



December 23, 2009

Scott Busby
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Re: Longer-term refugee resettlement system reforms

Dear Mr. Busby:

Thank you once again for convening the December 8 stakeholders meeting on refugee resettlement system reforms, and for soliciting input from NGOs on short-term and longer-term reforms. We appreciate the steps that the National Security Council and other agencies have already taken since August to improve the resettlement system, and we look forward to further progress.

Human Rights First would like to offer several longer-term suggestions, many of which we have raised previously in other contexts. We urge the administration to include the following measures in its reform package in 2010:

- **Develop a formal global system to fast-track refugee status determinations and resettlement processing for particularly vulnerable refugees referred to the U.S. Refugee Program (USRP) who face imminent danger in their countries of first asylum.** Necessary elements of the system include 1) a list of criteria, reviewed and updated regularly, to determine what types of cases should be fast-tracked; 2) a strengthened role for qualified NGOs in referring acute protection cases directly to the USRP; and 3) identification of the steps that must be expedited, depending on processing location and referral source – including UNHCR registration and refugee determination, Overseas Processing Entity procedures, DHS interview(s), sponsorship assurance, pre-departure preparations, and security clearance. Written guidance outlining how these steps will be expedited should be distributed to the field. This fast-track system should be available to all particularly vulnerable refugees facing imminent danger in their countries of first asylum, regardless of how they accessed the USRP (e.g. P1,

P2, or P3). Principles of protection, including identification of, and expedited processing for, refugees who are vulnerable in their countries of first asylum, should remain central tenets of refugee resettlement policy.

- **Complete the interagency review on security clearance procedures, including the Security Advisory Opinion, and implement improvements promptly.** Due to inadequate resources and coordination, security clearance procedures can delay resettlement for months or more – particularly for refugee applicants with common names. These delays can leave refugees and their families stranded, often in difficult or dangerous circumstances in their countries of first asylum. Each agency involved in the security clearance process should be provided the staffing it requires to complete checks accurately and expeditiously, within a set number of days, and a point person should be charged with the authority to ensure that each case moves through the system in a timely manner. Human Rights First describes the problem and details recommendations in “Promises to the Persecuted,” our April 2009 report on implementation of the Refugee Crisis in Iraq Act.¹
- **Complete the interagency review on terrorism-related inadmissibility bars, which has been ongoing for almost one year, and implement improvements promptly.** The Departments of Homeland Security, Justice, and State should change interpretations of existing law in order to ensure that they are consistent with its text and purpose (i.e. to target those who actually advance terrorist activity), and should adopt a more effective and fair approach to granting “waivers.” Recommendations are detailed in Human Rights First’s November 2009 report, “Denial and Delay: The Impact of the Immigration Law’s ‘Terrorism Bars’ on Asylum Seekers and Refugees in the United States.”² The administration should also support legislative changes, which are described in the report’s recommendations, to address the underlying statutory problems.
- **Recognize membership in the household unit in Visa 92/93 process.** In addition to legal spouse and child relationships, the United States should recognize members of a household (including derivatives of derivatives, such as the child of a refugee’s spouse or child, at time of filing) for refugees and asylees with family members following to join. This practice will help to avoid the separation of families that can result in those cases where refugees have

¹ “Promises to the Persecuted: The Refugee Crisis in Iraq Act of 2008,” April 2009, is available at: <http://www.humanrightsfirst.org/pdf/090428-RP-iraqi-progress.pdf>.

² “Denial and Delay: The Impact of the Immigration Law’s ‘Terrorism Bars’ on Asylum Seekers and Refugees in the United States,” November 2009, is available at: <http://www.humanrightsfirst.info/pdf/RPP-DenialandDelay-FULL-111009-web.pdf>.

dependents with whom they do not have a legal relationship (e.g. adopted children in countries where there is no formal legal recognition of adoption).

- **Eliminate two-year filing deadline for I-730 petitioners, and permit refugees and asylees to file those petitions even after they have received LPR status.** In the interim, urge more flexible interpretations of the humanitarian exceptions to the two-year filing deadline, particularly in the cases of dependents left overseas, such as children who may not be able to establish an independent claim to refugee status for purposes of AOR/P3 processing.
- **Ensure that U.S. resettlement policy is used strategically to, among other purposes, increase protection for refugees in first-asylum countries and encourage increased resettlement efforts by both traditional and non-traditional resettlement countries.** Refugee protection concerns, including resettlement processing, should be an integral part of U.S. diplomatic engagement with countries of first asylum and with traditional and non-traditional resettlement countries.
- **Improve the fairness of the DHS refugee adjudication process by instituting changes including the following:**
 - DHS Notice of Ineligibility for Resettlement should describe the basis for the finding of ineligibility in a format similar to the Notice of Intent to Deny that is issued to affirmative asylum applicants who are in valid immigration status at the time CIS adjudicates their cases. Without such an explanation of the facts on which DHS based its decision and of its legal conclusions, it is difficult for the refugee applicant (or any English speaker assisting the refugee applicant) to satisfy the requirements of a Request for Review (RFR) (i.e. to show why the original decision was wrong or to provide new evidence that would alter it).
 - DHS Notice of Ineligibility for Resettlement should also describe the right to request review, and the procedure for doing so, in a language the applicant understands.
 - RFR should be adjudicated by senior CIS officials rather than by Refugee Corps officers. A refugee applicant should receive an RFR decision within 90 days, and within a shorter time frame if the applicant's case is fast-tracked due to vulnerability in the country of first asylum.
 - RFR adjudicators should be encouraged to conduct in-person applicant interviews in cases where the facts and submissions indicate that an interview would help ensure an accurate determination, rather than attempting to make all decisions based on written submissions, which are often prepared without the assistance of an attorney.
 - DHS should create effective quality assurance procedures for decisions on both initial refugee applications and RFRs.

- A refugee applicant should have the right to legal representation, and such representative should be permitted to accompany applicant to interviews, to submit evidence on his behalf, and to request and receive information regarding his case.

We also attach our report “Promises to the Persecuted: The Refugee Crisis in Iraq Act of 2008,” cited above, which we have distributed in the past to you, Samantha Power, and officials in the Departments of State and Homeland Security. It details recommendations to improve the refugee resettlement and Special Immigrant Visa processes for U.S.-affiliated Iraqis.

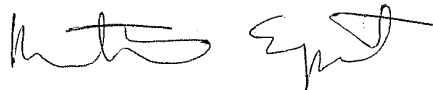
Thank you again for initiating this reform process. As has been often stated, the current system is broken in many ways, and can thus fail to provide the protection it promises to refugees who have fled political, religious, or other persecution in their home countries. Our recommendations are important first steps toward improvement. Other organizations, we know, will provide further input into the necessary changes on the post-arrival side.

We look forward to continuing to work with you and officials in other U.S. agencies to ensure that the United States upholds its moral and legal obligations to the most vulnerable refugees.

Sincerely,



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Director
Refugee Protection Program



Ruthie Epstein
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Cc: Eric Schwartz, Assistant Secretary of State for Population, Refugees and Migration
Barbara Strack, Chief, Refugee Affairs Division, U.S. Citizenship and Immigration Services,
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