacekeeping operations, similar guidelines have not yet been promulgated for the broader array of humanitarian operations to provide assistance and protection in situations related to refugees or IDPs.

These situations pose specific challenges that go beyond those encountered in providing logistical support. For instance, a humanitarian response to flood victims may only require airlifting supplies or feeding people. Though such efforts can require demanding logistical planning and difficult operations, they tend to be far less complex than negotiating access with warlords, preventing the hijacking of supply convoys, or defending the lives of relief workers—all of which occur in protection situations. The crisis in Zaire [Congo] highlights the many complex issues. Rwandan refugees have been threatened not only by the domestic Zairian [Congo] conflict but also by Rwandan military and militia forces operating in Zaire

[Congo]. The plan for a multinational humanitarian force, including U.S. military, was put on hold in December 1996 when the majority of Rwandan refugees repatriated spontaneously, but as of the spring of 1997, the situation remained fluid with several hundred thousand refugees remaining in Zaire [Congo], largely out of reach of humanitarian refugee assistance.

The proposed taskforce would cover such issues as: recommending criteria for determining if and when military intervention is in the U.S. national interest; developing criteria for initial engagement and later disengagement; formulating a code of conduct during deployment to include, at a minimum, an absolute right of self-defense; analyzing the effects of the humanitarian assistance on the situation on the ground; evaluating the interaction between the humanitarian operations and political and diplomatic efforts; devising necessary training; delineating agency responsibilities and a chain of command; and clarifying funding issues. Among others, the taskforce should include the Secretary of State, the Secretary of Defense, the Chairman of the Joint Chiefs of Staff, and the Director of Central Intelligence, as well as key leaders of Congress, international and nongovernmental organizations and religious institutions.

*U.S. soldier in Haiti
gives medical assistance
[Department of Defense photo]*

MASS MIGRATION EMERGENCIES

The Commission reiterates its view (expressed in its 1994 report) that a credible immigration policy requires the ability to respond effectively and humanely to migration emergencies in which large numbers of people seek entry into the United States. Failure to act appropriately and

Failure to act appropriately and in a timely manner during mass emergencies can have profound humanitarian consequences, overwhelm resources, and create serious problems that far outlast the emergency.

in a timely manner can have profound humanitarian consequences. Further, an uncontrolled emergency can overwhelm resources and create serious problems that far outlast the emergency. The Commission believes that the recommendations below will facilitate the ability to respond effectively and humanely.

The Commission recommends establishment of a regional temporary protection system. The creation of a regional protection system is by far the best option to provide temporary protection outside of the U.S. to individuals fleeing armed conflict and/or upheavals that pose serious threats to life or liberty. The U.S. government learned valuable lessons during the Haitian and Cuban migrations in 1994. First, we can and should protect those fleeing oppressive regimes or life-threatening danger. Second, we can and must do so without precipitating the migration or admission of large numbers of those who only seek a better economic life in the U.S. Third, we can engage regional neighbors in providing protection. The Commission believes that the U.S. should build on this experience now so that, in accordance with both our commitment to humanitarian principles and our role as an international leader on refugee policies, we can make all feasible efforts to protect, at least on a temporary basis, individuals who fear return to their home countries because of armed conflict and other serious civil disruptions.

The U.S. should be working hard now—when we are not immediately affected by a mass migration crisis—on ways to address the political, fiscal, and technical problems that may impede efforts to establish a regional system to deal with likely future crises. Establishing such a system will take time, high level political involvement, and the potential commitment and leverage of U.S. financial and other resources. A regional protection system would require the countries of the Americas and the Caribbean to negotiate and agree upon several key elements:


- **Sites.** Various locations would be needed depending on

the size of the emergency movements, their proximity to the source country, and geopolitical sensitivities regarding a particular emergency. In addition, regional partners are likely to expect each other to do more than provide funding or logistical assistance to the system. Sites in two or three countries near the source country would likely be the primary protection locations. Negotiations on establishing a regional protection system should address minimum requirements for such sites in terms of overall conditions, access to medical and other services, presence of nongovernmental organizations, specific policies related to unaccompanied minors and women-at-risk, and other similar issues.

The U.S. may have to be prepared to provide a location for use by the regional system. Until the U.S. develops the capacity and legal framework that would allow it to provide truly temporary protection to large numbers within our territory, Guantanamo Naval Base should continue to be used in responding to mass migration emergencies. The base is the only offshore site that the U.S. currently can offer if called on by our regional neighbors to contribute territory it controls to a regional protection system. Further, Guantanamo appears to be the only U.S.-controlled offshore protection site in the region available for situations where the U.S. acts unilaterally to handle emergency movements.

Safe havens in the country of origin also should be used to provide protection,

The U.S. should be working hard now—when we are not immediately affected by a mass migration crisis—to establish a regional system to deal with likely future crises.



*Processing at Guantanamo
[Photo: Ramon Garcia]*

but only as a last resort when all else has proven ineffective in responding to the humanitarian emergency. The risks to life for both protected and protectors have so often outweighed the potential benefits of such in-country protection that only in the most extraordinary circumstances should this option be considered.

- **Plans for Processing of Those Who Reach Borders Beyond the Primary Protection Sites.** Those seeking protection who reach nations further away from the source country could be provided refuge either at one of the primary regional protection sites or within the country that they reach. Those nations, including the United States, concerned that too many individuals might try to reach their country, should be able to find a principled and humanitarian way to determine who among those needing protection should receive it at the primary locations and who within their own borders.

Temporary protection within a regional protection system is one potential way for the United States to do this. Under this framework, the U.S. would not interdict and directly return asylum seekers in order to prevent their entry in the U.S. Instead, those who arrive at U.S. borders requesting protection would undergo a constitutionally-sound, expedited procedure to determine if they qualify for either asylum or temporary protection. They would have an opportunity to make claims before an Asylum Officer and, if not approved, an Immigration Judge. Those who fail to prove eligibility for either asylum or temporary protection would be returned to their home country. Those who are determined ineligible for asylum, but who qualify for temporary protection, would receive a grant for the latter and be provided protection at one of the primary sites outside the U.S. Those whose claims for asylum require adjudication beyond what can be accomplished within the expedited procedure

would be admitted into the U.S. for regular asylum processing. If they ultimately fail in their asylum claim but are granted temporary protection, they could be allowed to remain in the U.S. as long as the U.S. determined that such protection was warranted.

If, however, experience shows that the availability of such temporary protection in the U.S. creates a magnet effect, protection could be provided at the primary regional sites. In this way, the U.S. could share the regional responsibility of providing temporary protection to some individuals within its own territory without serious concerns that such admissions would lead to a magnet effect.

*Migrant interdiction
off the Florida coast
[U.S. Coast Guard photo]*

- **Measures to Avert and Resolve Crises.** It is both humane and pragmatic for the U.S. and its regional partners to be similarly committed to resolving the conditions causing flight. This would require prompt and intensive assessments of the extent to which coordinated diplomatic action can serve to avert mass migration emergencies within the region. Coordinated action may also be helpful in finding solutions to crises that cannot be prevented so that people can return in safety to their home countries.
- **Durable Solutions.** For most protected populations, timely repatriation is the best solution. In accordance with the humanitarian nature of temporary protection, safe return should be accomplished through voluntary means with a combination of financial and development aid incentives. Such aid should be targeted to the communities from which those protected come. The model UNHCR often uses, Quick

Impact Projects [QIPs], provides resources to communities where there was substantial displacement resulting from warfare. QIPs support rehabilitation of local roads, water systems, community health centers, schools, housing, and other infrastructure affected by warfare. QIPs employ both the resident population and the returnees, thereby making the local community more receptive to the return of its residents while providing needed transitional income to both residents and returnees. Compulsory repatriation may be necessary for some individuals, but should be used only when an individual has chosen not to return after being provided with a fair opportunity and appropriate incentives to do so in a safe and voluntary manner.

In some situations, timely return will prove impossible because the conditions causing flight persist despite efforts to resolve the crisis. Coordinated action to find other durable solutions will then be needed. Local integration and third-country resettlement should be considered for individuals whose continued presence in protection sites no longer can be sustained.


