

MAY 10, 2006

HEARING OF THE AFRICA, GLOBAL HUMAN RIGHTS AND INTERNATIONAL  
OPERATIONS SUBCOMMITTEE OF THE HOUSE INTERNATIONAL RELATIONS  
COMMITTEE

SUBJECT: CURRENT ISSUES IN U.S. REFUGEE PROTECTION AND RESETTLEMENT

CHAired BY: REPRESENTATIVE CHRISTOPHER H. SMITH (R-NJ)

WITNESSES PANEL I:

ELLEN R. SAUERBREY, ASSISTANT SECRETARY, BUREAU OF POPULATION,  
REFUGEES AND MIGRATION, DEPARTMENT OF STATE;

RACHEL BRAND, ASSISTANT ATTORNEY GENERAL FOR THE OFFICE OF LEGAL  
POLICY, DEPARTMENT OF JUSTICE;

PAUL ROSENZWEIG, ACTING ASSISTANT SECRETARY FOR POLICY  
DEVELOPMENT, DEPARTMENT OF HOMELAND SECURITY'

PANEL II:

MICHAEL CROMARTIE, CHAIR, U.S. COMMISSION ON INTERNATIONAL RELIGIOUS  
FREEDOM;

TAD STAHNKE, DEPUTY DIRECTOR FOR POLICY, U.S. COMMISSION ON  
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PANEL III:

ANASTASIA BROWN, DIRECTOR OF REFUGEE PROGRAMS, U.S. CONFERENCE OF  
CATHOLIC BISHOPS;

LAVINIA LIMON, PRESIDENT, U.S. COMMITTEE FOR REFUGEES AND  
IMMIGRANTS;

KENNETH H. BACON, PRESIDENT, REFUGEES INTERNATIONAL

LOCATION: 2172 RAYBURN HOUSE OFFICE BUILDING, WASHINGTON, D.C.

REP. CHRISTOPHER H. SMITH (R-NJ): The subcommittee will come to order, and good afternoon everybody. Today, the subcommittee on Africa, Global Human Rights and International Operations will hold an oversight hearing on current issues in U.S. refugee protection and resettlement. The hearing will focus on the major current challenges facing U.S. refugee protection and resettlement policy and programs, such as levels of funding, implementation of procedures to waive application of material support, grounds for inadmissibility, application for the definition of membership in a terrorist organization and its effect on refugee resettlement, current status and implementation of the wet foot/dry foot policy, and status of implementation of the refugee provisions of the

International Religious Freedom Act of 1998. The subcommittee will consider what the United States has done in the past year to address these issues and what it intends to do in the coming year.

I would like to start by mentioning some of the encouraging progress concerning refugees and displaced persons. The peace deal recently signed by the largest Darfur rebel group and the government of Sudan can be the first step towards peace and stability in the region. I wish to commend President Bush's strong leadership on Darfur. Our first priority must be to help create a sense of security, so that refugees and IDPs can return to their homes and rebuild. President Bush's call for more peacekeepers is absolutely timely and important.

I would note parenthetically that I visited some of those camps on a trip in August -- Moucha and Kumho camp -- and I just want to say how proud I was of the work that the United States Government was doing in providing sustenance, food, medicine, shelter and, with the help of the African Union troops, protection for those who were internally displaced. And I would say, although I did not visit it, the same for those people in Chad. We did make and are making a difference and, again, I think the Bush administration deserves very high praise for what it has done and continues to do.

We need to get more humanitarian assistance to those who are suffering and, again, President Bush is right on point when he says he needs an additional 225 million (dollars) in emergency food aid for Darfur and his announcement that he has directed five ships loaded with food to Sudan and has ordered the emergency purchase of another 40,000 metric tons of food for rapid shipment, is certainly deeply appreciated by those of us on the Hill. This is on top of the more than 116 million (dollars) in humanitarian aid we have already given to help ease the suffering of those afflicted by the conflict and more than 150 million (dollars) that we have contributed to support the A.U. peace mission in Darfur.

It has been American aid -- first, second and third -- that has fed and cared for the refugees. Other major donors have not yet come through, and we must do so now. The president's decisive steps will help convince the international community, I believe, to give more and to do more and to end the misery for those who have suffered in Darfur.

On Friday, finally, the first of six North Korean refugees processed for resettlement in the U.S. have arrived. I am pleased the refugee provisions of the North Korean Freedom Act of 2004 are, at long last, being implemented.

We welcome today assistant secretary of State for population, refugees and migration, Ellen Sauerbrey, for her first appearance before this subcommittee and the House. We hope and trust that this will be part of a constructive collaboration on the vital issues that you handle for our country and for the Department of State. I want at the outset to commend you and PRM for the outstanding work you have been doing to fulfill our commitment to victims of trafficking and to combat this modern version of slavery. I look forward to hearing your view on the most pressing challenges facing refugees worldwide and what help you need from us to do your work.

I note that in 2005, some \$996 million from all sources was spent or obligated from your bureau, and this is projected to decrease to 914 million (dollars) from all sources for 2006, and perhaps 950 million (dollars) counting the supplemental request. Further, for 2007, the president has requested only 880 million (dollars). This is a large decrease from '05 and '06. About 330 million (dollars) was obligated for overseas assistance to Africa in 2005, yet the president is only asking for 236 million (dollars) in '07. How will this affect our ability to cope with the increasing crises of refugee protection worldwide and especially in Africa? Will some of that be made up in other ways? And I think that's a question that we hope will be answered in whole or in part today.

I and many other members of Congress have long opposed the exaggerated emphasis on repatriation rather than resettlement of refugees. This policy harms not only the refugees we have repatriated but also countless thousands of others, because it reduces the moral authority which the United States can exercise in persuading other countries not to force people back to danger. Likewise, I have long supported higher numbers for refugee admissions. Even in the years of highest refugee admissions, when there were over 100,000, they represented only a tiny fraction of total immigrants. Yet not only is this year's ceiling of 70,000 too low, the actual projected intake is lower still -- 54,000 -- and there are serious doubts that even that number can be reached.

Finally, I asked the State Department to reopen the consideration of the cases of those remaining stateless Vietnamese refugees in the Philippines. A large number were promised Philippine residence. This has not been granted and is never likely to be. A smaller number attempted to enter the U.S. fraudulently, and have been forever barred. I would ask that their cases be reexamined. If the fraud they committed was minor, and only due to their desperate situation, I would ask that they be shown compassion and allowed to reunite with their families.

We also welcome the distinguished witness Rachel Brand, assistant attorney general for the office of legal policy for the Department of Justice, and Paul Rosenzweig, acting assistant secretary for policy development, Department of Homeland Security. I hope that they and Ms. Sauerbrey -- Secretary Sauerbrey -- can deal with several other pressing issues.

The United States is the acknowledged world leader on refugee issues. No nation contributes more to help refugees. No nation accepts more refugees for resettlement than the United States, even if it is true that we should do more. Our defense of refugees is one of our proudest answers to those who would denigrate the role of our nation in world affairs.

But two major problems are wreaking havoc with our immigrant resettlement program. Our immigration law, amended by the Patriot Act and the Real ID Act, seeks to exclude from our shores all terrorists and those who would aid and abet them. It therefore renders inadmissible all those who have knowingly given material support to terrorist groups -- not just those who pull the trigger or plant the bomb, but all those who facilitate terrorism are to be excluded from the blessings of life in America.

But Congress knew that there would be situations where an otherwise qualified refugee should not be excluded because his or her support was unwitting, involuntary or so minor or inconsequential that no reasonable person could conclude that they had facilitated a terrorist act. Congress, therefore, gave the executive branch the authority to waive material support grounds for inadmissibility and charged the secretaries of State and Homeland Security and the Attorney-General to come up with procedures and guidelines to make such waivers. The Real ID Act became law just over a year ago, yet the guidelines have not been issued, despite repeated promises that they are imminent. We are more than half-way through the fiscal year. Without quick action, we will not be able to come close to our immigration target of 54,000 refugees resettled.

We all welcome the secretary of State's recent waiver on Friday, May 5 of the material support provision for some 10,000 Burmese in Tham Hin refugee camp. But that waiver, unfortunately, only applies to this particular group -- although it is very much welcome -- and will not apply to thousands of others -- Colombians, other Burmese, Cubans who offered support to armed opponents of Castro in the '60s, Hmong refugees in Thailand, Vietnamese Montagnard refugees in Cambodia, Liberians and Somalis. It has reportedly also prevented some 500 asylum seekers in the United States from being granted permanent refuge here. The State Department or the Attorney-General will have to seek separate waivers for each of those individual groups.

It will also not help many of the refugees, even at the Tham Hin camp, who have been members of the Karen National Union -- the KNU -- the resistance group which defends these persecuted ethnic groups from the murderous Burmese junta. And here we come to the second major problem -- the definition of a terrorist group.

Most of us think we know what terrorism, terrorists and terrorist groups are. Terrorism is violence directed against innocent civilians to further some political aim, and terrorists and terrorist groups do just that. Our law calls on the secretary of State to designate certain groups as a terrorist group. Other groups take up arms to resist tyrannical regimes, just as our founding fathers engaged in armed resistance to a relatively benign despotism. But we have been told that the current law does not allow such distinctions. There must be a way to distinguish between genuine terrorists and legitimate resistance groups. If current law does not do so, then we need to fix it. I would welcome suggestions from our panelists as to how we may need to change the law so that it no longer reaches such absurd results.

But let me move from the abstract provisions of law and numbers to real cases. I hope these are exaggerations, but I fear that they are not.

In Sierra Leone, a woman who was kept captive in her house for four days by guerillas. The rebels raped her and her daughter and cut them with machetes. She would normally be eligible to come to safety in the United States, but she has been put on indefinite hold because American law says that she provided material support to terrorists by giving them shelter.

In Colombia, the leftist guerilla FARC often kidnaps civilians and demands ransoms from their relatives. FARC extracts a war tax in the regions it controls upon threat of serious harm. Nearly 2000 Colombians facing death or violence who pay such ransoms or taxes were determined by the U.N. to be refugees, but they have been denied U.S. resettlement for providing material support to terrorists.

In his second inaugural address, President Bush made a stirring commitment to oppressed people yearning to be free. And he said, and I quote, "All who live in tyranny and hopelessness can know the United States will not ignore your oppression or excuse your oppressors. When you stand for your liberty, we will stand with you." Now is the time to make good on these words. We must not abandon to death, squalor and hopelessness those who have heeded our words and stood up for their liberty.

After years of effort and with great bipartisan support, the International Religious Freedom Act of 1998 became law. It recognized the crucial importance of religious liberty in our foreign policy. IRFA recognized that claims of religious persecution and their adjudication raised many complicated issues, and dealt specifically with such issues. Sections 602 and 603 called for specific training for all who deal with refugee admissions and asylum cases. Congress also mandated that guidelines be developed to guarantee that contractors and foreign-hired personnel who deal with immigration issues not have biases which would prejudice them against proper evaluation of refugee claims of religious persecution.

We would like to hear from each of our government witnesses how their departments have complied with these sections of the legislation. We are concerned that serious deficiencies exist with such training, not the least because of the embarrassing reports surrounding the case of Li vs. Gonzales.

Mr. Li, as you know -- and I raised this in an earlier hearing about three hours ago, and I'll just raise it briefly again -- a Chinese Christian, was arrested and tortured and faced a prison sentence for belonging to an unregistered church. He escaped to the United States and applied for asylum as a refugee. The immigration judge who tried his case found that Li was credible and had suffered persecution and should be allowed to stay. But the INS appealed.

In 2003 the Board of Immigration Appeals reversed the judge's decision. The BIA found that Li had honestly described how police beat and tortured him with an electric shock device, forced him to sign a confession, and then required him to clean public toilets without pay after his release. But it then, incredibly, ruled that Li was punished for violating laws on unregistered churches that China had a legitimate right to enforce. A federal appeals court upheld the BIA (decision) just last fall. After protest by religious and other human rights groups, including the U.S. commission on international religious freedom and the office of the United National high commission for refugees, DHS asked BIA to vacate its decision, which it did so two days later. In November the fifth circuit followed suit and vacated its decision.

Justice finally triumphed, but this case betrays the almost complete ignorance of IRFA and of the standards is mandates in judging religious persecution on the part of many officials. I'd like to hear, perhaps, what has been done to avoid such travesties in the future.

And I mean to point out parenthetically that that legislation was bipartisan, but it was difficult to get passed. It was opposed on the record by the Clinton administration who said that such legislation would create a hierarchy of human rights and somehow religious freedom was trumping other human rights issues, which turned out to be unmitigated nonsense. So those sections were hardly-fought for -- hard and fought tenaciously for and we hope that they will be faithfully implemented.

Section 604 of IRFA bars the entry into the U.S. of any alien who, while serving as a foreign government official, was responsible for or directly carried out particularly severe violations of religious freedom. In March of last year, we had a tremendous controversy over the governor of a state in India who had been complicit in murderous persecution of Muslims in his state. The outcry in Congress and throughout the country led to the revocation of his visa. I'd be interested in knowing what policies are in place to deny visas and to deny entry to those who are consistent violators of religious freedom.

I am also concerned how expedited removals and interdiction at sea may be affecting genuine refugees. And I would like to ask with unanimous consent that my entire record be made a part of the record and at this point I yield to Mr. Payne for any opening comments you might have.

REP. DONALD M. PAYNE (D-NJ): Thank you very much, Mr. Chairman, for calling this very important meeting on the current issue of U.S. refugees' protection and their resettlement. This whole question of refugees and situation is a very serious question and I'm glad that we are focusing on refugee protection and resettlement programs in the U.S.

The refugee situation, particularly in Africa, is still a major challenge facing our world today. According to the congressional research service, the United Nations high commission for refugees -- UNHCR -- reports that, beginning in 2005, the total number of people of concern totaled 19.2 million, which includes 9.2 million refugees, more than 389,000 asylum seekers, 1.5 million returnees, 5.6 million IDPs, and more than 2 million others remain vulnerable. The overall figure of 19.2 million increased by 2.2 million from 2004 to 2005. However, the number of refugees dropped. In 2005, the number of new refugees was 232,100, with the major displacement coming from Africa.

While these conflicts on the continent of Africa still remain, overall in Africa it's much more peaceful than it has ever been before and more peaceful than it was in the '90s. Of course, following World War II and the Cold War, there were many conflicts in Africa, because the Cold War was fought on the soil there. But in the '90s it was more peace than ever, therefore, of course, creating less refugees than what we had previously.

The 1990s were marred by civil war and ethnic clashes, including the civil

war in Sudan against the people of the south -- a war that went on 21 years -- displacing 4 million people, resulting in the death of over 2 million people in that north-south conflict, which was brought to a conclusion with the comprehensive peace agreement in Naivasha that was signed to end that strife. However, of course, we know that in Darfur leading to the conclusion of the north-south conflict, the government of Sudan attacked the Darfurians and we know about the tragic situation there, with several million people displaced and 250,000 living in Chad.

We know in the '90s there was the Rwandan genocide -- the ghastly war in the DRC where millions died; Liberia's civil strife, where we're finally seeing the trial to come soon of Charles Taylor, an infamous murderer from Liberia; and the Ethiopian and Eritrea border dispute. These conflicts caused the flight of millions of people from their communities and from their countries. Millions of refugees and internally displaced people -- IDPs -- still languish in camps, and other struggle to survive in foreign communities where they hope for the day when they can return their homes, but to live there in safety.

As we know, several conflicts currently exist in Africa, including the genocide in Darfur, Sudan, which accounts for 146,900 refugees in 2005; the crisis in Eastern Democratic Republic of Congo, which accounted for 38,100; and the continuing strife and lawlessness in Somalia, where 9100 refugees exist. Africa hosted more than 25 percent -- roughly 4.9 million -- of people of concern, reported by the UNHCR. And Africa is only second to Asia, where the numbers are greater.

So while there are a few shooting wars left in Africa, we have to increase efforts towards ending those conflicts, build on the progress that has been made, and remain engaged to ensure lasting peace while protecting refugees and IDPs that fled during those crises.

The next challenge is ensuring the safe return of refugees and IDPs. IDPs often receive less attention than refugees. As you know, the UNHCR may not deal with IDPs because IDPs are generally people who are displaced in their own country, and the UNHCR may only deal with people who are refuged in a foreign land. And so, internally, it's difficult for the UNHCR to be officially involved. There are an estimated 25 million IDPs worldwide, many of which are in Africa. UNHCR provide assistance to only roughly 6 million indirectly of the 25 million worldwide due to the legal circumstances surrounding it.

