CLINTON CONTINUES SUMMARY RETURN OF HAITIANS; U.S. LAWYERS INVESTIGATE IN-COUNTRY PROCESSING

Fearing a mass exodus of Haitian boat people, President-elect Bill Clinton announced a week before his inauguration that he would continue, at least temporarily, the Bush Administration policy of summarily returning interdicted Haitian boat people.

On January 14, Clinton addressed the Haitian people directly in a radio broadcast, saying, "I have been deeply concerned by reports that many of you are preparing to travel by boat to the United States, and I fear that boat departures in the near future would result in further tragic losses of life. For this reason, the practice of returning those who flee Haiti by boat will continue, for the time being, after I become President."

He bluntly said, "Those who do leave Haiti directly by boat will be stopped and directly returned by the United States Coast Guard."

He presented them with an alternative. Saying that "you do not need to risk your life to apply for refugee status and entry into the United States," he told them, "You can apply from within Haiti, through the United States Embassy in Port-au-Prince." He promised that after becoming President, he would begin immediately to make it safer and easier to apply for refugee status within Haiti by, among other things, increasing the numbers of U.S. officials posted there for refugee processing.

Clinton also said that he would work with the UN and the OAS "to bring substantial numbers of observers into Haiti to help prevent human rights abuses." He said he would also work with deposed President Jean Bertrand Aristide for the restoration of democratic government to Haiti, and that Aristide, with whom he had spoken the previous evening, supported his stance.

Coast Guard Blockade Shortly after Clinton's announcement, the U.S. Coast Guard announced the launching of "Operation Able Manner," surrounding Haiti with 22 U.S. Coast Guard and navy ships, as well as deploying planes and helicopters for surveillance.
The Clinton announcement, and Operation Able Manner, came as a result of predictions that up to 250,000 Haitians would attempt the dangerous boat journey after Clinton took office. The predictions were based, in part, on Coast Guard surveillance flights along the Haitian coast, during which 700 boats under construction were counted.

On January 16, however, Cmdr. Larry Mizell, the Coast Guard’s liaison in Port-au-Prince, told an Associated Press reporter, “I think there will still be a surge, but I don’t think it will be long term.” He said that the numbers he was anticipating were not as large as the flow last May. The AP story pointed out that the aerial surveillance was not able to distinguish between fishing boats and those being built to carry people.

Editorial Boards, Refugee Rights Advocates React: Clinton's stance was roundly criticized by refugee rights advocates and editorial writers. Many pointed out how the policy blatantly contradicted his earlier campaign statements, when Clinton said, “I am appalled by the decision of the Bush Administration to pick up fleeing Haitians on the high seas and forcibly return them to Haiti before considering their claim to political asylum... This process must not stand. It is a blow to the principle of first asylum and to America’s moral authority in defending the rights of refugees around the world.”

During the campaign, Clinton had suggested that, “if I were President, I would -- in the absence of clear and compelling evidence that they weren’t political refugees -- give them temporary asylum until we restored the elected government of Haiti.”

The Washington Post said that Clinton was embracing what appears to be “a grossly illegal” policy. The New York Times called Clinton’s announcement “an unconscionable about-face,” and said, “Forcing desperate refugees back into the face of danger betrays American values and mocks U.S. and international law.” The Boston Globe called Clinton’s decision, “deplorable,” and said, “Clinton’s promise to make it easier for asylum seekers to make their claims at home is no less cynical coming from him than it was when it had a Republican stamp.”

While welcoming Clinton’s initiatives to restore constitutional rule to Haiti, the National Coalition for Haitian Refugees said that “the new Administration’s policies on repatriation of Haitian refugees without a hearing on their claims for asylum will remain essentially the same as those of the Bush Administration,” which it characterized as “illegal and discriminatory.”

John G. Healey, the executive director of Amnesty International USA, said, “It was our expectation, based on pre- and post-election promises, that President-elect Clinton would overturn this illegal and immoral policy. The current policy is unjust. Changing administrations will not alter this fundamental fact about the policy.”

Roger P. Winter, director of the U.S. Committee for Refugees, wrote to Clinton saying, “The choice is not between summarily returning everyone who attempts to flee or allowing them all into Florida. We are convinced that Guantánamo and other locations in the region can be utilized to maintain temporary asylum in the region that would provide the minimal level of protection required by international law and human decency.”

Winter also urged Clinton not to go forward with the case that is currently pending before the Supreme Court. “Given the composition of the current Court, we are fearful that a precedent could be set that would damage the rights of refugees and asylum seekers for years to come.”

Lawyer Delegation Investigates Human Rights, Viability of In-country Processing: A delegation of U.S. lawyers visited Haiti for five days in January to assess the human rights situation and the viability of in-country processing from Haiti. The 12-person delegation split into three groups of four each, visiting the north coast; the Central Plateau in the northwest; and along the southern coast. The delegates also visited Port-au-Prince and met with government officials, including Prime Minister Marc Bazin. They interviewed people in hiding, including persons who had been forcibly repatriated.

Three of the delegates, Prof. Harold Koh of Yale Law School, who is expected to argue the refugees’ case before the U.S. Supreme Court, Lory D. Rosenberg, director of the Legal Action Center of the American Immigration Law Foundation, and Carol Wolchok, director of the Center
“THE FIRST HIV CONCENTRATION CAMP IN HISTORY”

[Prof. Harold Koh also spoke to the Carnegie gathering about the less-well known part of the McNary v. Haitian Centers Council litigation. This involves 268 Haitians who are currently still being held at the Guantánamo naval base. What follows are excerpts from his talk, updated by Koh speaking to us from Guantánamo.]

They came in under the old Bush policy of interdiction and screening. They are not economic migrants. Of this group of 268, half have been found to have a “well-founded fear of persecution.” The remainder are either dependents of those people or have been found to have a “credible fear of persecution.”... They’ve been held for more than a year, incommunicado, behind barbed wire in Guantánamo, without access to attorneys and with inadequate medical care, solely because most of them have the HIV virus....

The eastern district of the Second Circuit...called the policy illegal and enjoined the government from returning these people to Haiti without lawyers. The government responded simply by suspending all hearings so that we as lawyers could not go down and represent them....

They hold these people there in what I think is the first HIV concentration camp in history. Let me give this group a human face:

- There are 35 tiny children--babies, newborns, many of whom have lived their entire lives in U.S. custody.
- Eleven people have T-cell counts under 200. Their immune systems are destroyed. One of them is dying now of tuberculosis and pneumonia....
- Dozens of others have serious medical complications that simply cannot be dealt with on Guantánamo, including four who are so sick that the military asked that they be taken off, only for an INS spokesman to say, “Why should we take them off? They’re going to die anyway.” And when someone asked if that was what he really meant, he repeated it.
- About twelve pregnant women who have HIV, and are therefore at risk of premature delivery of an HIV-infected child, which would be avoided if they were taken off today.
- Four unaccompanied minors who have been wandering around the camp...
- Nine husbands who have been separated from their wives who have been brought to the States to give birth, who have not seen their children ...and who have cried in my arms, asking me why the U.S. government that believes in family values separates them from their wives and prevents them from seeing their children...

They could fit into this room. They could be taken out in a single plane, with a single stroke of a pen.... They pose no health threat because they are monogamous and most of them are dying. They could be brought here by the attorney general in one of three ways: through parole; by humanitarian waiver; or by the lifting of the HIV exclusion, which the Clinton Administration campaigned that it would do upon taking office.

They are desperate. They are contemplating suicide. There have been several attempts in the last few months. They are now [per the phone call from Guantánamo] in the seventh day of a hunger strike. Seven have fainted. They are considering anything to publicize their plight. If they were any group other than the Haitians--if they were Jews, if they were Cubans--I don’t think anyone would think that they would still be there.

for Immigration Law and Representation of the American Bar Association, recently presented their preliminary findings at a briefing at the Carnegie Endowment for International Peace.

A full report is expected shortly.

Human Rights Abuses Continuing Reality “All around us, arrests were taking place, people were going into hiding,” said Wolchok. “The repression is not something that merely happened before and this is the aftermath. It is current, people live with it every day.”

“When we went to meet with people,” said Wolchok, “they would be nervous, they didn’t want to see us. they would tell us to go someplace else, they spoke to us in whispers, and we felt that we endangered them by visiting them.”

“Repression is rampant and it is of a distinctly political nature,” said Rosenberg. She said that a system of repression in which “extortion and political control are inexorably linked” has developed, such that persons suspected of being pro-Aristide are forced to pay money to local section chiefs and other thugs who have resumed power. “Money is extorted to avoid beatings, to avoid being arrested and charged with being a sub-
In-country Processing  Wolchok described the processing of refugee applications in Port-au-Prince. The first stage is in the hands of the International Organization for Migration (IOM), an intergovernmental agency that is working on a contractual basis with the U.S. State Department to prepare the refugee applications.

Wolchok said that the IOM office, where Haitians are instructed to pick up applications for in-country refugee processing, is located on a busy intersection in the heart of Port-au-Prince near police headquarters. The perception among people who have been there and people who won’t go there, said Wolchok, is that the entire area is under surveillance.

Once in the building, a Haitian security guard asks people why they are there and searches them. People are put in a room to fill out questionnaires. Since 90 percent of the people in Haiti are illiterate, most need help filling out a four-page application form. “Form-fillers” sit down at this common table to help people fill out forms.

After completing the forms, the person is expected to go home. For many, this means going back into hiding. The applications are put into one of three categories indicating the priority accorded the applicant based on the degree of persecution feared as gleaned from the application form. Then, although phones are nearly nonexistent and the postal system completely unreliable, those placed at a higher priority need to be scheduled for an interview appointment with the IOM. Essentially, this means that the applicants themselves must take the initiative, usually another trip to the IOM office, to find out if they have been given an appointment.

At the second meeting, a form-filler meets with the applicant and fills out a more complete second form. Afterward, an IOM case worker goes over the completed form with the applicant.

All of the form-fillers, interpreters, secretaries, clerical workers, and guards are Haitian nationals, according to Wolchok.

After the second meeting, applicants are told to leave again. A third appointment is made for them to meet with an Immigration and Naturalization Service (INS) officer.

Wolchok said that the INS officers on thirty-day rotations to Port-au-Prince are drawn from parts of the Service that have minimal experience with refugees and asylum seekers, such as airport inspectors and border patrol inspectors. She said the INS officers often did not know the legal standards for refugee status, misinformed the Haitians about their situation, and demanded more documentation.

According to the IOM, between the start of in-country processing in February 1991 and the end of December, 9,389 “cases,” representing 15,580 persons, have inquired about the process, and 4,949 have filed preliminary applications. The IOM case workers had conducted 2,593 interviews; INS had interviewed 2,464 cases, and had rejected 2,310. INS “conditionally approved” 154 cases, representing 297 persons.

Applicants are not told at the interview if they are approved or denied; they must wait and come back to the IOM office at a later date to learn whether they have been approved or denied. If the person is conditionally approved, he or she is told to return again.

At the subsequent appointment, the applicants bring family members and the INS officer double checks everyone’s identity and the facts of the case. If they are then given a final approval, IOM works with them to obtain medical examinations and placement with a voluntary agency in the United States, travel documents, and so forth.

After all these steps, it is taking an average of one to four months for these people -- the applicants found to be most vulnerable -- to leave the country.

Thus far, the delegates were told that only 61 cases -- 136 people -- had been admitted to the United States.

“Basically, if you wanted to design a system that the most vulnerable and endangered persons would not avail themselves of,” said Wolchok, “this would be it.” In fact, Wolchok said, anyone who goes through the process puts him or herself in further danger.

In-country Processing: Can it Work? Wolchok said, “We all agreed that in-country processing even if it was perfect, even if it was vastly improved beyond realistic expectations, can never be an exclusive remedy.”
She suggested that security concerns needed to be addressed: that the IOM should not be located in a highly visible place; that IOM should not hire local Haitians to work in the office; that people in hiding should not be required to come out of hiding for interviews; that multiple steps with multiple visits to the office should not be required.

She said that anyone involved in refugee processing needs to be trained and experienced in human rights conditions in Haiti, refugee law, and interviewing techniques.

She said that the INS interviewers are using "far too high a standard" for refugee adjudications by limiting refugee status to people who have already been persecuted and rejecting persons with a well-founded fear of future persecution who have not already suffered persecution. She also said that the evidentiary requirements are far too high.

Koh said, "In-country processing is a rich person's option that is available to people who have time to wait, who can afford to be seen repeatedly in public, and who have the means to travel repeatedly." He said that he went to the Central Plateau in the northwest, and that, given the lack of roads, it took his group eight hours to make the 100-mile journey to Port-au-Prince. He said it was "almost inconceivable" that someone from that area without resources could make the repeated trips that would be required for in-country processing.

Frances Sullivan, the Washington chief of mission for IOM, was in attendance at the Carnegie briefing. In response to the delegation's concerns about IOM's role in refugee processing, she said, "We are not merely a travel agency. We have been working on behalf of refugees for forty years." She said that the processing program in Port-au-Prince is not unlike what happens under the Joint Voluntary Agencies (nongovernmental agency representatives that help prepare cases for overseas refugee interviews and processing), except that it is in-country.

Sullivan said that as an intergovernmental body, IOM can act independently of the U.S. government. She said that IOM is "always open" to hearing how processing can be improved and that IOM views it "as only one of many possible solutions" for Haitians.

Rosenberg said, "Unfortunately, there is a pervasive suspicion of the U.S. embassy and its role. It may be totally groundless," she said, "but there is a very strong feeling in Haiti of U.S. complicity -- that there has been too little action against the unlawful, military coup d'etat."

As a result, she said, there is a "lack of credibility throughout the country that is directed to the State Department and imputed to the IOM."

She spoke of meeting with a priest in Gonaives who had documented 800 cases of brutality and other forms of persecution. She asked him what the response would be to setting up a local processing center for those in hiding or those who had been persecuted. In response, he laughed. He asked why people should give information that they suspected would then be used against their families and neighbors.

"I see that as an almost impenetrable barrier," said Rosenberg.

Supreme Court Case The Supreme Court is scheduled to hear oral arguments on the legality of the summary return policy on March 2. How the Clinton Administration will handle the case is still a matter of conjecture.

When the U.S. Court of Appeals for the Second Circuit ruled as illegal the Bush policy summarily returning all Haitians, candidate Clinton said, "The Court of Appeals made the right decision in overturning the Bush Administration's cruel policy of returning Haitian refugees to a brutal dictatorship without an asylum hearing."

Now, President Clinton is faced with the prospect of arguing in defense of a policy which he previously characterized as "cruel," "appalling," and "an error."

Koh said that the government did file a reply brief after Clinton was inaugurated, which continued the government's position. He said that Bush's solicitor general, Kenneth Starr, has offered to come back and argue the case on behalf of the Clinton Administration.

"To the best of my knowledge," said Koh, "that request has not been denied." Koh said that his sense is that the Justice Department career people are trying to put off all decisions until the political appointments are made. There is currently no solicitor general in place (nor an Attorney General) for the Clinton Administration.
U.S. REFUGEE AND ASYLUM PROGRAMS AND POLICIES:
A 1992 CHRONOLOGY

The following is a chronology of U.S. program, policy, and legislative decisions affecting refugees and asylum seekers in 1992. The listing is taken from the pages of Refugee Reports, Volume XIII.

January 10 A final regulation published in the Federal Register announces that refugee cash and medical assistance will be reduced to eight months in FY 92.

January 31 The U.S. Supreme Court votes 6-to-3 to lift a lower court injunction in Florida against the forced return of Haitian boat people. The Court returns the case, Haitian Refugee Center v. Baker, to the eleventh circuit court of appeals for a decision on the merits.

January 31 Refugee Reports predicts an asylum backlog of at least 150,000 by the end of FY 92, and a figure that could be twice that number. The backlog figure at the end of the fiscal year is 215,772.

February 4 The eleventh circuit court, by a 2-to-1 vote, orders the district court to dismiss the Haitian Refugee Center v. Baker case.

February 27 U.S. House of Representatives passes a bill by a 217-to-165 margin calling for a six-month moratorium on forced repatriations of interdicted Haitians.

March 27 A federal judge in New York issues a temporary restraining order in Haitian Centers Council v. McNary, which blocks the government from repatriating Haitians held at the U.S. naval base at Guantánamo Bay, Cuba.

March 27 Temporary Protected Status (TPS) is extended for nationals and stateless habitual residents of Lebanon and Liberia for one year.

March 31 The House of Representatives approves the FY 92 foreign aid appropriations bill, which includes $630 million for the State Department’s Migration and Refugee Assistance (MRA) account and another $50 million for the Emergency Refugee and Migration Assistance (ERMA) fund.

April 20 Immigration and Naturalization Service (INS) Commissioner Gene McNary issues a memorandum stationing asylum pre-screening officers (APSOs) at certain airports and ports of entry to determine whether excludable asylum seekers should be recommended for parole, rather than detained pending exclusion proceedings, into the United States.

April 22 The Supreme Court votes 5-to-4 to lift an injunction issued by a federal judge in New York barring the government from repatriating any “screened in” Haitians at the U.S. naval base at Guantánamo Bay, Cuba, who had been denied the opportunity to consult with legal counsel. The case, Haitian Centers Council v. McNary, was returned to the second circuit court of appeals for a ruling on the merits.

May 4 President Bush writes a letter to President Alfredo Cristiani of El Salvador telling him that the United States would grant “deferred enforced departure” (DED) for one year to Salvadorans who had registered for TPS upon the expiration of TPS on June 30. Salvadorans would have the same rights to remain and work in the United States as under TPS, the President wrote.

May 18 A new procedure goes into effect in parts of the country for filing asylum claims. New applications are filed by mail with INS Regional Service Centers, instead of directly with the local asylum office, and placed in one of four categories to be processed according to higher or lower priority. The intent of the new procedure is to adjudicate more quickly cases considered least likely to be meritorious.

May 21 The Coast Guard announces it will no longer halt refugee boats unless they are in “imminent danger” of sinking or those aboard need medical help.

May 24 Bush reverses course and announces that Haitians intercepted at sea will be returned directly to Haiti without interviews or processing to determine possible refugee status.

June 9 A federal court in Los Angeles approves settlement of a class action suit, Lopez v. INS, under which the INS agrees to advise persons it apprehends without warrant of their rights, including the right to speak with an attorney.

July 21 TPS for Somalis is extended until September 17, 1993.

July 21 Bush orders a $3 million drawdown from the ERMA fund to meet urgent and unexpected needs of Burmese refugees and displaced persons.
July 23 and July 30  At Senate and House consultations on FY 93 refugee admissions, the Administration proposes an admissions ceiling of 132,000, including 10,000 privately funded places. The Administration’s FY 93 budget allows for $207.9 million for the State Department to bring refugees to the United States, plus $227 million in domestic refugee resettlement through the Office of Refugee Resettlement (ORR) in the Department of Health and Human Services. Members of Congress complained that the budget did not match the refugee admissions ceiling being requested.