- **Financing Plan.** The temporary protection system, in addition to costs incurred by the various government agencies involved, will entail numerous other costs, including “moth-ball” maintenance of the protection site and their utilization and operation if and when a migration emergency occurs. For example, if the United States were to use Guantanamo, the military would face costs greater than normal maintenance of the base. However, certain costs would be incurred regardless of the presence of aliens seeking protection. Reimbursement formulas need to be developed that take into account the *marginal* additional costs incurred. As part of their advance planning, the countries involved would

have to project what the total costs could be and clarify who would pay which costs and from which budget items.

The Commission recommends that the federal contingency planning for migration emergencies that has been under development during the past decade be finalized, with appropriate provisions to review and revise as needed. Mass migrations are likely to continue within this hemisphere. The presence of a contingency plan that identifies various scenarios, policy responses, and appropriate plans for handling them can help avoid dangerous and costly *ad hoc* decisionmaking and planning, as well as the disruption of normal operations. A great deal of time and effort already have been put into the contingency plan, Operation Distant Shore. Significant improvements in the plan have been made although further changes are needed to make it more useful. These include modifying policy assumptions to reflect changes in U.S. asylum law and regulations and to incorporate the lessons of the most recent responses to movements out of Cuba and Haiti, including the viability of off-shore safe havens and the need for a formalized structure for making policy decisions. Contingency planning also may involve consideration of how to address or ameliorate the causes of the migration so that people do not feel they have no choice but to migrate. The development of a more realistic funding plan [as discussed below] is also needed as part of any contingency plan.

The Commission recommends that the NSC focal point for refugee issues assume leadership quickly to ensure a smooth response to an unfolding mass migration emergency. The early establishment of a chain of command is crucial to an effective emergency response. Past experiences demonstrate that the majority of the decisions needed in responding to an emergency are linked to domestic politics and end up at the White House. During the 1994 Cuban and Haitian

Housing at Guantanamo
[Photo: Kenneth Leutbecker]



migration crises the NSC took an active role in determining and organizing the U.S. government's policy response. To facilitate coordination and to use the emergency powers, authorities, and funds available to the President, the focal point must have access to the highest levels of the Executive Branch and have sufficient authority and government experience to be able to carry out the responsibility effectively. Institutionalizing this responsibility within the Executive Office of the President would help ensure that the designated individual is involved in the identification of potential crises and formulation of a coordinated U.S. response. By exercising leadership in the planning process prior to the emergency, the NSC will help ensure continuity between planning and implementation after an emergency has begun.

The Commission urges increased coordination among federal agencies involved in emergency responses as well as with state and local agencies and regional and international organizations. Increased coordination within the federal government would help ensure that the appropriate participants are identified and involved in the discussions and that as many decisions and responsibilities as possible are agreed upon prior to emergency situations. Such prior agreements between the federal government and state and local agencies could eliminate many of the sources of tension and confusion that currently exist about roles and responsibilities. This would reduce the reluctance of state and local government to be involved, increase trust between the parties, and thus facilitate responses to mass migration emergencies. Moreover, some state and local governments have knowledge and experience that would enhance the quality of the planning process. Fortunately, progress is being made. The Immigration and Naturalization Service [INS] and the Federal Emergency Management Agency [FEMA] are negotiating a Memorandum of Understanding clarifying how FEMA would support INS in an immigration emergency. Recent field exercises have increased the active participation of state and local officials. Increased coordination with our regional partners and international agencies prior to a migration

emergency (as suggested above) would help focus attention on addressing the causes of such mass migrations, clarifying responsibilities, and creating infrastructures, mechanisms, and guidelines to deal with any crisis that does occur. This would facilitate timely implementation of an appropriate response, lower the costs borne by the U.S. and its regional partners alike, and prevent the burden from being placed solely on the U.S.

The Commission recommends development of a realistic financing strategy and mechanisms to trigger allocation of funds. Even with planning and leadership, an effective emergency response can fail if the operational agencies have insufficient resources and authorities to carry out their responsibilities. The Immigration and Nationality Act established an emergency fund that can be tapped in these situations. The development and inclusion of a realistic financing plan and trigger mechanisms for the disbursement of those funds are crucial to increasing the viability of any mass immigration response plan. Otherwise, the uncertainty regarding funding availability, division of costs, and reimbursements will continue to impede effective emergency responses. Such a process would facilitate agency participation in an emergency response and in advance planning and will likely facilitate and enhance the response effort itself.

The Commission also recommends that those particular agencies mandated to take operational responsibility for responding to a mass migration emergency are granted the necessary statutory authority to allow them to respond effectively. For instance, while INS currently has on-the-ground operational responsibility when migrants enter the U.S. under emergency circumstances, it lacks the authority to assign tasks to other agencies as needed. State and local governments are often confused about their authority to respond during a migration emergency. During a natural disaster, the Federal Emergency Management Agency does have statutory authority to “task” other federal agencies for additional support in its efforts to respond to the emergency and also has immediate access to funding to reimburse their

implementing partners. To further coordination and effectiveness, officials involved in the migration emergency planning process have begun to gather additional information from the relevant agencies about how they would respond to certain situations and what resources and authorities they would need to be able to do so.

ASYLUM

As a matter of legal obligation, humanitarian principles, and good public policy, the United States should not expel or return refugees to countries in which they have a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion.


As a matter of legal obligation, humanitarian principles, and good public policy, the United States should not expel or return refugees to countries in which they have a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion. The United States fulfills this commitment through two statutory vehicles: Section 208 of the INA discretionary grants of asylum to individuals who have been persecuted in the past or who have a well-founded fear of persecution; and Section 241(b)(3) mandatory withholding of removal of those demonstrating that their life or freedom would be threatened if removed to a particular country (or Section 243(h) withholding of deportation for applications filed before April 1, 1997). Asylees may become permanent residents in the United States, but those granted withholding of removal cannot adjust status and may be deported to another country.

Although the United States is not legally obliged to admit asylees for permanent settlement, we should and do provide such refuge on the basis of humanitarian principles and good public policy. We are legally obliged to have in place procedures for determining refugee status before taking any steps that may result in a person's return to a country in which he or she may face a threat to life or liberty. This obligation extends to refugees within the United States and at our frontiers. Asylum and withholding of removal procedures should ensure protection to *bona fide* refugees but also deter fraud and abuse of those procedures from unmeritorious claimants.

The Commission commends the regulatory changes in the asylum system that have professionalized and streamlined decisionmaking while reducing abusive claims to refugee status.

The Department of Justice promulgated regulations in 1990 and 1995 that have greatly improved the process for adjudicating claims to asylum in the United States. The establishment in 1990 of a trained corps of asylum officers has raised the quality of decisions on asylum. The various administrative changes adopted in 1995, including the delinking of asylum claims and work authorization and the more efficient and consistent decisionmaking at the INS and Immigration Courts through procedural changes accompanied by the addition of more staff, appear to have reduced significantly the number of frivolous asylum applications without jeopardizing the integrity of the system.

The Commission recommends enhanced attention to the timely removal of rejected asylum seekers. The absence of an effective and coordinated strategy to ensure the timely removal of rejected asylum seekers may undermine efforts to demonstrate that the U.S. is serious in its commitment to a credible asylum system. The Commission believes that priority regarding removal of asylum seekers should be given to those whose applications have been rejected under the new asylum system. The 1995 reforms sought to deter abuse by concentrating adjudicatory resources on new cases in order to send a message that asylum was no longer a route to indefinite stays in the United States. Only after INS and the Immigration Courts were able to make a decision on all new cases within six months did their attention turn to the large backlog of prereform asylum cases. This



*Asylum interview
[Photo: INS Houston asylum office]*

strategy has, at least initially, reduced new asylum applications by half. The same logic holds for setting removal priorities. The U.S. should start now to remove the more recent applicants who fail to qualify for refugee status and who are ineligible for any other form of relief from removal. Once we carry out such removals on a regular basis, attention can then turn to deportation of individuals now in the asylum backlog who are ineligible for any relief.