Donor fatigue is another problem. As we have heard, even in Sudan, the daily ration of calories in the Darfuran region has been reduced by the UNHCR from 2100 calories per day to 1050. Of course the 2100 was totally insufficient but half of that now is going to really create a very serious problem. So donor fatigue and insufficient contributions to UNHCR from donor nations for the refugees and IDPs crises worldwide is also inhibiting more assistance. So this is something that -- the U.S., which has already be indicated by the chairman -- is certainly the largest donor towards humanitarian issues, but we still will have to do more and push our allies to do more.

The issue of asylum and resettlement in the United States is of great concern

to me. Over the last five years, the level of asylum seekers granted assistance and refugees' resettlement in the United States has actually dropped significantly, while the numbers are growing by leaps and bounds. Although U.S. refugee admissions have increased from the post-9/11 historic lull in Fiscal Year 2002 of only 27,100 and Fiscal Year 2003 of 28,422, they still remain well below the pre-2002 level. Admissions in each of Fiscal Year 2004 and Fiscal Year 2005 were below 54,000, compared to a refugee ceiling of 70,000 each year. We are not living up to the quotas, which I think are even low, but we're only coming up with 60 to 70 percent of what we're allocating. And as we've indicated, this has happened particularly since 9/11.

I still have serious concerns about the wet foot/dry foot policy we apply towards Cuban refugees seeking assistance and resettlement in the United States, while we turn away refugees fleeing from Haiti, whose economic, political and social conditions have been extremely more dire than that of Cuba -- certainly much more dire than that of Mexico, where we are looking at policies where we will allow guest workers and we will, perhaps, have amnesty, and we will, perhaps, have the 12 million that are undocumented and illegal in the country -- are looking at ways to accommodate them. But a person from Haiti who comes in a boat, who comes across the ocean, coming for the same kind of economic asylum as Mexicans, as Cubans -- a Haitian is arrested, put in handcuffs, and taken back to their country. It is simply a racially discrimination -- period -- no other way to describe it. But it continues as we sit here today.

We must also ensure that asylum seekers are detained -- we must also ensure that asylum seekers are detained while awaiting trial in detention centers. We must have better conditions. It is absolutely criminal that asylum seekers are treated like criminals. In a detention center in Elizabeth, New Jersey, four or five years ago, there was actually a disturbance there because of the poor treatment of these people who are not convicted of anything. I even tried to get into a hearing, and I was kept out for about 25 minutes before the judge me, as a congressman, to sit in the court. And we have a human rights commission from the city of Elizabeth, New Jersey, so incensed that the entire commission came to my office to meet about three weeks ago because of the inhumane treatment and the disrespect that these judges have for people who are there in these courts.

And I would -- as a matter of fact, it was even mentioned by one of the high courts that the immigration courts have to be more fair. The working conditions are poor. Salaries are \$6.50 an hour for corrections officers or whatever they're called. And as a result, these institutions are getting what they're paying for. And it's wrong. And I think that we should have a hearing at least in looking into the manner in which these courts are held and the treatment that these folks are given. It's wrong. Like I said, a person who comes here is not a criminal. They should have due process. If they're here illegally, then they must be sent back, but they should not be treated like criminals during that period of time.

And so with that, Mr. Chairman, I just look forward to hearing the testimony of our witnesses. Thank you very much.

REP. SMITH: Mr. Tancredo.

REP. THOMAS G. TANCREDO (R-CO): Just briefly, Mr. Chairman, I, of course, want to add my support for that of the position taken by the chairman and ranking member in regard to the what seems to be arbitrary and not necessarily capricious, but certainly a bureaucratic confusion that exists when attempting to determine what exactly is, or who exactly is or is not aiding and abetting a terrorist organization. However, I must also say that I, on the other hand, want to -- would be concerned that we would go too far the other way and accept any claim of refugee status as automatic admission into the United States.

I know that it is a difficult task to determine the validity of some of the cases that are brought in front of you. It makes it more difficult to support you when there are these cases, like the Burmese and others, where it seems incredibly clear that their support was for -- if anything, was for an organization that we would have sympathy with. So that's why I want to make sure that those things don't happen, because then the push will be to make sure that everybody who claims that status will get it. And it certainly is not what I want to see happen, so I'll be happy to hear the testimony. Thank you, Mr. Chairman.

REP. SMITH: Thank you. Ms. McCollum.

REP. BETTY MCCOLLUM (D-MN): Thank you. I am very pleased that we're having this hearing today, having had the opportunity to visit refugee camps. I am particularly concerned about the issue of gender-based violence, having spoken to many women, and also women who are providing those services in the refugee population.

The women that I met with in Darfur, Northern Uganda, the Democratic Republic of Congo and other victims of violent conflicts that I've had an opportunity to meet -- all of these women, when they share their stories of rape, gender-based violence and attacks against them, and how it's used as a weapon -- these women, and quite often girls, as we will hear I'm sure from some of the testimony that's been provided in writing as well as orally -- after they've been raped or victimized, quite often the help that they receive is very little, if any at all. And that also includes when they're in the refugee camps and when they're being attacked repeatedly, sometimes, within the refugee camps.

I'm interested in knowing how we are saying that we, as a country, are doing a lot in responding to gender-based violence. When I look at the number of refugees and the number of dollars that we're putting into the programs -- and from the letter that I have, I guess, as a background -- a letter that I have in my information here -- that we're relying -- the United States is relying on NGOs to address this critical issue. But how much are we prompting the NGOs to do already out of a limited supply and a short budget that they're receiving to already do the jobs that they have here.

And then when it comes to women's access to healthcare -- not only emotional counseling and the sensitivity training that people are trying to do in the camps to make this gender-based violence stop -- but what are we doing to

provide women adequate healthcare, including the women who were afraid that they, once again, would be subjected to rape, access to birth control? So I look forward to hearing the testimonies before us and I thank the chairman very much for having this hearing. And I'd also like to comment on Mr. Payne's remarks on Haitian refugees -- I fully agree with that.

REP. SMITH: Thank you very much. Ms. Lee.

REP. BARBARA LEE (D-CA): Thank you, Mr. Chairman. I want to thank you also for the hearing and all of our witnesses -- hello and thank you for being here. I guess I would just like to say a couple of things. First of all, I think really it is a moral obligation to the world that we protect refugees and asylum seekers. We've got to do that. The president has set aside, I guess, what, 70,000 spots for refugees seeking entrance into the United States, but there are over 19 million refugees worldwide seeking safe haven. So I think we've got to do more. And I'm not sure what it is we need to do, but we've got to do more to extend a safe place and a new life for refugees by, I guess, clearing backlog cases, reuniting families, increasing the entry ceiling for countries in conflict.

Of course, some areas are especially of concern and of interest to me -- Africa, Haiti, and also refugees living with HIV and AIDS. Africa has, what, seven peacekeeping missions now. And there are millions of African men, women and children who are in dire need of refugee assistance in terms of their flee from political, religious and social persecution. Yet we've only opened our doors to about 20,000 refugees annually.

Also the need -- in additional to the needs of Africans, there is a tremendous need in terms of the Caribbean -- Haiti, for example. Again, we watched Haiti's democracy really deteriorate right in front of our eyes. In the United States, only 535 asylum seekers were allowed out of 5057 cases. That was, I think, outrageous. Since 2000, there have been a total of about 23,000 Haitian asylum cases and more than 2600 approved -- again. Contrast that to the 5600 Cuban refugees in 2003 and 4900 in 2004.

So I think that there, quite frankly, is a double standard in our immigration policy that needs to be looked at, reviewed and revised. So I look forward to hearing from you today on those specific issues. Thank you, Mr. Chairman.

REP. SMITH: Ambassador Watson.

REP. DIANE E. WATSON (D-CA): Thank you so much, Mr. Chairman, and again, we want to thank you for convening this hearing. The experience of refugees is central to the American experience. From the beginning of our nation, people fleeing tyranny and poverty have helped shape America's character and values. Whether they arrived 400 years ago or four days ago, the continuing contributions of refugees are fundamental to the America we know and love. For this reason, we have a sacred obligation as Americans to support people fleeing persecution and want in their hour of need. And this obligation is as much to ourselves as to the people we seek to help.

America is stronger when people fleeing conflict get the support they need so that they can return home ready to rebuild their shattered societies. And America is stronger when those who choose to make their life in America find their new neighbors welcoming and appreciative of their new contributions.

I hope we will hear from our government witnesses about some of the challenges they are facing in their efforts to conduct our refugee relief efforts. I have a number of concerns, particularly about the human cost of our constrained refugee relief budget, as well as how we can address the number of deserving asylum seekers who face huge challenges trying to enter into our country. I also would like to ask about efforts to provide education to children in refugee populations to ensure that the time children spend in refugee camps is not deducted from their futures.

But I hope to bring up one issue in particular, because it often gets neglected in discussions about refugees -- and that is the issue of statelessness -- the plight of people who lack effective citizenship in any country. Stateless persons are a highly vulnerable group that is likely ignored and too often falls between the cracks of government and refugee relief bureaucracies.

Mr. Chairman, I would ask unanimous consent that three reports by Refugees International on stateless persons be included in the hearing record.

REP. SMITH: Without objection, so ordered.

REP. WATSON: I am happy to see -- and I think I see him -- that one of our witnesses today is former assistant secretary of Defense, Ken Bacon, from Refugees International who will likely, I hope, include some further information on the plight of these stateless people in his testimony. And I want to thank Mr. Bacon for taking time out to join us today, as well as thanks to my colleague, Mr. Payne, for ensuring that we could have him here today and speaking on our panel. We appreciate that.

Secretary Sauerbrey, in January I wrote to you upon your confirmation as assistant secretary to enquire about your strategy for addressing the plight of these stateless persons. In that letter, I asked you to consider designating a fulltime point person on statelessness within your bureaucracy. Furthermore, I asked that the bureau consider providing new resources for both the U.N. and non- governmental agency work on behalf of stateless persons. This letter would have arrived just as you were moving into your new offices in January, so I can understand why there might be some delay.

My staff contacted your office in late February and faxed over another copy and I do know that you have a full plate in your new position, but I hope you could, maybe, use some of your time today to respond to the issues I raised in that letter. And I have another copy here if you didn't receive it and you need one. So I'm looking forward to hearing your testimony and again, I want to thank our chairman and I yield back the remainder of my time.

REP. SMITH: Thank you very much. Thank you and let me just now introduce

our distinguished panel, beginning with Secretary Ellen Sauerbrey, who became assistant secretary of State for population, refugees and migration in January of '06. Secretary Sauerbrey previously served as U.S. representative to the U.N. commission on the status of women. Before that, she served in the Maryland House of Delegates in 1994, and in 1998 was the Republican nominee for governor of Maryland. A former teacher, she was elected to represent her northern Maryland district in the Maryland legislature from 1978 to 1994, and served as minority leader from 1986 to 1994.

We will then hear from Ms. Rachel Brand, who was confirmed by the U.S. Senate as assistant attorney-general for legal policy at the U.S. Department of Justice in July of 2005. Previously, Ms. Brand served as principal deputy assistant attorney-general in the office of legal policy. Ms. Brand also clerked for U.S. Supreme Court Justice Anthony Kennedy and Massachusetts Supreme Court Justice Charles Fried.

We will then hear from Secretary Paul Rosenzweig, who serves as consul to the assistant secretary for the policy directorate in the Department of Homeland Security. He also currently serves as acting assistant secretary for policy development. Prior to joining the department, he served as senior legal research fellow at the Heritage Foundation and coauthored the book *Winning The Long War: Lessons from the Cold War for defeating terrorism and preserving freedom*.

Secretary Sauerbrey, if you could begin.

MS. ELLEN R. SAUERBREY: Thank you, Mr. Chairman. It is an honor to appear before you today and have the opportunity to discuss the U.S. refugee program, some of the challenges that we face. I know your primary focus is on a lot of the challenges in admissions, but also we would like to be able to talk about some aspects of the bureau's work.

Since I took office in January, I have been working very hard to get a grasp on the issues. I've had over 100 meetings with NGOs, representatives of state, local and foreign governments, international organizations. I visited a resettlement agency in Rhode Island. I've met with U.N. and non-governmental agencies in New York and Geneva. I attended a senior migration leadership seminar in Florida, and I visited refugee camps in Kenya and Uganda and also the migrant -- the U.S. migrant center in Guantanamo.

My trip to refugee camps in Kenya and Uganda in March gave me an invaluable opportunity to see some aspect of nearly everything that our bureau does, involving both refugee protection, assistance and admissions to the United States. And I was able to meet with and travel with all of our international partners -- UNHCR, ICRC, IOM and World Food Program -- as well as the NGOs that we are funding in these two countries.

Some of the challenges that we face in our refugee program I'd like to focus on. For the five years prior to September 11, the program had averaged 75,000 admissions annually. And as was pointed out by Congressman (Flake ?), that number dropped to 27,000 in FY 02, 28,00 in FY 03, as new -- but certainly

necessary -- security requirements were put into place after 9/11. We have struggled through extraordinarily difficult years, but due to a lot of yard work by PRM, strengthening the admissions office and implementing the worldwide refugees admissions processing system known as RAPS, the program rebounded and 53,000 to 54,000 were admitted in both 2004 and '05.

We also recognize the efforts of our principal United States government partners -- U.S. citizenship and immigration services at DHS and the office of refugee resettlement at HHS, as well as our NGO and IO partners, here and abroad, who helped to make this recovery possible.

In addition to the focus on improving the security-related components of the program, considerable attention has been given to expanding its reach to those most in need. We receive regular inputs from NGOs and other partners on possible new caseloads. We have redoubled our efforts to enhance UNHCR's capacity to identify and refer refugees for whom resettlement is the appropriate solution. We expect at least 25,000 referrals from UNHCR this year for refugees in Africa and Asia alone.

It is the administration's view that important national security interests and counterterrorism efforts are not incompatible with our nation's historic role as the world's leader in refugee resettlement. While we must keep out terrorists, we can continue to provide safe haven to legitimate refugees. Due to national security imperatives, there have been recent changes to the law as well as to the process. And we continue to work on ways to harmonize these two important policy interests.

It was an important step to have moved forward on the ethnic Karen Burmese refugees in Thailand and we are continue to look at further steps necessary to ensure the harmonization of national security interests and the refugee program.

The precarious situation in Nepal is also affecting U.S. refugee admissions. We had hoped to have initiated by now a program for certain Tibetans, as well as the sizeable population of Bhutanese who have been in camps there for 15 years. We're closely watching developments in Nepal and we hope to be able to report progress on this very important humanitarian initiative very soon.

The administration remains deeply concerned about the hardships suffered by the North Korean people and the plight of those North Koreans who have reached this country in search of asylum -- who have fled, I am sorry -- who have fled their country in search of asylum. Consistent with the intent of the North Korean Human Rights Act, we have been working with other governments and refugee organizations to find ways to effectively deal with cases of individual North Korean asylum seekers as they arise.

However, as we highlighted in our October 2005 report to Congress on this subject, many host governments are reluctant to allow us to process cases of North Korean asylum seekers on their territory. These countries, however, facilitate the quiet transit of North Korean refugees to South Korea. You would be interested to know that nearly 1400 made it in 2005 and 449 so far in 2006. But these countries fear that United States government involvement could disrupt

this mechanism by generating publicity that is unwanted, and complicating bilateral relations for them.

Despite these concerns, we are pleased to note that recently we were able to successfully resettle six North Koreans in the United States. In order to protect the integrity of the program, and because we do not normally comment on refugees, I cannot publicly provide further details about where they came from and where they are being resettled, but we would be more than happy to provide a classified briefing to share more information about our efforts in this area.

Mr. Chairman, we very much value and appreciate your leadership on refugee issues and I look forward to working closely with you during my tenure as assistant secretary. I believe American taxpayers can and should be very proud about the great work that our government does for people in need worldwide. And one of my missions is to ensure that this awareness is increased. I'd be happy to take your questions. Thank you.

REP. SMITH: Thank you very much, Madam Secretary. Ms. Brand.

