

**STATEMENT OF MELANIE NEZER  
FOR THE RCUSA MEMBERS OF THE  
LATIN AMERICA-CARIBBEAN REGIONALWORKING GROUP**

**AT THE PUBLIC HEARING OF THE BUREAU OF POPULATION, REFUGEES, AND  
MIGRATION, DEPARTMENT OF STATE**

**REGARDING THE U.S. REFUGEE PROGRAM FOR FISCAL YEAR 2008**

**June 6, 2007**

My name is Melanie Nezer, Migration Policy Counsel of the Hebrew Immigrant Aid Society (HIAS). Thank you for allowing me to present the views of the RCUSA representatives of the Latin America/Caribbean Regional Working Group on the fiscal year 2008 refugee admissions program.

In my brief remarks, I would like to once again highlight the material support issue, as well as two populations of refugees in this hemisphere that RCUSA believes should receive expanded access to the United States as refugees in fiscal year 2008: Colombians and Haitians.

**Material Support**

For well over two years, RCUSA has sought legislative and administrative solutions to the “material support” problem. This year, the Administration announced a legislative proposal and a number of administrative changes to address the problems faced by some of the unintended victims of the material support bar.

The greatest policy shift occurred on April 27, when the Secretary of Homeland Security announced that the “material support to terrorist” provisions will no longer be applied to individuals (including refugees and asylum seekers) who provided material support under duress to groups that the government has listed as “terrorist organizations” if the government decides that an individual deserves to be admitted to the U.S. The new waiver allows government officials to decide to admit a refugee, asylum seeker, or green card applicant to the United States if the individual has provided “material support” under duress to a named terrorist group (known as “Tier I” and “Tier II” groups).

While to our knowledge, no waivers have been issued for any refugees or asylum seekers who fall into this category, we understand that there will be a separate intelligence analysis of each Tier I/Tier II group before any individual waivers can be issued for people who provided material support under duress to one of these groups. We also understand that Colombian groups (the FARC, ELN, and the AUC) will be the first groups considered.

While we hope that this procedure is workable, we are concerned that requiring “clearance” for groups may substantially delay the process. We urge PRM to work closely with DHS in order to immediately implement a plan that will allow the United States to appropriately respond to the Colombian victims of terrorism that we have for too long been labeling as “terrorists” and turning away from protection in the United States.

While these changes, if implemented quickly and effectively, will mark the most significant progress to date on this issue, many refugees and asylum seekers will continue to be victimized by the material support bar if more is not done. For example, members and combatants of “freedom fighting” organizations supported by the United States are not even eligible for a

waiver. Moreover, in asylum and refugee proceedings, there is still no process – other than political pressure - for getting *eligible* groups considered for waiver. Although we are greatly encouraged by the fact that so many Burmese refugees processed abroad have been issued waivers, Burmese refugees who actually fought against the Burmese regime remain barred from entry. In addition, because the waiver authority is completely discretionary, there is no mechanism for any level of review of the government’s decisions to not issue a waiver in a particular case.

During the first months of 2007, a bi-partisan group of Senators, led by Senator Patrick Leahy (D-VT), worked to come up with a legislative solution to the material support problem that would satisfy national security concerns. The resulting legislative proposal was included in the Senate Iraq supplemental appropriations bill. The key provisions of the proposal are: (i) expanded waiver authority that the administration wants and needs to be able to waive the material support bar whenever and wherever appropriate; (ii) a duress exception to the material support bar, which is needed to protect those forced against their will to provide food, water, or services to terrorist groups from being defined as terrorists; and (iii) a provision protecting Hmong and Montagnards who fought alongside the U.S. during the Vietnam war, Burmese resistance groups, Cubans who opposed Castro, and Tibetan freedom fighters from being defined as terrorists under US law.

But that compromise solution was blocked when one senator raised a point of order and had the language stripped from the bill.

We hope that PRM will continue to offer help towards the achievement of a legislative solution, and continue to remind others in the Administration as well as members of Congress that the lives of real refugees are at stake.

### **Colombian Refugees**

Because HIAS is operational in Ecuador, where we provide a wide range of psychosocial counseling services to Colombian refugees, we are particularly concerned about how the material support bar is affecting Colombians who cannot find safety in Colombia or neighboring countries. The United Self-Defense Forces of Colombia (AUC), the Revolutionary Armed Forces of Colombia (FARC), and the National Liberation Army (ELN) pervade nearly all aspects of Colombian life, and payments to these groups, often made under threat of torture or death to oneself or a loved one, are a necessity of survival for many Colombians. The number of internally displaced persons in Colombia rose to an all time high this year, with some human rights groups reporting that the displaced population has now reached as high as 3.8 million.