The Commission expresses reservations about the asylum-related legislation enacted in 1996 and urges immediate correction of certain provisions that can harm bona fide asylum seekers and undermine the efficiency of the asylum system. In particular, the Commission is concerned about the following provisions:

- **“Credible Fear” Determinations in Expedited Removal Proceedings.** The 1996 legislation mandates expedited removal of individuals who are inadmissible because of certain forms of fraud, misrepresentation or faulty documentation.² Under the expedited removal procedures, individuals who request asylum must demonstrate that they have a credible fear of persecution in order to continue with their asylum application. The law anticipates that the “credible fear” determination will be made swiftly and requires that the Immigration Judge review of that determination be completed in no more than one week.

The “credible fear” provisions were introduced in response to what appeared to be abuse of the asylum system at airports of entry by individuals who used fraudulent documents or destroyed the documents they had used to board flights to the United States. During 1995 and 1996, however, significant steps, such as sustained detention of such

² In its final report, the Commission will examine the application of expedited procedures to circumstances beyond those related to asylum or mass migration.

asylum seekers, were taken to control this abuse of the asylum process. In FY 1996, about 3,600 individuals requested asylum at ports of entry. This number of applications can be handled through the normal removal proceedings that provide greater protection to asylum-seekers. A separate port of entry process for hearing the preliminary credible fear applications is not merited for such cases.

The Commission believes that constitutionally-sound expedited procedures may be needed in exceptional circumstances. If the number of asylum applications increases significantly within a short period, the Attorney General could be given standby authority to institute “credible fear” determinations to sort legitimate asylum applications from those that are manifestly unfounded. During mass migration emergencies, a “credible fear” process certainly is preferable to the policy of direct return of all asylum seekers that has characterized past U.S. actions.

- **Detention of Asylum Seekers.** The new legislation specifies that even those applicants who meet the “credible fear” standard shall be detained until their full asylum hearing before an Immigration Judge. Detaining asylum seekers who have met an initial threshold demonstrating their likelihood of obtaining asylum is not a good use of scarce detention resources. As expressed above, the Commission does not believe “credible fear” is—except under exceptional circumstances—an appropriate standard for determining who will gain access to an asylum hearing. It is an appropriate standard for determining who will be released from detention. “Credible fear” already is used in the Asylum Pre-Screening Officer [APSO] Program.

Asylum seekers whose claims meet the “credible fear” of persecution standard are not likely to abscond during their

removal proceeding as, were they to abscond, they would forfeit their reasonable chance to win asylum. Thus, they are releasable, subject to public safety, reasonable assurance of reappearance, and reasonable supervision during the interim. If the applicant's claim for asylum is rejected later at the full hearing on the merits, the applicant can be detained for deportation at that time.

By contrast, those do not meet the "credible fear" standard are subject to confinement pending their full hearing and cannot be released unless they obtain asylum. This immediate detention may deter future abuse of the asylum system and will facilitate the deportation of rejected asylum seekers.



*Detainees at Krome Detention
Center in Miami
[AP/Wide World Photos]*

The Commission recognizes that asylum seekers may create impacts for certain local communities. However, we believe release based on a "credible fear" determination serves the national interest. It permits the government to use its scarce detention resources on only those aliens who are likely to abscond or be a danger to the community.

- **Bars to Asylum and Withholding of Removal on Basis of Criminal Activity.** Aliens can be barred from applying or receiving asylum and withholding because they have committed particularly serious crimes. Prior to the Immigration Act of 1990 [IMMACT], determinations of whether a crime was "particularly serious" were based on a case-by-case analysis of relevant facts. Under IMMACT, Congress effectively made aliens convicted of an aggravated felony ineligible for asylum and withholding of removal. The Antiterrorism and Effective Death Penalty Act [AEDPA] created a

waiver of that bar with respect to withholding applications. IIRAIRA eliminated that waiver and significantly expanded the crimes that constitute an “aggravated felony.” Thus aliens are now effectively barred from asylum if they have been convicted of any aggravated felony and from withholding of removal if sentenced to five years of imprisonment for such a conviction.

The Commission is concerned that the current categorical approach denying eligibility in a prescriptive manner may result in the return of refugees who are not dangers to the community and have not committed crimes that most Americans would consider to be particularly serious ones. In some cases, there would be broad agreement as to the seriousness of a crime that is currently included in the “aggravated felony” category (e.g., rape, murder, armed robbery, drug trafficking, etc.) Under IIRAIRA, however, an aggravated felony includes offenses for which a term of imprisonment of one year or more is imposed, regardless if that sentence were suspended or the actual time served by the alien was less. Such convictions may stem from participation in a minor brawl, shoplifting, or writing a bad check. Moreover, for those convicted abroad, the legislation does not make a distinction between those who truly committed serious crimes and those jailed by a repressive regime on trumped-up charges to silence their opposition. Further, the law does not take into account the different criminal standards used in different countries.

The process of determining whether an asylum claimant convicted of a crime should be denied asylum or returned should be both individualized and expeditious. In each case, and in a timely manner, the severity of the persecution feared should be balanced against the nature of the particu-

lar crime committed and the danger the individual may pose to the community. In short, the Commission believes that, given the consequences to the refugee and the U.S. community, there should be flexibility in weighing some of the crimes currently defined as “particularly serious.”

- **Numerical Limitations on Asylum Grants.** The new legislation, for the first time, limits the number of grants of asylum that can be made in a given year to a particular category of refugees. Such artificial numerical limits on grants of asylum to recognized refugees are inadvisable. It is a violation of our laws and obligations to return recognized refugees to conditions that we have defined as persecutory merely because asylum numbers are unavailable. The alternatives—to place otherwise eligible asylees into the limbo state of withholding of removal or establish a backlog for approved cases who are awaiting an asylum number—undermine the credibility and efficiency of our asylum system.

Artificial numerical limits on grants of asylum to recognized refugees are inadvisable.

*The Commission recommends that asylees be admitted as Legal Permanent Residents [LPRs] upon the grant of asylum.** Currently, a grant of asylum is for an initial period of one year, after which, unless country conditions have changed or an asylee has availed himself or herself of the protection of another country, the asylee can adjust status to that of legal permanent resident. Part of the criteria for adjustment under Section 209(b) of the INA is that an applicant for such adjustment must still be a refugee and, therefore, requires a personal interview and nominal readjudication of asylum status. With respect to eligibility for naturalization, an asylee’s record of admission begins one year before the date of the approval of the adjustment application.

* Commissioner Ezell believes that asylees should be granted a two-year conditional LPR status.

Elimination of the delay in adjustment would greatly reduce continued uncertainty and instability in the lives of asylees even after their initial approval and would enable asylees and their families to integrate into the U.S. in a timely fashion. These asylees already have passed through an extensive process for determining their refugee *bona fides*. It would also reduce the administrative burden placed on the INS, which already is overwhelmed with too many responsibilities.

The INA, as amended by the Immigration Act of 1990, also specifies that no more than 10,000 asylees may adjust to permanent legal resident status each year. In FY 1996, 10,000 asylees adjusted to permanent resident status, up from 7,800 in FY 1995 and 6,000 in FY 1994. More than 18,000 cases were granted asylum in FY 1996 (combined INS and EOIR figure), each case representing one or more individuals, in addition to the 6,500 Kurdish refugees resettled through the asylum process in that fiscal year. The Commission is seriously concerned that under the current system these developments will result in an unnecessary backlog of adjustment applications. We strongly reiterate our belief, stressed in our 1995 report on legal immigration, that the federal government should not manage immigration policy by backlogs and waiting lists. Given the recent reforms in the asylum system and the rigorous standard applied in granting asylum, numerical ceilings on adjustment are neither required nor good public policy.

However, we recognize that there are legitimate concerns as to the total number of refugees admitted, including asylees. The number of asylees who are expected to obtain permanent resident status, barring unforeseen changes in the pattern of asylum applications, should be considered during the annual consultation on refugee admissions. The Refugee Act of 1980 already requires the President to report on the number of asylees who adjust each year. This

Chart 8.
U.S. Refugee Admissions 1975-1997

Sources: U.S. Commission on Immigration Reform. 1995. *Legal Immigration: Setting Priorities*. Washington, DC. Department of State, Bureau of Population, Refugees and Migration.

requirement permits the President and Congress to assess the total commitment the United States is making, via the combination of our asylum and overseas resettlement program, towards protecting and assisting refugees.