MS. RACHEL L. BRAND: Thank you, Chairman Smith, Ranking Member Payne and members of the subcommittee. I appreciate the opportunity to be here to testify today on behalf of the Department of Justice. I have provided the subcommittee with written testimony that goes into more detail on the issue of material support to terrorist organizations as it relates to the admission of refugees and also on the issue of training under the International Religious Freedom Act and I'm going to focus now in my oral statement more on the material support issue.

The attorney-general has made clear that the first priority of the Department of Justice is protecting the American people from the threat of terrorism. At the same time, we strongly support continuing the great American tradition of serving as a safe haven for refugees from all around the world. These two goals do not have to be contradictory and we are committed to ensuring that neither one of them is given short shift.

The department's counterterrorism efforts are and must be proactive. It is not enough to apprehend terrorists after they attack.

We at the Department of Justice and through the government have an obligation to the American people to work to thwart terrorist plans before they can be carried out. So in addition to prosecuting those who commit acts of terrorism, or those who plan acts of terrorism, we must also prosecute those who provide material support to terrorists.

We know from experience that terrorists need infrastructure to operate. They need to raise funds, maintain bank accounts, transfer money, train personnel, communicate with each other, and procure equipment. The people who perform these functions may not be committing terrorist acts themselves, but the terrorists could not operate without them. The material support statutes are designed to shut down the flow of resources to terrorists and to terrorist organizations. And these statutes are critical to our overall counterterrorism

strategy.

Just as after the fact remedies are not sufficient in the criminal context, they are not sufficient in the immigration context either. The legislative structure for admitting aliens to the United States has, historically, been preventive. These statutes serve a homeland security purpose by preventing the admission to the United States of aliens who pose a security risk to our country, even if their activities are not criminal under the narrower definitions in the Criminal Code, and not prosecutable under the harder-to-prove burden of proof in the criminal context.

Any actions we take with regard to admission of refugees, therefore, must not conflict with or undermine our counterterrorism strategy, either by admitting persons who pose a security threat to this country, by complicating positions that the government takes in criminal litigation, or by sending inconsistent messages to the world about our policy against acts of terror.

Having said that, as I mentioned previously, national security interests and counterterrorism efforts are not incompatible with the United States' tradition of welcoming immigrants and refugees. The United States is and always has been a compassionate nation. Therefore we continue to look at further steps that are necessary to ensure the harmonization of our national security interests and our obligation to protect refugees.

Thank you and I'd be happy to take your questions.

REP. SMITH: Thank you very much. Mr. Rosenzweig.

MR. PAUL ROSENZWEIG: Chairman Smith, Congressman Payne, members of the subcommittee, first let me thank you for the opportunity to appear before you today to examine current issues related to the United States' protection and resettlement of refugees. I very much appreciate your attention to this important issue and I want to assure you that the Department of Homeland Security is firmly committed to fulfilling its mission of providing protection to deserving refugees while also safeguarding our nation's security. Let me turn to some of the topics you've asked me to address.

The North Korean Human Rights Act of 2004 requires the U.S. government to facilitate the filing of applications for refugee resettlement by North Korean citizens in need of protection abroad. DHS, through its component agency -- the U.S. citizenship and immigration services -- interviews North Korean refugee applicants granted access to the U.S. refugee admissions program by the Department of State and adjudicates their eligibility for resettlement in the United States. We will begin that process for the recent refugees in the near future.

In addition, the asylum division has fully implemented the asylum-related provisions of the Act by issuing clarifying guidelines to all of its asylum officers that they shall not automatically treat a North Korean national as also being a national of South Korea and by making corresponding changes in our training courses.

The International Religious Freedom Act of 1998 mandates, as you said, Chairman, specialized training for refugee adjudicators, asylum officers, and any immigration officer working in the expedited removal context. With the creation of the refugee corps in the fall of 2005, USCIS has expanded and improved its previous training programs and developed a three-week refugee officer training course. During this course, students receive specialized instruction on religious persecution issues. The five-week asylum officer training course has also been expanded to incorporate information about the IRFA and specialized training on religious persecution issues, and continuing education on religious persecution is carried out on an as-needed basis at the local asylum offices during their weekly four-hour training sessions.

The U.S. customs and border protection has also developed specialized training to ensure that all CBP officers in the expedited removal process understand the need for sensitivity in handling cases of individuals who claim a fear of persecution, including religious- based persecution. With the expansion of expedited removal between ports of entry, CBP developed specialized training for border patrol agents that provides an overview of the IRFA. Additionally, in response to the recommendation of the U.S. commission on international religious freedom in its report on asylum seekers and the credible fear process, the department's office of civil rights and civil liberties is developing a basic training program for immigration officers who interact with detained asylum seekers in expedited removal.

The IRFA also created a new ground for inadmissibility for foreign government officials who have committed particularly severe violations of religious freedom. Implementation of this authority requires close coordination between the department and the Department of State, and it is most often invoked by consular officers considering visa applications. In such cases, DHS enters the necessary information into its lookout system.

The creation in 2003 of the enforcement human rights violators and public safety unit in our immigration and customs enforcement component dedicates resources to preventing human rights abusers, including those who have committed violations of religious freedom, from finding safe haven in the United States.

In the context of maritime migration, one often hears about the wet foot/dry foot policy. This is not a policy per se but rather a shorthand description of the jurisdictional reach of the Immigration and Nationality Act -- the INA. Migrants who make landfall in the United States, regardless of nationality, are eligible to see asylum and other immigration benefits that migrants who remain offshore may not seek. As a matter of policy, the United States government affords migrants interdicted at sea an opportunity to seek and receive protection from persecution or torture. The wet foot/dry foot distinction does not flow from the Cuban Adjustment Act or the so- called Cuban migration accords. The Act and the accords merely set forth the immigration law consequences on a feet-wet or feet-dry determination. The Adjustment Act itself is what allows Cubans to apply for lawful permanent residence one year after being admitted or paroled, and the migration accords facilitate lawful migration from Cuba and repatriation of Cuban migrants intercepted at sea.

Aliens who provide material support to individuals or organizations that engage in terrorist activity are inadmissible to the United States. The INA defines terrorist activity quite broadly, and the definition of terrorist organization refers not only to officially-designated organized groups, but also to one or more individuals engaged in terrorist activity. The INA contains a provision under which the secretary of Homeland Security or the secretary of State, acting in consultation with each other and with the Attorney-General may determine that the terrorism inapplicability provision does not apply in certain cases.

Extensive interagency consultation recently culminated in an agreement for the secretary of State to exercise her discretionary authority to not apply the material support inadmissibility provisions to certain Burmese Karen refugees at the Tham Hin camp in Thailand who provided material support to the Karen National Union in its armed wing, the Karen National Liberation Army. Both groups qualify as terrorist organizations under the expanded inadmissibility provisions of the INA. These refugees have, however, been identified as a population of special humanitarian concern to the United States, and the decision to exercise the material support inapplicability provision is based upon our collective assessment that this exercise of discretion serves U.S. foreign policy interests and will not compromise our national security.

I agree with Secretary Sauerbrey and Assistant Attorney-General Brand that this was an important step to move forward on the ethnic Karen Burmese refugees in Thailand. And we're continuing to look at further steps necessary to ensure that we rationalize and harmonize our national security interests with our refugee program.

I thank you for the opportunity to speak with you today and I look forward to answering your questions.

REP. SMITH: Thank you so very much for your testimony and for your fine work. Let me ask a question based on your last comment, basically. The secretary's action on Tham Hin is really a welcome first, and we had a hearing on Burmese human rights violations and those who have been displaced or are actual refugees several weeks -- several months ago. And it was a very chilling and very disturbing hearing. We've all been concerned for years about Aung San Suu Kyi and the whole democracy movement and just how brutal the hunter is.

The waiver, from my understanding, applies only to the Korean refugees in Thailand -- some of the refugees. Are there plans contemplated to expand it? And can you give us any sense as to when that might happen so that they're all included, Secretary Sauerbrey?

MS. SAUERBREY: Yes, Mr. Chairman. Thank you. The -- first of all, let me say that the Tham Hin camp was the immediate issue, because we had anticipated 9200 persons in that camp this year. And that camp, particularly, was very high in our priority list because of the conditions in the camp -- overcrowding, really very bad conditions. And as you know, these are people who have been refugees for more than 15 years. However, there are -- when we worked out our

arrangements with the Thai government, it was clear that we intended to move on to more of this population. And it's a complicated population. There are 16 different ethnic groups in addition to the Karen that may have been associated with about 46 other organizations similar to the Karen National Union. So our hope is that we can quickly move forward. I think we will have to meet with our other governmental organizations very soon to see if we can begin the process that we have gone through with the Karen in Tham Hin and make sure that the waiver can be applied -- the inapplicability provision can be applied as quickly as possible to other groups that do not have any issues of violation of national security.

REP. SMITH: Appreciate that and we're certainly very supportive of that. The sooner that can be done -- I think there would be broad support for that.

Mr. Rosenzweig, you said in your -- or confirmed in your -- testimony and I quote you, "The law provides no exception for motivation and thus the statutory definition that could include groups engaged in opposition to repressive regimes." And presumably that could be in the Northern Alliance. It could be Cubans who resisted Castro. In southern Sudan it could be those that defended themselves against the Khartoum government as it committed its genocide there or, conversely, those who, in the north in Darfur, have resisted the Janjaweed. The Montagnard might fall into that. George Washington could have fallen into that category 200 years ago.

My question is, what do you think could be done and when to reconcile that problem? It is a -- do we need new legislation or is there enough flexibility in the law to correct it?

MR. ROSENZWEIG: Well, as I indicated in my testimony, we've just begun a process with the Karen and we're anxious to see how that turns out and whether or not that can serve as the first step in what I think has to be a case-by-case set of determinations with respect to the admissibility of any group or individual. It is important, I think, as Congressman Tancredo mentioned in his statement, to recognize the countervailing values as well, which is the necessity of maintaining flexibility and the ability to address terrorist organizations that mutate with great rapidity and not be encumbered by the designation rules exclusively, for that would limit our ability to address true terrorist concerns. So what we are looking forward to very much is coming to understand whether or not the exercise of the inapplicability authority that we've used with respect to the Karen proves effective, moving on and taking each of the new cases on a case-by-case basis. I think we're prepared to engage in that process.

REP. SMITH: Let me ask, if I could -- and I reference this to my opening -- the Li vs. Gonzales case which many of us found to be, hopefully, the last of its kind when it comes to someone who, you know, fled persecution, was found to have been a credible by a BIA judge -- was found to be credible in his assertion that he was persecuted for religion, only to be rejected -- but then ultimately it was reversed. Hopefully, that becomes almost standard -- something that is taught as to what not to do in this process.

My thought -- my question would be to any of our panelists, your take on that case. And secondly, let me just -- the U.S. commission for international religious freedom, Mr. Cromartie will testify in our panel that follows that IRFA mandates training, as we all know, for many but not all refugee and asylum adjudicators. And according to his analysis, the results have been mixed. He points out that the asylum corps at U.S. citizenship and immigration services at the Department of Homeland Security has developed an excellent training module on international religious freedom issues, but the same cannot be said about the customs and border protection officers who exercise expedited removal authority. These inspectors appear to be trained only by a short and generalized video presentation. And my question is, is that in the process of being rectified or what, because that is -- they very often are the people who first encounter someone who may be a true refugee asylum seeker?

MR. ROSENZWEIG: Let me let Ms. Brand answer the question about the Li case, because I think it's in litigation now.

MS. BRAND: Sir, actually the litigation in that case has concluded. That case was handled by the civil division. When it was in litigation in the federal courts, the U.S. Courts of Appeals. And I'd be happy to get you more information about that case after the hearing. But my understanding is that the case was originally adjudicated based on the facts that are in the administrative record, which is how these cases proceed to the federal courts of appeals. After the case was initially litigated, my understanding is that the commission on international religious freedom came to the Department of Justice with some evidence that, perhaps, the administrative record was not accurate. And when that came to the department's attention, the Department of Homeland Security and the Department of Justice collaborated to have that decision from the court of appeals vacated. And so the alien is now staying inside the United States. And I think that, in the end, that case was handled appropriately. And my understanding is that we are now collaborating between the two agencies to make sure that that situation is not repeated in the future.

REP. SMITH: I appreciate that. And let me also say that it continues to be a concern in other areas. And I would appreciate any comment that you could provide now or on the record. I know for a fact that there were a number of cases where people who were fleeing forced abortion in China -- administrative law judged had it wrong or got wrong guidance and didn't realize -- it basically followed the rule of unjust law that this is something that is imposed by the government, just like you need to register your church or a place of worship. If you don't, you're violating a local law. When it's an unjust law to begin with -- and that's why, you know, we do have these asylum provisions. And if you might want to touch on that as well -- is that still a problem as far as you know?

MS. BRAND: I know that cases like that come up with some regularity. I'm not familiar with the details of any of them, but if you'd like I could provide more information after the hearing.

REP. SMITH: Thank you very much. And let me just ask Secretary Sauerbrey -- last year there were two -- it is my understanding -- two P2 categories that

were added. Are there any plans to enhance and expand the P2 categories in 2006?

MS. SAUERBREY: I can't -- I can't give you the specifics, but we are always looking for new categories. We work through UNHCR, through our NGO partners, and through our embassies trying to identify additional refugee groups that would qualify.

REP. SMITH: Okay, thank you. Hopefully, the material support issue will not be bar there as well. Let me ask you about the Democratic Republic of Congo. While we're all focused, and rightly so, on Darfur -- and I'm convinced that Deputy Secretary Zoellick and the administration have done exemplary work on Darfur -- you know, getting the rebels to agree was a part of that, and I think the shuttle diplomacy by the deputy secretary was instrumental in accomplishing that. But in the Democratic Republic of the Congo, there are tens of -- hundreds of thousands of IDPs and refugees. Hopefully we keep the focus on their plight as well. And the same would go for those folks that are internally displaced in the refugee camps in northern Uganda. Obviously, that's a high priority for this subcommittee and for many of us in the Congress. And so, if you want to respond or provide something for the record.

MS. SAUERBREY: I've had two meetings since I've been in my position -- one here in Washington where ECO (ph) was with us and just recently we did a teleconference with them and we are talking about doing a joint mission to Congo, both to keep attention on it and also to look at opportunities that we may want to pursue in the way of additional refugee populations. In addition, I might point out that UNHCR, UNICEF and World Food Program have just returned recently from a joint visit to the Congo. And one of the good things that came out of that was a recognition of a much stronger need for collaboration among the three international organizations. But Congo is very much on our radar screen.

REP. SMITH: I appreciate that. Mr. Payne.

REP. PAYNE: Thank you very much. There -- you know, in refugee work in many instances we have concern for NGOs and I wonder if you would -- any of you would -- comment on the security of humanitarian aid workers and NGOs in refugee situations. And what would you suggest as a way that security could be improved? We've even heard recently that NGO -- some food workers in the Darfur region were attacked. And so if any of you would like to answer that question.

MS. SAUERBREY: Thank you, Congressman. This is a concern -- a tremendous concern -- to my bureau. We can't do our work if the NGOs can't do their work. And the security situation has been extremely bad in the Sudan Chad area in particular, where humanitarian workers have had to evacuate the camps -- have had to leave the camps and leave the refugees with, perhaps, two or three weeks' worth of food and fuel. But this is a very huge problem.

When I was personally in a camp in northern Uganda, there was the shooting -- the attack on the UNHCR compound in Yei, where two humanitarian workers died. So this is an issue that we are very, very much focused on and trying to work

with UNHCR. But it's also a diplomatic -- I mean, it's an issue of our diplomacy and our ability to work through the efforts that we are making with bringing additional forces, whether it be supplementing the African Union troops or blue-hatting troops, we -- there's just obviously a need for more forces on the ground that can assist in protecting the humanitarian workers and the refugee camps themselves.

REP. PAYNE: Thank you very much. I just have a question as it relates in here. We have different views on this issue, but I would like to know any of your positions or your thoughts on the use of armed guards or military personnel to protect humanitarian assistance programs. Do you feel that it would compromise the aid workers' neutrality and create potentially a more of a target? And would armed guards be tempted, sometimes, to use their authority, sometimes, in dealing with victims? Sometimes we find that there's a misuse of authority when it's given. So I just wonder what your feeling is about having arms at a place where humanitarian work is supposed to be going on.