July 28  The House of Representatives approves a bill that would provide $321.75 million for domestic refugee resettlement in FY 93, $88.25 million less than the FY 92 appropriation for ORR, but significantly more than the $227 million proposed in the Administration’s FY 93 budget request.

July 29  The second circuit court of appeals rules that President Bush’s May 24 executive order on the summary return of Haitian boat people is illegal, and issues an injunction to prevent the government from forcibly returning Haitians without a hearing.

August 1  The Supreme Court lifts the second circuit injunction by a 7-to-2 vote, allowing the Coast Guard to resume forced repatriations of Haitians, but still does not rule on the merits of the case.

August 10  Nationals of Bosnia-Hercegovina are designated for TPS for one year.

August 17  The Bush Administration draws $14 million from the ERMA fund to help repatriate Angolan refugees.

August 25  Bush authorizes $27.2 million in emergency assistance for refugees and displaced persons in former Yugoslavia, Somalia, and Mozambique from the ERMA fund.

October 2  Bush formally authorizes a ceiling of 132,000 refugee admissions for FY 93, including 10,000 privately funded places. The public admissions ceiling includes 52,000 refugees from East Asia, 50,000 from the former Soviet Union, 7,000 each from Africa and the Near East/South Asia, 3,500 from Latin America/Caribbean, 1,500 Eastern Europe, and 1,000 unallocated.

October 6  Bush signs into law FY 93 appropriations bill that includes $381.5 for ORR’s domestic refugee resettlement program.

October 9  Bush signs into law Chinese Student Protection Act, which permits thousands of Chinese nationals who were protected from deportation after the Tiananmen Square massacre to adjust to permanent resident status.

October 18  ORR announces that grants will be made available for public and nonprofit agencies interested in participating in the private resettlement program (PRP), a proposal that would restructure the delivery of cash and medical assistance to non AFDC/SSI eligible refugees by integrating case management, employment services, and transitional cash assistance.

October 24  Bush signs into law Freedom Support Act, which, among other things, includes a two-year extension of the Launtenberg amendment, lowering the threshold standard for refugee status for certain category groups within the former Soviet Union, such as Jews and Evangelical Christians, and certain categories of Southeast Asians.

October 26  The State Department announces that it will accept as refugees 300 former detainees from Bosnia and 700 of their immediate family members.

November 25  The INS again changes its procedure for processing asylum applications, dropping the May 18 procedure of placing new receipts into one of four priority categories. Under the new system, most receipts will only be sorted according to whether or not they fall within the settlement agreement of American Baptist Churches v. Thornburgh, which gave certain Salvadorans and Guatemalans an opportunity for new asylum hearings.

December 22  A federal judge in Seattle, Washington issues a temporary restraining order to delay the PRP. The case, Nguyen v. Sullivan, alleges that the Department of Health and Human Services failed to comply with the Administrative Procedures Act in giving proper notice of the transition from the state-administered cash and medical assistance program to the PRP, and that the PRP will result in irreparable harm to refugees, due to a reduction in benefits and inadequate medical care.
Recent Developments

INCREASED U.S. ASSISTANCE TO EUROPEAN REFUGEES MAY FORCE CUTBACKS ELSEWHERE

Although the federal budget for Migration and Refugee Assistance in FY 93 remains unchanged at $620.7 million—the same amount as in FY 92—there may be significant shifts this year in how that money is spent to assist refugees overseas.

Due to a special congressional earmark of $35 million to assist refugees in Croatia, Slovenia, and Bosnia, there will be a significant increase in funds allocated to refugees in Europe, while all other regions of the world will encounter funding reductions, according to a tentative FY 93 budget plan devised by the State Department's Bureau for Refugee Programs (BRP). BRP oversees all expenditures from the federal government's Migration and Refugee Assistance (MRA) account.

Overseas assistance to refugees in Europe would increase 78 percent in FY 93, while expenditures to the Western Hemisphere and East Asia would decline 47 percent and 24 percent, respectively, according to the plan.

Assistance to refugees in the Near East/South Asia would drop 5 percent, while expenditures in Africa would decline 1 percent.

BRP anticipates spending $208 million on refugee admissions this year, compared to $205 million last year.

Reason for Funding Shift Congress' decision last October to earmark $35 million in FY 93 to assist refugees in Bosnia, Croatia, and Slovenia without expanding the overall MRA budget has triggered the expected funding cutback in other regions.

Because of the Congressional earmark, BRP anticipates spending $39 million in Europe, a $17 million increase over last year.

"It's obvious that the earmarks required some shifting," said one State Department official. Congress also instructed BRP to spend $80 million for refugees to Israel, the same earmark as in FY 92 and $30 million more than BRP had recommended for FY 93.

Assistance to refugees in the Western Hemisphere will total about $4 million, compared to $8 million last year, according to the BRP budget plan. Expenditures for East Asia, which includes Vietnam and Cambodia among others, are expected to be $44 million—a reduction of $13 million.

Assistance to the Near East/South Asia/North Africa, which includes Afghan, Tibetan, and Palestinian refugees among others, will decline nearly $6 million, to $101 million, according to the plan.

Assistance to African refugees is tentatively set at about $110 million, down $1 million from last year.

Although BRP is required to adhere to Congress' special funding earmarks for the former Yugoslavia and Israel, Congress has given BRP more flexibility this year than in the past to reallocate non-earmarked funds among regions without Congressional approval.

BRP officials emphasized that much of their spending plan is tentative and may change repeatedly throughout the year as BRP shifts money among regions to address unexpected refugee crises.

"What the budget ends up looking like at the end of FY 93 compared to our estimates now are likely to be like night and day," one BRP official cautioned.

Extra Money Available BRP officials said they expect repatriation programs in Cambodia, Afghanistan and several African countries could alleviate the refugee burden in those areas during FY 93, justifying the reduced U.S. expenditures there.

State Department officials also noted that Congress may pass a supplemental appropriation during FY 93 to cover shortfalls.

In addition, the Emergency Refugee and Migration Assistance Account, which is separate from MRA, contained $59.3 million at the beginning of FY 93 for refugee emergencies. ERMA's $59.3 million included $49.2 million appropriated by Congress in October, plus $10.1 million unspent from FY 92. BRP officials said they expect to tap ERMA particularly for refugee crises in central Asia.
Despite the cutbacks in most regions, the BRP budget plan projects larger allocations in FY 93 to several international organizations active in refugee relief. The headquarters of the International Committee of the Red Cross (ICRC) is slated to receive a $1.1 million increase, to $9.1 million. In addition, ICRC will receive at least $47 million for its regional refugee work, according to the tentative plan.

BRP expects to allocate $7.7 million to the International Office for Migration, an increase of $1.4 million.

The United Nations High Commissioner for Refugees (UNHCR) will receive at least $109 million this year, according to the BRP budget. UNHCR may receive more than $109 million after BRP decides how to allocate the $35 million earmarked for refugees in the former Yugoslavia. Last year UNHCR received $105 million from BRP for regular programs and $26 million for special repatriation programs.

The United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) will receive $68 million in FY 93, the same level as last year.

NEW INS ASYLUM OFFICERS ASSESSED; OVERALL IMPROVEMENT, BUT...

In December, Harvard University's National Asylum Study Project published an interim assessment of the Immigration and Naturalization Service's (INS) new asylum process. The interim report is specifically geared to "help identify problems in asylum adjudication" after the first year of study.

The study noted an improvement over the pre-October 1990 system under which asylum cases were adjudicated by INS examiners under the supervision of local district directors. Asylum adjudications at that time were criticized for not being sufficiently insulated from the INS enforcement function and for giving undue deference to State Department advisory opinions, which was said to inject a foreign policy bias as well.

The new corps, under supervision and training from the INS central office, was created as a way of distancing the asylum adjudication function from enforcement; the INS also established its own documentation center to create independence from perceived State Department biases.

Improvements Noted  "On the whole," the study found, "asylum officers appear more knowledgeable about asylum law, more polite, and if not in every case more knowledgeable about country conditions, at least more willing to listen than the previous INS examiners."

Under the previous system, applicants from countries considered hostile to the United States, communist countries, such as the Soviet Union, and others, such as Iran, had high approval rates, whereas certain other countries, considered "friendly," had low approval rates, even when their human rights records were dismal. During the 1980s, asylum approval rates for Salvadorans, Guatemalans, and Haitians were less than 3 percent.

The FY 92 approval rates showed a notable improvement in this pattern. The approval rates for Salvadorans, Guatemalans, and Haitians, stood at 28, 21, and 31 percent, respectively.

The study conducted interviews with 290 attorneys and legal workers concerning the quality of asylum interviews. In general practitioners described the new INS officers as "pleasant," "polite," "friendly," or "courteous." One practitioner commented, "I have never met an INS officer who was polite before; these people are different." Another said that "it makes a big difference that the new asylum officers try to be friendly and cooperative."

Based on the interviews, about 8.5 percent of the original 82 asylum officers appeared still to exhibit "the hostility or lack of interest common to INS's prior system of asylum adjudication." The unevenness among asylum officers, led one practitioner to say, "It's like Russian roulette."

Gregg Beyer, the director of the Asylum Branch of the INS Central Office on Refugee, Asylum and Parole, told Refugee Reports, "While we appreciate that the purpose of the report was to identify problems, and we think public scrutiny is helpful, we were disappointed that the study concentrated on what was left to do without adequately showing the distance we have gone."
Beyer said that the Asylum Branch is "already working on" many of the recommendations made by the report.

**Backlog**  
The asylum officers issued 10,923 decisions in FY 92, approving 4,019, for an approval rate of 36.8 percent, in contrast to the 23.6 percent rate under the INS district directors. The backlog of cases grew from 114,044, when the asylum officers started in April 1991, to 215,772 at the end of FY 92.

Despite the appearance of a major problem with the backlog, the study concluded that the INS "is not facing an asylum crisis in new case filings." There were fewer new cases filed in FY 92 than anticipated: 103,447 new applications were received, but about 30,000 of them were due to the settlement of a class action suit, the American Baptist Churches v. Thornburgh, and those, for the most part, were being temporarily deferred. This left about 74,000 cases in need of decision, less than the 80,000 new cases projected at the beginning of the year.

Beyer said that a major reason for the increase in the backlog was the diversion of asylum officers to Guantánamo for use in the screening of interdicted Haitians. "Most of the time, about one-third of our officers were down there. At one point, more than half of the asylum officers were in Guantánamo. And, at the time, the NGOs [nongovernmental agencies] were urging us to do this."

**Quality versus Quantity**  
The INS has established a goal of three hours per case completion, allowing about 45 minutes for the interview itself.

"Preliminary results show that the pressure to increase productivity is affecting the interviews of applicants, resulting in greater impatience of asylum officers at the interview and more superficial questioning of applicants," said the study. It estimated that in most cases involving an interpreter, the 45 minute interviews were really closer to 22 minutes of actual dialogue, and that about half of that time would be spent on introductions and explanation of the asylum process and biographical information.

The study noted "troubling signs" in the quality of decision-making, including some incorrect understanding of fundamentals of asylum law on the part of some of the officers. However, the study also noted that "the INS has taken several steps recently to improve the quality of decision-making, including the creation of temporary quality assurance teams in each asylum office."

The National Asylum Study Project recommends that the INS should "set realistic goals for asylum officers, which should be goals and not strict time limits." It also suggests that the amount of time set as a goal per case should be increased to allow more flexibility in assessing individual cases and that other tasks that asylum officers are required to perform, such as preparing orders to show cause, should be eliminated to allow asylum officers to concentrate exclusively on adjudications.

"Three hours is a goal, not a ceiling," said Beyer. He said that interviews can and do take longer. "We are currently closer to five hours per case completion than three," he said, "but three hours remains our goal." Beyer said that these are "focused interviews," analogous to a doctor's office appointment. "We are not holding social hours." Beyer said it is important for asylum claimants to come with well-prepared applications so that time can be spent discussing the core points of the asylum claim.

**Administrative Problems and Reforms**  
The new INS asylum system has been plagued by inadequate financial resources since its inception. This has been especially evident in the lack of clerical support for the asylum officers. After the first 82 officers were hired, the study said that about 20 clerical positions went unfilled for about six months for budgetary reasons.

By April 1992, the number of asylum officers nearly doubled from 82 to 150, but the number of clerical positions remained the same. Again, there was a six month delay in filling clerical positions, according to the report. "Thus, for six months the same number of clerks worked at offices some of which had almost tripled in asylum officers."

In May 1992, the INS announced a new plan to use INS Regional Service Centers (RSCs) to open case files and adjudicate work authorization. "This plan," said the study, "while expediting processing for the most part, has created new problems, such as erroneous denials of work au-
authorization, erroneous classification of cases for expedited processing, incorrect return of applications, and a complicated filing process requiring another address and location."

Since the beginning of the new system, there have been procedural changes in methods used for filing and scheduling asylum applications. The study said that "shifting and perhaps needlessly complex procedural requirements...hampered administration." The process for filing for work authorization, the study terms "extremely cumbersome."

The new documentation center has also been handicapped by limited funding, according to the report. "Although it hired excellent caliber personnel," it said, "the limited staffing and funding has been inadequate for the work."

Beyer said that new procedures are now being developed for filing all employment authorization requests through the RSCs.

**The Haitian Boat Exodus: Screening** The study also looked at the screening interviews conducted aboard Coast Guard cutters or at the Guantánamo Bay naval facility in Cuba for Haitians who were interdicted between October 1991 and May 1992.

Screening was conducted by the INS asylum officers corps using a standard of a "credible fear of persecution," considered to be a lesser standard than the "well-founded fear of persecution" standard used for full-fledged asylum adjudication in the United States.

The INS conducted 36,596 screening interviews, and screened in 10,319, or 28 percent. The study noted that here more than in any other instance the INS interviews seemed unduly influenced by foreign policy considerations. The approval rate fluctuated wildly, although the human rights conditions in Haiti remained basically the same. In mid-January, the report found, 85 percent of the Haitians interviewed were screened in; during one period in April, however, the approval rate dropped to 2 percent. This occurred at a time when a State Department report on conditions in Haiti was being circulated to asylum officers and their supervisors, according to the study.

The portion of the study devoted to the treatment of Haitians was based primarily on interviews with 33 Haitians who were screened in from Guantánamo Bay and 13 people who were employed as interpreters at Guantánamo for screening interviews. The sample of screened in Haitians who were interviewed for the study included seven who were interviewed at sea. They were more negative about their interviews than those whose interviews were conducted on land. In comparison with the interviews at sea, the study observed that interviews at Guantánamo Bay "tended to be longer, occurred in greater privacy, and were subject to quality control review."

One of the Haitians interviewed for the study was a "double-backer," the name given for people who were screened out and forcibly repatriated, and who fled from Haiti a second time. He said that the cutter interview lasted five minutes and that the interviewer showed him "no respect." By contrast, the same man said that his interview at Guantánamo on his subsequent journey lasted about an hour, that he was treated with respect, and understood the questions he was being asked.

**Disparate Treatment for Screened-in Haitians for Full Asylum Hearings** Those Haitians screened in from Guantánamo and brought to the United States were subjected to prejudicial, accelerated, and politicized treatment, the report alleges.

In Miami, the INS scheduled interviews for screened-in Haitians on an expedited basis, calling upon nongovernmental agencies there to handle 12 interviews per day, which the nongovernmental service providers were "unanimous" in opposing. The INS in Miami ultimately decided to schedule four cases a day, the report said.

The study also said that the Newark office initially placed a higher priority on Guantánamo Bay asylum cases as well, although it said that INS officials there denied this.

The only other nationalities at that time who were designated for expedited interviews were those from countries such as Mexico, Canada, and from Western Europe, whose cases were considered to be "presumptively frivolous." However, the study points out, "the Haitian cases would be clearly nonfrivolous under INS's own terms since the INS screened all these applicants into the United States at Guantánamo Bay after
finding that they had a 'credible fear' of persecution."

While acknowledging that there was, at the outset, expedited treatment of Guantanamo Haitian cases, Beyer said that this was quickly dropped. He said that at this point the Miami office is only completing one such case per day, due to the inability of the NGOs there to keep up with the volume.

The Justice Department's Asylum Policy and Review Unit, (since dissolved), reviewed the INS asylum officers' preliminary assessments of the screened-in cases, which were specially marked for them. In 33 of the first 43 assessments, asylum officers recommended to grant asylum, said the report. APRU recommended reversal of 18 of the assessments to grant and reversal of only one of the assessments to deny, the report found.

The study also reported local practitioners saying that asylum officers "said that supervisors in Washington, D.C. told them to rewrite decisions.... Two asylum officers specifically said to practitioners representing Haitians: 'We don't make the Haitian decisions; we send them to the Department of State.'"

Even before many of the screened-in Haitians had been interviewed in the United States, the INS deputy commissioner said publicly that 90 percent of their cases would be denied.

The State Department also became overly involved in these cases, the report charges, compromising fundamental principles of confidentiality, and placing the families of asylum seekers in danger by sending U.S. embassy personnel to their homes to check on their stories.

Beyer said that any statement that decisions on applications were made by the State Department is "completely inaccurate." He also said that APRU did not have veto power over INS asylum officer decisions and that "in the majority of cases we did not follow their recommendation to deny."

He also said that the deputy commissioner's statement on probable denial rates was a "gut reaction" to a question, not a statement of policy.

Unrepresented Asylum Seekers Missing from Preliminary Assessment Because the study drew largely on the interviews with legal representatives, the study revealed little about unrepresented applicants. Yet, the study noted that unrepresented applicants represent the "high majority" of asylum cases. INS officials estimated in informal interviews that they represent about half the applicants in five of the asylum offices and about 80 percent in the two largest offices, Los Angeles and Miami. The authors of the study said that the treatment of unrepresented asylum seekers would be covered in the National Asylum Study Project's final report.

The 70-page report, An Interim Assessment of the Asylum Process of the Immigration and Naturalization Service, is available for $5 from Cambridge and Somerville Legal Services, 432 Columbia Street, Suite 16, Cambridge, MA 02141. Tel. (617) 494-1800; fax (617) 494-8222.

Updates

- On January 8, a federal judge in Seattle, Washington issued a preliminary injunction preventing the Department of Health and Human Services (HHS) from terminating the Refugee Cash and Medical Assistance Program or issuing grant awards for the Private Resettlement Program (PRP), also known as Transitional Resettlement Program (TRP). (See Refugee Reports, Vol. XIII, Nos. 10 and 12.)