U.S. REFUGEE ADMISSIONS FROM OVERSEAS

The United States has long been the principal country of resettlement for refugees from overseas. In just the past two decades, the United States has resettled almost two million refugees from such diverse countries as Vietnam, Laos, Cambodia, the former Soviet Union, Bosnia, Iran, Iraq, Afghanistan, Liberia, Ethiopia, Somalia, and Cuba. While resettlement is but one element of a comprehensive approach, and only a small proportion of refugees can be considered for admission to the United States, resettlement remains a powerful instrument through which the United States exercises leadership to find solutions to refugee crises. It is also a manifestation of one of our strongest traditions: to be a refuge to the world's persecuted.

The Commission strongly recommends that the U.S. continue its commitment to resettle refugees as one of several elements of humanitarian protection for the persecuted. Continuing a refugee admission program of significant numbers is essential: to sustain our humanitarian commitment to provide refuge to the persecuted; to pursue U.S. foreign policy interests in promoting human rights; and to encourage international efforts to resettle persons requiring rescue or durable solutions. A well-run refugee resettlement program that brings Americans into contact with refugees also can build support domestically for refugee protection and for the international efforts and agencies engaged in assistance and protection to refugees worldwide.

Resettlement remains a powerful instrument through which the United States exercises leadership to find solutions to refugee crises. It is also a manifestation of one of our strongest traditions: America as a refuge to the world's persecuted.

The Commission recommends that U.S. resettlement policy should rest on the following principles and frameworks:

- **Protection as a Core Priority.** The U.S. should give priority to those who are in imminent danger within their own countries or countries of first asylum.

- **Obligations to Persons Persecuted Because of Close Association with the U.S. Government.** The U.S. has a moral obligation to accept for resettlement persons who are persecuted or who have a well-founded fear of persecution specifically because of their former employment by or significant assistance to the U.S. government or by agencies acting on behalf of the U.S. government, unless these individuals pose a security threat to this country or were themselves guilty of persecuting others.

- **Promotion of Human Rights and Democratization.** Selective resettlement of political dissidents and other victims of serious human rights violations can be an important component of U.S. foreign policy, highlighting the human rights abuses practiced by other countries and, thereby, supporting efforts to encourage other countries to respect fundamental human rights and democratic principles.

- **U.S. Leadership in Promoting Durable Solutions.** Resettlement in the U.S. should be undertaken in the context of interna-

*Rescue of Vietnamese
Boat People
[UNHCR Photo: P. Deloche]*

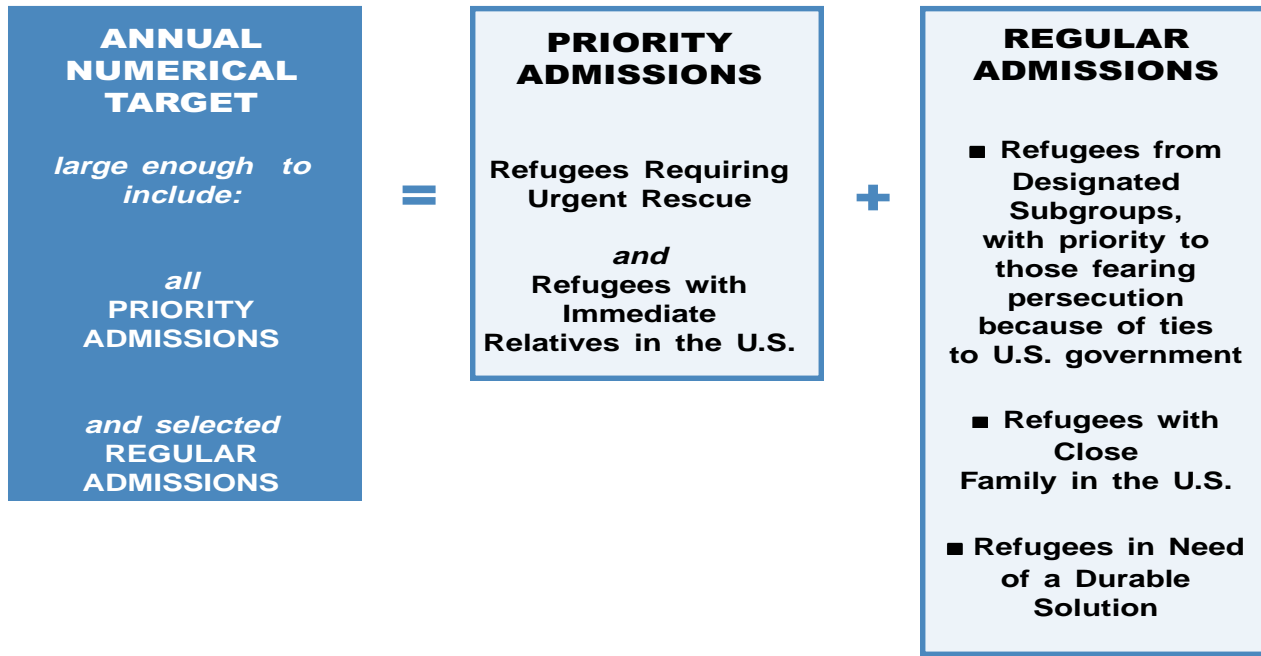


tional efforts to find durable solutions for refugees. Many of the world's refugees cannot return to their country of origin and cannot remain permanently in their country of asylum. U.S. pledges of resettlement can help encourage other nations to do their fair share.

- **Consideration of the Effects of Resettlement Decisions on the Protection and Assistance of Refugees Worldwide.** Admission to the U.S. should be undertaken in close collaboration with UNHCR and other receiving countries.
- **Proportionality of Support for Resettlement.** The U.S. should review carefully the proportionality of resources expended on resettlement relative to those required to assist, protect, and find solutions for refugees worldwide and to resolve refugee-producing situations.
- **Flexibility in Policy and in Program Implementation.** Refugee crises are difficult to predict with any degree of precision, making it imperative that the U.S. refugee program maximize its flexibility and minimize its response time.
- **Coordination and Consultation with Affected Agencies.** Refugee admission decisions have domestic and foreign policy ramifications, necessitating consultation and coordination with a wide range of private agencies, state and local governments, other nations, and international organizations.

The Commission recommends that the Bureau for Population, Refugees and Migration, which is charged with determining which refugees are of special concern to the U.S. for resettlement purposes, establish categories based firmly on human rights and humanitarian considerations and allocate admissions numbers according to these categories. Fiscal Year 1997 processing guidelines specify five "priorities" for considering refugees to be of special concern to the United States. The first priority

**Chart 9.
Proposed Refugee Admissions Categories**



category encompasses refugees who need resettlement for protection purposes, followed by designated groups of special concern to the U.S. and by family members of individuals with permanent legal status in the U.S. In practice, however, admission numbers are not now allocated by these so-called priorities. Instead, numerical limits are set by geographic region, with suballocations for specific nationalities within these regions. The Commission believes a prioritization and an allocation of numbers based on human rights and humanitarian considerations would reflect more accurately the reasons certain refugees are of special concern to the United States. Such a categorization can be accomplished administratively with no statutory changes.

The Commission suggests dividing categories for refugee admission into two broad priorities, each with subgroups, and with numbers allocated accordingly [Chart 9].

The first priority encompasses refugees whose immediate entry is justified. It has two subgroups: refugees who are in urgent need of rescue and refugees who are the immediate relatives of persons already living legally in the United States. The Commission believes sufficient admission numbers should be allocated each year to guarantee entry to all such *bona fide* applicants within this grouping.