MS. SAUERBREY: Actually, when I was in both Kenya and Uganda, there were armed guards and there was a good cooperation between the Kenyans -- particularly in Kakuma camp in Kenya, there was a good cooperation between the government of Kenya in providing domestic police to be providing protection for the camp. We would all like to believe that this isn't necessary, but where conditions are very dangerous for the humanitarian workers -- and I have to keep coming back to also for the refugees for themselves -- there has to be enhanced protection.

We have -- we actually talked last week to the high commissioner U.N. -- High Commissioner Guterres -- who was in Washington about our willingness to work with UNHCR to enhance the security in the Darfur Chad area.

REP. PAYNE: Just -- finally, in your opinion, is there a way that we could work -- any of you can answer this -- in trying to reach our quotas of refugees. As we indicated, you know, although it's increased a bit since 9/11 when practically everything was cut off -- sort of closed our borders down -- well, all our borders to the east and west anyway -- the -- what do you think could be done to try to reach the goals of capacity? I mean, we have numbers going unfilled, which would lead you to believe that there are very few refugees in the world, since we are not filling the meager quotas that we have for refugees to enter into the United States. And I just wonder if anybody would have any suggestion on how we could at least reach our goals, since there is such a need there.

MS. SAUERBREY: Congressman, the presidential determination last year for this year would have allowed 70,000 refugees to be admitted. The funding, however -- the congressional funding -- was a constraint, because the congressional funding only allowed for 54,000. So part of this is, indeed, a resource issue. But the other part of it is the much different atmosphere that we are operating in than we were before 9/11.

I would mention a couple of things. First of all, the material support issue is going to result in us being down somewhere between 10 (thousand) and 14,000

short of the 54,000 that we had planned for this year. Secondly, if you look back historically at our program, when we had these very high numbers, we were getting large groups of refugees that were coming, for example, after the end of the Soviet Union -- groups that were very easy to reach and very easy to move, very easy to process. Now, when we are going out and doing the work, we are dealing with small groups that are here or there or are in very difficult areas hard to get to. For example, there is a very large population that we would like to process -- of refugees -- in Tanzania. But these are remote areas. They are not easily accessed. There are security issues for -- as we were talking about before -- the humanitarian workers. And when you add that to the demands of today -- because of 9/11 the security issues in terms of processing, and the health issues we are dealing with -- it's a much different environment than we were working in -- a much more difficult environment than we were working in prior to 9/11.

REP. PAYNE: Thank you, Mr. Chairman. Thank you very much.

REP. TANCREDO: Just one question, because we have a number of panels and -- Ms. Sauerbrey, you mentioned in your testimony that part of the work that is done in the process is done by USCIS and I wonder if you could be specific about exactly what it is they do in this. What is their role in the process?

MS. SAUERBREY: I should probably let my colleague answer that, because they -- after we have identified and done the initial processing, it goes to Homeland Security.

MR. ROSENZWEIG: For better or worse, we own that portion of the process. Once the Department of State has done an identification of a potential refugee group, the customs and -- citizenship and --

REP. : Want some help with that?

MR. ROSENZWEIG: Yeah.

REP. : Immigration and citizenship services.

MR. ROSENZWEIG: I was going to get it. The citizenship and immigration services sends out a team of refugee officers to a particular area -- a particular camp -- and they conduct very fact-intensive case-by-case person-specific interviews to establish that each of the refugees who are nominally identified is entitled to admission in the United States. And that is not just the material support provision that has energized us today, but other questions relating to admissibility, criminal record. There are a host of things that they examine.

They -- each of the individual examiners creates a report often informed by camp conditions and country conditions relating to the nature of the activity that had caused them to become refugees, makes a recommendation as to whether or not a particular individual is, indeed, a bona fide refugee who meets the criteria for admission to the United States. That, in turn, is reviewed by at least a first-line supervisor and, in difficult cases, there are additional

levels of review.

That, ultimately, becomes the determination of the secretary of Homeland Security to authorize the admission of this particular individual to the United States. To put it in the context of the North Koreans who have arrived in the United States today, that very same process will be ongoing over the next weeks as the people are examined and are determined whether or not to be, indeed, legitimate refugees.

REP. TANCREDO: Are you concerned at all about the recent revelations about the problems inside USCIS and specifically the number of allegations and investigations that are ongoing dealing with adjudicators and others inside the organization who are, apparently, at least charged with providing various benefits to people in return for either money or sex or because some of these people are actually -- I don't know if the word is working for, but certainly sympathetic to other governments and actually providing, again, benefits based upon their sympathies to other governments? Does that -- has that come up in discussions and are you concerned about that, and especially in relationship to the people who are doing it?

And also the issue, of course, that has been very disconcerting, is that the fact that there is, apparently, so little communications going on with other agencies, even though we have, of course, hoped that that was something that we have been able to overcome. Apparently that's not happening either, and so there is a lot of information that they're not available to it's just a real mess, to tell you the truth.

MR. ROSENZWEIG: Let me take the two parts of that -- the information sharing at the end and the allegations of misconduct at the front. With respect to the allegations of misconduct, of course we're concerned. And that's part of a subject of an ongoing internal review to ensure our -- to make a determination. As you said, they are just allegations and we would take very seriously any determination that an adjudicator had sold adjustment of status for money. I'm quite confident that if any review determines that with respect to any particular individual, we will take all appropriate personnel action that we're lawfully entitled to. USCIS is a large organization, and I am more than willing to stand behind 99.999 percent of them as excellent civil servants.

And in particular, the group that I know best -- the refugee and asylum officers corps -- are some of the most selfless individuals who spend days, indeed months, out in very daunting conditions doing their job and trying to make themselves available to refugees and asylum seekers or refugees who are seeking to enter the United States. So they I have the greatest respect for. Those who sell their federal service, I have none for.

REP. TANCREDO: Are you aware --

MR. ROSENZWEIG: With respect to the information --

REP. TANCREDO: Before you go on there --

MR. ROSENZWEIG: I'm sorry.

REP. TANCREDO: If I could -- just a second. Are you aware of the fact that, internally, USCIS has evidently rejected the notion that they should increase the number of people devoted to that kind of internal security -- and not only that, I think even reduce the people who are there -- who were there in that capacity. Very few were there to begin with, but now -- and then they had requested an increase in the number of people who would actually go out and investigate these things. That was turned down.

There is concern among the people who are actually doing the enforcement that, in fact, they have become whistleblowers -- at least one of them has done that and left the agency. I just want you to know that, internally, there does not seem to be that degree of concern that you have expressed. And I'm glad to hear your point of view on it. I just USCIS has the same viewpoint.

MR. ROSENZWEIG: I can assure you that that concern is shared at least at my level as well as the director of CIS and I will be happy to get back to you with a detailed answer on our plans for conducting a set of internal reviews.

REP. TANCREDO: That would be much appreciated. Thank you, Mr. Chairman.

REP. SMITH: Ms. Lee.

REP. LEE: Thank you, Mr. Chairman. Let me ask you about our policy with regard to the inadmissibility to refugees with HIV or AIDS. As I understand it now, refugees have to qualify for a waiver by showing either the danger that they pose to the public health -- that this danger is minimal -- or that the possibility that they would spread the disease is minimal. So I'd like to just ask, what is that waiver application process and how many refugees were turned down for a waiver because of their HIV and AIDS status?

Secondly, what happens with the information on each refugee's HIV and AIDS status? I mean, do you track the rates of infection from where the refugee is from, how they contracted the virus, or what exactly happens after this status is determined?

And then the other question I have is, just U.S. Haitian versus Cuban immigration policy. Of course, I said earlier it remains a double standard. Haitians don't have immediate political asylum when they reach the United States. Many would argue that the political and safety challenges, quite frankly, are greater in Haiti than in Cuba. So it's clear that the policy must change and we must provide temporary protected status to Haitians who are currently here in America seeking political asylum. So can you talk a little bit about that?

MS. SAUERBREY: All right. In terms of your first questions about HIV AIDS, I am very aware that refugees are admitted -- are admissible -- who have HIV AIDS. However, the policy in terms of when they are -- how they are treated, whether they have full-blown AIDS, whether they have HIV status -- I think we need -- I need to get back to you, because this is really set by HHS and so I'm

really -- I can't really answer you in any detail.

REP. LEE: All right.

MS. SAUERBREY: I simply know that it's not --

REP. LEE: Okay. So who handles the waiver application process?

MS. SAUERBREY: It would be HHS.

REP. LEE: They handle the --

MS. SAUERBREY: Oh, DHS.

REP. LEE: DHS. Okay. Mr. Rosenzweig.

MR. ROSENZWEIG: Yes. The waiver process involves, of course, first the application at the Department of State for somebody for a visa. We have been working with the HHS, and in particular with the Center for Disease Control, in the last several months to reexamine the current status of our HIV proposals. We have not yet developed any new guidance on that. We're trying to make sure that our rules reflect the best contemporary science and to update them as necessary. At this juncture, I don't have the numbers for you that you've requested. There were so many issues on the list of questions for the hearing and that one, unfortunately, was not. I'd be happy to get back to you with that if you'd like.

REP. LEE: Yeah, I'd like to get the information, especially the waiver application process also -- but just the current status. I'd really appreciate that. Also, let me go back to the second question with regard to Haitian -- U.S. Haitian versus Cuban immigration policy, in terms of the double standard and in terms of Haitians seeking temporary protected status.

MS. SAUERBREY: Let me answer the first part, and then I'll defer to my colleague. I had the opportunity to actually go and visit our migrant center in Guantanamo Bay and was able to see refugees -- both Haitian and Cuban refugees -- that had been picked up at sea by the coastguard. And as I understand the -- all refugees, except Cubans and Chinese -- are treated in one category. So Haitians are not being singled out. But the -- what I did see with the migrant center in Cuba was that, if a Cuban who is picked up at sea is asked, through a questionnaire process, if they have certain conditions and they indicate that they have a genuine fear of persecution, then they go to our center -- our migrant center -- in Guantanamo Bay.

When I there, there were Cubans and Haitians there, because Haitians had also -- or at least I believe there was one Haitian there who had also indicated a fear of persecution -- had volunteered that on the coastguard cutter.

And at that point, on Guantanamo, then there is a more detailed process that goes on where they are -- those who arrive are asked additional questions. And some will qualify for refugee status and will stay at Guantanamo, and others

will be returned. And on that, why don't I defer.

MR. ROSENZWEIG: I can't add too much more to what Secretary Sauerbrey has said. There is, in fact, in law, no distinction between Haitians and Cubans for those interdicted at sea. Those who express a credible fear go to Guantanamo, where they're adjudged whether or not their fear is well founded. The actual number of -- I don't have the actual number of Haitians who have been deemed to have had a well- founded fear of persecution, having been referred to Guantanamo. But the number of Cubans is exceedingly small amongst those interdicted at sea. I worked out the math, because they gave it to me in two stages, and it's 0.7 percent of the roughly 2700 who were interdicted at sea last year. So it's really quite small.

The principal difference in law, of course, does apply to those who make landfall in the United States. But that's not a consequence of a policy that the Department of Homeland Security or the Department of State has adopted, but rather, indirectly, a consequence of the jurisdictional reach of the INA and the provisions of the Cuban Adjustment Act -- and that's been around for 40 years.

REP. LEE: Okay. So you're complying with the law that's been around for 40 years.

MR. ROSENZWEIG: But with -- absolutely.

REP. LEE: Yeah, I got you. Okay.

MR. ROSENZWEIG: We're doing the best we can at least.

REP. LEE: Okay. Good for you. Let me ask you about the temporary protected status, then, with regard to Haitians who are currently here in the United States seeking political asylum.

MR. ROSENZWEIG: It did have that -- temporary protected status is based upon a very specific set of narrow criteria, which are outlined in Section 244 of the INA. And after consultation with appropriate agencies, the secretary of Homeland Security must determine whether there's an ongoing conflict within the map of the foreign state, whether there's been an environmental disaster such an earthquake or a flood, or whether there exists extraordinary or temporary conditions in the foreign state that prevent the nationals from returning safely. Unless the secretary finds that such circumstances exist, there's no ground for identifying temporary protected status.

We've worked closely with the government of Haiti and the international community to address Haiti's security and mandatory concerns. Since FY 2004, for example, we've allocated nearly \$400 million in assistance to Haiti, including \$46 million in disaster relief on Jeanne and hurricane Dennis, and recently, \$200,000 to the international committee on the Red Cross in support of its humanitarian programs. We're going to continue to monitor and gather information regarding whether or not a TPS designation is appropriate for non-criminal Haitians consistent with longstanding policy.

I should add that we may also, in individual cases as opposed to on a group basis, issue a temporary stay of removal that allows an individual to remain in the United States upon a particularized showing.

REP. LEE: Thank you, Mr. Chairman. Let me just conclude by saying, as you know after the coup d'état in 2004 many Haitians believed that they were in jeopardy and left their country. And of course, the country was in turmoil. And we watched this democracy deteriorate, right in front of our eyes, as a result of, unfortunately, some of our involvement. Only 535 asylum seekers were granted refugee status in 2004. This is out of 5057 cases. So I hope you look at that and come up with something that makes a little bit more sense and is not discriminatory against Haitians. Thank you.

REP. SMITH: Thank you. Ambassador Watson.

REP. WATSON: Thank you so much, Mr. Chairman. And I want to thank the panel. I, too, want to join my colleague, Ms. Lee, about what really appears to be a more complex process that Haitians go through. I know they are a poor nation and people are escaping and trying to find shelter in countries and islands near around. I understand the current thinking is that they pose a risk to national security, because they divert the activities of the U.S. coastguards from its homeland security duties.

Right now in my city of Los Angeles, California, we've had mega-demonstrations from illegal immigrants and we're trying to work something out for them. And I would hope that the view of Haitians would be more accommodating than the way they've been treated in the past.

But my concerns now are going to the issue that I raised in my introductory presentation. And to Secretary Sauerbrey, I understand that you received our letter and did respond in March -- Lord knows where it might be -- but we recognize that there are problems. And as I said before, your organization is just getting started up. But we have concern, because there are 11 million stateless persons in the world and they seem to be largely neglected in this international system.

We made reference in the letter to you about Bangladeshis, and there are 205,000 stateless Biharis -- and they're also called stranded Pakistanis -- and they have been in suspended animation for over 30 years. And we would like to know just what is going on in that regard. And most of them are residing in temporary camps that have horrible conditions that are very harsh and becoming even worse. And we are concerned about these people who are not anchored in a country or they have been taken away or they have left their own homelands and so they have no real base. In some of the camps there's no education or medical facilities and no regular food assistance. So we have a global concern, and particularly in the hotspots that we've been concerned about.

And so, if you wouldn't mind responding now. We'll go back and search and see if we can find your letter, but maybe you can send us a duplicate that would respond to these concerns. I would appreciate it.

MS. SAUERBREY: Thank you very much, and we will send a copy of the letter. I certainly welcome your interest in this issue, because it does affect millions of people around the world and we recognize that the right to nationality is a basic human right.

One of the priorities that I set when I came into my position was for us to focus on the issue of statelessness, along with the issues of gender-based violence and trying to help refugees become more independent through economic job training and education in the camps. So statelessness is very much on our radar screen. In fact, yesterday I went to a policy meeting in my bureau. We have a focal point on statelessness. I have asked my senior adviser to make this one of her priorities. And we have -- in a concrete way, we have resettled one of the large populations last year, and we are still resettling them this year -- are the Meskhetian Turks. That's an example of a stateless population, many of whom qualified for refugee status, that we have made an effort to help.

A lot of this requires a political solution. Some of it we can address through a humanitarian solution, but a lot of it is a political solution and is going to require, I think, a focused effort with countries to recognize their responsibility to their own people. Whether they have designated them as citizens or not, they're within their borders and in many cases have been within their borders for many, many years. And so I think this is something that we need to work together with Congress to find better solutions. But it is very much one that we're interested in and we'll be working to address as best we can.

I might also mention that UNHCR is the international organization that has the mandate for statelessness. UNHCR is very stretched for funds, because they have taken on the responsibility for IDPs in the new humanitarian reform.

So one of the issues, as we look at this universe of people who need protection or need assistance, is how we can now take on the issue of IDPs and then, looking to the future, where does statelessness fit into our program and into our resource base.

