

THE UNITED STATES REFUGEE ADMISSIONS PROGRAM: REFORMS FOR A NEW ERA OF REFUGEE RESETTLEMENT

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EXECUTIVE SUMMARY

This summary presents in capsule form the main narrative of the book and its primary suggestions for reform of the US refugee admissions system. It is followed by a compilation of the formal recommendations that appear throughout the substantive chapters.

INTRODUCTION

The US Refugee Program is at a crossroads, and many people would say it is in crisis. The most obvious symptoms are a steep fall-off in refugee admissions for fiscal years 2002 and 2003, to below 29,000 annually. (For a comparison, actual refugee admissions for the previous five years averaged almost 76,000.) Because FY 2002 began 20 days after the September 11 terrorist attacks, observers often attribute the program's travails to the enhanced security measures introduced in response. Those measures played a role, but they are by no means the only source.

In fact, FY 2002 brought the United States to the end of several familiar elements of past refugee programs, placing us into a significantly new context for US refugee resettlement — a difficult transition whose dimensions were obscured by the September 11 responses. Largely gone are the massive, steady, and more predictably manageable programs that had dominated US admissions since the passage of the Refugee Act of 1980 — the Indochinese and Soviet programs, followed for a few years by programs for those fleeing the former Yugoslavia. We are in a distinctively new era for refugee resettlement, and we need to recognize the true dimensions of the change. The new era brings both disadvantages and important new opportunities for the program to reflect on its core objectives and to respond to a wider range of genuine refugee needs.

For the future, refugee admissions will be characterized by the combination of many smaller-scale resettlement programs, mostly originating in difficult locations that will shift from year to year, each presenting significant and distinct policy challenges. The challenges consist not only of processing and logistics, though these are substantial, especially in an era of heightened security concerns. They consist also, and more importantly, of the complicated steps required to achieve agreement among the relevant US government — and often international — players on the groups and individuals that should be the beneficiaries of resettlement. A sensible system that does not make it too hard to say yes to new priority categories for resettlement is absolutely essential to our post-Cold-War refugee admissions program. Without the capacity to approve new resettlement initiatives nimbly, even expansive gains in operations, including in the security screening system, will not achieve significantly improved admissions. Without that capacity, we will also be unable to capitalize on genuine humanitarian opportunities that this new era presents.

CHAPTER I. THE CONTEXT

There exist genuine and legitimate barriers and obstacles to resettlement, as well as factors that might properly counsel against a resettlement initiative in specific circumstances. Critics of the US refugee program's recent performance often underestimate or obscure these challenges, while government officials take exception to critiques that do not do justice to the constraints under which they labor. In fact, refugee migrations and refugee resettlement represent highly complex phenomena. Refugee admissions cannot be based solely on any single-factored analysis. Instead, resettlement deci-

sions must take careful account of the inherent dynamics of refugee situations, which vary greatly from place to place. A candid and rigorous look at those challenges is not antithetical to the vital humanitarian aims of refugee resettlement, but instead is necessary in order for the program to serve those aims more effectively.

Nonetheless, to acknowledge these points — to be more judicious in giving them their due weight — does not require surrendering to them. Reasons not to resettle a particular population may be legitimate, but they are rarely decisive. A major flaw in the current system is the lack of an institutional framework that consistently brings to bear the good reasons *in favor of resettlement*, at least for specific and carefully chosen groups, so that balanced and sensible choices can be reached to produce a US Refugee Program on the scale made possible by the President at the beginning of the fiscal year.

The major factors that need to be taken into account in deciding on any particular resettlement initiative include the following:

- **Pull factors and effects on other possible durable solutions.** The worldwide refugee population is not a static pool that can simply be dipped into to ladle out however many refugees the United States or other resettlement countries might wish to admit. Because refugees and potential refugees are not just passive objects of international policy, but instead have objectives and life plans of their own, they exercise considerable choice over whether and when to leave their home countries and if so, where to go. People often will put up with great privations and risks in their home countries, for a variety of reasons. Introducing the prospect of resettlement out of refugee camps located in a nearby nation may make it far more attractive for more persons to leave their home country. This magnet effect or pull factor forms an increasingly pervasive worry for host countries and sometimes for the Office of the UN High Commissioner for Refugees (UNHCR) in thinking about resettlement initiatives. Those parties also worry that providing a resettlement option will interfere with pursuit of other durable solutions — local integration or voluntary repatriation.
- **Fraud, distortion, and corruption.** The temptation of fraud is great in refugee programs,

because resettlement often represents such a highly valued solution for persons in desperate situations. In today's conditions, the fraud problem has probably worsened, owing to modern communications and the growth of organized crime or other enterprises trying to make money from facilitating a person's inclusion in a resettlement program.