The second priority includes refugees whose admission is of special humanitarian interest to the United States but who are not in imminent danger where they currently reside: refugees who are members of designated groups who have a well-founded fear of persecution because of their past association with the U.S. government or whose admission will support U.S. foreign policy interests in promoting human rights; refugees with family ties to permanent residents of the U.S., but who are not immediate relatives; and refugees in need of durable solutions who can neither repatriate nor remain indefinitely in their country of asylum. This second group should be allocated numbers on a spill-down basis [that is, the annual target


An allocation and prioritization of refugee admissions based on human rights and humanitarian considerations would reflect more accurately the reasons certain refugees are of special concern to the United States.

for refugee admissions minus the numbers needed for Group One], with the recognition that these refugees may remain in relative safety where they are until an admission number is available. Numbers should be allocated separately to the three categories within the second grouping, with a mechanism to move unused numbers between the categories. More specifically, the categorization would work as follows:

Priority One:

- **Refugees Who Are in Immediate Need of Rescue.** Protection of refugees is at the heart of the refugee regime. The Commission believes the United States should continue to give highest priority to the admission of refugees who face individual endangerment, cannot find protection where they are located or in another country, and for whom third-country resettlement in the U.S. is both a practical and realistic solution. Within this category are refugees who are in need of legal protection from *refoulement* (or *forced return*), certain refugee women at risk of rape or other violence who cannot be protected where they are, victims of torture, and selected refugees who are in urgent need of continuing medical or other treatment not available in their country of first asylum. Also included in this category are refugees still within their country of origin who require immediate rescue from life- or liberty-threatening circumstances.
- **Refugees Who Are Immediate Relatives (spouses, minor children, and parents).** Immediate family members of U.S. citizens, legal permanent residents, previously admitted refugees, asylees and certain parolees admitted for long-term residence should have high priority for admission, regardless of nationality. The current system for admission of refugees with family ties in the U.S. is fraught with inconsistencies and discriminatory practices. Refugees from some

nationalities (Liberians, Sudanese, Burundians, Iraqis, and Iranians) have access to reunification with spouses, unmarried sons and daughters, and parents. Others (Bosnian Muslims who applied through March 1997) have access to reunification with more distant relatives, such as aunts and uncles, who are not dependent on the principal applicant. Other nationalities have no recourse to family reunification other than through regular immigration channels or in the limited circumstances where a spouse or minor is “following-to-join” a previously-admitted refugee or asylee. A worldwide standard for admission of immediate relatives would be more equitable.



*A Vietnamese family
reunited in America
[ORR Photo: Mark Halevi]*

Priority Two (each to be assigned a target admission number):

- **Refugee Members from Designated Subgroups.** This category includes refugees who have a well-founded fear of persecution because of their past association with the U.S. government and refugees whose admission will support U.S. foreign policy interests in promoting human rights. For example, the United States has long given priority to the admission of Vietnamese who spent years in reeducation camps because they had worked for the U.S. government. In designating Burmese political dissidents as a group eligible for resettlement, the U.S. reinforces our opposition to the repression practiced in Burma [Myanmar]. Similarly, the United States has designated religious minorities experiencing past or present persecution in the former Soviet Union and Iran for admission. Designated groups from

Bosnia now include: refugees detained on account of their ethnicity, political opinion, or religion; victims of torture or systemic and significant acts of violence against members of targeted ethnic groups; and persons in mixed marriages. Should the persons eligible under this category exceed our targeted admissions level, family or other close ties to the United States could be considered in giving priority for admission.

■ **Refugees with Close Family Ties in the United States.**

This category permits the resettlement of a specified number of refugees who have close family ties in the United States but do not fit one of the other categories. The United States should take responsibility for resettling “our own,” and we should expect other nations to do likewise. The difference in circumstances between refugees and immigrants justifies a separate category for family-based refugee admissions. Unlike would-be immigrants, refugees with family ties in the United States may be in precarious, even if not life-threatening, situations and be unable to wait where they are for approval of an immigrant petition. Further, many refugees have suffered significant loss of family members during the very situations that made them refugees; more extended family members may be the only surviving relatives of refugees already living in the U.S. These family members can provide essential practical and psychological support. Admission numbers would be allocated on a worldwide basis using a careful assessment of affidavits of relationship filed by U.S. family members on behalf of refugees overseas.

■ **Refugees in Need of Durable Solutions in Accordance with Principles of International Responsibility Sharing.**

A pressing aim of the international refugee system is to find durable solutions to refugee crises. It is in neither our national

interest nor that of other countries to see refugees remaining in camps permanently. For most refugees, repatriation is the best and most likely solution, but there are refugees who are unlikely to be able to repatriate and whose status in the place of asylum does not present realistic prospects for a satisfactory long-term solution. This category encourages the United States to work with other nations and UNHCR to provide admission to that minority of refugees for whom refugee resettlement presents the best likelihood for a durable solution. A specified number of admission slots would be allocated to this category each year in accordance with projections of resettlement needs and negotiations with other countries about responsibility-sharing for this resettlement. Should the need for durable solutions exceed our targeted admissions level, family or other ties to the United States could be considered in giving priority for admission under this category.

The Commission recommends that admissions under each category include family members and close household occupants who are dependent on the principal applicant for financial or physical security. Refugee admissions should provide the opportunity for family and other close household members who are dependent on the principal applicant for their financial support and/or physical security to enter with or quickly follow-to-join the principal applicant. Examples of individuals who might not qualify under a narrow interpretation of family include foster children, grandparents, grandchildren, and unmarried adult sisters and aunts. If not permitted to resettle with the rest of the household, the dependent person may be left in a particularly vulnerable situation, alone in what may be a hostile environment. It makes no sense for our own resettlement program to create refugees in urgent need of protection. However, in implementing this provision, adequate safeguards must be in place to prevent fraud or abuse by individuals who are not, in fact, dependent on the principal applicant.

The Commission reaffirms its recommendation that the United States set numerical targets—but not a statutory limit—for future refugee admissions. The Commission is opposed to establishing a statutory level of admissions that can be exceeded only by special legislation. Such a provision could impede U.S. flexibility to respond to humanitarian emergencies requiring higher admissions. The Commission remains concerned, however, that resettlement could drop to unacceptably

low levels as the need for the two principal resettlement efforts of the 1980s and early 1990s—for refugees from Southeast Asia and the former Soviet Union—declines. Hence, we believe that to preclude a steady erosion of admissions, it is necessary to establish a minimum target or goal for post-Cold War refugee admissions.³

The Commission recommends that the consultation process be strengthened to ensure more effective Congressional participation in the setting of admission priorities and levels. As the Commission noted in its 1995 report to Congress, the annual consultations are at present often *pro forma* and occur far too late in the planning process to be effective. The following reforms would permit

more timely and knowledgeable assessment of the need for resettlement and the resources required to admit and assist those admitted. They also would permit a more meaningful participation by Congress in the decisionmaking on refugee admissions.

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- **Annual consultations on refugee admissions should consider not only admission levels and priorities for the coming year but also discuss projected need for resettlement**

³ The Commission's 1995 report, *Legal Immigration: Setting Priorities*, contains additional discussion of numerical targets.

Afghan reufugees
[Photo: Nancy Leach]

and appropriations for the following two years. The annual consultations should provide the opportunity not only for substantive discussions on admission targets but also on the level of appropriation required to pay the costs of the projected resettlement. These consultations should involve both the Judiciary and Appropriations committees. Consultations that address refugee resettlement projections in the out-years would foster the development of realistic targets for future refugee admissions. Such out-year projections are already used in developing the President's budget request for the Bureau for Population, Refugees and Migration and the Office of Refugee Resettlement. The recommended consultation process will permit greater consistency between admissions numbers and appropriation of resources by ensuring that admission and funding proposals are thoroughly vetted.

- **The consultation process should provide an opportunity for public hearings that involve a wide range of expert views on refugee admissions.** The Consultation process has two steps. The Administration first develops its proposal and Congress then assesses its adequacy. Both phases require more consultation with experts on refugee resettlement needs and capacities and with state and local officials. By law, Cabinet-level representatives must participate in the formal consultations between the Executive Branch and Congress, a requirement that often makes it difficult to schedule hearings but does not necessarily invite a thorough examination of the implications and impact of the resettlement decisions. While the Administration often consults with the private resettlement agencies and state governments assisting refugees, the consultations with Congress seldom involve these other players. Nor is input solicited by either the Administration or Congress from the wider range of human rights and humanitarian organizations that have first-

hand knowledge of the conditions precipitating the need for resettlement. Involving other experts and affected government agencies in the assessment of refugee admission priorities and numbers would provide a deeper understanding of the domestic and international ramifications of the President's proposal.