REP. WATSON: So many of these stateless people have children and education is something that is not part of their existence day to day. Could you comment on what is being considered to provide education to the children of the stateless?

MS. SAUERBREY: I think firstly --

REP. WATSON: Is that under your jurisdiction or would it be with the other international NGOs?

MS. SAUERBREY: Probably it falls largely with USAID and their country programs. Because stateless people don't fall under anybody's mandate, really, it has been a forgotten problem. There are many stateless people who live in the community where they were born and, even though they don't have documentation, they exist as virtually as citizens of the place where they live. Others, as you're indicating, are very poorly treated, very much mistreated, and

need protection. And we need to work closely with UNHCR on this because, as I said, they have the international mandate and I think the reason that they have not addressed it more fully is because of the lack of resources. UNHCR's budget this year is very stretched just trying to deal with the refugee responsibility and the new responsibilities that they are taking on for IDPs in three pilot countries.

REP. WATSON: Thank you. Am I out of time?

REP. SMITH: No.

REP. WATSON: Oh, all right. I just had another -- thank you so much. And I'd like to address this to Ms. Brand. The United States has not signed on as a party to either the 1954 convention relating to the status of stateless persons or the 1961 convention on the reduction of statelessness. Could you give us some background on how our government came to the decision not to join these agreements? And could you also explain what changes to those agreements would improve them to the point that we might consider joining them?

MS. BRAND: I am unfamiliar with that issue. I would be happy to go back and discuss that with the right people at the Department of Justice if that's okay.

REP. WATSON: All right. What I will ask you to do -- we'll send this to you by email --

MS. BRAND: That's fine.

REP. WATSON: -- and then respond to us by email.

MS. BRAND: That is fine.

REP. WATSON: We'll get it this time.

MS. BRAND: Absolutely. No problem.

REP. WATSON: All right. And then, if I can just on to the acting assistant secretary, Mr. Rosenzweig -- what policies does DHS have in place for coping with asylum seekers who cannot demonstrate effective citizenship? And what plans might you have to address this particular concern in the future?

MR. ROSENZWEIG: Thank you very much for the question, Congresswoman. Actually, we have a rigorous set of training in which we advise our officers on means by which we attempt to discern citizenship. Sometimes -- it is true that many people are stateless, but oft times, the statelessness claim is -- can be resolved in certain circumstances. With respect to those people who are, in fact, without any citizenship at all that we can discern, they are treated as any other asylum seeker arriving at a port of entry, save that they are not eligible for discretionary relief such as parole into the country. And that, as I understand it, is mandated by law and not by policy. And so we abide by that law, right? Yes -- it is mandated by law. I just wanted to check with my lawyer -- mandated by law and not by policy. And so, in that regard, if we

cannot make a determination as to citizenship, we're somewhat bound by the requirements that you've got.

Stateless persons may qualify for asylum, though, if they demonstrate a well-founded fear via persecution in their country of last residence. So if one appears at the land or sea border and can establish a well-founded persecution from the country from which one has fled, that is not a barrier to achieving asylum status here. It simply denies you the ability to have certain discretionary relief pending the determination.

REP. WATSON: All right, thank you very much. And thank you, Mr. Chairman, for the time.

REP. SMITH: Thank you. Just let me ask before going to our second panel just a few additional questions on which you may want to provide answers or amplification for the record. But I understand that the department has recently acted on grant asylum cases -- two key cases of religious freedom involving some Cuban doctors and an Indonesian family -- if you want to speak to that or provide us information for the record.

Secondly, on the centerpiece of the Clinton-Castro agreement in the mid-1990s was to use U.S. assets, including the coastguard, to interdict Cubans on the high seas and to return them to Cuba -- and I have a question regarding how many have we return, how are they tracked, and how are they treated upon their return?

Next, if you could, the Montagnard in Cambodia -- we understand that several who have actually escaped a second time have spoken to the fact that they had been very cruelly mistreated and the UNHCR which has not -- there are several applicants -- several dozen -- for asylum that have not been given such a recognition by the UNHCR have referred them to us for further action. I'm wondering what we're doing to try to assist those Montagnard who are in Cambodia right now.

And also we heard that about five months ago, a group of some 28 Hmong teenagers and Hmong women were reportedly arrested by Thai police. They have now virtually disappeared. There is a fear that they have been deported to Laos. I wonder if you could tell us if we have any information on them.

And then finally, on the whole issue of the people who have escaped from North Korea into the People's Republic of China -- I recently met with UNHCR High Commissioner Guterres who I would note parenthetically I think is very, very passionate about, like you, Secretary Sauerbrey, about protecting and reaching out, finding and providing that safe haven for these individuals. I was very encouraged and I think my colleagues were, that he raised the issue with Beijing. They are in flagrant violation of the convention -- the refugee convention -- by not assisting.

We had hearings here in this room where we heard from women who were trafficked, who made it across the border into the PRC, only to be trafficked. In one case a woman went in search of her daughter who had been trafficked and

then she and her daughter were trafficked -- a terrible, terrible, sad and tragic situation. Just yesterday, as we all know, China was elected to sit as a member in good standing on the new human rights council -- and if that isn't a contradiction in terms, I don't know what is.

But what can be done to help those individuals? There are many along that border who, again, the Chinese could provide help to and assistance to. And finally -- I did say finally -- on the T visas, how is that going? You know, as you know, that legislation was very, very difficult to enact -- particularly the part relating to T visas for women who had been trafficked and are the lucky ones who make it here. Perhaps now, or for the record, if you could give us some elaboration on that. And I throw that out to any of our distinguished witnesses. Secretary Sauerbrey.

MS. SAUERBREY: Did you want us to respond?

REP. SMITH: If you could on those you would like to and those you would like to provide additional information on.

MS. SAUERBREY: Let me just be -- in the interests of time I'll be brief. But the two I'd like to mention are the Montagnards and the Hmong. We have been, virtually daily and weekly, following the disappeared -- the children that have disappeared from Thailand -- the Hmong children. This is -- this is just such an outrageous situation.

We have been doing everything we can through our ambassadors, through UNHCR, through putting pressure on the Lao to try to get them to find -- they say they can't find -- these children. It's an issue between Laos and Thailand. We're very concerned about the well-being of these children. They've been gone now for a long time. UNHCR did send the former ambassador to Laos, Wendy Chamberlain, who is now the deputy high commissioner, to try to work this out. Laos has simply not been at all helpful. They continue to say that, if Thailand does something, then they'll see if they can find these children. It's a horrible situation.

As far as the Montagnards, we are very aware that UNHCR has had access and has been doing monitoring of the Montagnards who have returned to the highlands. However, we've been getting very disturbing stories about the doublebacks who are claiming persecution, as well as a recent story of 13 homes that were burned where -- the story is that they were burned out because they were having religious services. So we're trying to find out more about that. Our ambassador to Vietnam is going to be visiting with me on Monday and we're going to be talking about this further, but we are in the process of trying to make a decision about whether to do our own interview and consider them as refugees under our program as opposed to UNHCR, because our standards are different.

MR. ROSENZWEIG: I will give you a partial answer on the Cuban migration accords. I have the data for the last fiscal year. As you know the migration accords have been in effect since the mid-1990s, so I'll be happy to go back and get you a greater depth of data. For last year, however roughly 2600 Cuban migrants were interdicted at sea. Of those, roughly 2400 were subject to the

migration accords. The rest of them were directly transferred to third countries, like the Bahamas.

Of the 2400, only 2.5 percent were found to actually have a credible fear of return to Cuba and were taken to Guantanamo for further protection screening. And of that 2.5 percent, 47 percent were found not to have a protection concern and were returned to Cuba -- that is on top of the others. Twenty-two percent chose voluntarily to return to Cuba, and only 31 percent of the 2.5 percent -- which comes out to .775 -- actually had protection concerns and were referred by us -- by the Department of State -- to third countries. So the overwhelming majority of those interdicted at sea -- of the 2400 subject to the accords -- wound up back in Cuba, pursuant to our agreement. I can only hypothesize that the percentages of 2005 are not different from other years, but that's speculation.

REP. SMITH: Do we track their treatment or --

MR. ROSENZWEIG: Pardon?

REP. SMITH: Do we track their treatment?

MR. ROSENZWEIG: We do. That is through the U.S. interest section and I believe that's -- the State Department tries to keep track of those.

REP. SMITH: Okay.

MR. ROSENZWEIG: And we'll get you details on it.

REP. SMITH: If you could, that would be very important --

MR. ROSENZWEIG: We'll get you details.

REP. SMITH: -- to know how were they treated upon return.

MS. BRAND: I think the only issue that you listed that affects the Department of Justice is the issue of T visas. The Attorney- General has identified human trafficking as one of his top priorities, and there some legal limitations on the circumstances in which T visas can be granted, and our civil rights division works closely with the Department of State and others on particular cases in which those visas can be granted. And I'd be happy to get you more information about that.

REP. SMITH: Appreciate it. Thank you. I thank out --

REP. PAYNE: Oh, yield Mr. Chairman? I have two things. One, I'd like to ask, Mr. Chairman, if we could have unanimous consent to place a statement in the record from Roberta Cohen at Brookings Institute on IDPs. Ms. Cohen is an adjunct to the special envoy of the U.N. Secretary General Annan on refugees and I'd like to have that --

REP. SMITH: Without objection, it is so ordered.

REP. PAYNE: And secondly, although we're dealing primarily with the issue of U.S. refugee protection and resettlement primarily as it deals with us here, I just want to, since we don't have the opportunity too often to have people of your caliber on the this particular situation -- I'm not sure whether we'll have the opportunity to have you back again. But I'd just like to mention that there are really problems with Afro-Latinos that we in the congressional black caucus have been spending additional time and concern about. As you know, African Colombians comprise about 25 percent of the population there, and there are a tremendous number of IDPs in Colombia.

But I just want to put for the record here -- and since you're here you may have an opportunity to get back to us at a property -- department -- that Afro-Latinos account for about 28 percent of the population in Latin America and Colombia boasts the second-largest African descended community in the region -- Brazil, of course, the largest. But five years ago we in the congressional black caucus had a working group and we started to address the internal displacement and systematic violence and human rights abuses against the African Latino communities, especially in Colombia.

Last week -- just last week -- the U.N. commission on human rights released a report that outlined the increase in displaced African Colombians. Rightwing paramilitary forces and leftwing guerilla groups continue to use forced displacement to gain control over strategic and economically valuable territory in Colombia, weakening their opponent's base of support and undermining government control and authority. The most valuable property is the ancestral lands on which the African Colombians and indigenous communities reside.

Just in case you're not familiar with the situation, let me give you a very brief account. Last -- and this is of real importance, because they're being hit by both the left and the right which is -- you've got nowhere to go then. I mean, usually, one groups attacks, but when you get it from both sides, and the military don't intervene -- just in April 2001, paramilitary forces from Kalima massacred 100 people in the Ninewah region. These were all Afro-Colombians. Mr. Orlando Valencia, a leading African Colombian leader and organizer, was kidnapped and murdered last week. Before he was scheduled to come to give a presentation in Chicago -- just last week.

Two weeks ago, an African Colombian senator, Piedad Cordoba, was found with his body dismembered, skull crushed, skin burnt off. According to the (armed ?) friends services committee, at least 200 African Colombian men have lost their lives to violence and racism in this year alone. Most recently, nine men were killed just over the past week.

And so I just raise this issue because you, of course, are in the business of refugees and displaced people as it related to us. But I think that it, you know -- we just want you to be aware that we are really concerned of what's happening. And in your authority, when you meet with your counterparts from the countries and like those that are allied with us, these questions may be raised. Thank you. Thank you, Mr. Chairman.

REP. TANCREDO: Thank you. And we thank the panel very much for your endurance and you are dismissed. We will bring up the next panel and as long as, at least, I am in this chair, we will begin to abide by the 5-minute rule as we have so many. We have another panel after this, and it is getting so late. The Chairman may change that when he comes back -- I'm sure he will -- but I think we're going to try to move along here.

First, Mr. Michael Cromartie is the chair of the commission on international religious freedom and is the vice president of ethics and public policy center in Washington DC. Mr. Cromartie has contributed book reviews and articles to several publications, including "Christianity Today" and "The World." He is the editor of 12 books on religion and politics, including most recently "A Public Faith: Evangelicals and Civic Engagement." Mr. Cromartie is the host of Radio America's weekly show, Faith and Life.

Mr. Ted Stahnke -- Mr. Stahnke joined the U.S. commission on international religious freedom in February 2000 and currently serves as the deputy director for policy.

Prior to joining the commission, he also served as the judicial clerk for the Honorable Wilfred Feinberg in the U.S. court of appeals. Mr. Stahnke is the author of several works, including Proselytism and the freedom to change religion in international human rights laws.

Welcome. And Mr. Cromartie, I understand you're on a tighter schedule. Please go right ahead.

MR. MICHAEL CROMARTIE: Thank you, Mr. Chairman. Let me begin by thanking you for this opportunity to testify, and I plan to summarize the commission's testimony in my oral remarks, but would like to request that my full written statement be included in the record.

REP. TANCREDO: Without objection.

MR. CROMARTIE: Thank you. For several years, the commission has monitored the implementation of Title VI of the International Religious Freedom Act, which concerns matters of U.S. asylum and refugee policy. Congress, in the same Act, also authorized the commission to undertake a major study on the treatment of asylum seekers, subjected to expedited removal. That study was released in February 2005.

The provisions of Title VI of IRFA addressed the challenge that well-trained adjudicators operating within a strong procedural framework are necessary to protect asylum seekers who are fleeing religious persecution, as well as the integrity of the asylum and refugee programs. Title VI of IRFA does a great deal to promote fairness in this complex system of adjudication. First and foremost, Congress requested the State Department's annual report on international religious freedom, which is an excellent foreign tool, also serve as a key resource to asylum and refugee adjudicators.

The commission is concerned, however, that other provisions of Title VI

remain under-implemented, at best. While we address this in detail in our written statement, there are three specific issues that I would like to bring to your attention: first, inadequacies in training and procedures for those who make asylum and refugee decisions; second, barriers to the refugee program for those fleeing religious persecution, in particular barriers relating to the so-called material support bar; and third, the failure to implement fully Congress's requirement to identify and keep out of the United States foreign officials responsible for severe religious freedom violations.

IRFA mandates training for many but not all refugee and asylum adjudicators. The results, so far, have been mixed. The asylum corps within USCIS at the Department of Homeland Security has developed an excellent training module on international religious freedom issues. And the immigration corps and the USCIS refugee corps have also conducted regular training as required by IRFA. The same cannot be said, however, about the customs and border protection officers who exercise expedited removal authority. These inspectors appear to be trained only by a short and generalized video presentation. Agents of the border patrol apparently receive only an overview of IRFA, but not the specific and detailed on religious persecution that is required by the Act.

The need for religious freedom training mandated by IRFA was highlighted in the past year when the commission approached the Department of Justice with concerns about arguments that were being advanced by the department in the matter of *Li vs. Gonzales*. In that case, Justice Department attorneys, defending a decision of the board of immigration appeals, argued before the fifth circuit that China had a sovereign right to criminalize unregistered religious activity. The commission was concerned that this position undermined well-settled U.S. foreign policy to promote religious freedom in China. The Justice Department responded to the commission's concern and ultimately it reversed its position.

Now subsequently, the commission was invited to lead training of attorneys at the board and the Justice Department's office of immigration litigation. While we welcome these efforts, the commission continues to be concerned by some positions taken by DOJ and DHS attorneys concerning religious freedom conditions, particularly in China and Iraq. Consequently, the commission has recommended that both the board and the office of immigration litigation should be subject to mandatory training under IRFA. Such training should also be required for the Department of Homeland Security attorneys who argue asylum cases before the immigration courts.

In addition, Section 602 of IRFA mandates training on the U.S. refugee program for consular officers. While consular officers do not adjudicate refugee applications, they are authorized to refer individuals in need of protection to the U.S. refugee program. However, such referrals rarely take place. The Department of State has issued conflicting statements on the extent to which consular officers are trained in refugee law and policy. Consular training on the refugee program appears to be limited to a very narrow issue -- that is, applications for immediate relatives of refugees. We would encourage the committee to request State Department to provide copies of all training materials relevant to consular training under Section 602, as the commission's

repeated efforts to obtain these materials from the State Department have not yet been successful.