  On January 26, the judge heard oral arguments in the case, and took the case under advisement. The judge is focusing solely on the issue of whether or not HHS complied with the Administrative Procedures Act (APA) in initiating PRP. However, allegations related to the quality of PRP and the proposed new refugee medical program, along with other HHS actions, are also part of the complaint, and the judge will address these if necessary after the APA issue is resolved.

  Observers familiar with the case anticipate a ruling in mid-February. If the judge issues a permanent injunction, the case may be appealed to the U.S. Court of Appeals for the Ninth Circuit. Until the judge makes a final determination in the case, the preliminary injunction he issued January 8 remains in effect.
All but one of the political appointees at the Immigration and Naturalization have resigned since the Inauguration. INS Commissioner Gene McNary left on January 20. His departure was followed by deputy commissioner Ricardo Inzunza and others shortly thereafter. Chris Sale, the executive associate commissioner for management, the highest-ranking career officer, has been tapped as acting commissioner. The only political appointee who was asked to stay on is G. Joseph Rees, III, the general counsel.

More than 60,000 refugees from the former Soviet republic of Tajikistan have fled to Afghanistan. Hundreds are thought to have died crossing the icy waters of the Amu Darva River, which separates the two countries, while others, particularly children and older people, have died as a result of the bitter cold in makeshift camps hurriedly set up for them by the UN High Commissioner for Refugees (UNHCR). Another 80,000 displaced Tajiks are trapped on the other side of the river without food or shelter. They are prevented from either receiving assistance or fleeing to Afghanistan by one of the factions in the Tajik civil war.

UNHCR was able to mobilize quickly to assist many of the refugees because it was already present in the area to help Afghan refugees returning from exile in Pakistan and Iran. Some of the Tajik refugees have also been sheltered by local people, many of whom are ethnic Tajiks, and others still remain out in the open in inaccessible border areas. Relief efforts to all the refugees have been hampered by the remoteness of the region, the sub-freezing temperatures, and the quick pace of the influx.

The day before leaving office, President Bush authorized a drawdown of $5 million from the Emergency Refugee and Migration Assistance (ERMA) fund to assist refugees and displaced persons from Tajikistan. The funds will be distributed through multilateral agencies.

On January 15, the government of Bangladesh announced that 2,752 Burmese Rohingya refugees had repatriated to Burma, bringing to 17,424 the number of refugees who have repatriated. UNHCR officials and private agency workers in the region have expressed concern that at least some of those who repatriated were forced to do so by the Bangladeshi authorities, a charge that Dhaka denies. In December, the High Commissioner for Refugees, Sadako Ogata, complained to the government of Bangladesh about the repatriations and suggested that UNHCR might have to rethink its role in Bangladesh if involuntary repatriations continued.

After the January 15 repatriations, the Bangladeshi government declared a moratorium on further repatriations until January 25 to allow time to resolve its differences with UNHCR. At an informal meeting of agencies concerned with Burma and Burmese refugees held at the U.S. Committee for Refugees' office in Washington, D.C. on January 22, Bangladesh's Foreign Minister, A.S.M. Mustafizur Rahman, said that beginning January 25, UNHCR would be allowed to interview refugees privately who are scheduled to repatriate to ensure that they are doing so voluntarily.

Following a series of bandit attacks in northeast Kenya that left 18 dead, the Kenyan government announced on January 19 its intention to expel 400,000 refugees from Kenya, including 320,000 Somalis.

"The number of refugees in Kenya from Somalia, Ethiopia, and Sudan has...seriously compromised the security of this country," Wilfred Kimalat, Kenya's permanent secretary for internal security, said in a nationwide radio broadcast.

Kimalat asked the UNHCR to begin forcible repatriation of the refugees. UNHCR refused the request, noting that "it would be contrary to UNHCR's mandate to repatriate refugees to an unsafe and dangerous country."

Kenya subsequently shelved its threat after discussions between UNHCR and Kenyan officials. Informed sources speculated that Kenya's threat to expel refugees was meant to exert pressure for more international aid, which major donors suspended in 1991 pending economic and political reforms in the country.

Renewed civil war in Angola has shattered plans to repatriate 300,000 Angolan refugees.

Following last September's peaceful presi-
dential elections, which United Nations observers judged to be "reasonably free and fair," election loser Jonas Savimbi and his UNITA rebel army launched attacks throughout the country. Fighting between UNITA and government troops is reportedly the fiercest of the 17-year war. The United Nations has evacuated most of its staff.

Many of the 90,000 Angolan refugees who returned home prior to the election are fleeing again to neighboring Zambia and Namibia, relief workers report. Some 200,000 Angolans are internally displaced by the recent fighting, according to the Angolan government.

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Projects and Programs

TELECOMMUNICATIONS PROGRAM MOTIVATES STUDENTS TO RESPOND TO REFUGEE NEEDS

A three-week unit on refugee awareness geared to high school students is being broadcast by satellite to Oregon's 80 school districts as part of a current events program called "The World Today." The program, which features appearances by refugees and government officials, inspired Oregon students to organize fundraisers for a local refugee assistance organization.

Designed, written, and hosted by educator Susan Boothe Larson, "The World Today" lessons are based on media research and contacts with the office of the State Refugee Coordinator, legislators and refugees themselves. Boothe Larson believes that the personal stories are what "really get students interested in the issues."

Robert Page, a social studies teacher at the local high school in Willamina, Oregon, says his students "really were hit hard" by the information about and images of Bosnians in Croatia. When his students voiced interest in helping the Bosnians, Page suggested they contact Sponsors Organized to Assist Refugees (SOAR), a Portland-based private voluntary agency. SOAR's director, Gary Gamer, indicated that funds were needed for programs which will serve the needs of refugees eventually resettled in Oregon.

Willamina High, like many of the schools which participate in the telecommunications program, is a small, somewhat isolated logging community which has been hard-hit by the recession. Page believes that students at remote and small schools like Willamina derive particular benefit from the telecommunications program. He remarked that students realize that they "don't have it as bad as [they] thought."

Both Page and Boothe Larson are pleased that Willamina's students are motivated by what they learn to the extent that they want to respond to an international tragedy. The fundraising efforts convinced many of Page's students that they are not "stuck in a small town but that they can really go beyond their little school."

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Resources

FOUR-PART PUBLIC TELEVISION SERIES WILL FEATURE REFUGEES WORLDWIDE

About a dozen public television stations across the nation will air a four-part documentary series about refugees and other uprooted people in coming weeks.

The series, "The Dispossessed," notes that worldwide refugee populations have increased by 50 percent during the past five years—a average of more than 2,500 newly uprooted people per day.

Part one of the series, "A World on the Move," will give viewers an overview of some of the world's largest refugee camps in Malawi, Thailand, Pakistan, and Hong Kong. Part two, "Strangers in Their Own Land," will depict the plight of internally displaced persons, with particular focus on the Philippines.

Part three, "No Going Back," will examine repatriation programs and the cruelty of forced repatriation. Part four, "Fortress Europe," will explore the response of European countries to refugee influxes.

The four programs, produced by Yorkshire Television in London, are each approximately one
hour in length.

No uniform national schedule exists for airing "The Dispossessed." Most local public television outlets airing the series will broadcast the programs during February, March, or April.

WHMM-TV in northern Virginia (including Washington, D.C.) plans to air the series on consecutive Thursday nights at 10 p.m., beginning Feb. 11. WHMM will repeat each segment Sundays at 9 p.m., beginning Feb. 14.

In the New York City area, WLIW channel 21 will air the series on Thursdays beginning March 4. Stations in Denver, Atlanta, San Jose, Provo/Salt Lake, Tampa, and New Jersey have also scheduled "The Dispossessed."

GUATEMALAN REFUGEES BEGIN RISKY REPATRIATION

After years of discussion, negotiation, and planning, the first collective repatriation of Guatemalan refugees living in Mexico took place on January 20. Some 2,480 refugees returned to Guatemala accompanied by 240 health workers and international observers, and escorted by officials of the Guatemalan government, UN High Commissioner for Refugees (UNHCR), and the International Committee of the Red Cross (ICRC).

A majority of the 41,000 remaining registered Guatemalan refugees in Mexico are also expected to repatriate in future collective returns over the course of the next two years. Several thousand refugees have already repatriated individually or in small groups during the past five years, but the majority of the refugees view their organized, collective return as being significantly different politically from the individual repatriations.

While the refugees are happy, if somewhat nervous, about returning home, according to El Retorno: Guatemalans’ Risky Repatriation Begins, just published by the U.S. Committee for Refugees (USCR), the refugees' return is worrisome. "The social and political climate in Guatemala remains more conducive to refugee flight than to refugee repatriation," the report says. "Few of the social injustices that the refugees experienced before fleeing have been corrected. The Guatemalan military...continues to violate human rights, largely with impunity."

El Retorno's author, Refugee Reports staff writer Hiram A. Ruiz, traveled to southern Mexico and Guatemala in 1992 to study first-hand the refugees' situation in Mexico, and the prospects for them once back in Guatemala. In Mexico, he found that government officials, UNHCR, and the refugees themselves have significantly different perceptions of the situation of the refugees living in the settlements in the states of Campeche and Quintana Roo. The Mexican government and UNHCR have ended food aid to the refugees there, saying that they are now self-sufficient in food. But the refugees deny this, saying that the land they have been given does not yield enough for the refugees.

Having made the difficult decision to repatriate, the refugees must now face hostility and uncertainty upon return. While the churches and many nongovernmental agencies and other groups have organized to help and support the returnees, many others are not happy to see them back. The Guatemalan military remains wary of them. As recently as December, Guatemala's defense minister claimed that members of Guatemala's insurgent groups, which continue to fight the military in many of the same areas where the refugees are returning, had infiltrated among the returning refugees. Many observers worry that although Guatemala's civilian government signed a repatriation agreement with the refugees on October 8, 1992 that, inter alia, guaranteed the returned refugees' security, the military cannot be trusted to honor that agreement.

The report urges the Guatemalan government, its military, and the refugees to honor all the terms of the repatriation agreement. It called on international and nongovernmental organizations to help ensure the returnees' safety and well-being by establishing presences in the areas of return, providing agricultural assistance, health care, technical expertise, and, by their very presence, extra security. El Retorno also calls on the U.S. and other governments to step up pressure on Guatemala to substantially improve the hemisphere's worst human rights record.

Refugee Reports subscribers will be receiving copies of El Retorno free of charge. Additional copies may be ordered for $4 from USCR, 1025 Vermont Ave., NW, Suite 920, Washington, DC 20005. Tel. (202) 347-3507; Fax (202) 347-3418.
REGISTERED REFUGEES AND DISPLACED PERSONS
WITHIN FORMER YUGOSLAVIA
(As of January 11, 1993)

<table>
<thead>
<tr>
<th>Present Location</th>
<th>From Croatia</th>
<th>From Bosnia and Herzegovina</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Croatia</td>
<td>253,000</td>
<td>288,000</td>
<td>573,000*</td>
</tr>
<tr>
<td>UNPAs**</td>
<td>87,000</td>
<td>--</td>
<td>87,000***</td>
</tr>
<tr>
<td>Serbia</td>
<td>161,000</td>
<td>292,000</td>
<td>453,000</td>
</tr>
<tr>
<td>Bosnia and Herzegovina</td>
<td>70,000</td>
<td>740,000</td>
<td>810,000**</td>
</tr>
<tr>
<td>Montenegro</td>
<td>7,000</td>
<td>57,000</td>
<td>64,000</td>
</tr>
<tr>
<td>Slovenia</td>
<td>2,000</td>
<td>48,000</td>
<td>50,000</td>
</tr>
<tr>
<td>Macedonia</td>
<td>3,000</td>
<td>29,000</td>
<td>32,000</td>
</tr>
<tr>
<td><strong>GRAND TOTALS</strong></td>
<td><strong>583,000</strong></td>
<td><strong>1,454,000</strong></td>
<td><strong>2,069,000</strong>**</td>
</tr>
</tbody>
</table>

* Includes 32,000 registered refugees from other republics of former Yugoslavia.

** United Nations Protected Areas in Croatia.

*** Estimated.

**** Does not include some 986,000 persons also assisted by UNHCR. All figures are rounded to the next thousand.

Source: UNHCR
CIVILIANS, HUMANITARIAN ASSISTANCE STILL HELD HOSTAGE IN BOSNIA

Recently, Refugee Reports staff writer Tom Argent traveled to the former Yugoslavia with a delegation representing InterAction’s Committee on Migration and Refugee Affairs. This month’s lead story focuses on recent developments in Bosnia and Bosnia-related initiatives in the United States.

The conflict in Bosnia and Herzegovina has caused more than 100,000 deaths. Continued fighting has created the largest new refugee population in the world: more than one million refugees and nearly one million people displaced within Bosnia. “Ethnic cleansing,” detention and rape camps, war crimes, and other crimes against humanity are hallmarks of the conflict that has to date avoided provoking a forceful response from the outside world. Recently, a flurry of activity in the United States has at last begun to focus the attention of the Administration and Congress on the continuing tragedy in Bosnia. In January, at least seven resolutions concerning Bosnia were introduced in Congress, and in February, U.S. Secretary of State Warren Christopher outlined the long-awaited Clinton Administration policy on Bosnia.

Also in February, Sadako Ogata, the UN High Commissioner for Refugees, announced the suspension of most UNHCR humanitarian relief operations in Bosnia, only to have her decision overruled days later by UN Secretary General Boutros Boutros-Ghali. Shortly thereafter, the United States announced its intention to employ airdrops to deliver food and medicine to isolated Bosnian communities. Today, although the human rights abuses that create refugees in Bosnia continue unchecked, increased activity in the United States may create an opportunity for providing greater humanitarian assistance to those in need.

The Bosnian Winter
Prior to the onset of winter, UN officials predicted up to 400,000 deaths from exposure and starvation in Bosnia. The U.S. Central Intelligence Agency gave a “best case” scenario of nearly 40,000 deaths. In late December, as some of the most vulnerable of Sarajevo's
elderly residents froze to death in their beds, it appeared that such predictions might come true. However, the combination of an uncommonly mild January and the relief supplies that did reach some of those in need prevented, for the time-being at least, widespread death from starvation and exposure in central Bosnia. As one Sarajevan told Refugee Reports, "It truly is a miracle--the mildest winter in 75 years."

Nongovernmental organizations (NGOs) operating in central Bosnia have had some success in jump-starting local industries to produce winterization materials. Bob DeVecchi, president of the International Rescue Committee (IRC), told Refugee Reports, "A little seed money goes a long way. With a few hundred thousand dollars, we were able to help get 17 factories working again to produce things like plastic sheeting that otherwise would have been imported. We even got two coal mines near Sarajevo into production."

In eastern Bosnia, however, reports of death from starvation and exposure in besieged communities are more numerous than in central Bosnia. The full impact of winter will perhaps not be known until the international community gains access to all regions of Bosnia. But even if the entire winter season remains mild, armed men will likely continue to prevent humanitarian assistance from reaching those in need.

**Women and Children** Widespread press coverage in the United States and elsewhere of abuses suffered by civilians in detention, including women in so-called rape camps, has raised concern for the psychological state of victims and, in the case of female victims, the children that may result from such abuses. Francoise Derron, an International Committee of the Red Cross (ICRC) delegate in New York, told Refugee Reports that ICRC was able neither to confirm nor deny the figure of 20,000 rapes in Bosnia suggested by other sources. Said Derron, "For obvious reasons, someone who has suffered torture or violence--including rape--is not inclined to volunteer a lot of information to people she does not know. There are indications that rape occurred, but to what extent we really don't know."

From the start of the humanitarian assistance operation in Bosnia, the emphasis has been on providing supplies--food and shelter material--necessary to survive the winter. It has been only recently that UNHCR's social services program has gotten underway. As part of that program, UNHCR dispatched a senior coordinator for refugee women to Bosnia and Croatia to examine the potential for activities on behalf of women war victims and of children. Although UNHCR has not attempted to quantify the number of cases of rape that occurred in Bosnia, it is concerned that many victims remain within that dangerous environment. UNHCR's coordinator, Ann Howarth, states in her mission report, "It is clear...that many victims are in areas of Bosnia where it is presently impossible to reach them." The obstacles to providing assistance to victims of violence are more numerous in Bosnia than in neighboring Croatia. According to the Howarth report, "In Bosnia, community outreach through local staff aimed at mobilizing community self-help appears to be the only possible activity given the precarious [security] situation...."

Workers on the ground in Bosnia believe it is too early, and wartime conditions still much too difficult, to institute formal support programs for victims of violence and trauma. One NGO worker in Bosnia told Refugee Reports, "People have to understand that most victims of rape who are still in Bosnia are concerned first and foremost with just living through this whole nightmare." The interventions underway in Bosnia operate under the umbrella of general public health programs, with the ultimate goal of identifying--in a non-stigmatizing way--victims who may eventually benefit from more specialized programs. The NGO employee added, "At this stage, our intervention is aimed at just getting women to maintain relationships under incredibly stressful conditions."

Concern over the ultimate fate of children that may be born to victims of rape has produced numerous inquiries in both Europe and the United States regarding the possibility of adopting unwanted children. In her report, Howarth emphasizes that such a "solution" is the least desirable option. "It must be made clear to individuals and organizations that international adoption is a last resort for these children," she writes. UNHCR is involved in discussions with
the government of Croatia to outline conditions under which it may be appropriate for children born in Croatia to be adopted by people from outside the region, and the procedures to be followed should adoption become necessary.

Sources in both Bosnia and Croatia told *Refugee Reports* that many women who had become pregnant as a result of rape were opting for abortion. But given the sensitivity of the subject, relatively little information exists regarding how many pregnancies resulting from rape have been carried to term. In one 1992 survey of OB/GYN hospitals in Croatia, officials reported that 38 refugee women were pregnant as a result of wartime rape in Bosnia. Of these 38 pregnancies, at least 31 had already been aborted. But in 1992, none of the hospitals made a systematic effort to identify rape victims. The figures reported are for those women who volunteered information, and are likely a gross undercounting of the true situation.

**Continuing Flight**  Negotiations aimed at ending the conflict in Bosnia have been underway since September 1992. Overseen by former U.S. Secretary of State Cyrus Vance, representing the UN, and former British Foreign Secretary David Owen, representing the European Community, a plan emerged in January that foresees dividing Bosnia into ten highly autonomous regions in which one group or another would be in a clear majority. To date, both the Bosnian government and the Serb nationalists have rejected the plan.

In late January, when it appeared the "Vance-Owen" map intended to place areas with sizeable Muslim populations under Croat administration, fighting erupted between Bosnian government troops—most of whom are Muslim—and the Croat militia in Bosnia. An officer with the UN Protection Force (UNPROFOR) who was present at the scene told *Refugee Reports*, "The Croats were using tank fire against individual Muslim houses in order to get the Muslims to leave the area. Only by telephoning Geneva [where the Bosnian Croat leader was engaged in talks], could we get them to stop." This Croat-instigated ethnic cleansing was, in the view of one UNHCR official, "designed to make the reality on the ground look like the map in Geneva." In February, Croat forces were again accused of ethnic cleansing, this time forcing Serbs from the Croat-controlled city of Mostar.