The Commission recommends that the United States use an active, inclusive process for identifying and making decisions regarding the admissibility of applicants for resettlement. At present, resettlement on the basis of compelling security concerns and durable solutions requires that refugees be referred by the UNHCR or identified by a U.S. embassy. The Commission believes the U.S. government should confer with a broader set of agencies in identifying possible candidates for resettlement, including international and local human rights organizations, relief agencies providing assistance to refugees, and host governments. Department of State Refugee Coordinators now have broad authority to decide whether to accept a referral from UNHCR and would continue to exercise this authority in relationship to referrals from other sources. The Refugee Coordinators would also continue to consult with headquarters in Washington where appropriate.

The Commission cautions against excessive reliance on in-country processing of refugees for admission to the United States. In recent years, in-country processing has become the norm in U.S. refugee admissions from overseas. Indeed, about 80 percent of all resettlement to this country comes through in-country processing programs. Processing applications for admission while refugees are still within their own countries of origin can be a useful tool through which the U.S. can rescue individuals facing persecution without requiring them to make what may be a dangerous journey to a country of asylum. In-country processing is also an appropriate vehicle for resettling victims of past persecution whom the U.S. wishes to bring to this

country rather than leave where once they experienced torture, imprisonment, or other human rights violations.

However, in-country processing also presents a number of concerns that argue for judicious use of such programs. The availability of in-country processing has been used as a reason to deny asylum seekers access to first asylum protection within the United States. In-country programs can place refugee applicants in danger because processing generally takes place in public locations known to the persecuting authorities. When backlogs and waiting lists develop, even already-approved applicants may remain in danger until they are granted permission to travel to the United States. Alternately, as a recent report from the Department of State Inspector General points out, in-country processing gives countries that produce refugees (Vietnam, for example) substantial control over the U.S. resettlement program because these governments determine whether specific applicants will be given permission to present themselves for processing.

The Commission affirms the need for flexible and streamlined determinations of eligibility for the U.S. admissions program. Current procedures are too cumbersome to permit a timely response to precisely the type of refugee emergency that most requires resettlement. The most recent example is the 1996 decision to parole U.S.-employed Kurds into Guam. Had they been accorded refugee status as a group prior to evacuation, they would have been eligible for resettlement as refugees.

- **Streamlining of administrative processes** would allow quicker adjudication when short notice precludes current procedures or when there is need to evacuate a refugee who is in imminent danger. The Executive Branch should review the roles and responsibilities of the Department of State Refugee Coordinators, the Joint Voluntary Agency, the INS,

Current procedures are too cumbersome to permit a timely response to just the type of refugee emergency that most requires resettlement.

and the physicians conducting medical screening to identify areas where, in urgent cases, the process might properly be simplified or conducted within the United States after entry.

- **Training and career development paths for U.S. officials involved in the refugee admission program**, including Department of State Refugee Coordinators and INS examinations staff, should be reviewed and revised to reflect the nature of their responsibilities. Refugee Coordinators often arrive at their base with only minimal training to prepare them to respond to the demands of the refugee situations they monitor. Serving in this capacity is not seen as a valuable career path for these Foreign Service Officers who rotate through the assignment. The more active nature of the position contemplated by the Commission requires career development reforms within the Department of State to attract more experienced candidates.

INS officers making refugee determinations overseas have not necessarily received the type of extensive training now available to INS staff making these same determinations for asylum applicants within the United States. All INS officers assigned to interview candidates for admission as refugees should receive the training provided to asylum officers and, to the extent possible, be drawn from experienced members of the asylum corps.

- **Narrowly-defined group profiles** for adjudicating certain refugee applications of humanitarian concern to the U.S. would facilitate processing when the government has made a predetermination that it is because of their membership in the specified group that the refugees have a well-founded fear of persecution. Unlike asylum, where the applicant is self-selected, resettlement applies only to persons that the U.S. has decided to process. Using narrowly-designated groups makes particular sense when the U.S. is offering a

durable solution to refugees whom we determine are members of a group that cannot return to or remain within their home countries. An example would be the several thousand Kurds who worked for the U.S. government and U.S.-supported agencies in northern Iraq. The current interview that seeks to determine why each principal applicant left home is unnecessary when a group is defined in such highly specific terms and objective criteria indicate that members of that group would have a well-founded fear of persecution if required to remain in or return to their home country. Instead, the INS interview should be limited to determining if the applicant is indeed a member of the designated group.

The Commission recommends that refugees be admitted as Legal Permanent Residents [LPRs] unless the Attorney General determines that there has been inadequate

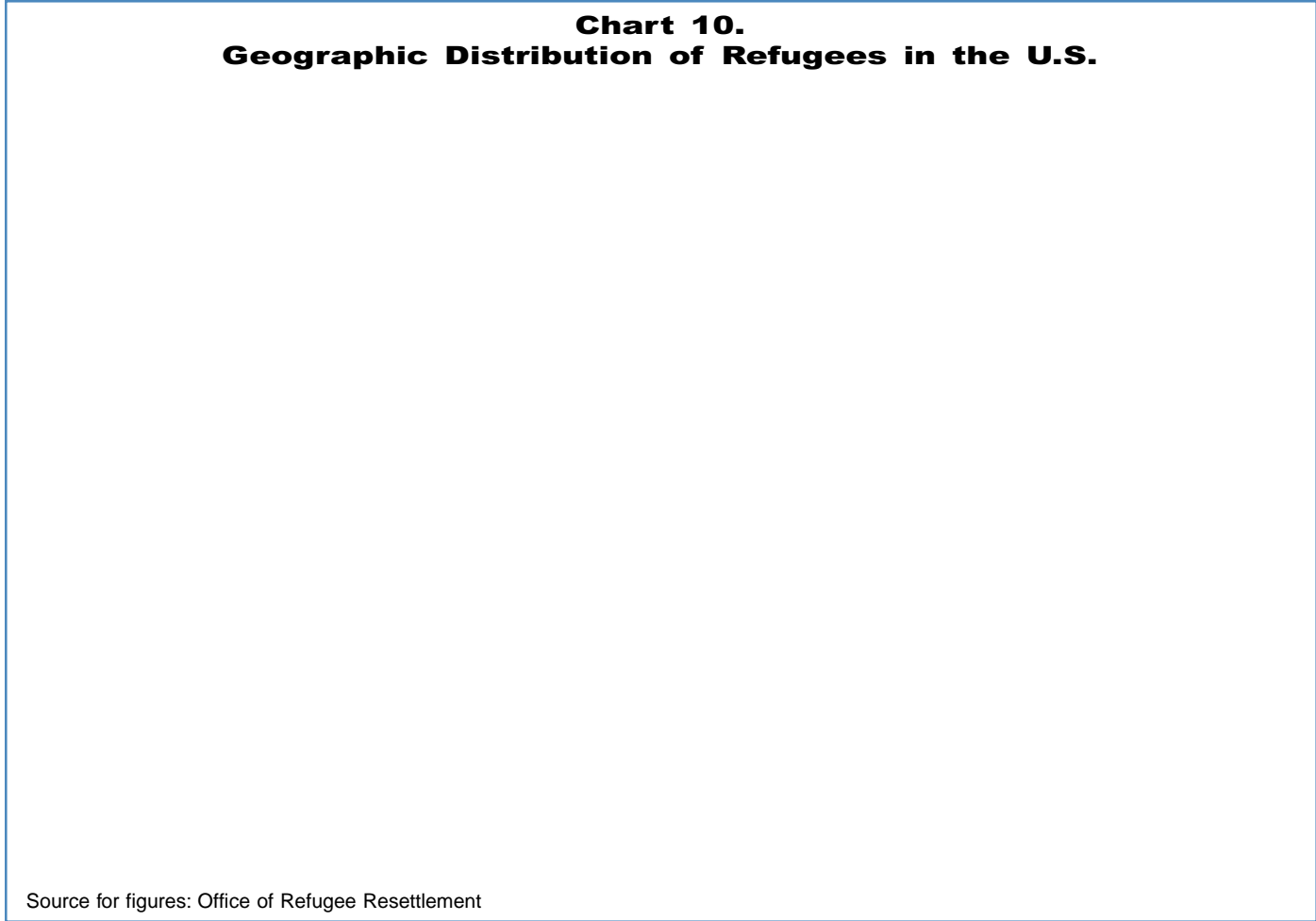
opportunity prior to admission for the INS officer to thoroughly review the

case(s). Refugees are admitted now as conditional entrants and are required to appear before INS one year after entry for adjustment of status to permanent resident. The provision is an unnecessary burden on both INS and the refugee when applied to individuals who undergo a thorough screening prior to entry. In some instances, however, such as where refugees are hastily evacuated, the Attorney General could require adjustment of status up to one year later. This option protects against fraudulent entries when proper prescreening is not possible, while eliminating unnecessary bureaucratic procedures for the government and the individuals.



