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Written Statement for the Record

**Submitted by
The International Rescue Committee**

**To
The Senate Judiciary Committee**

**For the Hearing
“Renewing America's Commitment to the Refugee Convention:
The Refugee Protection Act of 2010”**

May 19, 2010

I. INTRODUCTION

The International Rescue Committee (IRC) is a global humanitarian organization present in 42 countries worldwide and 22 cities in the United States, providing emergency relief and post-conflict development and helping refugees and people uprooted by conflict and disaster to rebuild their lives. Since its inception, IRC has been involved in virtually every major refugee crisis and resettlement initiative around the globe.

In the United States, IRC helps refugees resettle and become self-sufficient in their adopted country. In the last 10 years, IRC has provided resettlement support to over 77,000 refugees and asylees in the U.S., including 11,500 in 2009 alone. Much of this work is carried out as a public-private partnership with U.S. federal and state government offices. IRC assists refugees to become integrated into their new communities, focusing on housing, job placement, and employment skills and facilitating access to healthcare, education, English-language classes, and community orientation. In addition, the IRC resettlement network is recognized by the U.S. Department of Justice Board of Immigration Appeals to provide comprehensive immigration services to refugees and asylees, helping them on the path to permanent residence and U.S. citizenship.

The International Rescue Committee requests the Senate Judiciary Committee to address the current gaps in the U.S. asylum and refugee protection policies. We welcome the introduction of the Refugee Protection Act (S. 3113) as a way to repair many of these gaps. We believe this measure would improve existing asylum policies and ensure that more people who need and deserve U.S. protection can benefit from it. It would also make several



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discrete yet long overdue improvements in the support provided to refugees newly arrived in the United States.

II. TERRORIST RELATED INADMISSABILITY GROUNDS (TRIG)

The USA Patriot Act and the Real ID Act expanded the definition of terrorism to prohibit anyone who has provided "material support" to terrorists from being admitted to the United States. These provisions were meant to protect America from genuine terrorist threats. However, the overly broad expansion of terrorism and terrorist activity definitions has led to unintended consequences for individuals fleeing persecution whom the U.S. has a proud history of protecting. As a result, thousands of legitimate refugees and asylum seekers who pose no threat to the United States are denied the protection they need or are unable to reunite with their family members in the U.S. or become lawful permanent residents.

Although the Administration has taken steps to address certain aspects of the problem, these changes are not sufficient and are not being implemented in an effective manner. Refugees continue to be denied protection as result of being labeled as members of a so called "Tier III terrorist organization." Tier III is defined as any group of two or more people who engage in activity that the law defines as terrorist, but that is so sweeping it includes Iraqis who fought against the Saddam Hussein regime (even those who fought alongside Coalition forces in 2003), groups that fought against the Burmese military junta and Afghans who fought the Soviet forces with U.S. support in the 1980s.

In many cases the overly broad legal definitions have undermined the goals U.S. foreign, security, and humanitarian policies try to achieve – refugees brutalized by terrorist groups and forced to provide them with support often under gun point have been labeled "terrorists." Examples of refugees who have been labeled "terrorists" include a young girl from the Democratic Republic of Congo who was kidnapped at the age of 12 and used as a child soldier and a man from Burundi who was robbed by armed rebels of four dollars and his lunch.

Prior to adoption of these problematic "material support" provisions, U.S. law already provided numerous bars to admission to ensure that anyone who has committed criminal or terrorist acts does not enter the United States. In addition, every refugee and asylum seeker undergoes rigorous security background checks against multiple databases.

We believe that a legislative solution is necessary to address this problem. While the Secretary of Homeland Security has the authority to exempt individuals from bars to admission and refugee protection relating to "material support" and "terrorism," the implementation of this authority has been slow and ineffective. More than 6,700 refugees, asylees, and asylum seekers' cases remain on "hold" with no prospects for resolution.



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III. ADJUSTMENT TO PERMANENT RESIDENCE FOR REFUGEES AND ASYLEES

Under current law, refugees resettled in the United States must apply to adjust to lawful permanent resident status after one year of presence in the U.S. Similarly, an individual granted asylum must wait one year before applying to adjust status. While initially contemplated as a means to provide a final opportunity to review eligibility of refugees and asylees for admission, this requirement has been rendered redundant by a much more thorough and efficient system of background and national security screenings to which refugees and asylees are now subject prior to entering the U.S. or being granted asylum. This requirement now only represents a burden for refugees who have already undergone extensive background checks, a waste of DHS resources which must go toward processing thousands of adjustment applications annually, an obstacle to refugees' ability to secure employment, and has resulted in some instances to the unnecessary detention of refugees.