At the same time, fighting continued to rage in eastern Bosnia. Whether as a result of direct attacks against them, or as simply a consequence of more traditional warfare between armies, thousands of Muslims continued to flee in the direction of the government-controlled city of Tuzla, while thousands of Serbs fled across the border into Serbia. In the southeast, Serb-instigated ethnic cleansing in the town of Trebinje forced 4,000 Muslims to flee across the Montenegrin border.

Although Croatia’s border has been closed officially to Bosnian refugees since July 1992, tens of thousands of refugees have continued to cross into Croatia. One UNHCR official told *Refugee Reports*, "From December 15 to January 15, 10,000 Bosnians entered Croatia through one area alone. Who knows how many entered through other regions."

**Humanitarian Assistance**  From the time that large-scale conflict began in Bosnia in April 1992, most European countries have been unwilling to provide even "temporary protection," much less full-fledged refugee recognition, to large numbers of Bosnians. More distant countries, including the United States, likewise have been unwilling to resettle large numbers of refugees. Ignoring the continuing human rights violations, outside countries likewise refused to intervene militarily. Attention, therefore, focused on providing humanitarian assistance to Bosnian civilians, rather than confronting directly the abuses they face.

Early in the crisis, UN Secretary General Boutros-Ghali asked Ogata to make UNHCR the "lead agency" in the UN relief effort that targets some 1.6 million people at risk in Bosnia. Although UNHCR has risked the lives of its employees in providing assistance within Bosnia, it has been, according to one NGO relief worker in Bosnia, "the wrong organization trying to do the right job in the wrong place at the wrong time."

The UNHCR approach, according to a report submitted by Tom Brennan, a contractor with the U.S. Office of Foreign Disaster Assistance (OFDA) who spent five months in the region, places undo emphasis on
nonconfrontation and even-handedness, and does not fit in well with the wartime realities of Bosnia. The December 1992 report criticizes the practice of attempting to negotiate passage for humanitarian convoys and proposes that doing so gives Serb militias too much sway over humanitarian operations. "The net effect," it says, "is that UNHCR has had only limited success in delivering relief supplies to the population of Sarajevo, and almost no success to date in reaching critically at-risk populations in a number of other important centers in central and eastern Bosnia."

**How Much Force To Deliver Aid?** Although UN Security Council Resolution 770, passed in August 1992, provides a mandate for the use of "all necessary measures" to deliver humanitarian relief, UNPROFOR, which escorts UNHCR convoys in Bosnia, has been unwilling to interpret Res. 770 as permitting the use of lethal force to deliver aid. This is because Res. 770 was not drawn up under Chapter 7 of the UN Charter, the section that permits use of force. Some argue that the present approach, in practice now for many months, has given the wrong signal to those who want to prevent humanitarian
assistance from reaching their perceived enemies. As one UNHCR official in Sarajevo told Refugee Reports, "Maybe if we had tried something different seven months ago, we wouldn't be in this position now."

Another UNHCR official who has witnessed the relief operation since its inception suggested that the next logical step might be to use only military drivers, as with convoys traveling in eastern Bosnia, along all routes thought to be particularly dangerous. Said the official, "With the military, you can say 'Take this food there.' And the people involved will say, 'Yes sir.'"

As the UNHCR operation progressed, it was clear that the High Commissioner was extremely concerned with the risks those involved in the relief effort faced in delivering humanitarian assistance. Ogata keeps on her desk a piece of a downed Italian relief plane in memory of the four servicemen who were killed in that September incident.

On February 2, a UNHCR Croatian interpreter was killed in a shelling attack on a lightly escorted UNHCR convoy north of Mostar. Following the attack, UNHCR suspended operations along the road, the main all-weather route to central Bosnia, and restricted central Bosnia-bound convoys to a less desirable mountain track to the west. This disruption came on the heels of earlier convoy stoppages prompted by continued fighting between Bosnian government troops and Croat forces in the region. When Croat forces began preventing local Muslim drivers, who comprise a large portion of UNHCR's pool, from entering regions under Croat control, UNHCR trucking capacity from its Metkovic base in Croatia was cut by about one-quarter.

Likewise, NGOs, without the benefit of "neutral" international drivers, were largely unable to move their materials into central Bosnia because of the Croat-Bosnian government tensions.

At the same time, UNHCR convoys still could not make regular deliveries to besieged towns in eastern Bosnia because Serb militias, despite assurances given by titular Serb leaders, refused to permit aid convoys to pass. In testimony on January 25 before the U.S. Commission on Security and Cooperation in Europe (the Helsinki Commission), James Kunder, OFDA's director, said that "the situation in Bosnia-Hercegovina may be best characterized as a crisis of access." Kunder added, "People are dying in the hills of Bosnia now for one dramatically simple reason: men with guns are denying access to these victims."

In eastern Bosnia, some 200,000 people are largely cut off by Serb militias from the relief effort that has reached central Bosnia. Representatives of eastern Bosnian communities who take supplies by horse and foot to areas that UNHCR's trucks and international drivers cannot reach told Refugee Reports that they were able to move about one ton of supplies per night. Goods moved in this manner are the only supplies that have reached some communities, such as Cerska, since hostilities began nearly one year ago. In at least one community, doctors have been forced to perform amputations without anesthesia because none was available.

Dumfounded that the world has done relatively little to assist victims in Bosnia, one representative pleaded, "Are you blind? Can you not see what is happening here?" Another added, "We are tired of explaining this to you [foreign delegations]. Why do you not believe us?"

The inability of UNHCR to get food and medicine to largely Muslim regions of eastern Bosnia prompted Bosnian government authorities to declare that they would not permit aid to be distributed in Sarajevo until assistance reached the besieged eastern Bosnian communities. The government's action was intended to pressure UNCHR and the international community as a whole to move forward with the relief effort in eastern Bosnia. This action by the Bosnian government meant that supplies that did reach Sarajevo began to pile up in warehouses. In effect, UNHCR personnel were risking their lives to deliver supplies that would not be distributed.

UNHCR Suspends Most Bosnia Operations By February 17, Ogata, exasperated with the use of humanitarian relief as a weapon and a bargaining chip, announced the suspension of most UNHCR humanitarian relief operations in Bosnia. Ogata stated, "While our efforts have been directed at the victims of this brutal conflict, all parties have been playing politics with
humanitarian relief.” Ogata’s announcement indicated that UNHCR would suspend relief activities in Sarajevo and Serb-controlled Bosnia and that UNHCR’s relief operations would be reduced in areas where it was still possible to operate, leaving open the possibility that central Bosnia—under government or Croat control—could still receive assistance. Ron Redmond, a UNHCR public information Officer in Geneva, told *Refugee Reports*, “We want to maintain operations where we can do it and do it successfully.”

**UN Secretary General Reverses UNHCR Decision** High Commissioner Ogata reportedly reduced UNHCR’s program in Bosnia without consulting the major players in the UN hierarchy, including the Vance-Owen negotiating team, the UNPROFOR commander in Bosnia, the UN Security Council, and, apparently, UN Secretary General Boutros-Ghali. Two days after her announcement, Boutros-Ghali himself announced that the UN relief operation in Bosnia would resume. Responding to a reporter’s
question about the chain of command in the relief effort, the Secretary General replied, "I am supposed to direct this operation."

Following Boutros-Ghali's reversal of Ogata's decision, the Bosnian government stated its willingness to permit, once again, aid to be distributed in Sarajevo, but as before, the price required was the successful provision of aid to the besieged eastern communities. When UNHCR convoys again plied the road heading for the towns of Gorazde and Zepa, Serb forces again obstructed them by employing methods--including the searching of every carton on every truck--intended to delay the convoys and frustrate those delivering aid. Nonetheless, convoys were able to reach these two communities. However, the town of Srebenica, which UNHCR was able to reach in December, has since been cut off from the relief effort. In practice, the Secretary General's move did nothing to remove the obstacle of armed men obstructing the relief effort in Bosnia.

**U.S. Announces Airdrops** On February 26, following closely on the heels of the Ogata and Boutros-Ghali announcements, President Clinton stated that the United States would airdrop supplies to the besieged Muslim communities in eastern Bosnia whose isolation had precipitated the dispute involving the Bosnian government, UNHCR, and the Secretary General. The United States made the first airdrops the night of February 28/March 1, when three cargo planes--flying from bases in Germany--each dropped pallets of food and medical supplies. Although there is general support for the airdrops from U.S. allies, as well as enthusiastic support from Secretary General Boutros-Ghali, most see the action as a stop-gap effort. Said U.S. Secretary of Defense Les Aspin, "They are not substitutes for land convoys." The Administration views the airdrops as a temporary response, but has yet to say what action it will take when the drops are completed. Lionel Rosenblatt, who as executive director of Refugees International has recently returned to the United States following eight weeks in Croatia and Bosnia with the Soros Humanitarian Fund, told *Refugee Reports*, "We think that an agreement to deliver humanitarian assistance should not have to wait for an overall political settlement." Rosenblatt added, "After ten months, there are still towns under siege every day. Like the provision of humanitarian assistance, the lifting of the sieges should not have to wait for the endgame."

Wells Klein, executive director of the American Council for Nationalities Service (ACNS) and a member of the InterAction delegation, echoed Rosenblatt's view. Klein told *Refugee Reports*, "We must separate the concept of reducing the violence from the search for a permanent peace. Instead of the Vance-Owen plan, which tries to answer all questions at once, the United States and its allies should act now to make civilian areas of Bosnia safe for civilians."

**Future U.S. Resettlement from Bosnia** Given the history of the conflict, there appears to be no end in sight to the human rights abuses and resultant flight of refugees. To many of the members of the InterAction delegation that traveled to Croatia and Bosnia, it was clear that at some point, a resettlement program--targeted at specific groups for whom no other reasonable solution exists--would become necessary.

Don Hammond, director of World Relief's U.S. Ministries, told *Refugee Reports*, "It was the general belief in the United States that Bosnians don't want to be resettled here, but once we arrived in Croatia we met refugees who said they wanted to come to the United States." Deborah Mark, director of policy and planning for the Hebrew Immigrant Aid Society (HIAS), said she believes that many refugees who say they want to return to Bosnia will eventually face another reality. Said Mark, "The victims, who are extremely traumatized by what has happened, have not yet accepted that they have no homes to return to."

To date, the United States has agreed to resettle a total of 1,000 people--about 300 former civilian detainees and their family members. The first group, comprising 136 people--39 former detainees plus family members--arrived in the United States February 23, 24, and 25. A source with the U.S. State Department's Bureau for Refugee Programs (BRP) told *Refugee Reports* that members of this first group will be resettled in about 10 different states.
The United States has also granted Temporary Protected Status (TPS) to Bosnian nationals, but only to those who were in the United States as of August 10, 1992.

Because of the extremely large number of refugees produced by the human rights abuses in Bosnia, some believe the United States should offer to resettle more than just 1,000 people, and that the pool of those considered for resettlement should not be confined to former detainees. In December, a group of U.S. NGOs requested that the United States admit up to 25,000 refugees from the former Yugoslavia. Responding to an inquiry on the status of the request, a BRP official told Refugee Reports, "At this time we're still not considering a general resettlement program."

One BRP official told Refugee Reports, "Bosnians don't want to come here. It's taken so long just getting former detainees to agree to interviews."

But many in the NGO community feel that there are Bosnian refugees who will ultimately be best served by a targeted resettlement program. Tim McCully, InterAction's program officer for refugee affairs, told Refugee Reports, "So far the United States has agreed to consider only a very small segment [former detainees], less than one percent, of the entire Bosnian refugee population. It's clear from what we saw in Croatia and elsewhere that many people--especially those in mixed marriages and victims of torture and other violence--need another solution."

The Clinton Administration Although the United States has contributed about $200 million to the relief effort in the former Yugoslavia, it has played a relatively minor role in other aspects of the crisis. For example, there is no U.S. contingent in UNPROFOR. A western diplomat in Croatia indicated that other countries scoff at suggestions by the United States that the "no-fly" zone over Bosnia should be enforced. "How can the United States be taken seriously when it refuses to put its own people on the ground in Bosnia?" An UNPROFOR officer in Bosnia told Refugee Reports, "It's fine for you [the United States] to shoot down helicopters over our heads, but we're preparing to be targeted as a result."

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Legislation Concerning Bosnia Introduced in the 103rd Congress

- **Relating to Bosnia-Hercegovina's right to self-defense** (S.Res. 11); Introduced January 21 by Sen. Dennis DeConcini (D-Ariz.). Referred to the Committee on Foreign Relations.

- **Expressing the sense of the House of Representatives with respect to Bosnia-Hercegovina** (H.Res. 35); Introduced January 21 by Rep. Steny Hoyer (D-Md.). Referred to the Committee on Foreign Affairs.

- **Concerning the crisis in the former Yugoslavia** (H.Con.Res. 24); Introduced January 26 by Rep. James Moran (D-Va.). (Similar to above, but invokes emergency provisions of Refugee Act of 1980.) Referred to the Committees on Foreign Affairs and the Judiciary.

- **Calling on the President to work to convene an international tribunal for war crimes committed in the former Yugoslavia** (H.Con.Res. 16); Introduced January 6 by Rep. Frank Wolf (R-Va.). Referred to the Committee on Foreign Affairs.

- **Urging the criminal prosecution of persons committing crimes against humanity, including participation in mass rapes, in Bosnia-Hercegovina** (S.Res. 24); Introduced January 5 by Sen. John Danforth (R-Mo.). Referred to the Committee on Foreign Relations.

- **Expressing the sense of the House of Representatives concerning systematic rape in the conflict in Bosnia-Hercegovina** (H.Res. 32); Introduced January 6 by Rep. George Miller (D-Cal.). Referred to the Committee on Foreign Affairs.

- **Expressing the sense of the Senate concerning systematic rape in the conflict in the former Socialist Federal Republic of Yugoslavia** (S.Res. 35); Introduced January 26 by Sen. Frank Lautenberg (D-N.J.). Referred to the Committee on Foreign Relations.
On February 10, U.S. Secretary of State Warren Christopher announced the long-awaited Clinton policy on Bosnia. The package combines the appointment of a U.S. representative to the Vance-Owen negotiations, steps to tighten economic sanctions against Serbia, steps to promote greater delivery of humanitarian aid (presumably the eastern Bosnia airdrops announced later), and an offer to contribute U.S. forces to police any future agreement to end the fighting.

To those who oppose forceful intervention in Bosnia, the announcement—indicating that Clinton was not about to take strong unilateral action—was welcome. To other audiences, however, the announcement was evidence of the same type of hands-off approach employed by the Bush Administration. In testimony before the Senate Foreign Relations European Subcommittee, Dr. Jeane Kirkpatrick, former U.S. ambassador to the UN, said the Clinton policy “stops short of an adequate response.” Testifying before the House Foreign Affairs Subcommittee on Europe and the Middle East, Zbigniew Brzezinski, national security advisor under President Carter, called the steps announced by Christopher “toothless and essentially procedural.”

The Administration has dispatched a joint State Department-OFDA-Defense Department team to Bosnia to evaluate the current international humanitarian assistance operation, define humanitarian objectives for the U.S. government, and identify how those objectives can be achieved. The team, made up of more than a dozen officials, is scheduled to return to the United States the second week of March. Its findings and recommendations are likely to help define the direction of post-airdrop U.S. involvement in the humanitarian assistance operation in Bosnia.

What concrete steps the new Administration may take remain to be seen. But what is clear to observers on the ground is that new approaches—to delivering relief supplies, to protecting civilians, and to putting an end to the most destructive fighting—are required. In the words of one member of the InterAction delegation, “Somebody has got to make a decision here.”

Recent Developments

MOVEMENT PHASE OF CAMBODIAN RETURN ENDING WITH A BANG

The repatriation of Cambodian refugees from Thailand is ending, not with a whimper, but with a bang. As of late February, more than 310,000 people had returned home from the border camps.

Five out of seven border camps have already closed, including all three camps once administered by the Khmer Rouge. Khao I Dang, the oldest Cambodian refugee camp in Thailand, is scheduled to close on March 3. The final camp, Site 2, is due to close by March 30.

In January and February, the pace of return, up to 40,000 per month, was the highest since the program began. And as the convoys roll inexorably across the border and the UN High Commissioner for Refugees (UNHCR) and the relief agencies work to wrap up their efforts in Thailand, a question presses on the mind. Just what are the Cambodian refugees returning to? At the moment, Cambodia seems full of sound and fury, but what does it signify?

The Khmer Rouge have ignored the latest deadline to rejoin the election process they have boycotted since last year. The Maoist faction, whose brutal rule killed more than one million of their compatriots before they were driven out by the invading Vietnamese army in 1979, have refused to disarm or to permit UN monitoring in most of the territory they control.

Elections for a constituent assembly are scheduled for May 23-25. It seems increasingly likely that the Khmer Rouge will neither permit voting in their zones nor honor the results from the rest of the country. Talk is spreading of a partitioned country.

Some soldiers of the Phnom Penh government have taken back their weapons from UN warehouses to mount a new campaign against the Khmer Rouge. The government reportedly has forcibly conscripted men into military service, including a number of returnees. Internally displaced persons still number at least 190,000. One of the largest displaced
Cambodian Repatriation: soldiers from UN peace keeping force greet Cambodian refugees returning from Thailand. Photo: UNHCR

persons camps in Cambodia is Beng Ampil, located in Battambang province. As of mid-November, 800 returnees were living with the 12,000 displaced persons in Beng Ampil. The fields and hillsides beyond the camp are littered with mines, and the front lines lie just a few kilometers down Route 10.

Fighting Resumes in Cambodia In December, two weeks of fighting between the Khmer Rouge and the Phnom Penh military displaced 13,000 people in Bavel district, also in Battambang. Among the displaced were hundreds of families recently returned from Thai refugee camps.

"What worries me most is the lack of peace in this country," UNHCR’s Special Envoy for Repatriation, Sergio Vieira de Mello, told Refugee Reports in a December 1992 interview. "When people say the electoral and the repatriation components are the only two that have met expectations or met deadlines, I feel like saying 'Yes, for what, or so what.' I mean what is the point in bringing people back to a country that is not at peace, in a country where the cease fire is not being respected?"

In early February, quite a number of people in Khao I Dang seemed to be asking that same question. At that time, the camp population stood at around 6,000 people, half of whom had registered for repatriation but were waiting until the last possible moment to go back. Another 3,000 had refused to register for return. Some cited fears of persecution or violence in Cambodia. Others clung to long-lost hopes of resettlement.