*Resettlement processing
of Benadir in Kenya
[Photo: CIR staff]*

**Chart 10.
Geographic Distribution of Refugees in the U.S.**



Source for figures: Office of Refugee Resettlement

TRANSITIONAL REFUGEE ASSISTANCE AND SERVICES

A cornerstone of refugee policy is the exemption of refugees from the provisions of immigration law that otherwise bar admission of individuals who are likely to become public charges. Failing to exempt refugees from exclusion on public charge grounds can have extremely serious consequences—as the U.S. learned when German Jewish refugees who were refused admission to the U.S. on these grounds perished in the Holocaust. As discussed in greater detail below, the Commission supports a domestic assistance program that helps refugees, admitted despite the possibility that they may become public charges, to achieve economic self-sufficiency after entry while providing full federal financial support for refugees who because of age or disability are unable to support themselves.

The Commission endorses a domestic refugee resettlement program of assistance and services whose aim is the social and civic integration into local communities of all refugees, as well as economic self-sufficiency of those refugees who are employable. Most refugees arrive without the financial resources, language skills, knowledge of the U.S. workplace, or occupational skills that would permit a smooth and quick adjustment to a productive new life. Moreover, refugees may have experienced torture, prolonged malnutrition, and other barriers to their immediate adaptation to life in the United States without some period of special assistance. Consequently, the Refugee Act authorized a special refugee assistance program for which funding is appropriated annually. This program is administered by the Bureau for Population, Migration and Refugees [PRM] in the Department of State and the Office of Refugee Resettlement [ORR] in the Department of Health and Human Services.

The following elements are both significant to the historical successes of the domestic resettlement program and important to preserve to the maximum extent possible:

A domestic assistance program should help refugees achieve economic self-sufficiency after entry as well as provide full federal financial support for refugees who because of age or disability are unable to support themselves.

- **A flexible national capacity** that can respond quickly to changing needs and circumstances, with structural capacity to expand and contract in response to the international refugee-producing events that inevitably will create significant increases and decreases;
- **Local flexibility and diversity** in resettlement programs that can accommodate differences in state and local resources, local labor market conditions, local agency capacity, and available complementary community services;
- **Specialized services** to orient and assist refugees in adjusting to their new country, preparing for employment, finding jobs, and maintaining employment;
- **Public/private-sector partnerships** that draw on the strengths of both;
- **A structure that promotes private giving and enlists community volunteers;**
- **Participation** of the many local, state, and national agencies that have a history of contributing in the resettlement of refugees;
- **A placement policy** that seeks to ameliorate local impact and facilitate effective resettlement;
- **Local accountability** for economic, social, and civic integration outcomes; and
- **Federal responsibility** for the costs of the domestic resettlement program.

**Chart 11.
Estimated Costs of the Current System
(for new refugee arrivals during FY 1995)**

| PROGRAM | AGENCY | ESTIMATED COSTS (\$ millions) |
|---|-------------------------|--------------------------------------|
| Federal Programs | | |
| Reception and Placement | DOS | Fed. \$ 67.8 ^a |
| Refugee Processing | DOS | Fed. \$ 18.6 ^b |
| Overseas Language/Orientation Programs | DOS | Fed. \$ 6.1 ^b |
| Transportation | DOS | Fed. \$ 71.6 ^b |
| Refugee Processing | DOJ | Fed. \$ 14.7 ^b |
| Unaccompanied Minors | DHHS | Fed. \$ 23.0 ^a |
| Targeted Assistance Service Grants | DHHS | Fed. \$ 44.5 ^a |
| Social Services | DHHS | Fed. \$ 80.8 ^a |
| Matching Grants | DHHS | Fed. \$ 23.6 ^a |
| | | Private \$ 23.6 ^c |
| Refugee Cash Assistance | DHHS | Fed. \$ 55.9 ^a |
| Refugee Medical Assistance | DHHS | Fed. \$ 95.7 ^a |
| State Admin. Costs | DHHS | Fed. \$ 26.3 ^a |
| Food Stamps | USDA | Fed. \$ 64.2 ^c |
| Federal/State Programs | | |
| Supplemental Security Income | SSA | Fed. \$ 83.5 ^c |
| | | State \$ 14.7 ^c |
| Medicaid | DHHS | Fed. \$108.8 ^c |
| (12 mos. for AFDC, SSI, GA clients) | States | State \$ 83.7 ^c |
| AFDC | DHHS | Fed. \$ 75.3 ^c |
| (12 mos.) | States | States \$ 64.1 ^c |
| State and Local Programs | | |
| General Assistance (available only in some states) | State & local govts. | State & Local \$ 3.2 ^c |
| Total Costs | | Fed. \$860.4 |
| | | State \$165.7 |
| | | Private \$ 23.6 |
| | | Total \$1,049.7 |
| Per capita (in dollars) for FY '95 arrivals (96,924) | | \$10,830 ^d |

Note: ^aActual costs using ORR and DOS data from North, David. 1997. *Estimates of the Financial Costs of Refugee Resettlement: The Current System and Five Alternative Models*. CIR: Washington, DC.

^bEstimates from Department of State, *Proposed Refugee Admissions for FY 1995*.

^cEstimates by David North.

^dDoes not reflect educational costs.

The Commission supports the current array of assistance and services for newly arriving refugees and recommends increased attention to services that prepare refugees for naturalization. The Commission believes the following array of assistance and services should characterize the refugee resettlement program:


- **Reception and placement into local communities** with a focus on initial basic maintenance assistance (food, clothing, shelter), orientation, and referral to services;
- **Health screening** to identify and follow up on certain communicable diseases;
- **Transitional cash assistance** for needy newly arriving refugees who do not qualify for the Supplemental Security Income [SSI] or Temporary Assistance for Needy Families [TANF] public assistance programs;
- **Transitional medical benefits** for needy newly arriving refugees who do not qualify for Medicaid;
- **Refugee-specific social services and educational services** (i.e., services specifically designed to serve refugees), such as employment, English as a Second Language [ESL], orientation, case management, and mental health counseling.
- **Naturalization preparation**, including outreach, civics education, and assistance in applying for citizenship.

The Commission supports the continuation of a public/private partnership to help refugees quickly and effectively achieve economic self-sufficiency, but recommends a more explicit division of responsibility than currently exists. Simultaneously, the Commission urges the federal, state and local agencies to develop a national plan for streamlining the program. The Commission heard extensive discussion of the problems inherent in

the current partnerships among federal, state, and local public and private agencies. Chief among these concerns were the complexity of the funding process and reporting requirements, the overlap of programs and responsibilities, the inappropriateness of welfare programs as the vehicle for providing assistance, and the lack of clear accountability for the outcomes of the program.

In an ideal world the Commission would urge that all refugees, except those eligible for SSI, be assisted through a separate, specially designed refugee cash assistance program linked to a system of services targeted to their circumstances. In practice, however, the obstacles to this are considerable. Such a program would require the combined resources of the existing ORR program plus those spent under TANF for refugees. However, the TANF budget is a fixed block grant to states, and hence its resources could not easily be diverted to a separate refugee program. Given the zero-sum federal budget process, it is unlikely that sufficient new funds would be allocated to ORR to cover the costs of a program for all refugees.

Moreover, the advantages of maintaining the involvement of both the private and public sectors in resettlement may outweigh the disadvantages of some fragmentation in program delivery. Where resettlement has been effective, all partners have contributed positively and their participation has sustained broad public support for the admission of refugees. At the same time, however, the Commission urges the existing partner agencies to develop a plan to streamline funding and reporting.