Toward a future of case-by-case decisions to resettle finite groups. Because of these and related factors, we are extremely unlikely in this new century to find the United States or any other country willing to make an open-ended commitment to resettlement of virtually all who escape a designated nation — the type of commitment that prevailed for refugees from the Soviet Union and, for the first decade of the program, for Vietnamese refugee resettlement. Absent that sort of political decision, resettlement initiatives will be marked by the need to draw clear lines around the group to be admitted, so as to minimize fraud and to discourage future migration of others who might hope to be included in the resettlement. The quest will be for *finite groups*, and resettlement will work best if much solid work on identification and line-drawing can be completed before resettlement plans become known in the refugee camp or settlement.

In an era that will require multiple decisions each year on resettling specific groups, the challenge is to reform the US decisionmaking system, as well as certain operational practices, so that we can take better account of the positive arguments in favor of resettlement and fully deploy available measures that minimize the obstacles.

Fundamental choices. In order to take those steps, the program should indicate decisively that resettlement to the United States is not limited to a narrow rescue principle, taking only persons who face immediate, life threatening dangers. Increasingly it must be open to a wider concept of rescue, taking in, among others, refugees who have suffered from a protracted stay in camps that provide for meager productive activity, little schooling, and slim prospects for their children. With this broadened perspective on rescue, more potential resettlement populations come into view as possible candidates for a revitalized refugee admissions program, even while giving full attention to the constraining factors reviewed earlier in this Chapter.

The Presidential Determination (PD) number as a target, not a ceiling. The President sets an annual refugee admissions total at the beginning of the fiscal year. Historically, and with justification, officials have generally treated this number as a ceiling, not a target, meaning that admissions shortfalls are not considered a failure of the system. This report argues for a policy decision to change that stance and treat the PD instead as a target. The annual refugee admission spaces have evolved into an increasingly well-established *humanitarian resource* to be employed in service of the nation's historic humanitarian objectives. Refugee admissions have drawn strong support from a coalition that cuts completely across party lines and other customary political or cultural divisions. This evolution has come about in significant part because of what this nation has learned about the human value of refugee admissions. There are countervailing currents, to be sure, and remaining skepticism about some elements of the refugee program that deserve to be taken seriously. But the reality of this highly successful program suggests the value of a steady and reasonably high-capacity resettlement program, even after the decline of its historic mainstay components, the Indochinese and Soviet bloc programs.

Deciding to treat the PD number as a target would provide a benchmark for accountability of the various actors in the system, and it would also serve as a sorely needed counterweight to the negative arguments that are usually easy to marshal against any particular resettlement initiative. To serve these ends, the PD number will have to be set with realism and care; massive or sudden increases in admissions are not likely, given that admissions today will be largely composed of a series of smaller-group initiatives.

CHAPTER II. REFORMING THE SYSTEM FOR DECIDING ON RESETTLEMENT INITIATIVES

Refugee admissions derive from individual case referrals, family-based access to the program, and group-based access. For the foreseeable future, major gains in admissions will have to come from the group designation process. In the current era, with the decline of the former large-scale and multi-year admissions programs, this could easily require the State Department's Bureau of

Population, Refugees, and Migration (PRM) to begin serious group-access development work on approximately one new group per month.

The PRM Admissions Office staff should be augmented for these purposes, and PRM needs to manifest a sense of mission about this process. Without abandoning its own critical perspective on admissions proposals, the Admissions Office must come to think of itself as the component in the decision-making system that gives the benefit of the doubt to resettlement, so as to serve as a counterweight to negative arguments that will readily appear from other governmental or international quarters.

Further institutional changes should also be made to maximize the likely success of PRM's new efforts and to assure adequate attention to refugee resettlement by all the key units of the Department of State and the Department of Homeland Security (DHS). This report spells out one possible framework for such a change, modeled on a procedure used to help institutionalize human rights policy when it was a relatively new arena for systematic US action. The Department of State should establish a Refugee Admissions Committee, to be chaired by the Assistant Secretary for PRM, meeting at least bimonthly to consider the progress of resettlement initiatives and to develop common standards and procedures for their evaluation. The regional bureaus of the State Department, the Bureau of Citizenship and Immigration Services (USCIS) from DHS, and other relevant units should participate.

The Committee could helpfully divide its group selection task into three levels. Staff could initially present for consideration *potential groups*, for whom some very basic investigative work has been done. From among them, the Committee would select the more promising as *candidate groups*, worthy of far more detailed inquiry. It will usually prove worthwhile to undertake discreet field inquiry involving such groups, often making use of PRM's current initiative for "targeted response teams." Such teams should include selected NGO representatives, to make use of their expertise, as well as DHS personnel, to ensure that any issues of importance to DHS will be given full consideration early in the group development process. After such inquiry, the Committee deliberations would lead to the choice of *designated groups*, for whom full resettlement processing would be launched. The Committee's procedures could also be used produc-

tively to assure timely completion and submission to Congress of the annual refugee admissions consultation document.