At a meeting in the camp on February 5, Thai and UNHCR officials gave the remaining residents a set of choices: "Those who want to
go back, we are happy to help you go,” said Lt. Gen. Sanan Kajornklam, chief of the Cambodian Repatriation Coordination Center. “Those who don’t want to go back to Cambodia will go to Site 2. And those who want to go to a third country must go back to Phnom Penh for processing.”

UNHCR announced that certain destinations in Cambodia were being called for the last time. Those who have registered for a particular destination but do not board the last UN bus heading there, a senior UNHCR official told the estimated crowd of 400, will be labelled “documented spontaneous returnees” and will have to find their own way back, although they still will be eligible for UN assistance once they arrive.

The following week, officials from what were once the principal countries of resettlement for Cambodian refugees—including the United States, France, Canada, Australia, Britain, and Germany—repeated the news that refugee resettlement was over. Immigration opportunities, henceforth, would be available only through Phnom Penh.

By February 12, a UNHCR official told Refugee Reports, the number of “refuseniks” had dropped from 3,000 to about 1,800.

But still not everyone wants to go back. Speaking on behalf of the non-registered Cambodian refugees in Khao I Dang at the February 5 meeting, Someth Tuy pleaded for “the right to sojourn in Thailand until Cambodia has an elected government.” Untrustworthy political leaders, ineffectual UN peacekeepers, and “fear that the war would happen again” were among the reasons Someth cited for his unwillingness to return.

Most of the 50,000 remaining residents of the sprawling border camp of Site 2 can’t wait to leave. The problem is that the majority want to go to Battambang province, the locus of already substantial return and growing insecurity. More than 75,000 people had returned to Battambang by mid-February, many to what UNHCR calls “no-go areas.” Of the eight districts in Battambang province, UNHCR has identified three entire districts—Bavel, Banan, and Rattanak Mondol—as unsafe for return due to mines and military conflict. Large portions of two other districts, Sangke and Moung Russei, are also considered “no-go” because of mines and insecurity.

Some time after midnight on February 1, a UN source told Refugee Reports, a plastic explosives bomb blew up 24 meters of railroad track in Moung Russei. The train is a vital link for the repatriation program, carrying 1,500 returnees every four days from Sisophon to Phnom Penh. That same night, two bridges in the area were also blown up.

**CANADA ISSUES GUIDELINES ON GENDER-BASED PERSECUTION**

"Nada" is a Saudi woman who refused to wear a veil, insisted on traveling alone in Saudi Arabia, and on pursuing her choice of university education. Nada requested asylum in Canada, claiming that she was threatened with punishment if she continued her independent ways.

Canada’s Immigration and Refugee Board (IRB) denied her request for asylum, and she had remained in hiding in Montreal for nearly two years. Now, however, the Canadian Minister of Employment and Immigration, Bernard Valcourt, has intervened on her behalf, allowing Nada to apply for permanent resident status, and has called on the IRB to issue guidelines on gender-related persecution.

Valcourt said on January 29 that the guidelines would be developed in consultation with the UN High Commissioner for Refugees, nongovernmental organizations, and other interested parties. "I look to these discussions to help us determine appropriate responses to the complex and inter-related issues of state sanctioned abuse abroad, conjugal violence against women, and assistance to female refugees in times of world crises."

Refugee Reports obtained a copy of the IRB’s draft guidelines. Although the final version might be different, the draft guidelines and accompanying “framework of analysis” spell out the issues that adjudicators will have to weigh when considering asylum claims relating to gender-based persecution.

The guidelines raise four principle issues:

1) To what extent can women making
gender-related claims of fear of persecution rely on any of the five enumerated grounds of the Refugee Convention definition (race, religion, nationality, membership in a particular social group, or political opinion)?
  
  2) Under what circumstances does sexual violence, or a threat of such violence, constitute persecution?

  3) What evidentiary requirements will be needed to distinguish a gender-related fear of persecution from fear of random violence or criminal acts?

  4) What special problems do women face when called upon to state their claim at asylum hearings?

The guidelines classify four broad categories on which female asylum seekers base their fears of persecution: 1) those whose grounds are the same as men, such as religion or political opinion; 2) those whose fears are based on kinship ties, such as cases in which women are arrested and abused in order to pressure them into revealing information about family members; 3) those who fear severe sexual discrimination based on one of the five statutory grounds for persecution; 4) those who transgress discriminatory laws or customs, such as arranged marriages or veiling, that create conditions amounting to a gender-defined social group.

Making Gender-related Persecution “Fit” Existing Categories To see if persecution of women can fit into the existing statutory framework, the guidelines examine each of the five enumerated grounds for persecution that can cause a person to become a refugee. For example, the guidelines assess circumstances when a woman’s opposition to institutionalized sexual discrimination could be based on her political opinion.

The guidelines suggest that in societies where women are assigned a subordinate status, a woman’s expression of her “political opinion” could be expressed as a “minute contravention,” such as the wearing of make-up. In certain oppressive regimes, say the guidelines, “it may be almost impossible for women to go further and develop the more recognizable indicia of political opinion” such as membership in a woman’s movement.

The guidelines also suggest that “the political nature of oppression of women in the context of religious laws and ritualization should be recognized.” Violating such tenets could be seen as expression of unacceptable political opinion.

Women as Members of a “Particular Social Group” The guidelines cite a 1985 Conclusion of UNHCR’s Executive Committee (Number 39), which states that “women asylum seekers who face harsh or inhuman treatment due to their having transgressed the social mores of the society in which they live may be considered as a ‘particular social group’ within the meaning of...Refugee Convention.”

The Canadian guidelines instruct adjudicators to look first at the four other grounds of persecution before turning to the “more complex” category of membership in a particular social group, preferring to categorize most cases of persecution for transgressing religious or social norms under the grounds of religion or political opinion.

For a woman to establish that she is a member of a particular social group, she must prove that that group “suffers or fears to suffer severe discrimination or harsh and inhuman treatment that is distinguished from the situation of the general population.” The guidelines also say that, whether or not a member of a social group, the applicant must establish that she individually has a genuine fear of persecution based on her gender.

When Does Harm Constitute Persecution? The guidelines note that “persecution” in the refugee definition has not been widely applied to female-specific experiences such as rape, infanticide, circumcision, bride-burning, forced marriage, forced abortion, or compulsory sterilization.

“The fact that violence, including sexual violence, against women is universal is irrelevant when determining whether rape and other gender-specific crimes constitute forms of persecution,” say the guidelines. “The issue is whether the violence--experienced or feared--is
used as a deliberate measure of inflicting harm on a claimant and whether that claimant has recourse to due process in her country of origin."

**Sexual Assault** In U.S. case law, asylum claims involving sexual assault or the threat of sexual assault have often hinged on the question whether the relationship was personal as opposed to a conscious form of persecution based on one of the five grounds. (See *Lazo-Majano v. INS*, Ninth Circuit, 1987, 813 F2nd 1432.)

The Canadian draft guidelines pay little attention to this question, simply instructing adjudicators to decide the matter "on the evidence."

Finding relevant evidence may be easier said than done. The guidelines say only that the evidence "must show that what the claimant genuinely fears is persecution as distinguished from random violence or ordinary crime perpetrated against her as an individual."

The guidelines note that women from certain societies will be particularly reluctant to talk about rape or other forms of sexual abuse "in order to keep their 'shame' to themselves alone and not dishonor their family or community."

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**GOVERNMENT TEAM ASSESSES REFUGEE PROCESSING IN HAITI**

An interagency team including representatives from the State Department, the Immigration and Naturalization Service (INS), and congressional staff visited Haiti at the end of January and came back with a series of recommendations for improving refugee processing from within Haiti, including doubling the number of adjudications per week by increasing the number of INS adjudicators and support staff from the International Organization for Migration (IOM).

The team also recommended expedited procedures for emergency cases with the hope that cases needing to be acted on quickly could be completed within seven days.

The team made further recommendations about opening branch offices in cities other than Port-au-Prince, but this could not be implemented without further consultations in Washington. Likewise, a recommendation that would bring repatriates directly from the pier for refugee processing would be an interagency task, which must be coordinated from Washington.

Priscilla Clapp, the U.S. senior deputy assistant secretary for refugee admissions, said, "We looked hard at the issue of security, of the safety of people applying for the program either among Coast Guard returnees or from those who haven't left Haiti. Quite a few are in hiding. We would like to be more effective in getting to them."

Clapp said that $5 million would be made available from the Emergency Refugee Migration and Assistance (ERMA) fund to bolster the in-country refugee processing program in Haiti.

The assessment team broke into two groups, with one traveling north to Cap-Haitien and the other south to Les Cayes. Clapp said that the team was somewhat surprised that there was "little awareness of the program in the hinterland" where human rights violations appear to be more prevalent.

The team learned that many who flee from the countryside come to Port-au-Prince, where they are able to lose themselves in the crowded city. Clapp speculated that many of those in hiding are actually near the building where refugee applications are received and processed. She said that although she did not see significant signs of intimidation near that building, she would still like to develop a procedure whereby applicants would not in all cases be required to come to the facility.

Another member of the team, Kathleen Thompson, director of the Refugee Division at the INS, said that the facility chosen for refugee processing, a bank building on a busy intersection, was selected because "we thought it would add to the anonymity." But, she said, that she had heard, indirectly, that people felt they were being watched when they went there to apply. (See *Refugee Reports*, Vol. XIV, No. 1.)

"Under our proposal," said Thompson, "applicants should have to come to the building only once or twice."

**Atmosphere of Fear and Intimidation** Also part of the team, Michael Myers, counsel for the
Senate Subcommittee on Immigration and Refugee Affairs, said that only one-fourth of the refugee applicants were from Port-au-Prince. The other 75 percent had to navigate various checkpoints to get to Port-au-Prince from the countryside.

"We witnessed a pervasive fear everywhere we went," said Myers, who noted that frequent checkpoints made people nervous, adding to an "environment of unpredictability and intimidation."

Myers said that refugees were very low on the list of priorities of local community leaders. "Poverty and intimidation are first and foremost on their list."

He suggested that any regional refugee processing centers, in order to be successful, would have to serve other community needs as well. He suggested that providing lunches for malnourished children would be the type of function that would create good will with the local community while at the same time providing "cover" for the refugee processing program.

"Local leaders generally welcomed the idea of having us there," he said, "because they felt it was very important to have a U.S. or other international presence in the community."

Clapp expressed optimism that the stationing of OAS human rights monitors would help in identifying persons in need of protection, and said she was hopeful that there would be close cooperation between the human rights monitors and in-country refugee processing personnel.

Although the State Department still insists that "there is no evidence of persecution of repatriates on account of their repatriation," members of the delegation observed the arrest of 13 Haitians immediately following their disembarkation from a Coast Guard vessel at Port-au-Prince. They were aboard a boat carrying 110 that was interdicted shortly after the arrival of the delegation. The 13 were apparently arrested on suspicion of being organizers of the journey. Although ten were released after a few hours, three persons were held for a few days, according to a member of the delegation who spoke to Refugee Reports on condition of anonymity.

**SENATE VOTES TO BAN HIV-POSITIVE REFUGEES AND IMMIGRANTS**

On February 18, the Senate voted 76 to 23 to extend the ban on HIV-positive foreigners immigrating to the United States. The ban applies not only to immigrants, but also to refugees awaiting resettlement, asylum seekers such as the 215 Haitians whom the United States is currently detaining at the U.S. Naval Base at Guantánamo, Cuba, and persons already in the United States seeking to adjust their status to permanent resident.

The Administration had earlier announced plans to remove HIV infection from the list of diseases that preclude an individual from being admitted to the United States for immigration purposes. The Senate bill called on the President to provide a report by September 1 on the cost of providing public and private health care to HIV-positive immigrants and refugees.

Alan Simpson, (R-Wyo.), one of the bill's supporters, said in an article in the February 19 Washington Post that admitting HIV-positive immigrants and refugees would be extremely costly because "it seems likely that many...[may] become 'public charges' after their admission." In the same edition of the Post, Dinah Wiley and Philip Formaci, lawyers with Washington's Whitman Walker Clinic, noting that people with other potentially costly diseases are not excluded, said, "Because all applicants for immigration must satisfy the INS that they are 'not likely to become a public charge,' it is clear that fear of potential medical expenses is not the primary reason for excluding only people with HIV."

Simpson said that the bill provides waivers for tourists and other temporary visitors, and that "there has always been in the law a waiver for immigrants who come to join close family members living in this country." However, according to the office of the UN High Commissioner for Refugees (UNHCR), of the 38 HIV-positive refugees awaiting resettlement in the United States who have asked UNHCR to help them apply for waivers, only 5 have received them. Of the remaining 33, the applications of 23 have not even been filed because of the difficulty involved in obtaining the complex documentation that the U.S. government requires, including certification that the individual will not become a public charge.
Updates

• On February 12, the judge in the Seattle-based TRP lawsuit issued a permanent injunction prohibiting the Department of Health and Human Services (HHS) from terminating the existing Refugee Cash and Medical Assistance Program (RCMA) and implementing the Private Resettlement Program (PRP), also known as Transitional Resettlement Program (TRP). The Clinton Administration has not yet decided if it will appeal this decision.

According to the judge’s order, the termination of RCMA may not occur “until a valid new program is in place, or until further order of the court.” The ruling was based on the judge’s contention that HHS did not follow the Administrative Procedures Act (APA) in seeking to implement TRP. Therefore, unless this determination is overturned on appeal, the implementation of TRP or any other reform initiative—either this year or at some future time—will require HHS to engage in the rulemaking process.

Prior to the judge’s order, David Smith, Acting Director of the Office of Refugee Resettlement (ORR), submitted a declaration to the court in which he discussed the current financial situation with respect to RCMA. According to Smith, the available FY 93 RCMA funding is insufficient to allow the current eight-month eligibility period to continue for the remainder of the fiscal year.

If the eligibility period is reduced effective April 1, the funds will allow five months of assistance per refugee. If the reduction is effective May 1, the eligibility period will be four months; if June 1, the period will be three months. If no reduction in time-eligibility is made, the program will run out of money by July 31, 1993, meaning that RCMA would not be available for refugees during August or September. ORR is currently working to publish an emergency regulation to reduce the time-eligibility period.

• On February 8, the Acting Attorney General announced in the Federal Register that Temporary Protected Status would be terminated for nationals of Lebanon, as of April 9. The Federal Register notice said that “the extraordinary and temporary conditions found to exist in Lebanon on March 21, 1991 [the date of the TPS designation]...are not presently in existence.” The lifting of TPS does not preclude individuals fearing persecution from applying for asylum.

• According to the UN High Commissioner for Refugees (UNHCR), the repatriation of Afghan refugees has come to a “virtual standstill.” During a recent ten-day period, from February 4 to 14, more than four times as many refugees fled Afghanistan to Pakistan (6,768--29 percent of whom had repatriated to Afghanistan in recent months) than repatriated from Pakistan to Afghanistan (1,409).

Resources

AMNESTY INTERNATIONAL ISSUES REPORT ON RAPE AND SEXUAL ABUSE IN BOSNIA

Amnesty International (AI) has issued a report on rape and other abuse in the wartime environment of Bosnia and Hercegovina. The 14-page report, titled Bosnia-Herzegovina: Rape and Sexual Abuse by Armed Forces, provides details on a number of cases of sexual abuse of women. Although AI is unable to state definitively whether rape has been explicitly singled out by political and military leaders as a weapon against opponents, the report concludes “in practice local political and military officers must have had knowledge of, and generally condoned, the rape and sexual abuse of women....”

Although AI believes that all sides have committed such abuses, the report states, “Muslim women have been the chief victims and the main perpetrators have been members of Serbian armed forces.” Although the motivation behind the abuses—as well as the frequency of the abuses themselves—remains open to dispute, AI concludes, “What is clear is that so far effective measures have rarely, if ever, been taken against such abuses....”

U.S. REFUGEE PROCESSING POSTS

The Department of State has designated the following sites as refugee processing posts for FY 93:

* **Africa:** Freetown (temporary, Liberians only); Khartoum; Lusaka; Nairobi.
* **Americas:** Caracas; Guatemala; Havana (Cubans only); Mexico; Panama; Port-au-Prince (Haitians only); San Salvador.
* **East Asia/Pacific:** Bangkok; Hong Kong; Kuala Lumpur; Manilla.
* **Europe:** Ankara; Athens; Frankfurt; Madrid; Moscow (former Soviets only); Rome; Vienna.
* **Near East/South Asia:** Cairo; Islamabad; Karachi; New Delhi; Riyadh (temporary, Iraqis only).

Designated posts are authorized to prepare refugee case files for presentation to INS, which schedules circuit rides as the caseload warrants. Posts not designated do not have the authority to process refugees. If people seeking US resettlement approach a non-designated post, they should be referred to UNHCR for guidance and appropriate assistance, including a possible move to a processing post. In exceptional circumstances, non-designated posts may ask Washington for an INS circuit ride. Consular sections at non-designated posts handle approved Visas-92 and Visas-93 cases in coordination with INS.

Posts that handled cases in FY 92 but are not designated for FY 93 should not open new cases and should request a circuit ride to interview pending cases and finish any in the pipeline. These include: Gaborone, Kinshasa, Buenos Aires, San Jose, Tegucigalpa, Seoul, Tokyo, Amsterdam, Belgrade, Brussels, and Paris. Jakarta and Singapore are handled out of Kuala Lumpur.

Source: Bureau for Refugee Programs, U.S. Department of State.

Editor’s Note: Because former Yugoslavia is not a designated country of “special humanitarian concern,” Altstätten, Switzerland is not listed as a refugee processing post. About 300 former detainees from Bosnia and their family members to be processed through this site on a temporary basis will be treated as though they were exceptional cases from a non-designated post needing special clearance from Washington.

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SUPREME COURT HEARS HAITIAN CHALLENGE TO
"FLOATING BERLIN WALL"

With a sense of disbelief among critics of the Bush Administration policy of interdicting and summarily returning Haitian boat people, the Clinton Administration went before the Supreme Court on March 2 to defend a policy that candidate Bill Clinton had called "cruel."

Arguing for the Clinton Administration was Maureen E. Mahoney, a holdover deputy solicitor general from the Bush Administration. Mahoney presented the case, now known as Chris Sale v. Haitian Centers Council (HCC) (in the lower courts, it was McNary v. HCC), as essentially a question of the scope of the President's emergency powers to adopt measures he deems necessary to prevent a mass migration of aliens to the United States.

She said that in his May 24 executive order, the President (she did not mention George Bush by name) had invoked what she called "emergency powers" under the Immigration and Nationality Act (INA) to interdict and directly repatriate Haitians without asylum screening.

Chief Justice William Rehnquist opened the questioning by asking Mahoney whether the President's order was directed against all Haitians attempting to leave Haiti or only those seeking to enter the United States.