Section 602 of IRFA also mandated steps to ensure that bona fide refugee applicants are not subject to a denial of protection through no fault of their own, i.e. due to faulty case preparation or hostile biases by personnel who assist the U.S. government with the refugee application process. However, as is further detailed in my written statement, this section of Section 602 remains largely unimplemented by the Department of State.

The commission is also concerned that some who are fleeing religious persecution still do not have adequate access to the refugee program, despite several provisions in IRFA designed to facilitate that access. Pursuant to IRFA and the North Korean Human Rights Act, the State Department's annual report to Congress on the refugee program now contains more detailed information on the religious persecution of refugees. Indeed, the refugee program has taken steps to facilitate access for members of some religious minority groups who have fled countries designated by the secretary of State as countries of particular concern for religious freedom violations. These included Burmese Chin and Karen as well as the Montagnards who fled Vietnam.

Efforts to find durable solutions for these groups, however, have been stalled by a longstanding policy impasse between the Departments of Justice, Homeland Security and State over how to implement a waiver for the material support bar.

Now, just prior to this hearing the administration reported that it has, after several years, authorized a waiver for some of the Burmese Karen in the Tham Hin camp in Thailand. The administration emphasized, however, that the waiver was on foreign policy grounds and that the basic process for determining waivers has still not been developed by the three agencies. The Departments of State, Homeland Security and Justice Department should, without further delay, implement the statutory authorized waiver process for the material support bar to ensure that the bar, as it should, prevents the admission of those who support terrorism, but not those who have fled terrorism.

IRFA also contains significant but largely ignored immigration enforcement provisions. Section 604 holds any alien inadmissible who, as a foreign government official was, quote, "responsible for or directly carried out particularly severe violations of religious freedom." This provision, however, has not -- has only been invoked once and never to exclude an official from any country designated by the secretary of State as a country of particular concern.

Under IRFA, the president's required to identify specific officials responsible for severe violations of religious freedom and to report the names of these individuals to Congress and to the federal register. To date, however, no such individual officials have been identified from countries of particular concern in spite of these requirements. The commission, therefore, urges the Departments of State and Homeland Security to implement these provisions to identify and exclude those officials found responsible for severe religious freedom violations.

I would like to raise one further issue that relates to the Department of Homeland Security's general failure to respond to the findings and recommendations contained in the commission's study on asylum seekers subject to expedited removal. The commission is convinced that, if carried out, these recommendations would allow expedited removal to protect our borders while, at the same time, protecting bona fide asylum seekers.

The commission's study was released in February 2005 and identified serious implementing flaws, which placed legitimate asylum seekers at risk of being returned to countries where they may face persecution. The study also found that bona fide asylum seekers were almost certain to be detained inappropriately by DHS under jail-like conditions or in actual jails. The Department of Homeland Security, however, has yet to respond to the commission or, as requested by DHS appropriations subcommittee, to the Congress, regarding most of the findings and recommendations of the study to address these concerns.

One year after the release of the report, the department did, in response to a key commission recommendation, appoint a refugee and asylum policy coordinator, Igor Timofeyev. Also, late last month, the USCIS asylum corps issued guidance to the commission's findings relating to their role in credible fear determination. The commission looks forward to working with Mr. Timofeyev and other senior officials at DHS to address, in a comprehensive way, the findings and recommendations of the commission's study.

We would also note that many of the study's recommendations have been introduced by legislation by Senators Lieberman and Brownback in the Safe and Secure Detention and Asylum Act of 2006.

The commission remains concerned, however, that the Department of Homeland Security has expanded expedited removal without addressing substantive problems identified with customs and border protection, and immigration and customs enforcement. Indeed, the commission is particularly concerned that DHS may be taking further steps with regard to asylum and expedited removal without taking into account the findings of the study.

The office of the DHS ombudsman recently proposed to shift certain expedited removal functions that are designed to protect bona fide asylum seekers from the USCIS asylum corps to personnel in the border protection and immigration enforcement agencies in DHS. This is despite a USCIRF study finding that USCIS has far more effective quality-assurance procedures than the other agencies. Moreover, the ombudsman's extensive proposal never mentions nor takes into account the USCIRF study.

To conclude then, the United States has a proud tradition of offering refuge to those suffering religious persecution. Congress strengthened the U.S. refugee program when it enacted IRFA and the commission looks forward to continuing to work with you and the subcommittee to ensure the full and fair implementation of IRFA's refuge and asylum provisions. Thank you again for this opportunity to testify.

REP. TANCREDO: Thank you, Mr. Cromartie. And I understand it, that was a sort of a combined presentation, so we can go right to questions. And that's why we certainly did not enforce that 5-minute rule. I will try to make it -- I will enforce it upon myself to the best of my ability.

In recent announcements that six North Koreans have been accepted into the United States as refugees, do you believe that this is a significant development? That is number one. In your testimony, you mentioned that the commission is concerned about positions taken by DHS and DOJ attorneys regarding conditions in Iraq, and we would like you to elaborate on your concerns. Any other -- any -- and finally, any further legislation necessary. Go ahead, please.

MR. CROMARTIE: Yes, sir. Thank you. Well, first of all, let me just say on the six North Koreans it's a very significant development, because these six are apparently the first North Koreans to be accepted as refugees into the United States and, as you know, the intent of the North Korean Human Rights Act was to facilitate access on North Koreans to the U.S. refugee program. And so this is very good news.

The commission found, during our visit to China last August, and our recent study of conditions inside of North Korea that North Koreans in China are routinely deported back by Chinese authorities without any opportunity to pursue an asylum claim. And of course, as you know, once they're returned to North Korea, they face fear of persecution for suspected contacts with the foreign and political and religious influences outside of North Korea and the consequences of their return are quite grave.

So while the Chinese government were not likely to provide the United States with necessary cooperation in this process, the North Koreans also live insecurely in other countries of first asylum such as Russia and Thailand, where the U.S. does have a refugee-processing presence. But, let me just conclude by saying that these six North Koreans -- their release as refugees is a very significant development and good news.

REP. TANCREDO: How about Iraq?

MR. CROMARTIE: Now, on these other questions, if I could turn to my colleague and let him have a moment.

REP. TANCREDO: Thank you.

MR. TAD STAHNKE: Thank you. Regarding the Iraqis here in the United States and their treatment regarding asylum claims, there are two issues that have been brought to our attention that we have expressed concern about. The first is that immigration judges are increasingly adopting the position that the situation in Iraq has improved for members of religious minorities, in particular the Chaldean (ph)-Assyrian community, of which there is many here in the United States.

Now the commission, in its own investigation has highlighted -- as well as

the State Department in their human rights report -- that the situation for Chaldean (ph)-Assyrians and for other vulnerable religious minorities in Iraq is really quite grave. And they're subject to targeted religiously-motivated attacks as well as other actions that might be considered to be persecution. So the information that we've received, particularly in relation to immigration judges in the Detroit area, where a lot of these cases come up, is that the position, again, that's being adopted is that these people, who are already here in the United States, can now be sent back, given the overthrow of the Saddam Hussein regime.

And the second issue relates to, then, when these cases get up to the board of immigration appeals, which appears to be of two minds -- one, a set of panels hold that, like the immigration judges, it's safe to go back; another set of panels that seems to be holding consistently that it is not safe to go back. So this, again, is an issue where we think there should be greater coordination with the State Department over the conditions in Iraq as well as pointing out the need for more training and quality assurance with respect to both the immigration judges and the BIA.

REP. TANCREDO: And any suggestions for needed legislation?

MR. STAHNKE: Well, the one suggestion that we have made in our written testimony and was highlighted by Michael was based on the chairman's remarks regarding this Li vs. Gonzales case, which are really quite troubling to the commission as well -- that to -- that some of the players that were involved in that case are not subject to mandated training on religious persecution that is contained in IRFA. And these are the BIA and the office of immigration litigation at the Department of Justice. And those are two parties who were very much involved in bringing forward these arguments that really contradicted U.S. foreign policy on human rights in China.

So we've recommended that IRFA require, at the very least, training of these individuals in both the BIA and the office of immigration litigation, as well as, again -- and this may not require legislation, but -- there's a process at the immigration judge level for State and the immigration judges to coordinate on asylum claims. But when the Li case came up, apparently at the appellate level in the BIA or in the Justice Department, there was no method of communication between the different agencies. And we suggested that that be enhanced as well. Thank you.

REP. TANCREDO: Thank you very much. Mr. Payne.

REP. PAYNE: Thank you. Thank you very much. You have indicated, and as we know, there are three basic departments that are relatively involved in IRFA and the whole Religious Freedom Act -- the Department of State, Department of Homeland Security and Department of Justice.

What -- which one of these departments seem to create the most -- I mean, I have problems with all three of them, but -- and they have problems with themselves -- so trying to get the three to work together, I guess, is a nightmare, you know.

Could you tell me where you find a -- with all due respect to anybody from the Department of Justice who may be, or Department of Homeland Security or Department of State -- you know, you're just a messenger, you know -- so could you tell me what seems to be the problem and who do you think we ought to bring in here, maybe by themselves, and get the rubber hose and beat them over the head or something?

MR. CROMARTIE: Yes, sir. Thank you. I will let my colleague, Mr. Stahnke, answer that question. As chair of the commission, I will remain as bipartisan as possible.

REP. PAYNE: All right.

MR. STAHNKE: Well, it's an interesting question who might be the worst of those three. We've encountered bureaucratic difficulties with all three, as well as some areas of cooperation. I think that the material support bar is one example of, as you say, where the three need to be working together, and in other areas that came up earlier today, especially where State and Homeland Security should be working together. And that seems to be a theme of what we're looking at -- areas where that sort of communication does not seem to be evident, as well as the case within the Department of State, where only recently have we seen the bureau's population and refugees of migration really talking and communication with the international religious freedom office, despite the fact that they're both involved in implementing the provisions of IRFA.

So our major issues are relating to State and the fact that training has not been done to the appropriate level for consular officials and as far as Homeland Security is concerned, we're still hoping to have a response from that agency to our recommendations from the expedited removal study. As Michael mentioned, we're very happy that they have put together -- appointed a senior coordinator for these matters, because we found that, within the three different areas of DHS that have responsibilities for asylum seekers and expedited removal, there was an inability among them to resolve differences and to -- so every matter of difference between them, and there were many, had to be dealt with by the secretary or the deputy secretary. So we're hoping, with this new person in place, that they can begin to some of the serious concerns that our study raised. And we would be happy to work further with the subcommittee to see how Mr. Timofeyev is doing down the road in that regard.

REP. PAYNE: Well, thank you very much. I think that, you know, if there was some way that we could sort of have a -- not a formal hearing, but just a round-table discussion with you -- not to bash the agencies but to hear from you the problems and then see if there is some way that they can be worked out. I know Homeland Security seems to have a lot of problems. I guess they're still in the process of forming themselves, but they tend to have more organizational problems in general. But that's it. I'm going to keep within the 5-minute rule that the ex-Chairman --

REP. CROMARTIE: We'd be glad to be part of such a meeting.

REP. PAYNE: Yeah. I think that would be great. And just I want to say here, oh, the other thing that -- well, we'll talk about it after -- it seems that the immigration judges feel that it's, in my opinion, a defeat if someone's allowed to come into the country under, you know -- prove that they're really persecuted. I've just seen -- it just seems to me that there's something radically wrong with -- and I can't get over it, and I mean it just seems to be tilted so unfairly in the instances that I've heard.

We had a 13 year old mentally-retarded --- who was that youngster -- yeah, Molik Janno (sp) Guinea. The parents were killed. He got here some way, was challenged, but he was being taken care of by the Quakers. They taught him the language. He was very appreciative for the opportunity to be here, and we had to just battle and battle and battle. And they were going to send him back into the principal city in West Africa and let him get off the plane and I guess just look around and wonder what does he do next. Just absolutely -- the authorities killed his parents. They're going to send him back to the authorities. A 13 year old -- at this time he was about 11 or -- 10 or 11 when that happened -- somewhat challenged mentally, but he was functional, he was trainable, he was adjusted here. And we just had to keep fighting and fighting to let this one innocent boy stay here. And the immigration judges didn't want to hear anything to do with it. So it's --

MR. CROMARTIE: Mr. Congressman, if I could, I just want to promote, if I could, the study that the commission and its staff came out with on expedited removal. It is a groundbreaking study and it addresses these very concerns.

REP. PAYNE: Oh, really.

MR. CROMARTIE: And so, if you haven't seen a copy --

REP. PAYNE: No.

MR. CROMARTIE: -- I'm sure our staff would be glad to give you one.

REP. PAYNE: Thank you. I'd appreciate that. Thank you very much.

MR. STAHNKE: There are a couple of things directly related to what you say with regards to the immigration judges and the unfairness of the process. First is that we've looked at the approval or denial rates of judges in the individual immigration courts, so -- and it was extremely variable -- you might have one court -- judges dealing with similar case loads -- and individual judges could range anywhere from, you know, five percent overall grant rate to 95 percent. So it looked like an organ pipe. So this is something that we've brought to Justice's attention and EOIR's attention to look further at and to -- this was so statistically significant that it couldn't be explained by any of the factors that we were aware of. So that's one point.

The other thing that we found is that those who were represented by counsel had a much high grant rate for asylum, and that this was a significant problem, especially in expedited removal, where people are being detained in facilities that are a long way away from metropolitan centers for access to legal

representation. Now fortunately, Justice and Homeland Security have already come up with innovative ways in which to get legal information to asylum seekers. And we've recommended that these programs, that are proven to work and proven to be quite cost effective, should be implemented throughout the country. So that's another concrete step that can be taken to try to, as you say, balance out the fairness of the process.

REP. PAYNE: Well, thank you very much. Thank you, Mr. Chairman.

REP. SMITH: I want to apologize for missing your -- I've read your testimonies, but I was on the floor giving a speech on one of the amendments, so I apologize for not being here.

Let me ask a question -- and Mr. Payne and I do share a concern about the so-called detention centers that really are jails. And in the past, we have had people who were seeking asylum. In one case, there were women who were held for several years who were fleeing forced abortion in China. And we actually had to resort -- we got to the point we had to subpoena the witnesses from Bakersfield to come here. When they came in, they were women in orange jumpsuits with chains, which I thought was absurd. A flight risk -- 35 year old women whose only crime was they were seeking to protect their child from coercive population control in China.

And I remember Henry Hyde was sitting -- he was a member of our subcommittee then -- chairman of the judiciary committee. He was aghast, as was I. And I said, well this is my courtroom now, so the chains and everything else comes off. And since then, we have looked into these detention centers. You looked into one in Broward County that you said may have been, you know, a bit different, if not profoundly different. I think that's a whole area of -- and we will devote a hearing to that, because these are jails. And if you might want to elaborate on Broward County if you don't mind, because that seemed to be secure but not -- as you point out, but not a -- didn't have that jail-like appearance, at least if I read this correctly.

And secondly, if you could also -- maybe you did this already.

If you did, I'll just read the record and don't restate it. But, the commission recommendations -- how well or poorly were they received by the Department of Homeland Security, for example, and by Justice? You know, your commission -- and I applaud you with the highest accolades I could think of -- is doing exactly what -- when Frank Wolf and I and others worked on that legislation that created IRFA and parenthetically, as I pointed out earlier, it was opposed by then the administration on the record by witnesses who came to the committee and said that didn't want it. John Shaddegg (sp) and others used to come in and they just didn't want it. But in a bipartisan way we got it passed and President Clinton ultimately signed it, because we did find that over and over again -- I remember in the 1990s Frank Wolf and I and others going to places like Romania and elsewhere and finding that religious persecution was just looked askance by many of our otherwise fine and reputable people in our embassies, with one big exception.

Dennis worked doing human rights work in Romania and that's why, when we were about to get him as a fellow here, we immediately seized upon that. But he -- you know, there were some who saw it for what it was, but many others who just didn't want to be bothered, particularly at the appointed level, like, ambassador level.

So if -- how has this been received. And I would ask with unanimous consent that the executive summary of this report be made a part of our record.

MR. CROMARTIE: Thank you. Thank you. Well, I'll let Mr. Stahnke address some of those questions. I would just say that the Broward County detention center -- in our study we point out -- is the exception to the rule. And that it's unfortunate that the other detention centers don't follow their model, because it was the one place that was not a jail-like facility and it was humane. And it was unfortunate in the study that more places like that were not found.