CHAPTER III. THE PRIORITY SYSTEM FOR ACCESS TO THE ADMISSIONS PROGRAM AND ARRANGEMENTS FOR URGENT CASES

The priority system structures access to the US Refugee Program. The report considers proposals for broad reform of these categories, but recommends a more modest revision, to align the priorities with the functional categories that dominate admissions. (This requires only modest changes to current practice.) P-1 would be the category for access based on individual referrals, P-2 for all forms of group access, and P-3 for access for the spouse, minor unmarried children, and parents of persons already admitted to the United States. Any UNHCR group referral (now treated as a “P-1 group”) would henceforth be considered as part of the P-2 category, using the mechanism of the Refugee Admissions Committee to make a final decision on acceptance of the referral.

The book discusses specific suggestions for focused reforms to the three main types of priority access. PRM should make a particular effort to give close attention to NGO suggestions for groups to be considered. No legislative sanction is needed or desirable for that sort of input. Concomitantly, NGOs should work to address more concretely and systematically the trade-offs, barriers, and obstacles that affect any group resettlement initiative — the sort of issues addressed in Chapter I. For family-based access, the report suggests improvements in the “Visas 93” process, which is universally available to the spouses and minor unmarried children of refugees who are “following to join” the anchor refugee already in the United States, but which has been marked by problems in many locations. Family-based access through the P-3 category has suffered in recent years from widespread fraud, but the system is now far better equipped to detect and deter such manipulation, primarily through the workings of DHS’s Refugee Access Verification Unit (RAVU). Fraud patterns change, and the system will have to cope with those innovations, but RAVU provides a reasonably good institutional home for responding to new schemes. Greater use of DNA testing should be considered, particularly

if such a mechanism would make it easier to consider wider use of family-based access to US admissions.

Many people have proposed a universal P-3 category — that is, making P-3 admissions available to all nationalities. The book places this proposal in perspective. Because the Visas 93 mechanism is a universal family reunification provision, proposals for a universal P-3 address mainly the situation of parents of persons resident in the United States — an important but less compelling type of family reunification. Moreover, PRM tries to place on the annual P-3 list those nationalities most likely to generate admissions at a level that is practical for processing through circuit rides; hence a universal P-3 is unlikely to generate high levels of new admissions. Nonetheless, the book recommends consideration of a carefully tailored universal P-3 program on a trial basis.

The United States should also restore the US capacity to admit truly urgent cases, wherein immediate threats call for movement of the refugee to a resettlement country within a few days or weeks. Post-September 11 security requirements have made such admissions far more difficult, but this capacity can be quite important for a modest number of cases each year. The program should strive to admit such persons as refugees rather than parolees.

CHAPTER IV. THE ROLE OF THE DEPARTMENT OF HOMELAND SECURITY

The Department of Homeland Security (DHS) fulfills certain critical functions in the refugee admissions system, primarily focused on interviewing applicants and approving their refugee claims before they can travel to the United States as part of the refugee admissions program. The split of immigration enforcement and immigration services functions among three separate bureaus in the new Department has caused some difficulties. The Department should develop a better structure for resolving internal differences over immigration- and refugee-related guidance and policy, in a way that gives full consideration to services-based considerations.

The book contains suggestions for improvements in the individual adjudications of refugee claims, including ideas for better training and guidance for

officers who are about to embark on a circuit ride. Interview-site security is legitimately a high-priority issue for DHS, but a good cooperative relationship with embassy security officers now generally exists, facilitating the identification and strengthening of suitable sites. DHS should also continue exploring technological innovations, such as video hookups, that might permit interviewing from a remote location when security risks are high in a refugee settlement.

DHS has committed itself to the development of a specialized Refugee Corps, composed of officers devoted full-time to refugee issues. This step is welcome, providing exactly the kind of innovation needed to deal with this new era of refugee resettlement, wherein most processing will be done by circuit ride teams rather than permanently stationed staff. Recruitment and deployment of the corps should move ahead as speedily as possible.

CHAPTER V. OPERATIONAL ISSUES AND AN OVERVIEW OF THE RESETTLEMENT PROCESS

Although the system used to resettle a refugee in the United States constitutes an impressive achievement and admirably meshes the efforts of government officers, NGO representatives, and international organization personnel, its evolution has left us with highly complex machinery. Interviews for this book revealed that even some persons deeply involved and expert in certain parts of the process may have only a dim conception of other key elements. Occasionally, affirmative misunderstandings about what goes on in another part of the process have led to operational confusion, exaggerated expectations, or even anger or accusations of bad faith. A modest measure of operational improvement could be achieved simply by assuring that persons who play key roles in any part of the process are trained or briefed on the operations of the other actors and the constraints they face. This chapter therefore opens with a detailed account of the process, covering these basic steps:

- access
- case preparation by an Overseas Processing Entity (OPE)
- security screening
- DHS interview
- simultaneous processes:

- medical screening
- sponsor assurance
- cultural orientation
- travel arrangements through the International Organization for Migration (IOM)
- US port of entry procedures
- arrival at destination

Overall management. The division of key responsibilities between PRM and DHS, and of other responsibilities among various other governmental players, NGOs, and international institutions, definitely impairs accountability and authority to solve problems that crop up in operations. Although an ideal organizational fix might call for unification of central responsibility in a single entity, such a solution is not feasible for the admissions program. Refugee admission decisions have important foreign policy dimensions and involve close coordination with UNHCR and other international players. Thus the State Department inevitably plays a central role. It is also inconceivable in the post-September 11 climate that the DHS role would be reduced or eliminated. We are fated to continue with a diffuse process.

The key offices therefore must take a resolutely managerial and systemic approach to resolving operational issues. In the past, operational issues have been resolved or worked around for a specific resettlement initiative. But on too few occasions did the experience become the basis for broader systemic modifications, to make sure that similar problems do not recur in future refugee processing. This orientation needs to change. The imperative task is to learn from specific problems, find generalizable solutions, and, in a disciplined fashion, make them part of standard operating procedures to be implemented in both existing and future resettlement initiatives.

Specific operational recommendations. The balance of Chapter V addresses specific operational issues. (See the compilation of recommendations that follows this Executive Summary.) One of the most contentious has to do with the role of Overseas Processing Entities. Yet much of the sharp debate appears to derive from each person's exaggerated perceptions of the views or actions of other players involved in the OPE process. In practice, I detected a larger area of common ground between NGOs, government officials, IOM, and others who spoke out on this question than is generally appreciated.

What is most needed with regard to OPEs is for these parties to undertake a concerted effort to discuss the details of operations and roles that have raised such sensitivities, to reach a common set of understandings about the OPE role, whoever is performing it, and then to embody those understandings in concrete guidance and standard operating procedures. The book highlights the main questions that should be addressed.

CHAPTER VI. THE ROLE OF THE UN HIGH COMMISSIONER FOR REFUGEES

For over 50 years, the Office of the United Nations High Commissioner for Refugees (UNHCR) has played a central role in the world community's response to refugee needs, and for most of this time it has also occupied a significant position in the functioning of the US resettlement program. Not only have US officers coordinated closely with UNHCR in many locations for operational purposes, to mutual advantage, but UNHCR also carries major responsibilities in the process that leads to actual selection of those refugees admitted to the United States. Two main areas of UNHCR functioning have drawn attention recently as fields where reforms could help secure major resettlement improvements: increasing use of group referrals, including the development of a new UNHCR group referral methodology, and improved registration practices. The book discusses these changes, considers criticisms and suggestions for improvements, and urges strong US support for these UNHCR initiatives.

CHAPTER VII. STATUTORY AMENDMENTS

Twenty-four years of experience under the Refugee Act of 1980 reveal some portions of the statute that have not worked out as intended or have had unforeseen negative effects. A few carefully targeted statutory changes could facilitate improvements. Although proposals for legislative involvement raise some risk of unwanted complications, the book urges close consideration of six specific changes. The last one could be the most useful in restoring historic admissions levels, improving the efficiency of the adjudication system, and enabling effective response to pressing needs of the world's displaced, particularly those stuck in meager camps in protracted refugee situations.

- Provide for continued refugee movements at the beginning of the fiscal year, even if the Presidential Determination is delayed.
- Allow congressional consultation by both Cabinet secretaries and deputy secretaries.
- Repeal the ceiling on asylee adjustments.
- Reconsider the ceiling on refugee and asylee status grants based on coercive population control measures.
- Consider admitting overseas refugees as lawful permanent residents.
- Allow the President to designate specific classes of persons to be admitted as §207 refugees without individually applying the UN Convention's refugee definition.

CONSOLIDATED RECOMMENDATIONS

CHAPTER I. THE CONTEXT

Recommendation I-1: The US Refugee Program should be explicitly based on a broad perspective about the use of resettlement. The President, the Secretary of State, the Secretary of Homeland Security, the Assistant Secretary for PRM, and the Director of the Bureau of Citizenship and Immigration Services (USCIS) should make it abundantly clear that the USRP is not limited to rescue from grave life-threatening dangers, but will work actively to rescue displaced individuals and groups who face a wider range of harms, including the wastage of human potential that can result from protracted stay in a refugee camp. These latter needs are real and compelling, and there are large populations meeting these wider criteria. Therefore, the program can still be prudent and selective in choosing among them, with full attention to countervailing factors such as possible magnet effects, other political impacts, and near-term prospects for voluntary repatriation. This approach should be accompanied by a determination to sustain fully viable budgets for refugee assistance, minimizing as much as possible any direct financial competition between assistance and resettlement.