Mahoney answered, "It's directed at Haitians who were leaving for the United States." She said that the executive order specifically directs the Coast Guard to determine if undocumented aliens are seeking to enter U.S. territorial waters.

She said that as an alternative to boat departure, the United States was giving Haitians in Haiti the opportunity to seek admission as refugees through the U.S. embassy in Port-au-Prince. (See Refugee Reports, Vol. XIV, Nos. 1 and 2.)

Rehnquist asked whether this program was being conducted pursuant to the obligation under section 243(h) of the INA, which prevents the Attorney General from deporting or returning any alien whose life or freedom would be threatened upon return.

Mahoney answered that the government does not
have obligations under §243(h) outside the territory of the United States.

"So this is just a gratuitous effort on the part of the Government," he said.

"Well," replied Mahoney, "it is a humanitarian effort" that would provide an orderly alternative to having people risk their lives at sea to seek asylum.

In response to another question about the statutory authority for in-country refugee processing, Mahoney explained the difference between the offer of asylum within the United States under §208 of the INA and overseas refugee admissions under INA §207.

Associate Justice Antonin Scalia, however, interrupted, saying, "None of this has anything to do with the legal issue in front of us," and suggested to Mahoney that "maybe we can talk about that legal issue."

Mahoney then launched into the crux of the government's argument. She said that the President has the power to adopt procedures in the national interest in response to crises abroad. She said that a 1950 Supreme Court decision, Knauff v. Shaughnessy, in which an alien bride of an American soldier was not allowed to enter the United States and was denied a hearing, demonstrates the President's "very broad" powers to deny a hearing when he deems it to be in the national interest.

Mahoney cited INA §212(f) as statutory authority, which says that if the President finds the entry of any aliens to be detrimental to U.S. interests, "he may by proclamation...suspend the entry of all aliens...or impose on the entry of aliens any restrictions he may deem to be appropriate."

Mahoney said that because the Haitian interdiction policy is pursuant to the President's emergency powers to bar the entry of aliens outside the United States, it bears no relation to the requirement under INA §243(h) that the Attorney General not return a refugee, since his or her authority is limited to aliens within the United States in deportation or exclusion proceedings. "That language simply has no bearing on the President's exercise of his powers," she said.

Associate Justice John Paul Stevens and Mahoney then entered into an exchange about whether the law deals with the power of the President to prevent aliens from entering the United States or also the authority to return them to some particular destination.

Stevens suggested that the sections of the INA used by the government to support its claim of Presidential power deal with preventing entry. "Maybe it's impractical and unrealistic," he said, "but at least theoretically consistently with the law, he could interdict them and send them somewhere else than Haiti."

Mahoney argued that this was a practical impossibility. "The President has determined that he cannot do any sort of refugee screening or take them anywhere else," she said. "He simply cannot enforce the interdiction program if he is prohibited from taking them back to Haiti."

Drumming home her point, Mahoney added, "I mean we're talking about potentially 100,000 people."

**Jurisdictional Issues** Mahoney also questioned the right of Haitians outside the country to bring suit. "The whole history of our immigration laws has been to deny access to aliens outside the United States to U.S. courts." She said that aliens needed to establish a "territorial presence" in order to bring challenges in U.S. courts.

Rehnquist asked whether a Haitian at the U.S. consulate would have any remedy in U.S. courts if the American consul misunderstood the law and wrongly denied his application for refugee status.

Mahoney answered that there is "absolutely nothing" in law that would provide any rights of review for persons who think they are unfairly denied.

At the end of her presentation, Associate Justice Harry Blackmun asked if she had ever been to Haiti. Mahoney replied that she had not.

**Haitians Argue the Right Not To Be Returned** "The right we claim is not a right of entry," said Prof. Harold H. Koh of Yale University, presenting the case for the Haitians. "It's simply the right not to be returned to Haiti, a country where our clients face political persecution."

Koh noted that the interdictions were taking place more than 700 miles away from the United States, and that there are 700 islands
Until President Bush's May 24, 1992 "Kennebunkport Order," Haitians interdicted by the Coast Guard were brought to the U.S. naval base at Guantánamo Bay, Cuba, pictured here, where they were screened for a credible fear of persecution. Subsequent to that order, interdicted Haitians were summarily repatriated without screening. Photo: AP

between here and Haiti. He said that a "floating Berlin Wall" is keeping people in and preventing them from fleeing to any of these places.

"They are interdicting everyone," he said, "without regard and without asking them where they're going."

Koh challenged Mahoney's assertion that the interdiction order is designed specifically to keep Haitians out of the United States. "If that were the case," he said, "the interdiction could be set up 13 miles outside the United States."

He said that the government had not explained how a program that drops the minimal screening that used to be in place as part of the interdiction operation "and returns people directly to their persecutors is somehow safer."

"This is not rescue," he said. "This is aiding and abetting their persecutors by delivering refugees directly into the hands of those people that they are fleeing from."

Is This a National Emergency? Koh challenged the core of the Administration's argument that the case rests on the exercise of Presidential emergency powers. "The defendant in this case is not the President," said Koh. "We have not sued him and he is not here. And we do not challenge his constitutional authority to direct foreign and military policy. The President has issued no national emergency order. He has not issued a new proclamation."

What the President did do, said Koh, was to direct the Coast Guard to return Haitians to Haiti when there is reason to believe that an offense is being committed against U.S. immigration laws. "In other words," said Koh, "the Coast Guard here is supposed to be enforcing the immigration laws."

Koh said that the objectionable part of the executive order was the statement that "the attorney general, in his unreviewable discretion, may decide that a person who is a refugee will not be returned without his consent."
Koh said that section 243(h), which says "the attorney general shall not...return any alien...." specifically denies him or her unreviewable discretion.

"That's the issue," Stevens said. "If the statute doesn't apply outside the United States, then he does have unreviewable discretion."

Koh said that when the attorney general takes the immigration laws onto the high seas...the restraints of the statute travel with him.

"They can't have it both ways," he said. "They can't have the power without the constraint."

Koh then painted a picture of what the world could look like if immigration powers were to be exercised unchecked outside the United States. Salman Rushdie could be returned to Iran, Chinese students to China, Jews to Nazis, and Bosnians to Serb death camps. "And, indeed, Your Honor," said Koh, "if President Aristide himself were coming from Haiti, someone who undeniably has a fear of political persecution, he would be returned, no questions asked, directly into the hands of his persecutors."

Scalia appeared unmoved. "We have a statute in front of us, in the text in front of us, one can create horribles, all sorts of horribles, but simply to acknowledge it is a horrible is not necessarily to acknowledge that there is a law against it."

**Plain Language** Scalia then dug into the language of the INA prior to its being amended by the Refugee Act of 1980. He said that the Supreme Court in *INS v. Stevic* had held that the law at that time complied with Article 33 of the Refugee Convention, which prohibits the return of refugees to places where their life or freedom would be threatened, but that the law at that time explicitly related only to aliens within the United States who should not be deported.

Koh then reviewed the three major amendments to §243(h) introduced in 1980. The key phrase in the current law is: "The Attorney General *shall* not deport or *return* any alien...." The pre-1980 text cited by Scalia said: "The Attorney General is authorized to withhold deportation of any alien *within the United States*...." (Emphases added.) First, the word "shall" was introduced, taking away the discretionary power of the attorney general for withholding deportation, and making withholding of deportation and return mandatory. Second, the word "return" was added, so that the scope of the law was not limited only to deporting the alien from the United States, but to returning the refugee to a country where his life or freedom would be threatened. Third, the words "within the United States" were dropped, indicating that the prohibition on forced return henceforth would apply outside the United States as well.

Scalia seemed incredulous that the Court would not have noticed these changes in the *Stevic* decision. "If one of the differences was no extraterritorial application, that would have been a prominent one that we would have mentioned."

"Your Honor," Koh responded, "that's because no extraterritorial interceptions and returns were going on at that time."

"But," said Scalia, "that language leaps out at you, 'within the United States,' in the earlier version. And if we had thought that that was a difference from the Protocol and from Article 33, we would certainly have noticed it."

Koh then used one of Scalia's favorite legal principles, the idea that jurists should first look at the plain language of a law, and only if that language is ambiguous should they look to the legislative history or other contextual matters to interpret its meaning. Koh said pointedly, "Your Honor, we cite here simply plain language. It used to say, 'any alien within the United States,' and that's precisely the language they removed."

Later in his argument, Koh returned to the intent of the Refugee Act of 1980, saying that Congress's decision to delete the words "within the United States" was not explained by saying, "the pen slipped." Koh argued that Congress intended to create three statutory classes of aliens for §243(h): 1) aliens lawfully within the United States; 2) deportable or excludable aliens within the United States; and 3) any aliens, wherever they are taken a hold of.

"And that's precisely the point," he said. "Someone becomes a refugee not when they make it to the United States...[but] when they clear their own borders. Then they have escaped their persecutor. And the question is not whether we
need to let them in, the question is why do we at that point take them back to their persecutor.”

Koh said, “This is not a polite, bloodless process that is going on. Our clients, our named plaintiff, Mr. Bertrand...[was] held behind barbed wire in U.S. captivity for months. And then, when [he] asked for lawyers, before [he] had an asylum hearing, [he] was forced back onto the boats and returned to Haiti.... At Port-au-Prince, Mr. Bertrand was driven off the boat with fire hoses. He was fingerprinted, identified by the Haitian military. That night he was taken from his bed, beaten, his left arm was fractured, and he fled into hiding.”

In his closing remarks, Koh returned to this point, saying that “the plain language of the statute, the plain language of the treaty... is...return.” Sounding a Gertrude Steinian note, he said, “Return is return is refoulement is return.”

**Collateral Estoppel** Justice Sandra Day O’Connor expressed particular interest in a related suit that arose in the eleventh circuit, *Haitian Refugee Center v. Baker* (see *Refugee Reports*, Vol. XIII, No. 1 and Vol. XII, No. 11). According to the principle of collateral estoppel, a suit that was decided cannot be relitigated if it involves the same facts, parties, and legal issues.

Koh said that the plaintiffs in the previous suit were persons screened out, whereas his clients are persons who have been, or will be, screened in. “Our people were not there,” he declared. “It’s as simple as that.”

Koh also pointed out that at the time of the eleventh circuit case there was “a lawful program of interdiction and screening.” After the May 24 directive, however, “there is an illegal program of interdiction without screening.” He said that they are essentially distinct programs.

**A Mass Exodus?** Koh challenged Mahoney’s prediction that 100,000 Haitians would leave if
the Supreme Court rules against the policy. He said that 37,000 fled in uncontrolled migration in the nine month period following the coup. He added that "nations many times smaller than ours have shown much more generosity." He reminded the Justices that "we're not asking that they be admitted. All we're asking is that they be given some form of temporary safe haven outside of Haiti."

He returned to the plain meaning of the statute and treaty that lower executive officials "shall not return" aliens to persecution.

"Once they come under the attorney general's control," he said, "he can do many things with them, and we do not tell him what he must do with them. We only tell him that he cannot return them. Ironically, the only option that is forbidden is the one that has been chosen here."

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Recent Developments

FY 94 BUDGET PROCESS BEGINS ON CAPITOL HILL

The lengthy congressional process of determining the U.S. budget for refugee programs in FY 94 began on March 1 when the House Appropriations Subcommittee on Foreign Operations conducted a day-long budget hearing on foreign assistance programs.

Subcommittee Chairman David Obey (D-Wis.) opened the hearing with a blunt warning to the 55 organizations scheduled to testify: "If you are here asking for a major funding increase, you are wasting your time and the Committee's time," he said.

Organizations at the hearing found themselves in the unusual position of advocating for FY 94 funding levels without knowing whether the new Clinton Administration—which had not yet developed a detailed budget plan—would propose cuts or increases.

Two organizations urged significant increases over the current appropriation of $620 million for Migration and Refugee Assistance (MRA), which includes $320 million for overseas refugee assistance. The U.S. Committee for Refugees (USCR) suggested an FY 94 MRA budget of $720 million, including $420 million for overseas refugee assistance. The United States Catholic Conference Office of Migration and Refugee Services (USCC) recommended $700 million for MRA.

Both USCR and USCC recommended an FY 94 appropriation of $100 million for the Emergency Refugee and Migration Assistance (ERMA) fund, which received $49 million in FY 93.

USCR Director Roger Winter told the subcommittee that current funding levels "are inadequate to the task at hand" given the world's growing number of some 17 million refugees and 25 million internally displaced. Winter reminded the subcommittee that "millions of refugees are trying to repatriate...[and] proper funding of repatriation and reintegration is expensive in the short-run but cost-effective in the long-run."

Rev. Richard Ryscavage, executive director of USCC's Office of Migration and Refugee Services, argued that larger budgets for refugee programs are necessary because of "the higher costs of all items—including food and transportation—in refugee emergencies."

Obey noted that "virtually every Administration I can remember has for the most part routinely underestimated [refugee] flows. I hope this Administration will be real when they send down their [budget] request."

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STATE DEPARTMENT REORGANIZES REFUGEE RESPONSIBILITIES

On January 28, Secretary of State Warren Christopher announced a reorganization of the State Department that will affect the way the Department organizes itself to respond to refugee affairs. First, the Clinton Administration is creating a new Under Secretary for Global Affairs, and has named former Senator Tim Wirth of Colorado to fill that position. He will be responsible for overseeing and managing the U.S. response to refugees and international migration, as well as a slew of other international issues: crime, democracy, environment, human rights, labor,
narcotics, oceans, science, and terrorism.

The new Under Secretary for Global Affairs will be one of five under secretaries reporting directly to Christopher. The others are responsible for Arms Control and International Security; Economics, Business and Agriculture; Management; and Political Affairs.

At the bureau level, there will be realignment as well. The U.S. Coordinator for Refugee Affairs and the Bureau for Refugee Programs (BRP) will be subsumed under a new Bureau of Population, Refugees, and Migration (PRM), headed by an assistant secretary. Christopher said that the new bureau would “upgrade policy focus on refugee issues in a single bureau.”

Some in the private sector were not happy with the realignment, anticipating possible controversy with the “population” component of the bureau, fearing that U.S. support for overseas family planning measures could undermine support for refugee programs among certain sectors.

Dawn Calabia, director of refugee policy for the U.S. Catholic Conference/Migration and Refugee Services (USCC/MRS), told Refugee Reports that she also is worried that “combining refugees with other issues will lessen the Department’s attention to refugees.” Calabia said, “It’s bad enough now to try to focus resources and energy on 31 million refugees and internally displaced persons. How will refugees not be slighted when the Bureau is dealing with issues affecting 3 billion?”

Warren Zimmermann, the director of the Bureau for Refugee Programs, wrote to the directors of nongovernmental organizations in the field announcing the changes. He said, “If confirmed by the U.S. Senate, Senator Wirth intends to place high priority on the development of a new U.S. policy, and we look forward to working with him and with the community of nongovernmental experts and organizations in the population field in that endeavor.”

SUPREME COURT RULES THAT INS MAY DETAIN ALIEN CHILDREN DESPITE OFFER OF RESPONSIBLE ADULTS TO TAKE THEM

Children being detained by the Immigration and Naturalization Service (INS) pending deportation proceedings do not have the right routinely to be released to responsible adults, the U.S. Supreme Court held on March 23.

The case, Reno v. Flores, which was argued in October (see Refugee Reports, Vol. XIII, No. 11), was decided by a 7-2 vote, with Associate Justice Antonin Scalia writing the majority opinion. Justice Sandra Day O’Connor wrote a separate concurring opinion in which she was joined by Justice David H. Souter. Justice John Paul Stevens was joined by Harry A. Blackmun in dissent.

The case involves a significant population: the INS arrested 8,500 minors in 1990 alone, and as many as 70 percent of them were unaccompanied.

The origins of the case go back to 1984, when the INS Western Region adopted a policy of not releasing minors in their custody to anyone other than a parent or legal guardian, except in unusual and extraordinary circumstances. At the time, critics charged that the Western Region’s policy was intended to use children as bait to force their undocumented parents to turn themselves in (see Refugee Reports, Vol. VIII, No. 11).

The suit brought on behalf of Jenny Flores and other minors detained pending immigration proceedings gave rise to new federal regulations in 1988 stipulating that juveniles should be released to parents, legal guardians, and other adult relatives, or in “unusual and compelling circumstances,” the INS district director could exercise his discretion to release them to other adults who agree to care for the children and ensure their appearance at future proceedings. If the child was not released under the criteria established in the regulation, the INS was to locate a “suitable placement...in a facility designated for the occupancy of juveniles.” The facilities entering into the Juvenile Care Agreement with the INS were required to meet or exceed standards established by the Alien Minors Care Program of the Community Relations Service.

The suit was quickly amended to challenge the 1988 regulation, and a district judge issued an injunction against it before the regulation could be implemented. From there, the case had a long roller coaster ride through the courts. In 1990, a panel of the U.S. Court of Appeals for the

(continued on page 10)
## Refugees Admitted to the United States by Nationality

**FY 80-92**

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* Total combines Vietnamese arrivals from first asylum camps and through the Orderly Departure Program.
** Breakdown by ethnic/national group is not available.
*** Private Sector Initiative admissions not included: FY 88-733 Cubans; FY 89-1,512 Cubans; 26 Iranians; FY 90-3,003 Cubans, 6 Vietnamese; FY 91-1,789 Cubans; FY 92-853 Cubans.

Source: Bureau for Refugee Programs, U.S. State Department, compiled by the U.S. Committee for Refugees.
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Ninth Circuit lifted the district judge’s injunction (see Refugee Reports, Vol. XI, No. 9). In 1991, however a majority of the full ninth circuit reversed its earlier panel decision and upheld the 1988 district court ruling (see Refugee Reports, Vol. XII, No. 9).

Detention of Children. Aliens Affirmed The Supreme Court decision has important implications both for the rights of children as well as the rights of aliens. Writing for the majority, Scalia said at the outset that “Congress has given the Attorney General broad discretion to determine whether and on what terms an alien...should be released pending a deportation hearing.” Likewise, he said, “juveniles, unlike adults, are always in some form of custody.” He said, “Where a juvenile has no available parent, close relative, or legal guardian, where the government does not intend to punish the child, and where the conditions of governmental custody are decent and humane, such custody surely does not violate the Constitution.”

Combining the two factors -- being a juvenile as well as an alien -- in the view of Scalia and the majority, seems to minimize constitutional protections. Scalia writes, “If we harbored any doubts as to the constitutionality of institutional custody over unaccompanied juveniles, they would surely be eliminated as to those juveniles...who are aliens.” Citing earlier precedents, Mathews v. Diaz and Fallo v. Bell, he continued, “Thus, ‘in the exercise of its broad power over immigration and naturalization, ‘Congress regularly makes rules that would be unacceptable if applied to citizens.’”