In 2005, the U.S. Department of State's Bureau of Population, Refugees, and Migration commissioned Dr. David Martin to carry out a comprehensive study of the processes for admitting and resettling refugees in the United States. In this study, Dr. Martin explored the issue of refugee adjustments to lawful permanent residence after one year of physical presence in the U.S. and conducted interviews with representatives from DHS. He concluded that due to the narrowed gap between inadmissibility and removal grounds since the passage of the 1980 Refugee Act, "a refugee who commits a crime of virtually any degree of seriousness within the first year of admission would be fully subject to removal, even if initially admitted as an LPR [lawful permanent resident]." This provision wastes resources by having DHS adjudicate thousands of applications a year while adding nothing to enhance national security. Furthermore, filing a lengthy application places an additional unnecessary burden on refugees and resettlement agencies, requiring time and resources that could be better used to assist refugees in other critical need areas.

Currently, upon arrival in the U.S., refugees are given an I-94 Arrival/Departure Record, a paper card stamped at the port-of-entry to indicate admission as a refugee for an indefinite period of time, and an Employment Authorization Document (EAD), which documents a refugee's authorization to work but which is valid for only two years. Not surprisingly, I-94s and EADs are a source of confusion for many employers, landlords, DMV employees and social service providers who are much more familiar with the I-551 Permanent Resident Card (or "greencard"). Refugees are often denied needed jobs, licenses/IDs or services because of the ambiguity of their immigration documents.

When refugees arrive in the United States, they face multiple challenges in adjusting to a radically new way of life. Refugees are counseled on the need to adjust status after one year. Some neglect to do so, often because working full time they do not have the time. This has in



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some cases resulted in arrest and detention of refugees until the adjustment process is completed.

Admitting refugees to the U.S. as lawful permanent residents and allowing asylees to apply for LPR status immediately after being granted asylum would facilitate the process of integration while eliminating redundancy and conserving valuable resources.

IV. FAMILY REUNIFICATION

Gaps in current U.S. law result in the following unfortunate situations whereby families are separated in the process of resettlement to the United States:

- the child of a resettled refugees' spouse is unable to join parents in the U.S. This can happen in instances of rape of the spouse or of conception of the child after the admission of the principal refugee applicant parent. Because the law only permits the principal refugee to bestow derivative status on spouses and unmarried children under 21 if the relationship existed at the time of the principal's admission to the U.S., the spouse of the principal, since she is not a principal applicant herself, cannot bring her child to join her if the child was conceived after her husband's admission to the U.S.
- a child who has been separated from his or her biological or adoptive parents cannot be resettled with the refugee who has been taking care of him/her and on whom s/he is socially and economically dependent. While it is not uncommon for children in refugee settings to be separated from their biological parents due to violence, turmoil and death, U.S. law does not recognize them as children for immigration purposes if they have not been legally adopted.
- separated families in cases where a resettled refugee or asylee failed to file a following-to-join petition for derivative family members within the required two years. Current regulations require that a refugee or asylee file the asylee/refugee relative petition within two years of arriving in the U.S. or being granted asylum. This has resulted in many cases of long-term separation of parents and children. Examples include a refugee learning that his child who was abducted is alive only after the two year deadline has passed, or an asylee torture survivor whose Post-Traumatic Stress Disorder prevented him for many months from being able to hold a job, and who feared he would be unable to care for his family. While exceptions can be granted, the criteria are very narrow.

Family unity is a core American value and guiding principal of U.S. immigration law and policy. Refugees and asylees have already suffered tremendous physical and emotional trauma. Separation from family not only leaves unaccompanied refugees vulnerable in



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countries of persecution and first asylum, but also interferes with the process of integration and poses significant challenges for those trying to rebuild their lives in the United States.

V. RECEPTION AND PLACEMENT GRANT

The State Department's Population, Refugees, and Migration (PRM) bureau finances Reception and Placement (R&P) services for refugees through a grant awarded to ten resettlement agencies. The grant is used for two purposes:

- 1) it is meant to cover rent, security deposit, utilities, food and other expenses to support the refugee for the first 30 days in the U.S.
- 2) the R&P grant funds resettlement agencies to provide services including locating housing, reception at the airport, orientation to the community, facilitation of health screening, enrollment of children in school, enrollment for public services, and referral to employment and English language programs for refugees.

The grant helps ensure a smooth transition period for refugees until they are able to earn a paycheck or enroll and benefit from HHS/Office of Refugee Resettlement (ORR) and state funded programs that provide longer-term employment and adjustment services.

The Reception and Placement grant was \$565 in 1975, and thirty-four years later had been increased only to \$900. This number did not reflect increases in the cost of living or inflation, or real needs of refugees and resettlement agencies during the initial resettlement period.

On January 1, 2010, the Administration increased the Reception and Placement grant to \$1800 per capita. This increase has greatly alleviated the challenges refugees and resettlement agencies face in ensuring that refugees receive the support they need to begin their path to self-sufficiency.

To avoid a situation where this crucial grant once again falls behind the cost of living, IRC recommends an annual review and, if warranted, an adjustment of the amount provided to take into account cost of living and inflation.

VI. CONCLUSION

The Refugee Protection Act of 2010 addresses the gaps in U.S. protection systems outlined above. The International Rescue Committee encourages the Senate Committee on Judiciary to support this legislation and continue to focus attention on improving the U.S. refugee and asylum policies. Thank you for your consideration of our views.