On the other hand, if the Administration and the State Department are unprepared to make a firm declaration of this sort, including adequate funding for both admissions and assistance, they should then be fully candid and consistent about the likely outcomes in the current era, which lacks large-scale programs like those formerly in place for Indochina and the Soviet Union. That is, without new initiatives premised on this broader perspective, admission totals will almost surely remain low and admissions will fluctuate widely, whatever other operational improvements are introduced for pro-

cessing those given access to the program. Without top-level candor on these points, officials responsible for the system are placed in an extremely difficult and unfair position. They will be judged by most outside observers against a high admissions total placed in the annual Presidential Determination, but not given the more specific policy directives and resources that are indispensable to meet that benchmark.

Recommendation I-2: The number of admissions set in the annual Presidential Determination should be treated as a goal, not a ceiling. It should therefore provide a firm benchmark (following a reasonable transition process) for accountability of the offices that have a role in access decisions and management of the system, including not only PRM and USCIS but also the regional bureaus of the Department of State and the enforcement bureaus of the Department of Homeland Security. Because of the potential volatility of refugee flows, and the program's vulnerability to unforeseen problems, the benchmark should apply with reasonable tolerances, which can probably diminish once a system built on this new approach has matured. To perform this function, the PD admissions number must be set at reasonable, though challenging, levels congruent with the resources being made available through the budget process.

Access decisions should still pay attention to countervailing factors, both logistical and political, that might appropriately weigh against a resettlement initiative. Such decisions must still be done case-by-case, with full attention to the context. But treating the PD as a firm goal by which performance will be measured will help counter a long-standing tendency to give undue weight to the disadvantages of a proposed initiative.

CHAPTER II. REFORMING THE SYSTEM FOR DECIDING ON RESETTLEMENT INITIATIVES

Recommendation II-1: PRM, as the lead office in the process of group designation, must develop a sense of mission about adding one or two new groups to the pipeline development process each month. PRM must impart energy and vision to this mission, in a way that will promote added efforts on the part of the other players in the process, both governmental and nongovernmental. It must seek innovative ways to accomplish the various functions involved. The Admissions Office staff should also expand in view of the very different requirements in this new era of refugee resettlement. Without abandoning its own critical perspective on admissions proposals, the Admissions Office must come to think of itself as the component in the decision making system that gives the benefit of the doubt to resettlement, so as to serve as a counterweight to negative arguments that will readily appear from other governmental or international quarters.

Recommendation II-2: The Department of State should establish a Refugee Admissions Committee, to meet no less often than bimonthly. In a multi-level decision process, the committee should consider lists of potential groups and select candidate groups for more thorough investigation. After the investigation, which could involve field visits by targeted response teams that include representatives of NGOs, the DHS, and perhaps UNHCR and IOM, the committee will ultimately designate groups for priority resettlement, at a rate needed to meet the PD target and to sustain a reasonably steady flow of admissions. The committee should also play a central role in the adoption of the annual congressional consultation document. It should schedule its deliberations so as to assure that the document is prepared in a timely and complete fashion that will enable consultation with Congress before its August recess and signing of the Presidential Determination by early September.

CHAPTER III. THE PRIORITY SYSTEM FOR ACCESS TO THE ADMISSIONS PROGRAM AND ARRANGEMENTS FOR URGENT CASES

Recommendation III-1: The priority system should be revised modestly, so that P-1 becomes the priority for individual referrals from UNHCR, US embassies, or, in some circumstances, other referring entities; P-2 covers all decisions for designated groups; and P-3 remains the category for close family members of US residents. P-4 and P-5, now covering more distant family relationships, should be removed as priorities, although those same family connections might sometimes be characteristics used in specific P-2 designations. UNHCR group referrals should be worked into the group designation process under P-2, and should cease being thought of as P-1 groups. Such UNHCR referrals should generally enjoy additional momentum for approval as an access category. PRM should consider refining the list of factors for P-1 referrals accordingly, as well as adding a factor for persons facing persecution that is based on their real or imputed ties to the US government or US entities. PRM should also regularly post on its website a list of P-2 groups currently being given access to the US system.

Recommendation III-2: PRM should press UNHCR to continue expanding its individual referral capacity, possibly streamlining the referral process for US-destined cases, and enhancing its mechanisms for quality control and consistency. Procedures for embassy referrals of P-1 cases should be simplified, and State Department training should better equip embassy personnel for this role. PRM should systematically evaluate the past experiences with NGO individual referral schemes, so that the process can be refined and made available elsewhere. Such referrals will ordinarily be done quietly by NGO personnel present in the camp or settlement for other reasons, and can be expected to produce only modest numbers, because they will focus on urgent, compelling cases.