*English language instruction
and orientation
[Photo: Mark Halevi]*

The Commission also urges increased planning and coordination in the local resettlement of refugees and the decisions regarding the placement of refugees in local communities. Too often, localities reported to the Commission that they are given insufficient advance notice to prepare for the arrival of refugees. In particular, the Commission was disturbed by reports from local schools of inadequate—or no—information on anticipated arrivals of refugee children with special needs. The Commission recommends that PRM and the voluntary agencies develop improved procedures of notification to local schools about the forthcoming arrival of refugee children and to all relevant state and local agencies about the arrival of families. This will be particularly important under the Commission’s recommendation of shared public and private sector responsibility.

The Commission further recommends a three-year trial period during which roles and responsibilities would be defined and divided as follows:

- **Reception and Placement [R&P] grants from the Department of State to the private voluntary agencies would continue to cover all arriving refugees.** At present, R&P grants cover a period of up to 120 days of diminishing responsibilities. The Commission proposes that R&P activities be limited to prearrival and reception and maintenance during the first thirty days only, to reduce currently overlapping responsibilities between R&P and the ORR-funded programs.
- **Health screening grants, administered by public health agencies, would continue to cover all arriving refugees.** The health screening could be funded through a *per capita* grant to states.
- **The private sector subsequently would be funded by ORR to assume principal responsibility for refugees who are**

not eligible for TANF or SSI. Under the Commission's proposal, the voluntary agencies would provide cash and medical assistance and services to those refugees who were ineligible for TANF or SSI. Cash and medical assistance would be provided for up to a specified time period [a maximum of eight months assistance is permitted under current policy]. Consideration should be given to providing medical assistance through private health care programs, rather than through Medicaid. The voluntary agencies would be charged with implementing an integrated program of assistance and services and would receive a proportionate share of appropriations for social services, cash and medical assistance, and administration.

- **The public sector would have principal responsibility for refugees who qualify for TANF, SSI, and Medicaid.** Cash and medical assistance would be provided to them through these programs and would be funded by the federal and state funds that support these programs. In addition, states would receive an allocation of funds appropriated for refugee social services proportional to the number of refugees enrolled in the TANF and SSI programs. States also would receive the funds appropriated for targeted assistance to provide longer-term and supplemental services to refugees or to offset state costs. States would have the option to subcontract or grant any or all of these functions and funds to private resettlement agencies.

The Commission believes that the recommended public/private partnership should continue for a three-year trial period during which its effectiveness would be evaluated to assess whether it should be continued or modified. This trial period will provide time to determine if the new TANF welfare program, which is designed to help its clients rapidly achieve economic self-sufficiency, is responsive to

the needs of refugees. It also will test whether the private agencies have the capacity to administer effectively a comprehensive program of services and cash and medical assistance in many different sites across the country.

Medical care

[Photo: Betsy K. Frampton]



The Commission recommends strengthening the mechanisms by which the refugee program is funded. The current financing system does not provide sufficient clarity about the resources available for resettlement. The recommended statutory changes are intended to facilitate management of appropriations for the program and responses to emergency situations. The Refugee Act should be changed to:

- **Specify a minimum time period of special refugee cash and medical assistance provided to refugees not eligible for TANF or SSI.** Under current law, refugees may receive cash and medical assistance for up to thirty-six months. In practice, the actual period of eligibility—now eight months—is determined by budget rather than need for such assistance. A legislated minimum period of eligibility would preclude such budget-driven program policy.

- **Permit the appropriation of “no year” money for the cash and medical assistance portion of the ORR budget,** thus allowing automatic rollover of funds for these costs and providing the flexibility in budgeting and administration needed for such an unpredictable program.

- **Change the consultation process to ensure greater consistency between admission decisions and appropriation of funds to support refugee assistance and services.** As discussed under refugee admissions, the Commission favors an inclusive consultation on the administration's proposal for the upcoming fiscal year, as well as on two additional out-year projections of admissions.

- **Establish a domestic emergency fund** to pay for unanticipated costs associated with admission of refugees under the emergency consultation process or, if needed, to cover the minimum cash or medical assistance costs when they exceed the amount available for these purposes in a specific fiscal year.

The Commission recommends that under the leadership of the National Security Council, existing federal agencies develop an operating plan for improved national coordination. Better coordination is needed among the federal agencies and between the federal agencies and other public and private agencies to: (1) ensure consistency between admission decisions and transitional assistance requirements; (2) monitor and assess the adequacy of statutory and regulatory authorities to resettle refugees and develop a legislative agenda to make needed corrections; (3) improve local notification and preparation for arrivals, and (4) manage responses when emergency consultations are needed. The Commission believes that the National Security Council is the appropriate venue for this function.

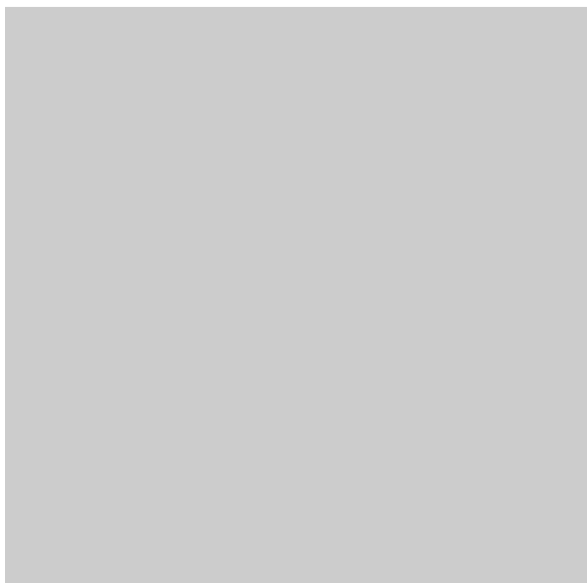
The Commission recommends that Congress make urgently needed corrections in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. In its 1994 and 1995 reports to Congress, the Commission recommended against categorical denial of eligibility for public benefits to lawfully-resident immigrants and refugees. We continue to believe that such bars to eligibility are inconsistent with U.S. national interests and that the safety net provided by needs-tested

programs should continue to be available to those whom we have affirmatively accepted as legal permanent residents. With regard to refugees, two of the Act's provisions pose particular problems:

■ **Inappropriate Time Limits on Eligibility of Elderly and Disabled Refugees for SSI and Other Federal Needs-based Programs.**

Congress permitted refugees to retain eligibility for public benefit programs during their first five years in the country. Thereafter, refugees cannot obtain public assistance unless they naturalize. Thus, a refugee eligible for SSI and food stamps on arrival at age seventy will lose them at age seventy-five. Because it can take up to a year to naturalize, such aged and disabled refugees will suffer a disruptive break in coverage. Also, many elderly and some disabled persons will have great difficulty passing the naturalization requirements. Refugees are not subject to public charge grounds for exclusion and many do not have family sponsors to provide support. Providing continuing coverage under SSI, food stamps, and other means-tested federal benefit programs to elderly and disabled refugees would strengthen the U.S. capacity to offer resettlement to some of the world's most vulnerable refugees—the aged and disabled.

Elderly Bosnian refugee
[UNHCR Photo: A. Hollmann]



■ **Inappropriate Eligibility Provisions for TANF-eligible Refugees.**

At present, refugees are eligible for TANF only during their first five years in the United States and lose subsequent eligibility unless they naturalize. We believe that a small modification that would treat refugees as the law treats citizens—giving them a lifetime eligibility of five years—would make more sense. Pro-

gram experience shows that refugees are most likely to become self-sufficient if they enter the labor force within their first year in the United States. The existing provision may have the unintended effect of encouraging refugees to delay entry into the labor force, which would be detrimental to their likelihood of success. The proposed change is equitable and corrects a potential disincentive to employment.

CONCLUSION

Leadership is the theme of this report. Through the example of our own policies as well as leadership in international *fora*, the United States should work towards adoption of more effective policies to avert, respond to, and resolve refugee and related humanitarian crises. The Commission hopes these recommendations will serve as a blue-print for this renewed U.S. leadership.

Through the example of our own policies as well as leadership in international fora, the United States should work towards adoption of more effective policies to avert, respond to, and resolve refugee and related humanitarian crises.



*Residential destruction
in Bosnia/Hercegovina
[Department of Defense photo]*