INS Not Required To Ensure “The Best Interests of the Child” Scalia also set about to debunk the applicability of the phrase “best interests of the child” in this instance. “The best interests of the child is...not an absolute and exclusive constitutional criterion for the government’s exercise of the custodial responsibilities that it undertakes, which must be reconciled with many other responsibilities.” He said that minimum standards must be met, and the child’s fundamental rights not violated, “but the decision to go beyond those requirements...is a policy judgment rather than a constitutional imperative.”

Addressing the heart of what the respondents were seeking -- an individual hearing in each case to determine the need to detain rather than release the child to an available responsible adult -- Scalia said, “There is, in short, no constitutional need for a hearing to determine whether private placement would be better, so long as institutional custody is...good enough.”

Scalia praised conditions in which juveniles in INS proceedings are being held. He said that it would be more accurate to describe this as “legal custody” rather than “detention”, since these “are not correctional institutions, but rather facilities that meet ‘state licensing requirements for the provision of shelter care, foster care, group care, and related services to dependent children.’”

Scalia chided the respondents and organizations who submitted friend-of-the-court briefs on their behalf for “condemning the conditions under which some alien juveniles are held.” He said, “Whatever these conditions might have been when this litigation began, they are now...presumably in compliance with the extensive requirements set forth in the Juvenile Care Agreement.”

A “Facial Challenge” Scalia set an almost impossibly high standard for the respondents to meet. He ruled the suit to be a “facial challenge.” This means that the respondents did not challenge the application of the regulation in any particular instance, but rather the regulation by itself. This is so, he reasoned, because the suit was brought in 1985 before the 1988 regulations were promulgated, and the district court invalidated the regulations a week after they were issued. “We have before us no findings of fact, indeed no record, concerning the INS’s interpretation of the regulations or the history of its enforcement.” Therefore, as a facial challenge, the respondents would have to show that “no set of circumstances exists under which the [regulation] would be valid” in order to prevail.

Dissent Says Regulation is Unconstitutional Justice Stevens disagreed strongly with the reasoning of the majority. “An agency’s interest
in minimizing administrative costs is a patently inadequate justification for the detention of harmless children, even when the conditions of detention are ‘good enough.’”

Stevens analyzed juvenile justice standards on the word “detention” to find that this indeed is a case about “the wholesale detention of juveniles for an indeterminate period without individual hearings,” which, he said, “is unconstitutional.”

Stevens said that at the time the INS Western Region adopted the policy, there was a complete absence of any demonstrated need for a change other than the INS’s own claim that it was acting in the best interests of the child. At that time, however, conditions of detention for children were “deplorable,” said Stevens. “How a responsible administrator could possibly conclude that the practice of commingling harmless children with adults of the opposite sex in detention centers protected by barbed wire fences, without providing them education, recreation, or visitation, while subjecting them to arbitrary strip searches, would be in their best interests is most difficult to comprehend.”

He said, “The flaw in the INS’s policy is not that it prefers parents and close relatives over unrelated adults, but that it prefers government detention over release to responsible adults.”

He charged the majority with faulty analysis as well. “The right at stake in this case is not the right of detained juveniles to be released to one particular custodian rather than another, but the right not to be detained in the first place.” He added, “It is the government’s burden to prove that detention is necessary, not the individual’s burden to prove that release is justified.” He said that the right to be free from government confinement is “the very essence of the liberty protected by the Due Process Clause.”

Stevens also challenged the majority's legal reasoning concerning a facial challenge that respondents could not prevail unless there is “no set of circumstances...under which the [regulation] would be valid.” He asked, “Would a facial challenge to a statute providing for imprisonment of all alien children without a hearing fail simply because there is a set of circumstances in which at least one such alien should be detained?”

Stevens pointedly noted in a footnote that Scalia failed to cite the precedent decision that most “obviously supports the majority’s analysis”: Korematsu v. United States, in 1944, which was used as a basis for detaining persons of Japanese ancestry without a hearing. In Korematsu, the Court “approved a serious infringement of individual liberty without requiring a case-by-case determination as to whether such an infringement was in fact necessary [for]...national security.” Stevens said that the majority’s reluctance to rely on Korematsu was understandable given the recent congressional decision to pay reparations to the Japanese-Americans who were detained during that period. He noted that the Korematsu case “suggests that the Court should proceed with extreme caution when asked to permit the detention of juveniles when the government has failed to inquire whether, in any given case, detention actually serves the government’s interest in protecting the interests of children in its custody.”

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**Updates**

- **On March 1,** the Office of Refugee Resettlement in the Department of Health and Human Services announced in the Federal Register that federal provision of refugee cash and medical assistance will be reduced from eight months to five. The final rule said that the reduction was necessary "by the limited funds appropriated for transitional and medical services (TAMS) for FY 93." The reduction will take effect both for current and newly arriving refugees on April 1.

- **The Immigration and Naturalization Service (INS) has sent a memorandum to asylum office directors instructing them about how to identify persons in the large backlog of cases filed before October 1, 1991 who should have their cases adjudicated along with the current asylum applications.** Persons who want to be removed from the backlog and scheduled for an asylum interview must request an expedited interview, in writing, to the Director of the Asylum Office, and must meet two criteria: 1) having been separated more
than two years from their spouse or minor children outside the United States, or 2) having a spouse or minor children living in refugee camps abroad.

- On March 3, the INS announced in the *Federal Register* that asylum applicants will be required to pay for renewals of work authorization and applications for adjustment of status to permanent residence. In the final rule, the INS dropped an earlier proposal to impose a fee for refugee/asylee family petitions.

- Temporary Protected Status (TPS) for Liberians has been extended through March 28, 1994. This represents the second extension of TPS for Liberians since they were originally granted the status in March 1991. The extension was announced in the *Federal Register* on February 10.

- The INS general counsel has written a legal opinion holding that a sovereign nation does not engage in persecution by expelling or denying entry to aliens, nor by seizing their assets. The opinion arose in response to asylum claims arising from Palestinians who were expelled and had their assets seized from Saudi Arabia, Qatar, and the United Arab Emirates following the Gulf War. Palestinian Arabs are not generally considered citizens of the Arab countries in which they live, said the opinion, written by General Counsel Grover Joseph Rees III. The actions of Saudi Arabia and other countries appeared to be "classic cases of a sovereign nation's exercise of its power to exclude aliens, especially in times of war or national emergency," the opinion said.

  The opinion made no mention of Kuwait, where other serious human rights abuses against Palestinians have been alleged. It said that other grounds for establishing refugee status, such as torture, could still be found that would not be a legitimate exercise of the sovereign's power to expel or exclude aliens.

- In early March, a group of 524 mainland Chinese whose boat failed and began to drift were interdicted by the U.S. Coast Guard about 1,500 miles southwest of Honolulu and towed to one of the Marshall Islands. Although some of the passengers reportedly expressed a fear of return to the People's Republic of China (PRC), all were returned by charter flight with the assistance of the International Organization for Migration (IOM). Although a sample of passengers were interviewed by the UN High Commissioner for Refugees (UNHCR), that agency reportedly did not provide interviews to everyone. Upon return to the PRC, 112 of the passengers were arrested, according to the *South China Morning Post*.

  The U.S. involvement in the forced repatriations touched off a hot internal debate within the U.S. government, according to the immigration law weekly, *Interpreter Releases*. It reported a split on the issue between the State Department's China desk and the INS's General Counsel Grover Joseph Rees. *Interpreter Releases* published excerpts from a confidential e-mail message from Rees to then-acting Attorney General Stuart M. Gerson, saying that "a snap decision by the United States to undertake the first mass involuntary repatriation to China...would appear to conflict starkly both with the new Administration's reexamination of the policy of direct return to Haiti and with what appeared to be its initial determination to take a firm stand on human rights in China and elsewhere."

- UNHCR is experiencing problems providing assistance to many of the 52,000 Tajik refugees who have entered northern Afghanistan since December because of interference from rival Afghan militias and mujahedin groups, who have harassed the refugees, and prevented UNHCR from moving them to better equipped refugee camps in order to draw international aid for the refugees to areas under their own control.

  Hundreds of thousands of Tajiks remain internally displaced. International response to UN appeals for funds to assist them has been inadequate. Donor governments have only pledged $1.3 million of the $7.9 million sought.

- On March 11, Williams Corascelan, a Haitian soldier who refused orders to fire on demonstrators, was arrested at the airport at Port-au-Prince after he had been accepted as a refugee by the United States as part of its in-country refugee processing program.

  Following protests from the President, State Department, and private groups. Corascelan was released and allowed to fly to the United States.
CORRECTED*

REFUGEE APPROVAL RATE BY REGION AND SELECTED NATIONALITY, FY 92 (INA, §207 ADMISSIONS)

<table>
<thead>
<tr>
<th>REGION</th>
<th>APPROVAL RATE</th>
<th>CASES DECIDED</th>
<th>CASES APPROVED</th>
<th>CASES DENIED</th>
<th>PENDING</th>
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<tr>
<td>TOTAL</td>
<td>88.6%</td>
<td>115,330</td>
<td>14,886</td>
<td>15,028</td>
<td></td>
</tr>
<tr>
<td>USSR</td>
<td>96.1%</td>
<td>65,584</td>
<td>2,632</td>
<td>446</td>
<td></td>
</tr>
<tr>
<td>East Asia/Pacific</td>
<td>95.6%</td>
<td>31,751</td>
<td>1,467</td>
<td>101</td>
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<tr>
<td>Africa</td>
<td>77.8%</td>
<td>5,668</td>
<td>1,621</td>
<td>6,361</td>
<td></td>
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<tr>
<td>Latin America/Caribbean</td>
<td>64.7%</td>
<td>4,121</td>
<td>2,226</td>
<td>139</td>
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<tr>
<td>Eastern Europe</td>
<td>54.9%</td>
<td>2,547</td>
<td>2,089</td>
<td>2,310</td>
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<tr>
<td>Near East/S. Asia</td>
<td>53.8%</td>
<td>5,659</td>
<td>4,851</td>
<td>5,671</td>
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<tr>
<td>USSR</td>
<td>96.1%</td>
<td>65,584</td>
<td>2,632</td>
<td>446</td>
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<tr>
<td>Vietnam</td>
<td>95.2%</td>
<td>25,460</td>
<td>1,289</td>
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<td>Cuba</td>
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<td>Somalia</td>
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<td>1,583</td>
<td>162</td>
<td>1,519</td>
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<tr>
<td>Liberia</td>
<td>89.2%</td>
<td>637</td>
<td>77</td>
<td>793</td>
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<tr>
<td>Sudan</td>
<td>88.9%</td>
<td>120</td>
<td>15</td>
<td>312</td>
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</tr>
<tr>
<td>Cambodia</td>
<td>84.2%</td>
<td>48</td>
<td>9</td>
<td>11</td>
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<tr>
<td>South Africa</td>
<td>79.2%</td>
<td>19</td>
<td>5</td>
<td>13</td>
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</tr>
<tr>
<td>Ethiopia</td>
<td>71.6%</td>
<td>3,116</td>
<td>1,237</td>
<td>2,887</td>
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<td>Iraq</td>
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<td>2,381</td>
<td>1,552</td>
<td>2,327</td>
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<tr>
<td>Albania</td>
<td>55.9%</td>
<td>1,104</td>
<td>870</td>
<td>864</td>
<td></td>
</tr>
<tr>
<td>Romania</td>
<td>52.5%</td>
<td>1,176</td>
<td>1,064</td>
<td>653</td>
<td></td>
</tr>
<tr>
<td>Iran</td>
<td>50.3%</td>
<td>1,823</td>
<td>1,799</td>
<td>1,109</td>
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<tr>
<td>Burma</td>
<td>50.0%</td>
<td>30</td>
<td>30</td>
<td>0</td>
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</tr>
<tr>
<td>Afghanistan</td>
<td>49.2%</td>
<td>1,455</td>
<td>1,500</td>
<td>2,234</td>
<td></td>
</tr>
<tr>
<td>Uganda</td>
<td>46.1%</td>
<td>88</td>
<td>103</td>
<td>351</td>
<td></td>
</tr>
<tr>
<td>Bulgaria</td>
<td>42.5%</td>
<td>114</td>
<td>154</td>
<td>87</td>
<td></td>
</tr>
<tr>
<td>Haiti</td>
<td>10.8%</td>
<td>234</td>
<td>1,941</td>
<td>4</td>
<td></td>
</tr>
<tr>
<td>Mozambique</td>
<td>7.7%</td>
<td>1</td>
<td>12</td>
<td>17</td>
<td></td>
</tr>
</tbody>
</table>

*Editor's Note: We ran this chart, saying that it represented "preliminary figures" in the December 31, 1992 Issue (Refugee Reports, Vol. XIII, No. 12). Subsequently, the Immigration and Naturalization Service provided final statistics, which are represented above in bold face. Please replace your earlier version with this chart.

The INS said that the chart contained errors based on their offices' "inconsistent reporting, instructions in need of improvement, and misinterpretation of the statistics given to you by our Statistical Analysis Branch." The INS said that the existing form used to capture the statistics above count refugees as approved when they are issued travel documents. Thus, they "generally reflect the number of applicants who have traveled to the United States during the reporting period, rather than the number found conditionally eligible for refugee status at the time of their refugee interview." This statement is contradicted, however, by State Department admissions statistics (see pp. 8-9 Refugee Reports Vol. XIV, No.3). The statistics above show that 234 Haitians were approved, but this is more than four times the 54 Haitians who were admitted in FY 92, according to the State Department. The INS notes that "as the adjudication of the refugee claim is the measure of INS activity in the refugee program, we are issuing new instructions that we hope will result in approval and denial rates that more accurately portray INS adjudications."

The INS notes that the 100 percent approval rate for Poles and Czechs represents "spouses and children following to join refugees already in the United States" and that "following-to-join is based on relationship, not on refugee characteristics." The INS also wishes to point out that "our in-country program has been open to any Haitian who might claim to have a fear of persecution. Our approval rates are the result of a widely varied applicant population having access to the program."

The total includes all nationalities. Nationalities for whom fewer than a total of ten cases were approved or denied are not included in the country-by-country tally.

Source: U.S. Department of Justice, Immigration and Naturalization Service (INS). Tabulated by the U.S. Committee for Refugees.
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FY 92 REFUGEE RESETTLED IN THE U.S., BY SPONSORING VOLUNTARY AGENCY

American Council for Nationalities Service

<table>
<thead>
<tr>
<th>Sponsor</th>
<th>Number of Refugees</th>
</tr>
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<tr>
<td>Lutheran Immigration and Refugee Service</td>
<td>6,963</td>
</tr>
<tr>
<td>World Relief</td>
<td>7,953</td>
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<tr>
<td>Tolstoy Foundation</td>
<td>1,388</td>
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<tr>
<td>U.S. Catholic Conference/Migration and Refugee Services</td>
<td>23,096</td>
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<tr>
<td>Cuban Exodus Relief Fund</td>
<td>5,898</td>
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<tr>
<td>Ethiopian Community Development Council</td>
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<td>Episcopal Migration Ministries</td>
<td>2,100</td>
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<td>Church World Service</td>
<td>6,710</td>
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<tr>
<td>Hebrew Immigrant Aid Society</td>
<td>46,674</td>
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<tr>
<td>International Rescue Committee</td>
<td>9,305</td>
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<tr>
<td>Iowa Refugee Service Center</td>
<td>106 (not visible)</td>
</tr>
<tr>
<td>Tolstoy Foundation</td>
<td>1,388</td>
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<tr>
<td>Lutheran Immigration and Refugee Service</td>
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<td>9,305</td>
</tr>
<tr>
<td>Iowa Refugee Service Center</td>
<td>106 (not visible)</td>
</tr>
</tbody>
</table>

TOTAL 114,511

Source: U.S. Dept. of Health and Human Services-Office of Refugee Resettlement

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Co-Editors: Bill Frelick and Virginia Hamilton; Staff Writers: Court Robinson, Hiram A. Ruiz, Jeff Drumtra, Tom Argent, and Jacqueline Stromberg.

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ON THE WAY HOME

Some time in April, the last Cambodian refugees in Thailand are expected to go home, the last border camp will close and the long, sad history of the Cambodian exodus will come to an end. In the last twelve months, more than 350,000 Cambodians have returned home under the auspices of the UN High Commissioner for Refugees (UNHCR). Soon the convoys will stop running, and the work of reintegration—and reconciliation—begins in earnest. That may prove a much harder road to travel. The Khmer Rouge are boycotting national elections scheduled for the end of May; ethnic and political violence is mounting; and the UN Transitional Authority in Cambodia (UNTAC), which has administered the country since the middle of last year, seems powerless to stop it.

But as the movements end, we should not fail to note surely the most dramatic achievement of repatriation: the reunion of long separated Cambodian families. We can only hope it will be durable.

In the last two weeks of February, I followed two returnee families—one from Khao I Dang and one from Site 2—back from Thailand by bus, train, truck, and boat to their places of origin in the northeastern Cambodian provinces of Kampong Cham and Kratie. Along the way, I got to know another family from Site 2 and tracked them home as well. I have kept the journal format of my notes in hopes of conveying the immediacy of discovery (theirs and my own) on the way back home....

Court Robinson
Aranyaprathet, Thailand

Saturday, February 13 By the time I reach Khao I Dang in the early morning, Convoy 393 has already assembled. The people from Site 2 were bused-in an hour ago, and those leaving Khao I Dang have spent the night in the repatriation staging area adjacent to the camp and are ready to board. All told, there will be 1,567 people and baggage on 30 buses and 20 trucks crossing the border at Poipet and driving on to Sisophon. From there, the returnees will take an overnight train to Phnom Penh, where they will stay for a few days.
Refugee Reports/April 23, 1993

days or more in a reception center awaiting transport to their final destination.

I find Yang Yathana and his family in the staging area. I only found Yathana himself yesterday. He was just ten when his parents, Yang Yam and Ouk Thol, brought him to Khao I Dang on January 6, 1980. Like almost everyone else in the camp, they soon wanted to resettle overseas. But the Yang family had no relatives in a third country, were rejected by the U.S. Embassy in 1985, and, following a review, again in 1989. They had two more children in the camp, Thany and Theary. Yang Yam worked as a family tracing registrar with the International Committee of the Red Cross (ICRC) for 13 years; his wife, Ouk Thol, managed the household and raised the children. Yathana went to school, learned English, and worked for five years with Médecins Sans Frontières as a nurse, pharmacist, then medic. For his last four months in camp, he served as a protection assistant with the office of the UN High Commissioner for Refugees (UNHCR). He has agreed to be my translator on this trip. (My Khmer is improving, but still too simple for serious conversation.)

“When repatriation came,” Yathana tells me, “we did not sign up. My father wanted to stay until the last convoy. We felt that security in Cambodia was not so good. Now I feel a bit easier than before. I went to visit in October 1992, came back in November. I found family in Kampong Thom and Kampong Cham. We chose Kampong Cham because it’s safer.”