Recommendation III-3: The Department of State should give close attention to NGO suggestions, including the annual RCUSA recommendations report, when developing the potential group list. Concomitantly, NGOs should work to address more concretely the trade-offs, barriers, and obsta-

cles that would affect any resettlement initiative — and that sometimes counsel against undertaking it. No legislative sanction is needed or desirable with regard to that sort of input. Once a group has been chosen as a candidate group, further investigation of group needs and characteristics should take place. It will often prove advantageous to proceed through a field mission by a targeted response team, which should ordinarily include NGO representation and one or more participants from the Department of Homeland Security.

Recommendation III-4: The Visas 93 process needs to work reliably and efficiently, because it serves a vital function: reuniting a resettled refugee with his or her spouse and minor children. At the least, Visas 93 training should be a regular part of consular training, and the State Department should adopt additional procedures (possibly including a greater monitoring role for WRAPS) to assure that such cases do not languish. The DHS should also either revise the Form I-730 or develop two separate forms for Visas 92 and Visas 93 cases, so that the form will better guide the consular officer through all the distinctive steps needed for Visas 93 cases, owing to their inclusion in the special benefits of the overseas refugee program. The DHS and PRM should also consider arrangements that could take most Visas 93 work from consular officers and have it handled through standard OPE procedures, with ultimate adjudication by the DHS.

Recommendation III-5: Review of family cases by DHS's Refugee Access Verification Unit (RAVU), which includes checking asserted family relationships against earlier family information in the anchor relative's A-file, has been a highly worthwhile development. RAVU also provides an institutional location for ongoing innovations to respond to what will inevitably be new schemes and patterns of fraud. The DHS should continue to work cooperatively with PRM and the NGOs in developing such refinements, and PRM should make the affidavit of relationship, with revisions, into an official government form. The DHS and PRM should also pilot-test wider use of DNA testing and should closely consider the costs and benefits of routine DNA testing as part of the medical examination all refugees must pass, particularly as testing costs decline. Ongoing improvements in the safeguards against fraud should permit an expansion in the availability of P-3 admissions.

Recommendation III-6: Now that antifraud capacity has significantly improved, PRM should continue expanding the list of nationalities for whom P-3 access is available. It should also give serious consideration to implementing a carefully designed universal P-3 category for a few years on a trial basis, at least until the other priorities come closer to using all available admission spaces. This universal program, however, should use the AOR filing restrictions implemented in FY 2004 (permitting filings only by those persons admitted to the United States as refugees or asylees). Additionally, it should allow filings only within a stated number of years after the principal relative's admission, and should warn explicitly that cases in low-volume locations may not be processed, or may have to wait many months or years for processing. Such a pilot test should be carefully monitored for problems with either processing or fraud.

Recommendation III-7: PRM and the DHS should work together to restore the capacity to act in a matter of days or weeks to approve and resettle as § 207 refugees persons who are in grave and immediate danger and whose cases are referred by UNHCR or a US embassy. This procedure for urgent action cases should replace the use of parole to the greatest extent possible. Such cases will be exceptional and the volume of such cases can be expected to be quite low, thus making such special arrangements feasible.

Recommendation III-8: The President has the legal authority to designate all countries for in-country processing, provided that other precise limitations confine its effect, thus honoring the "special circumstances" requirement of the statute. Such a designation would hold advantages for a handful of urgent cases each year, involving the rescue of individuals from immediately dangerous circumstances in their country of nationality. But a full exploration of possible drawbacks should be undertaken before deciding on such a step.

CHAPTER IV. THE ROLE OF THE DEPARTMENT OF HOMELAND SECURITY

Recommendation IV-1: The DHS should place a high priority on developing a system for prompt resolution of internal disputes over immigration- and refugee-related guidance and policy, a problem that arises when a given issue holds implications for

both enforcement and services. The system must assure that services-related perspectives are given a full airing and are not drowned out by concerns emanating from DHS enforcement offices. Such a system will likely require a far more active policy and coordination role in this realm for the office of the Secretary or Deputy Secretary, the only officials who have direct authority over both the enforcement and services units of the DHS. The Department should also move promptly to resolve currently pending matters for which a decision or clearance has been requested by other departments.

Recommendation IV-2: The DHS should continue to use and refine existing quality-control measures to assure consistency in refugee adjudications, properly applying a generous interpretation of the refugee definition in overseas processing. It should also give ongoing consideration to other measures, such as detailed training on conditions in the country of origin, as well as guidance on specific situations that should be presumptively regarded as justifying a finding of a well-founded fear of persecution. Such steps would both advance quality control and consistency and also free up interview time to address questions of identity and inadmissibility, including security concerns.

Recommendation IV-3: The DHS should continue its cooperative work with PRM and embassy security officers to bring about the timely creation of secure sites for interviewing refugees designated for access to the program. It should also place a priority on developing new techniques that can expand the range of possible deployments, because a large number of circuit rides to potentially hazardous locations will be needed in the current era of refugee admissions. Better security training of deployed officers and more use of experienced officers permanently assigned to refugee responsibilities, for example, will help lower the deployment threshold. The DHS should also continue and enhance its active exploration of video hookup possibilities that could enable effective interviewing, when necessary, from a remote location, taking full account of confidentiality and other concerns.