MR. STAHNKE: If I could just add, briefly, we also found that the expense for the Broward County facility was completely in line with the average expense that DHS was paying for the, as you say, in- jails or jail-like facilities. I know that our commissioners that visited there were -- and who had visited other facilities -- it was a palpable difference in that, you know, the people that were housed there were relating to one another, were relating to them as visitors. This was not the case. So you had a situation where the conditions of confinement were really having an impact on the populations that were there. And this is something that is discussed extensively in our report.

If I could just add on the second question -- we did cover that a bit in our testimony, but I'd just like to emphasize that the Department of Homeland Security has not responded to our commission, despite saying that they would, with respect to our recommendations. There's a couple of recommendations that they have moved forward on but the vast majority they simply haven't, nor have they responded. And also that the DHS appropriations subcommittee has asked them officially, as well, to respond. That deadline passed months ago. And now with this new coordination on board at DHS, we hope that that's going to change. But, of course, any help that the subcommittee could provide in that I think would be quite useful.

REP. SMITH: We'll do that, and thank you. Your exemplary work should not go without real answers, and hopefully those answers will be part of the cure and part of the reform, because there are some -- you've identified so many important issues here.

Let me just ask one final question. Is the United Nations taking religious persecution seriously -- UNHCR especially -- and if you could speak to that issue?

MR. STAHNKE: Well, with regard to the UNHCR, one initiative that they have done over the last couple of years is that they recognized the need to develop guidelines for their refugee adjudicators on religious persecution claims. And they actually reached out to us, as well as others in the U.S. government, as

well as NGOs in the United States, in a collaborative effort to develop those guidelines. And the guidelines actually provide good guidance, we think, to people who are charged with dealing with these difficult questions. So that's the one area that we know of where the UNHCR has actually done something.

REP. SMITH: Did they reach out to Homeland Security?

MR. STAHNKE: What' that?

REP. SMITH: Did they reach out Homeland Security?

MR. STAHNKE: Yes, they did -- well, the INS at the time --

REP. SMITH: Okay.

MR. STAHNKE: They did and some INS people were involved in that. And the, you know, other areas of the United Nations and their human rights structures. You know, obviously, that's a big issue at the moment. We saw, as you mentioned, that the new human rights council has a number of CPC countries as members, which is really a quite striking and unfortunate thing.

We haven't particularly noticed that the prior human rights commission or the office of the high commissioner has been particularly vigorous in the area of religious freedom, but again, we have not studied that carefully.

REP. SMITH: I want to thank you. And unless you have anything further to add, Mr. Cromartie and Mr. Stahnke, thank you for your testimonies and, above all, thank you for the work you do on behalf of persecuted religious believers the world over. Appreciate it so much.

MR. CROMARTIE: Thank you, Mr. Chairman, for your encouragement.

REP. SMITH: I'd like to now ask our final panel to come to the witness table, beginning with Anastasia Brown, who is the director of refugee programs, migration and refugee services at the U.S. Conference of Catholic bishops. Ms. Brown also served as the NGO co-chair of two joint U.S. government refugee council USA working groups -- the East Asia Pacific regional working group and the Misrepresentation Fraud work group.

We'll then hear from Ms. Limón, who is the president and CEO of the U.S. Committee for Refugees and Immigrants. Prior to coming to that organization in 2001, Ms. Limón was director of the Center for the New Americans Community -- a project of the national immigration reform. Ms. Limón is the recipient of several awards, including the U.N. association of the national capital area human rights award.

And then we'll hear from Mr. Kenneth Bacon, who has served as the president of refugees international since 2001. Prior to this he served as the assistant secretary, public affairs, at the U.S. Department of Defense and served as Pentagon spokesman. From 1969 to 1994, he was a reporter, editor and columnist for the Wall Street Journal. He is a member of the Council on Foreign Relations

and the International Institute for Strategic Studies. Mr. Bacon has published articles and op ed pieces on humanitarian issues in a number of publications including the International Herald Tribune and the World Policy Journal.

And Ms. Brown, if you could begin.

MS. ANASTASIA BROWN: Thank you, Mr. Chairman. I would like to thank you for the opportunity to provide testimony today. The written testimony, submitted on behalf of the U.S. conference of Catholic bishops, contains more information regarding the U.S. refugee program, including funding shortfalls, infrastructure to identify refugees and the situation of vulnerable groups, including unaccompanied minors, Cubans, Haitians and North Koreans.

I will focus my oral remarks today on what's one of the most devastating issues ever to face refugee resettlement, and that is the issue of material support. As we have heard, the secretary of State exercised authority to determine that material support bar is inapplicable to Karen refugees in the Tham Hin camp who may have provided support to the Karen National Union. This is very welcome news. But it is only the beginning.

The current decision applies only to one particular group of refugees in one camp, and the reality is that the situation calls for a much larger response.

The refugees in Tham Hin and the situation they fled from in Burma are well known to this administration, and yet it took many, many months of high-level interagency discussions for this decision to be made. This interagency process is unwieldy and inefficient and not a viable process when refugee lives are at stake. One can only imagine how difficult it would be for an individual refugee to make it through this process. The stories of individuals placed on hold for this provision continue to grow and they are heartrending. I wish I could say, as you alluded, that they may have been exaggerated. But they are not.

Examples of other refugees impacted by this law include Burmese Chin in Malaysia who continue to live on the edge of society with little or no protection. They have been tortured and abused by the Burmese military, often for a perceived connection to the Chin National Front. And ironically, the U.S. is holding the same thing against them. Last week, we were told Malaysia deported approximately 30 of these refugees, including several pregnant women, all of whom had already been registered with the UNHCR. The NGOs on the ground report that the men in this group were beaten prior to their deportation. And yet the UNHCR remains unable to refer Chin refugees to the United States because of the material support bar.

Last week, there were reports of thousands of more Karen being forced to flee their villages as the Burmese army forced them out and threatened to kill anyone left behind. There are already more than 100,000 refugees in the camps in Thailand. And yet this current decision only applies to those in the Tham Hin camp.

In West Africa, women and children who are raped and mutilated, whose families were killed in front of their eyes, who are held captive in their homes

or kidnapped, are being held under this bar because they "housed or provided services" and that a quote, unquote -- which they did not do -- to members of a terrorist organization. The victim is being held as an accomplice to the crime.

Similar stories come from Colombia, Liberia, Sierra Leone, Cuba, Sudan, Vietnam, and the list continues to grow. We are now seeing persons granted asylum in the U.S. and refugees who have already been resettled here unable to adjust their status to that of permanent residents. During the adjustment, the material support provision is now being invoked. Hmong and Montagnard, who supported those fighting with the U.S. during the Indo-China conflict, are now seeing their applications put on hold.

The UNHCR has stated that a referral to the U.S. program may, in fact jeopardize the protection of a refugee overseas. Normally, if the country who they refer to declines to accept a refugee, the UNHCR can refer to one of the other resettlement countries. But unfortunately, if the U.S. has labeled somebody a security risk -- and I would remind us again of a woman raped and held in her own house poses no threat to anyone -- another country cannot consider them. The country where the refugee has a temporary asylum may deport this refugee as a security risk or place them in high-security detention.

In addition to the issue of individual referrals, the U.S. program relies heavily on group referrals. The refugees in Tham Hin camp are, in fact, group designated. The UNHCR, however, indicates that they may find it very difficult to make new group referrals until the issue of material support is resolved.

Over the past two years, the refugee program began a recovery from the terrorist acts of September 11. At the start of the year, the Department of State was confident they could process 60,000 refugees. Funding shortfalls forced them to cut their target to 54,000. And we're now faced with delays around the issue of material support -- the target is below 46,000. With no new groups on the horizon, hesitance by the UNHCR to make referrals, the number of refugees available for processing will soon be depleted. Very soon, we could, once again, see a program which could only accommodate 20 (thousand) to 30,000 arrivals every year, while survivors of terrible atrocities languish in uncertainty.

What message are we sending to the perpetrators of these atrocities? What message are we sending to the victims of human rights abuses throughout the world?

We ask the administration offer guidance that would allow adjudicating officers to make decisions on the applicability of the material support bar to individual refugee and asylum claims, without the need for high-level interagency agreements on each case. We ask for guidance to be issued on what actually constitutes membership in such a group.

Mr. Chairman, if this law is written in such a way that it forces reasonable people to make unreasonable decisions, then I would submit that there may be something wrong with the language of this law and it should be adjusted. The administration and the Congress should move immediately to correct the damage

caused by this change in the law and the resulting bar on material support. These changes were ill considered. Moreover, they can be interpreted in this overly-broad manner, resulting in the possible denial of refugee protection to many deserving bona fide refugees. Thank you.

REP. SMITH: Thank you so very much, Ms. Brown. Ms. Limón.

MS. LAVINIA LIMÓN: Good afternoon, Mr. Chairman. Thank you for the opportunity to testify today about the plight of refugees around the world. We concur with you and with our colleagues about the negative affects of the material support provisions on refugees who are fleeing terror for freedom and safety. We also concur that the basic needs of refugees are inadequately supported by the international community, and encourage U.S. leadership to enlist greater commitments from other nations and to expand our own contribution.

This afternoon I would like to focus my testimony on the 99.5 percent of the world's refugees who will never come to the United States or have the opportunity to be resettled in any other country -- the eight (million) out of 11.5 million refugees who have been warehoused, without their basic human rights for five years or more.

Mr. Chairman, it's been two years since the U.S. committee for refugees and immigrants launched our anti-warehousing campaign focusing on the forgotten rights of refugees in the 1951 refugee convention. For two years we've been saying that denying refugees the right to work, earn income, go to school, own property and move freely is wrong. The 1951 convention envisioned a refugee protection regime based on human rights principles, not a perpetual aid-delivery system that functions best when refugees are confined and dependant.

We took a close look at the 1951 convention and we were, frankly, a little surprised to find out that the word camp does not appear in the entire document. It's a little amusing when refugee camp seems to be one word. But we thought about it and we decided that it does make sense. After all, in 1951, what was the world's most recent experience with people in camps? It was, in fact, Hitler and Stalin. So camps were not entertained as an enlightened humanitarian response to humanitarian emergencies. But as time went on, camps became the most expedient way to deliver assistance to a large number of people in an emergency setting. Now, long after an emergency is over, refugees remain dependent on that aid-delivery system. -- fourteen years after Somali refugees fled to Kenya, many remain in Kakuma camp -- twelve years since the Burundians fled to Tanzania -- twenty years since the Burmese fled to Thailand. And one refugee from Kakuma, who USCRI resettled in Vermont, likened the camp to, quote, "a storage place where they kept human beings".

The 200,000 Sudanese refugees from Darfur who now have lived in Chad for approximately two years are now, in fact, growing impatient with the stagnant nature of camp life. One refugee said, quote, "We are in prison. It is time to start thinking of a life beyond the camp." Another one recently asked a reporter, quote, "Are they going to leave us here like this forever? Will we just rot here like our animals?"

Mr. Chairman, we're not saying that camps are bad. We're saying that tying humanitarian assistance to camp residents is essentially requiring refugees to forfeit their basic human rights.

The good news is that, conceptually, there is widespread agreement -- among assistance agencies, donor countries, a number of host government, and the UNHCR -- that warehousing is wrong. The refugees deserve opportunities for self-sufficiency. Over 359 NGOs, human rights organizations, academics and notable individuals, including six Nobel laureates, have signed onto the statement calling for solutions to end the warehousing of refugees, which is attached for the record. And the world refugee survey has been a major tool of the anti-warehousing campaign, compiling key statistics on the situation.

We've also noticed that recently many refugees have decided to demand better protection and the ability to determine their own future. The most publicized event was the violent eviction of 2000 Sudanese in Cairo who led a 3-month sit-in protesting the abrupt end to refugee status determinations. Twenty-eight died and hundreds were injured. Quote, "I just wanted to live with dignity," said one refugee whose daughter was killed by Egyptian police. Quote, "That is all I wanted."

When a delegation from ASEAN visited the largest Burmese refugee camp along the Thai border, refugee elders held up signs that read, quote, "We have been here long enough." Primary school children stood at attention and asked the delegation, quote, "Think about our future."

How has the international community responded to the protests demanding a better way of life? How have they moved forward, despite -- with the widespread agreement on anti-warehousing principles? Unfortunately, the international community continues to reinforce the status quo.

Recently, UNHCR has urged self-settled Congolese refugees in Burundi to move to camps in order to receive assistance. Plans for the residual caseload of Burmese refugees in Tham Hin camp who will not be resettled to the United States is another example. The Thai government, together with UNHCR, has decided to build a new camp for the remaining Tham Hin population. The Swiss government has funded an engineer to lay out the land and make recommendations for its infrastructure.

Last year, Congress took a step on the right direction by passing an amendment to the '06 Foreign Operations Appropriation Bill requesting the State Department to designate some of its funds to developing effective responses to protracted refugee situations. To date, no funds have been directed towards this purpose and the status quo prevails, without U.S. leadership.

Mr. Chairman, in another 10 years I can testify before you that millions of refugees continue to live in crowded conditions, where they're not allowed to cultivate their own food or earn income from their labor. I can report 10 years from now that refugees still live off the inadequate food rations, that blue tarps and white tents are still permanent homes for refugees, that we're

still trucking in water and digging wells for refugees in inhospitable living conditions.

Then, would we still consider ourselves leaders in refugee protection? Will we have made the most of the trillion dollars in appropriate funds spent between now and then?

Mr. Chairman, I envision a future in which the U.S. government and the international community have a clear policy delineating the type of assistance appropriate in emergencies versus long-term settings, when only rights-based protection leading to self-reliance is accepted. I envision a future where host governments allow refugees to become productive members of the society that has granted them temporary stay. While they are yet refugees, they can live to their full potential, awaiting a durable solution with human and material resources to bring back to their home country when it is safe.

In short, Mr. Chairman, I envision a future in which a 55 year old law is respected and implemented. Thank you, and I look forward to your questions.

REP. SMITH: Thank you so very much. Mr. Bacon.

MR. KENNETH H. BACON: Thank you very much, Mr. Chairman. I want to commend you for holding this hearing to review how U.S. leadership is protecting refugees around the world and to consider ways to expand those protections.

The number of refugees and asylum seekers declined to 11.5 million last year from a recent high of nearly 15 million at the end of 2001. The reason for the decline is that refugees go home when wars end. And the U.S. is playing a key role in helping to create conditions for refugee return around the world. Over 3 million Afghans returned home after the fall of the Taliban in 2001 and hundreds of thousands of refugees have returned to Angola, Liberia and Sierra Leone.

Pressure from President Bush helped lead to the resignation of Charles Taylor as president of Liberia, paving the way for significant repatriation there. The U.S. role in promoting the comprehensive peace agreement between north and south Sudan, as you noted earlier today, and the more recent participation and talks that led to a partial but fragile peace agreement for Darfur are also important. But we can do more.

There are three things the U.S. can do to help win further reductions in the number of displaced people. First, continue to intervene strategically to promote peace, as we have done in Sudan. U.S. leadership is playing a role in reducing a large displaced population in the Democratic Republic of the Congo and could play a larger role in northern Uganda.

Two, provide adequate support to the U.N. high commissioner for refugees. UNHCR is playing a major role in orchestrating returns in southern Sudan and is about to take on a lead role in protecting large populations of internally displaced people in northern Uganda and the DRC. Yet the U.S. contribution to UNHCR is declining, as you also noted in your opening statement.

Three, we should meet our obligations for funding U.N. peacekeeping operations. A recent study by the Government Accountability Office explained that investments in U.N. peacekeeping operations makes sense for the U.S. The U.S. provides 25 percent of the funds for U.N. peacekeeping operations, yet we are currently \$521 million behind in our commitment to support U.N. peacekeeping operations around the world.

A look at major displacement crises in Sudan, northern Uganda and the DRC illustrates the results of and the opportunities for U.S. leadership. In Sudan last year, U.S. diplomacy helped produce an agreement that ended a 21-year civil war between north and south. Some of the 4 million internally displaced and 500,000 refugees are beginning to return. A U.N. peacekeeping operation is slowly moving into place, and the UNHCR is supporting the returns.