Colombian refugees are clearly a population in need. Safe return is not possible, and local integration is nearly impossible to achieve in countries of first asylum. In Ecuador, the growth in refugee arrivals, precipitated in part by the recent spike in violence along Colombia’s southern coastal border, has increased pressure on the already inefficient asylum system and the backlog has become significant, resulting in the refugees remaining in ambiguous legal status. Moreover, because of intense local discrimination against them, Colombian refugees are unable to access even the most basic services. Single and widowed women, often responsible for young children, are particularly vulnerable because of gender biases and because of a generalized perception among the host community that Colombian women are prostitutes.

In addition, the border Ecuador shares with Colombia is generally unmanned and porous, making it ripe territory for irregular armed groups trafficking in arms, drugs and people. Reports from one Ecuadorian town, which receives a large segment of the Colombian refugee flow, indicate that the AUC paramilitaries have set up permanent operations in the town, and openly recruit Ecuadorian youth. The situation places refugees fleeing paramilitary violence in a state of

extreme physical insecurity. In Costa Rica, because of economic difficulties, local integration is not a viable, durable solution, particularly for educated Colombian refugees for whom there are no jobs. In Venezuela, where security conditions have deteriorated in many regions along the Colombian border, there is no effective asylum process, and asylum seekers are not eligible for identity documents. The safety of the Colombian refugees in Ecuador, Venezuela, and Panama is regularly endangered by the cross border interventions of the actors of the Colombian conflict – sometimes in direct pursuit of a refugee. Put simply, many Colombian refugees have run out of options.

The only truly durable solution is resettlement, a solution that the United States should actively pursue in order to save lives and offer Colombian refugees the possibility of a safe and productive future. Last year, the U.S. resettled just over 100 Colombian refugees. This is clearly not sufficient to meet the protection needs of this vulnerable population.

### **Haitians**

Turning to the volatile situation in Haiti, we remain deeply concerned about unmet refugee protection needs. The State Department’s human rights report on Haiti confirms that serious human rights abuses, political violence, killings, and social turbulence continue to occur. Recent reports suggest that the Haitian state has yielded governance of some areas of Port-au-Prince to paramilitary gangs who have been known to specially target women and children. Outside of the capital city, the government is virtually absent.

Despite the state of lawlessness in Haiti and the stream of incidents of extreme violence, there have been no refugee admissions of Haitians in recent years. Haitian refugees who have turned to the Dominican Republic for protection have found little hope; the Dominican Republic does not offer asylum to any Haitian refugees, and carries out a policy of frequent repatriations without vetting cases for asylum eligibility under the Geneva Convention. Xenophobia and discrimination against the Haitian minority combined with lack of legal status for most Haitians and Dominicans of Haitian descent place the refugees among the population in a particularly vulnerable situation. Children born in the Dominican Republic to Haitian parents usually have no documents and can claim legal protection from no state, leaving them susceptible to trafficking and other exploitation.

We urge the State Department to engage in meaningful refugee processing that is grounded in the promotion of appropriate durable solutions, including resettlement; establish mechanisms for identifying and assisting unaccompanied minors and other vulnerable individuals or groups; and to cooperate with UNHCR to assure that all refugees fleeing Haiti are provided with protection and assistance. We also urge the State Department to assist UNHCR to ensure that it has a direct presence in the region through the deployment of protection officers to Caribbean states that are receiving significant Haitian asylum seekers.

We also call upon the United States to stop its practice of interdicting Haitians at sea and returning them to the land from which they fled – unless they can pass the so-called “shout test” and loudly resist their return. This test would be inappropriate under any circumstances, but is even more so given the abysmal human rights conditions which are now present in Haiti. Moreover, as a country which is considered to be a leader in the protection of refugee and asylee protection, the “shout test” is not one which the United States would want any other country of first asylum to emulate. If we the United States is to lead by example, the shout test needs to be replaced by an appropriate screening standard.

Finally, we urge the State Department to support Temporary Protected Status for Haitians. The Department of State continues to advise Americans against travel to Haiti, citing the potential for looting, the possibility of random violent crime, and the serious threat of kidnapping for ransom. The warning goes on to state that more than fifty American citizens, including children, have been kidnapped over the past year. If it is unsafe for our citizens to travel to Haiti, then those same conditions render it unsafe and inappropriate to forcibly repatriate Haitians nationals at this time.

### **Conclusion**

While we appreciate the steps taken by the Bush Administration to reverse the dramatic decline in the U.S. refugee program since September 11, we fear that unless the material support problem is resolved quickly—which will require additional use of the waiver authority as well as a legislative fix—we will lose the momentum that we all fought so hard to achieve.

Colombians and Haitians have continued to experience violence on a daily basis, and incidences of severe persecution continue to be widely documented and acknowledged. We owe it to our neighbors—both the refugees themselves and the host governments in the region—to make sure that we accept the refugees and asylum seekers from these two countries that are truly out of options. We urge the U.S. government to take its role as a safe haven seriously, and to make sure that U.S. policy and admissions targets take into consideration the realities of daily life for our region's most persecuted and vulnerable individuals.