Recommendation IV-4: The DHS should move ahead as soon as possible with deployment of an expert refugee corps. This is exactly the kind of creative institutional change needed to handle the demands of admission processing when most future admissions are likely to derive from a multitude of

disparate groups located in far-flung and often dangerous sites, to be handled by circuit rides rather than permanently stationed staff. Having a corps of full-time and experienced refugee officers should alleviate a great many of the problems that other players have raised in the past with DHS performance, and the concept has wide support throughout the government and among NGOs. The DHS should resolve the remaining design questions promptly and begin deployment as soon as possible.

CHAPTER V. OPERATIONAL ISSUES AND AN OVERVIEW OF THE RESETTLEMENT PROCESS

Recommendation V-1: PRM and the DHS need to move away from ad hoc responses to problems, adopting instead a managerial approach that resolutely seeks to adopt or modify standard operating procedures when problems recur, clarifying lines of authority and accountability. Current PRM-DHS working groups and PRM-NGO working groups should help in moving toward that approach. While that process matures, regular involvement of DHS officers and NGO representatives on investigatory teams considering candidate groups or doing other preparatory work in advance of a resettlement initiative, as recommended in Chapter II, should go far toward anticipating possible difficulties, taking steps to avoid them, and collecting a body of experience that will foster changes with wider application. Over the medium term, the working groups should strive to develop standard operating procedures governing all parts of the refugee admission process, with a checklist of cooperative steps needed at specific stages leading up to and through the deployment of DHS officers.

Recommendation V-2: Both NGOs and IOM can serve well as OPEs, and their roles are not as disparate as some of the usual discussion of this sensitive point suggests. To bridge the gap in perceptions, PRM should initiate a review process involving experienced representatives from PRM, the DHS, IOM, OPEs, and resettlement volags, designed to develop a shared understanding of the OPE role. This process should go beyond mere discussion sessions. It should be designed to result in a set of detailed guidelines and standard operating procedures applicable to all OPEs. Those guidelines and procedures should include explicit understandings about OPE “advocacy” (assuring the best possible presentation of

all elements of the applicant's refugee claim and other qualifications) and OPE responsibility to develop and include in the file any negative information. PRM should set specific timetables for conclusion of the guidelines and standard operating procedures, preferably within one year after initiation of the process.

PRM and the DHS should develop a specific reporting format to be used by the DHS team immediately after each circuit ride to provide a detailed evaluation of the OPE's work and to replace the more ad hoc communications that now occur (or fail to occur). PRM should use these evaluations in its regular monitoring of OPE performance and to implement constructive changes. This system should be implemented promptly, without waiting for the conclusion of the broader guidelines and procedures for OPE operations, although the review process mentioned in the preceding paragraph could certainly provide additional suggestions for refinements. Government managers should also welcome a carefully channeled but vigorous system-feedback role for OPEs, whose personnel have a crucial perspective on the operations of these complex programs.

Recommendation V-3: The DHS, in cooperation with PRM and other State Department units, should arrange for improved training on country conditions and characteristics of the expected caseload before deployment of an interviewing team, including the provision of high-quality documentary material that the team can continue to use in the field. In preparing such training and materials, the DHS should draw on a variety of sources, including its own Resource Information Center, the State Department's regional bureaus and its Bureau of Democracy, Human Rights and Labor, the Commission on International Religious Freedom, and nongovernmental sources. Any targeted response team that investigated the particular candidate group now slated for interview should also participate, either in person or by providing specific information to be used in the training. The intelligence agencies often also have a role to play, particularly in helping to develop questioning strategies, tailored to the particular group and best designed to elicit information that might reveal terrorist connections, involvement in past human rights abuses, or other similar problems. PRM and the DHS should cooperate to assure that training is in compliance with the International Religious Freedom Act of 1998.

Finally, the DHS and PRM should give close consideration, in advance of interviews, to the development of detailed guidance, perhaps in the form of presumptions, that can facilitate the adjudication task — for example, identifying specific characteristics that should lead to a finding of a well-founded fear of persecution without requiring detailed questioning about further individual circumstances. Such guidance enables centralized policy-level decisions on how to view particular events or threats.

Recommendation V-4: Integrity, competence, and completeness in interpretation services are highly important for the refugee program. PRM and the DHS should take proactive steps to assure high-quality interpretation, including increasing the resources devoted to this task. Measures could include adding specific requirements to the standard operating procedures for OPEs governing the selection, vetting, and supervision of interpreters, including provisions to minimize the use of interpreters drawn from the refugee community. Direct US government hire of interpreters should also be considered, and to the greatest extent possible, the DHS should seek to recruit adjudicators who themselves possess the relevant language skills.