In the Darfur region of west Sudan, fighting has recently gotten worse. Last week's intervention by Deputy Secretary of State Zoellick helped produce a peace agreement between the government of Sudan and one of three rebel factions. Yesterday, Secretary of State Rice told the U.N. Security Council that a large and strong U.N. peacekeeping force will be necessary to enforce the agreement, which we hope will expand over time.

The stakes are high, not just for the people of Sudan but for the entire region. Instability and violence in Darfur have already spread to Chad and for years Sudan has supported and sheltered the Lord's Resistance Army -- a vicious rebel group that has terrorized northern Uganda. You probably saw the story in the Washington Post this morning about a young lady who was abducted as a child soldier at age 15 -- Grace Akello. The LRA is also launching attacks in southern Sudan, where U.N. peacekeepers need to do more to protect returnees as well as humanitarian workers.

In northern Uganda, 20 years of war have displaced up to 2 million who live in fear of the Lord's Resistance Army. This war has had a particularly devastating impact on children. More than 25,000 have been abducted by the LRA and turned into fighters or sex slaves. U.S. leadership is essential for ending this nightmare.

The U.S. is one of Uganda's larger donors and a permanent member of the U.N. Security Council. Therefore it has a critical role to play in protecting Ugandan citizens from further violence and in bringing about a political solution to this crisis. The U.S. should press the government of Uganda, which has failed to protect and assist its citizens, to provide humanitarian services, protection and reconciliation. In addition, the U.S. should support the strengthening of U.N. peacekeeping missions in Sudan and the DRC to ensure that they have the resources and the mandate to protect civilians from the LRA, disarm LRA fighters and capture indicted commanders. The U.S. must also make it clear to the government of Sudan that relations between Washington and Khartoum cannot improve until Sudan expels the LRA.

I have a series of other recommendations in my written statement, but I'll skip through them -- I'll skip them here just to accelerate.

In the Democratic Republic of the Congo, after nearly a decade of violence, there is finally some good news. Conditions are improving.

The country is preparing to hold its first democratic elections in 45 years. Some of the 380,000 Congolese who have sought refugee status in neighboring countries are beginning to return. And about half of the 3.5 million internally displaced people in the DRC have returned home. U.S. leadership has created a useful political dialog to address political, security and humanitarian challenges on a regional basis. The promising transformation won't succeed unless the U.S. remains involved.

Working with other donors, the U.S. must ensure that funds are readily available to fill the gap in community-level reintegration assistance. Adequate support of UNHCR, which has a new mandate to protect internally displaced people in the DRC, and the World Food Program are particularly important. The Congolese state and its national army are currently too weak to guarantee security. MONUC, the U.N.'s largest peacekeeping operation, is the only force capable of imposing a measure of control on the chaotic military system in the Congo. MONUC presence and patrolling have helped create a more secure environment for humanitarian operations and allowed increased access to groups in need. The U.S. must continue to support MONUC at current troop levels for at least one year beyond the end of its current mandate on September 30 2006. There is continued talk that the U.S. wants to reduce its contribution to MONUC. This would be the bad time -- the wrong time -- to do that.

Statelessness has been covered earlier, but I would like to reiterate some of the comments that Representative Watson made. There are 11 million stateless people. They lack passports necessary for travel. Often they can't work legally. They can't receive health and other benefits, or send their children to school. I urge the committee to hold a dedicated hearing on stateless persons. International attention and pressure is the key to winning citizenship for stateless populations.

Syria has already agreed to consider several hundred thousand stateless Kurds within its borders, but it hasn't moved forward on that. We don't have a lot of leverage with Syria. But still, I think public attention would help move them forward. Also Bangladesh may be on the verge of considering a way to resolve the problems of several hundred thousand stateless Biharis within its borders.

I'd like to talk very briefly about Burma. The brutal policies of religious and ethnic repression there continue to generate a steady flow of refugees. The U.S. has little leverage over Burma, but it is in a position to resettle groups of Burmese who can't return home. But as my colleagues have elaborated, material support is making that very difficult by erecting barriers for refugees. So it's very crucial that we pay attention to this and try to resolve the problem.

As other witnesses have said, blocking resettlement of Burmese Chin who suffer persecution because they are Christians or Karen who face violence because of their ethnicity and sometimes because of their religion, deprives

persecuted people of an important human rights protection. The Montagnards -- an issue you raised, sir, and I hope you'll continue pressing the State Department on that -- it's a small population now of about two dozen people, maybe three dozen people, who have been rejected by UNHCR. In the past, the U.S. has reviewed those cases, and in 75 percent of the cases, granted them refugee status and resettlement opportunities in the United States. So I hope the same principle will apply this year that we used so successfully last year.

With that, sir, I will conclude my testimony and take your questions.

REP. SMITH: Thank you very much, Mr. Bacon. And thanks to all three of you for your testimonies and your fine work. Let me just ask Ms. Limón on the issue of warehousing -- and our other two witnesses might want to speak to it. It is a dilemma -- a catch 22 in many ways. I mean, I've been to refugee camps all over the world and very often the host country for the camp is none too pleased that refugees are there in the first place. I remember going to Stankovich in Macedonia, and thankfully those people did end up going back to Kosovo. But at the time, there were real tensions between the (Kosovar ?) folks and the Macedonians about that camp.

And it's been the same everywhere else. In Chad, there's also a great deal of tension. There doesn't seem to be any place in the world where there's not at least some -- I remember with the CPA when there was this aggressive attempt by the previous administration to just send everybody back. And the international community had that fatigue which we so often see -- clean out the camps, send them all back, whether they're economic migrants or truly refugees. And as a matter of fact, I offered the amendment to re-screen them. It passed in the House, much to all of our surprise, and that led to the ROVR program.

But I say that because there seemed to have been a sea-change shift that occurred in the '90s -- Maybe it happened before that and I just didn't pick it up -- that repatriation and repatriation and more repatriation, not third country resettlement or other more durable solutions. And so I just want to raise that. You know, the zeitgeist seems to be send them back. And I find that very disturbing.

And I remember, it was refugees international and U.S. committee for refugees that was so out in front during the Rwandan holocaust that none of those people, to the best of my knowledge -- maybe some since -- were offered to come here or to some other country of resettlement. It was all a matter of warehouse and then send them back or something like warehousing. So there is that international mindset that the bureaucrats and the diplomats seem to have adopted, which is why I think your call is important.

But there's also -- where do you put people when they can't go back? Ellen Sauerbrey mentioned earlier that she's very much in favor and wants to champion the idea of education in the camps, and that's certainly needed. I noticed that when I was in Moucha as well as in Kumho camp there was some effort being made to education, but it was always too little too late. Food and medicines were always, you know, the next crisis -- whether or not there would be enough. So education drops off as a distant third or fourth. But if you could speak to

that issue if you would.

MS. LIMÓN: Everyone keeps asking that same question. And we feel a couple of things. One, we believe there are policy alternatives that host governments -- the discussion to take place at high levels -- would be a willing to entertain. In fact, there are examples around the world where refugees are not warehoused -- where they are allowed to be legally within a country, temporarily, until they have an alternative solution.

But we think, for instance, the local housing arrangements for residual caseloads so that, you know, -- donor nations could help host nations pay for linking refugees with sponsors or in community organizations or local governments, where people will be responsible. Okay, fine, they're going to work, they're going to have a job, they're going to do what they have to do to get on with their lives. We see camps as the last alternative for refugees while they're waiting that solution.

You're absolutely right, Mr. Chairman. Repatriation seems to be the only durable solution that the international community is really willing to accept these days. But that can take decades and decades and decades. And the price that not just these individual refugees pay, but the next generation -- because a lot of them have been educated in the camp and, you know, they get pretty good educations. They even learn English. But then they can't work. They can't do anything. This is not something that I think as an international community and as a leader in that community that we should be supporting. We need to be looking at ways to let these people have an alternative -- where they can actually exercise their right and that we can move our aid and our creativeness to that, instead of just making their prison better.

REP. SMITH: I would just note parenthetically before our other witnesses may want to respond -- you noted the foreign ops bill of '06 and the language that it had in there. We put that language in H.B. 2601, which is my bill -- the State Department Reauthorization Bill. It passed the House and we're still hoping that the Senate will take it up. It may not happen this Congress. But I think that's an idea that needs to be reasserted and reasserted over and over again so -- and I take your point that it hasn't been funded. But, it was a good point. Mr. Bacon or Ms. Brown.

MR. BACON: Well, first of all, I just want to say Ms. Limón is the world's expert on this and USCRI has done a really wonderful job of lifting the warehousing issue to the top of everybody's agenda. But there are three durable solutions. Repatriation often does take a long time but when it works -- and we're beginning to see it working, that was the point in my testimony -- it is the solution that clear up -- that allows people to clear out of camps the fastest.

It may take a long while to get there, but once the ball starts rolling, it rolls pretty fast.

I think that, if you look at two problems -- in Sudan, the north- south crisis, which took 21 years to resolve, and now we're just at the point of reaping the benefits of the comprehensive peace agreement -- but we still have a

long way to go before people get home, on the one hand -- and Darfur on the other, where it's receiving intense world attention after three years, suggests that we can accelerate this if countries get involved. Our diplomacy has been key in both cases. But we got onto Darfur much faster as a nation than we got onto southern Sudan. So there is more the world community can do to face these crises earlier and to prevent, we hope, the type of long-term displacement that Ms. Limón has talked about.

So I think we need to be very creative at all parts of the spectrum. We have to be clearly more creative on resettlement, but even if we're hugely creative on resettlement and if we're five times more successful than we are now, we would be resettling 250,000 a year out of a population of 11.5 million refugees. So resettlement probably is not going to do anything more than help certain very persecuted or lucky parts of the population.

We have to look at integration and, I think, do a much better job. And this is where USCRI has done such a good job in giving us new options. And finally, I think, we have to work through U.N. peacekeeping, through diplomacy, to prevent the types of long-term displacement that were so characteristic of the 1990s.

MS. BROWN: I would like to say that of special concern to the U.S. conference of Catholic bishops, among this population who are often held for so many, many years are unaccompanied refugee minors for whom we advocate the best-interest determination process happen very quickly. A few years in a child's life is many, many, many years that are wasted. And if you are speaking of holding a child for 10 years, you have held them for their entire childhood -- the best-interest determination process, including tracing and reunification with family, whenever possible.

REP. SMITH: Let me just ask with regards to UNHCR's budget -- and we are the largest donor, but we still, I think, need to do significantly more -- I have found in the past, and this is regardless of the administration to Clinton-Bush, Bush-Regan, that every attempt that has been made -- and I have made several myself with amendments on the floor of the House -- to increase the amount of money for refugee protection, the automatic -- even if we get the amendment passed, the automatic dropdown once it gets into conference is to the administration's request -- which is usually the OMB's request -- but it's based on an assessment of UNHCR put out in terms of their appeals rather than based on their needs.

And so it's almost a twofold question. You know, how do we get Congress to realize what you know so well, having lived it, that there are so many millions of people out there in desperate straits that sometimes don't even have cooking oil? Security is a big issue in the camps. And yet the number drops down.

I'll never forget on one of the State Department bills, I offered an amendment to increase Radio Free Asia to 24 hours and all these amendments -- and everyone kept coming to the increase from what Clinton asked for and the 50 million (dollars) more that we put into the refugee budget as, like, a pot of unaccounted-for money. And I had to beat off one amendment after another

because you had to take one from the other. And it was amazing. Everybody said, oh, this money's not needed because that's what the administration asked for.

Can we get to a needs-based budget? Even if they put out two documents -- because, you know, we have a new high commissioner. I think he's very, very passionate about what he's doing. I have high hopes for him. I think, you know, they're going through a process of reform. That would help immensely if that were more meticulously laid out with, okay, U.S. -- can you do this -- you -- can you do this rather than putting in an appeal that often falls on deaf ears?

MR. BACON: Well, I couldn't agree with you more. I think that High Commissioner Antonio Guterres is trying to reform. I think he is -- I know he has cut back headquarters staff. He's holding back their funding. He's making it more results based than it has been in the past. He's setting clear goals and standards that he expects everybody to meet. My hope is that in a year or two he's going to be able to show a real increase in effectiveness, which should make him a much more attractive solicitor of funds. And it should be easier for us and other countries to support him.

But I couldn't agree with you more. We do need a needs-based budget, and part of that, I think, requires better presentations by UNHCR.

MS. LIMÓN: Mr. Chairman, I would just add to that. I agree with Ken that we need a needs-based budget based on the real needs of refugees. I think earlier today someone referred to compassion fatigue. And we do see that around the world, where people just get tired of feeding a group of people for 10, 20, 30, 40, 50 years.

Our hope would be, of course -- where refugees were allowed to become self-sufficient, allowed to take care of themselves, allowed to grow their own food -- that the UNHCR budget would, in fact, be -- the need would actually be diminished and that the refugees, if they can, could become self-sufficient. And then what money there is available would go further for those people who truly couldn't help themselves.

REP. SMITH: On material support, do we need legislation to redefine members in a terrorist group? And secondly, if I could, just -- Mr. Bacon, you mentioned that we're short 521 million (dollars) I think was the number you used on peacekeeping. Is that cumulative over several years? I mean, we are actually going from about \$500 million to \$1 billion for peacekeeping in this current budget -- at least that's my understanding. And I, like you, believe that that's one of the best investments we can possible make -- 80,000 peacekeepers doing an enormous amount of difficult work that no individual country could probably do. I mean, and it's amazing -- they were right to get the Nobel peace prize some years back for the work that they do. It is hazardous work, to say the least.

And having said that, we've had hearings here. We've raised issues of trafficking and exploitation in places like the Congo. But by and large, it

deserves our support. But the \$521 million, is that cumulative?

MR. BACON: It is cumulative. And actually, if the supplemental currently before Congress goes through with the current figures -- and I don't know whether -- I hear all sorts of rumors there are going to be haircuts, so I don't know how this -- maybe you guys know how it will come out -- but if the supplemental were to go through, that would reduce the arrears, I think, by about -- the gap, by about \$160 (million) -- I think its \$160 (million) or \$170 million. So that would bring it down to a much lower amount.

But this is a standard problem that we're not always paying our full peacekeeping assessment.

MS. LIMÓN: I'll be quick, Mr. Chairman. We -- the U.S. committee for refugees would be very pleased to see legislation clarifying material support. You know, after the terrorist attacks of 9/11 when the admissions of refugees plummeted, we worked very hard, along with all of our colleagues, to really get people to understand the difference between a refugee and terrorist. And it's so clear to us, but it wasn't really clear to everyone. And we had a lot of education to do. And we felt that we had, basically, overcome that, and that was a good thing. And then material support reared its ugly head and now, with the way it's being applied, it actually indicts, you know, everyone but perhaps the lone refugee pacifists in the world. And so we really thing that clarifying legislation would be very helpful, thank you.

MS. BROWN: Yes, we support that. You also asked the question of do we need to look at the definition of membership in a group and we believe that we do need to look at that and, as well, whether the group is, actually a security threat. The KNU is an example. It is not a security threat to the United States. In fact, we have supported them in what their struggle is.

REP. SMITH: Thank you. Mr. Payne.

REP. PAYNE: Well, thank you. I won't belabor or prolong the hearing. I, unfortunately, had another group that had come to the country and I had previously scheduled a hearing -- a meeting with them, so it took me out of this portion. But I certainly would like to commend you for you work. And we do have a lot of work to do still to be sure that we do not discriminate again, you know, the victims. You know, in many instances, a person is from a particular country, and so they all become suspicious. And I think that's unfortunate.

But I will, if there are any questions that I have related to your testimony, I certainly will forward it to you and ask for your written answers to that. But once again, thank you very much. Thank you, Mr. Chairman.

REP. SMITH: I want to thank our distinguished witnesses for your testimony but, above all, for your work on behalf of the disenfranchised -- the refugees and asylum seekers the world over.

And I would ask you -- I know that the U.S. committee has provided some suggestions along this line, but any ideas on -- and if you could reduce it to a

proposal, for what a law would look -- what legislation would look like to rectify these problems. At this point, it's an upward battle, but I think you -- we can wear people down by convincing them and persuading them that this is the right course to take, because there is a knee-jerk response out there. We saw it right after 9/11 and some was good, some of it was bad that we, you know -- some of the actions we took.

So I think it's time to really get this refined and correct the deficiencies in the law. And so if you, you know, could provide us with that information, we 'll begin that process ourselves. And I, again, thank you so very, very much.

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