Recommendation V-5: The DHS, in cooperation with PRM and OPEs, should develop standard procedures and consistent substantive standards for dealing with requests for reconsideration. These should guide both the OPE role in selecting those cases in which it will help prepare an RFR and the DHS process for dealing with RFRs. PRM should also work with UNHCR to clarify an appropriate stance for UNHCR's own further actions with regard to cases for which reconsideration has been requested.

Recommendation V-6: Much progress has been made since the changed security screening procedures were introduced after September 11, 2001. After many months of confusion, inefficiency, and delays, security screening is now being worked into the normal routine of processing in most cases. The agencies involved need to assure continued full staffing of the security advisory opinion (SAO) process so that all initial review will be completed within the stated time frames (currently forty-five days), and so that hits may be resolved promptly. All agencies involved should set a deadline for closing old cases that became mired in the system

in 2002 and early 2003, making a firm decision on clearance and promptly notifying those whose cases have been in suspense. Eventually SAO processing for refugees should return to the Bureau of Consular Affairs — certainly no later than completion of the larger SAO reform process — but with full provision for efficient completion of refugee cases.

Recommendation V-7: The deployment of the WRAPS data system has already provided major improvements and standardization for the admissions program, but more can be done, and resources should be provided to accomplish key changes as a matter of high priority. In particular, the family tree screens of WRAPS should be modified. Moreover, the management potential of WRAPS has not been fully tapped, because the system does not now generate reports with the sorts of detail that would be of greatest use to those engaged in pipeline management. Ongoing WRAPS revisions should assure that detailed stock and flow data are available on a month-by-month (or other periodic) basis for each refugee population.

Recommendation V-8: In the short term, within a matter of months, the DHS should revise and streamline its procedures for issuing employment authorization documents, so that the per-plane limit of thirty-five refugees can be significantly increased and that IOM's use of charter aircraft for refugee transport again becomes practical. These changes would be without prejudice to more thorough reforms that would one day permit the prompt issuance of a more secure EAD or identity document that could better serve the needs of both immigration agencies and the Social Security Administration. As those longer-term reforms proceed, the agencies involved should make every effort to assure that refugees receive the document at the port of entry. If the more secure document can only be provided at some later point, then the procedures must be designed to assure receipt within about two weeks of arrival, because such documents are so important for the successful reception and integration of refugees in the destination city.

Recommendation V-9: The DHS should revise the Form I-485 to include specific boxes and questions for use in connection with refugee adjustments and should revise the form's instructions to give specific guidance to refugees and those who assist them.

CHAPTER VI. THE ROLE OF THE OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES

Recommendation VI-1: PRM, while remaining fully supportive of the UNHCR integrity initiatives, should continue to press UNHCR to make its individual referral process more efficient, disciplined, and productive. UNHCR should consider closely whether some parts of its process, including the lengthy Resettlement Registration Form, could be streamlined, especially for those cases that are likely to be referred to countries, like the United States, which perform their own detailed processing and interviewing. UNHCR should also be encouraged to take a close look at its current resettlement categories, in light of a decade's worth of experience operating under this framework, in order to refine and improve the criteria so that they better meet real needs and minimize any incentive to manipulate either the system or the refugee's own personal situation in order to qualify.

Recommendation VI-2: The US government should do all it can to support the further refinement and early successful deployment of UNHCR's group referral mechanism. It should give such referrals quick and favorable consideration for inclusion in the US Refugee Program, and it should encourage other nations to join in the resettlement effort.

Recommendation VI-3: Standardized registration practices, using carefully designed data elements, can have enormous long-run advantages in enabling and improving resettlement. Their potential is so great that registration advances deserve the highest priority. Enhanced registration can provide a payoff for assistance purposes immediately. Its benefits to resettlement will appear only in the long run, but the advances in avoiding fraud, minimizing magnet effects, and improving initial decisions about access will be substantial. The US government should therefore continue to support the development and early deployment of improvements in UNHCR registration practices. It should also encourage UNHCR to work toward inclusion of biometric identifiers in registration documents and records wherever possible and should provide US funding for early UNHCR use of mobile fingerprint technology developed by the DHS.

CHAPTER VII. STATUTORY AMENDMENTS

- A. Provide for continued refugee movements at the beginning of the fiscal year, even if the Presidential Determination is delayed.
- B. Allow congressional consultation by both Cabinet secretaries and deputy secretaries.
- C. Repeal the ceiling on asylee adjustments.
- D. Reconsider the ceiling on refugee and asylee status grants based on coercive population control measures.
- E. Consider admitting overseas refugees as lawful permanent residents.
- F. Allow the President to designate specific classes of persons to be admitted as § 207 refugees without individually applying the Convention refugee definition.