Like most other returnees, the Yang family has chosen Option C, a cash payment from UNHCR, which gives them $200 ($50 per adult and $25 per child under 12). “I think we can live with relatives,” says Yathana. “We’ll use our money to set up a house later.” Option B—a wooden frame for a house and, in many cases, a plot to build on—tended less desirable. Option A—a house and two hectares of farmland—is unavailable in Kampong Cham, as it is in most of Cambodia.

We walk through the line of Site 2 buses and eventually find Thon Sariem, Sok Saroeun, and their six children, ages one to eleven. I had met them earlier going through the staging process in Site 2. Sariem is listed as an “Extremely Vulnerable Individual” (EVI) for a stomach wound he suffered in the non-communist resistance. They have been on the border since 1979 and are repatriating to Kratie. It is Sariem’s place of origin, but “I don’t know if I have any family there,” he says. It’s been 23 years since he last saw them. “I have no particular hope of seeing family, but hope to see people I know,” he says. “I have no relatives,” says Saroeun. “They were all killed.”

At about 10:00 a.m., the call comes to board the buses. Suddenly, everyone is moving, shouting, loading bundles, counting heads. Engines grumble to life. A baby screams. A man in fatigues gripes that there is no place to sit. The buses pull out. Site 2 goes first and disappears in its own dust. “Lia haoy, Khao I Dang,” say a few voices. “Goodbye, Khao I Dang.” I see no one crying.

“I’m not happy to be going back,” says Yang Yam when I inquire. “There is still war in Cambodia.” A bead of sweat slides down his cheek. We pass through Aranyaprathet to reach the border checkpoint at Poipet, where 1,567 Cambodians check out of Thailand. At about 1:00 p.m., the buses roll single-file across the bridge. Beggars and amputees cluster on the other side. “Welcome to Cambodia,” says an R.J. Reynolds Tobacco Co. billboard.

There is little conversation in the smothering heat and dust. Yang Yam slumps forward, his eyes shut. Ouk Thol rubs liniment on his back and neck. Within an hour, we reach Sisophon, then, after another long stop, we roll into the train station. People pour off the buses and it’s bedlam. Some scramble for seats on the train, others run for the trucks where the drivers are throwing baggage down to be piled into freight cars. For a mad moment, it looks like a scene of desperate flight rather than orderly return.

Ten Dutch soldiers board the train at around 10:00 p.m., and shortly after midnight, the “Sisophon Express” lurches off to scattered cheers. People settle into the wooden benches, lay mats on the floor, or string hammocks from the luggage racks. Some time during the night, a young man with a cheap briefcase sits down next to me and says, “Let me sleep with you.” At that, he throws one arm across my legs, another across my back, leans into me and indeed goes to
sleep. I doze fitfully till morning, trapped in this curious embrace.

**Sunday, February 14** Well before six, people begin to wake, lifting the steel-shuttered windows to watch the sunrise. We must be crossing from Battambang into Pursat. In the early light, the land is touched with a bony whiteness like hoarfrost. Yang Yam points at the fields with the first trace of a smile I have seen since we set out. Voices are talking quietly but with evident excitement. “The land is so wide,” someone says. “Look at all those water buffalo,” says a child. Sisophon was too hot, too dusty, too close to Thailand, but this, the voices seem to say, is Cambodia.

I watch the two younger children—Thany, a boy of 11, and Theary, a girl of 8—across the aisle. They were born and raised in Khao I Dang. This is not only their first time in Cambodia but their first full day outside of a refugee camp.

At 2:30 p.m., fourteen hours after it left Sisophon, the train stops by an open field southwest of Phnom Penh. The returnees climb aboard trucks and buses and ride a few kilometers to the reception center. We are assigned billet V-19, which we are to share with another family, their puppy, and three unhappy roosters. There are twenty longhouses in the center, which is administered by the Cambodia Red Cross (CRC) with funds from UNHCR. Each longhouse has ten billets, partitioned by woven thatch walls, most of which have been broken through. Food is served from two communal kitchens.

After dinner, we lie on a mat outside the billet. The stars are out in force. I ask Yathana if the Khmer have names for the stars. “They do,” he says, “but I don’t know them. I only know that one.” He points to Venus, the evening star, hanging low and yellow. “We call it the bandit star.” “Because it is alone?” I ask. “No, because when it goes down, the bandits come out.”

**Monday, February 15** After an early breakfast, we find Thon Sariem and his family. “It was poor sleeping on the train,” he said. “Our littlest one had diarrhea. But we got all our belongings.” These consist of two blue bags, one bicycle, and a wooden box full of pots and pans.

Sariem has already heard that the movement to Kratie has been delayed till at least the 22nd. “If they recommend that I wait, then I can wait. I feel happy to be here because I was at the border a long time. I thought about coming back, but I had a feeling it would be bad luck, that soldiers might shoot me. I still feel worried because I’m from the border. I don’t know how the people will treat me.”

At 6:20 p.m., the lights blink on in the longhouses. They will stay on for the next twelve hours. I am reading *Ban Vina: The Refugee Camp*, by Lynellen D. Long, a book about the camp for Hmong and other Laotian refugees in northeastern Thailand that just closed last December. In it she writes, “The camp is both a local and a transitional community.” The reception center, of course, is neither. The people who gather here do so fleetingly and, I can only hope, for the last time as refugees. Leaving here, they become more or less ordinary families trying to make a go of it in Cambodia.

Yathana takes the book and leafs through it. We talk for a bit about Laos, the Hmong, and the closing of the camp. “I didn’t know there were other refugees in Thailand,” he says in surprise. One by one, the billets fall quiet in the fluorescent twilight.

**Tuesday, February 16** Yang Yam’s story: “I was born in 1938 in Kompong Chain. My parents were farmers, my grandparents too. I was the fourth of nine children. In 1949, we moved to Kompong Thom. I started my schooling the next year and finished in 1959 when I moved to Phnom Penh to look for work. I drove a taxi, sometimes trucks. Life was good in the 1960s. I was married in 1967. Yathana was born in 1969 in Phnom Penh. In 1970, we had the Lon Nol coup d’etat. I was a political supporter of Lon Nol. I was conscripted as a soldier in 1974.... At that time, I didn’t know much about the Khmer Rouge. When the KR took the city, we were forced to evacuate to Takeo. In Takeo, I was a farmer for eight months, then they moved us to Battambang. I worked on the collectives until 1979. When the Vietnamese invaded, we moved to Sisophon.

“We crossed the border into Thailand in late December 1979. We feared the Vietnamese. They asked me to be a driver for their troops. I refused so they forced us out of Sisophon. We didn’t know anything about the border. We just
escaped to anywhere. We left Sisophon at night, about 9:00 p.m., and traveled on foot for three days and nights. We crossed at Nong Samet.

“We arrived in Khao I Dang on January 6. At that time, the population was 110,000.... In 1984, we decided we would try to resettle in a third country. In 1985, we had our first interview with INS [U.S. Immigration and Naturalization Service]. They asked us what I did in the Lon Nol regime and what we did during Pol Pot time. Right after the interview was finished, they said no.

We appealed again in 1989 but were rejected again. At one time, our case was linked with my sister’s family. My sister’s son married into a family with a Khmer Rouge background. We think that was the reason we were rejected.”

It’s our last night in the reception center. We’ve loaded the family’s belongings onto the CARE trucks. Ouk Thol packs up the last of the children’s clothes. Then she and her husband and the two youngest children disappear until quite late. They tell me later they were out saying last good-byes to friends from camp. I suspect there will be no alumni reunions.

**Wednesday, February 17** We’re up at 4:00 a.m. to board the trucks for Kompong Cham. We rumble out the gate just as the sun is rising, and by 7:00 we reach the banks of the Tonle Sap River. It takes nearly three hours to get the convoy across by ferry and another three to reach Prey Chhor district. The families climb out stiffly and unload their belongings by the roadside. As the driver sweeps out the back of his truck, small squares of paper flutter like leaves to the ground. I pick some up. Thai flashcards.

It’s mid-afternoon when Ouk Thol walks down the dusty track toward her brother’s house just off national highway 7. Her sister-in-law comes rushing out and they embrace briefly. After thirteen years and two months in a refugee camp, the Yang family is back home.

We climb steep wooden stairs to the one-room house. As friends and relatives begin to gather and piece together the missing years, I look through the doorway at Thany and Theary standing at the edge of the fields. Suddenly, Theary takes off running as fast as she can, straight on through the rice stalks, and Thany somersaults into a pile of hay.

After an early dinner, Yang Yam goes to report his arrival to the commune leader and returns after nightfall, looking somewhat uneasy. He says the man asked him to explain where he
was from and where he has been living the last 12 years. Ouk Thol goes very still, and they look at one another. "Maybe he was just trying to be friendly," says a neighbor.

**Thursday, February 18** In the morning, Yathana and I stop in Prey Chhor township and introduce ourselves to Capt. Mahmoud, an Egyptian who is district commander of the UNTAC civilian police. I ask him about returnees. His assistant brings me a hand-written sheet showing 571 returnees living in the district as of mid-January. I ask if he knows where these people are living. Mahmoud fetches out of his desk a much longer list, this one prepared by the local Inspector of Police. In a careful hand, someone has written out the name, date of birth, sex, family composition, and current address for every returnee head of household. There's more. Under the heading "Come back" are transcribed the names of the border camps: "Say Bi" (Site B), "Say Eth" (Site 8), "Say Thou" (Site 2), "Say Kh6" (Site K), and so on. The list also records how long each family has been on the border and their Family Book number.

I point out that the Phnom Penh government gave an explicit guarantee to UNHCR that returnees would not be questioned about their time on the border. The captain gives me a blank look. I explain that each border camp, with the exception of Khao I Dang, was nominally aligned with a resistance faction and that local officials could use this information to harass or intimidate returnees. He stares at me for a moment. "I think there is no problem," he says finally.

We return to Yathana's house at about 5:00 p.m. to find the district chief for agriculture, Kao Thavira, waiting for me. He informs me that it is unsafe for me to remain in Ampil Thom village. The Khmer Rouge are only 10 kms away. I thank him for his concern and tell him that I have informed UNTAC of my whereabouts, that I am aware of the risks. He is insistent that I return to town and stay at his house. "If anything happens to you, I will be blamed," he says. "You are putting the family at extra risk by staying here." I have no choice but to go.

Keo Thavira has a comfortable wooden house, where he lives with his wife and some of his ten children. He has been head of the district agricultural committee since 1979, he explains, and recently was given responsibility to help the returnees reintegrate.

"You know, I am a returnee too," says Thavira with a laugh. "You fled during Pol Pot time?" I ask. "No, no. I was part of the K-5 border defense operations in 1988 and was captured by the 'para' [paramilitary, the non-communist resistance]. I was their prisoner for two months, then I was taken to Site 2 for about a week. UNHCR got me transferred to Khao I Dang, where I lived for a year." He met Yathana and his family there. Eventually, ICRC negotiated his transport to Vietnam, along with 12 other POWs. He was repatriated in November 1989.

**Saturday, February 20** After spending Friday interviewing returnees, I go back to the Yang house to say good-bye. I leave tomorrow for Phnom Penh. After much coaxing, Ouk Thol tells me her story: "I was born right here in this village on November 1, 1947. I was the fourth of seven children. My parents were farmers. I went to school until I was ten. Then I helped with the farming. In 1967, I got married to a taxi driver, who saw me on one of his trips from Phnom Penh to Kompong Cham and made an offer to my parents. We were married here, and three days later, we went to live in Phnom Penh. Yathana was born two years later.

"After 1970, I became more and more afraid that the war would come into the city. When my husband became a soldier in 1974, I lived with my son in a one-room house behind the Olympic Stadium. Yam came home only two or three days before the KR came into the city on April 15, 1975. I didn't know anything about them, but I was scared they would find out he was a soldier. They started marching us out that evening to Takeo province. We walked for three days. Nobody knew what was happening.... We stayed there for eight months, then we were moved to Battambang to help with the rice harvest in November.

"We stayed there, farming rice, clearing forests, until the Vietnamese invaded. I lost a brother-in-law and my parents to the KR. I found out they were in Battambang and was permitted to visit them for one day. My father died of starvation and my mother of dysentery and edema. When the Vietnamese invaded, we followed the crowds to
Sisophon. We lived there about one year. Then they tried to force my husband to be a driver. We also had nothing to eat, so we crossed the border. I was afraid of the Thai soldiers.

"I wanted to go to America. We used to get letters from friends and relatives. They said they were safe and had freedom. If you had money, you could be happy. I don't remember any of the questions they asked us at the INS interview. I was just so disappointed. We were never Khmer Rouge."

I ask her what her memories will be of Khao I Dang. "No good memories," she replies. "The UN helped feed us and give us work. That's all." She pauses for a while. "I will remember the fence. I was so tired of that fence."

Friday, February 26

Yathana and I returned to Phnom Penh on Sunday, February 21, expecting to board a convoy to Kratie the following day, but the movement had been postponed again. Today, we are up at 4:30 a.m. to ride out to the reception center and board the buses for the ferry. There is a group of 123 returnees bound for three remote provinces in the northeast. Forty-two people, including Thon Sariem and his family, are heading to Kratie province, which is reachable by a two-day ferry ride up the Mekong River. The 81 people going to Stung Treng and Preah Vihear face a four-day truck ride beyond that.

Sok Saroeun and Thon Sariem greet us with smiles. "We missed you," she says. We travel back into the city and down to the docks. At 7:30, we board the Sovan Sombath; an escort of 29 Ghana Battalion soldiers joins us shortly afterwards. The boat churns out into the Tonle Sap looping down past the Royal Palace, the Floating Hotel, and the Cambodiana then bears north again on the Mekong River.

Two double amputees whom I talked to briefly on the convoy from Thailand are sitting toward the front of the boat in their wheelchairs. Chap Ly Orn is 37. He left Kratie and came to the border in 1987, saying simply that "it was difficult to live in Cambodia." It got much worse. He joined the resistance and stepped on a mine in 1989, losing both legs just below the hips. He is returning home with his wife and six-year-old son. He has also invited his friend, Kong Sieng, a former soldier and fellow amputee to come live with him. Kong Sieng was born in Svay Rieng but his family members are dead.

"I believe my brother is still living in Kratie," says Chap Ly Orn, "but I haven't heard from him since I left for the border. He said he wanted to take Option A with a house and farmland, but it was not offered in Kratie. He took the cash instead. "I want to repair radios. I had some training in Site 2."

Thon Sariem's story: "I was born on New Year's Day 1956 in the village of Sop Leu, Prek Chik commune, Prek Prasap district, Kratie
province. My parents were farmers, though sometimes they caught fish for food. I went to school for five years. In 1970, I left Prek Chik. At that time, the Khmer Rouge wanted to take me to join them, to study about the new propaganda. I went with them to no particular place, to many places. I was with them until 1979 on one of their mobile teams, working like a field nurse. I was in Kandal province when the Vietnamese invaded. I fled to Battambang and met some of the 'paras' there. They persuaded me to go to the border in November 1979. I first went to Nong Samet, the new camp. That's where I met my wife. Then to Ampil. We were fighting near Ampil in August or September of 1983 when I was shot in the stomach. I came to Site 2 in 1985. I studied carving in Site 2, stone carving. I felt I just wanted to learn it.

"We'll get $250 with Option C. Our first plan is to build a house. I'm not sure that will be enough. My family were rice farmers before in Kratie. Getting land will depend on relatives. If I can't find them it will be very difficult." He tells me again, "It's been 23 years since I saw my mother."

"But if we find relatives," says Sok Saroeun, "they can give us some land. I don't know how long the money will last, but we will keep it for building a house. We won't spend it on anything else."

**Saturday, February 27** After a night in Kampong Cham, the boat pulls out at 6:00 a.m. I ask Thon Sariem what he plans to do when we reach Kratie. "I don't know," he says. As the sun presses down, people move toward the bow to catch the breeze, and the view. A gang of kids sits counting boats, water buffalo, oxen. The Mekong sweeps by, perhaps a kilometer wide at this point. I suspect they have never seen such a vista in all their young lives. "Seven buffaloes," the children shout. "No, eight!"

The river being low, we make good time against the current and reach Kratie by 1:30. The dock is piled with oil drums, cartons of Jet cigarettes, motorcycles. Vendors hawk tea, dried fish, cakes, and sweets. The town is a steep climb up a flight of stone steps. I check in with the CRC and find that the food trucks will not arrive until late afternoon or evening. So we will stay on the boat one more night. Tomorrow, the Preah Vihear people head north and the Kratie people head home, or to whatever they can find.

I settle into my hammock around nine. Bugs are spinning in a furious cocoon around the lights. Shortly after, a Ghana Battalion soldier comes wheeling Kong Sieng through the boat, saying in Khmer, "Som pliw, Prince Norodom Sihanouk tiuw leng." "Clear the way, please. Prince Norodom Sihanouk is going for a walk." Kong Sieng has a UN cap cocked sideways on his head and his face is flushed with drink. He grins crazily. "He has been stuck up front for two days," says the soldier, one Robert Manfort. "I thought he would like a tour." To puzzled looks and laughter, the unlikely pair work their way up one side of the boat and down the other.

**Sunday, February 28** Some days are so shot through with pain and happiness alike, one could spend a lifetime puzzling them out. I wake up to find Kong Sieng sitting nearby, smoking a cigarette. He tells me that he wants to go back to Phnom Penh and find work. "I no brother or father or mother," he repeats several times in English. "I wish you help me." The UN world, in most respects, is coming to an end for him today, and he's getting shaky. He switches back to Khmer. "It is better if someone killed me right now." His eyes dart nervously around the boat.

At around 9:00, a CRC worker hoists Kong Sieng on his back and carries him up the steps from the wharf. They pass a group of CPAF (Cambodian People's Armed Forces) soldiers who give him hard, knowing stares. Did they plant the mine that blew him in half? What mayhem did he wreak on one of theirs? How will any of them make peace with that?

We load up the CRC truck and head out of Kratie. About eight kilometers out of town, Chap Ly Orn shouts up front to the driver, "Stop there, on the right!" He climbs out and wheels his way through the gate and up to his family's home. Immediately, neighbors gather to cries of recognition and whispers of sympathy. An old man in white comes slowly down the steps of the house and peers at the figure in the wheelchair. "Who is it?" he asks. "Who has come?" "Your child," someone says. The old man leans his face close to his weeping son's and strokes his hair with a
terrible tenderness. Then he turns and walks more slowly back up the steps.

Chap Ly Orn pulls himself up after his father. Friends and relatives come single-file up the stairs. Some smile, some cry, most do both. As the crowd gathers, Chap Ly Orn sits in the middle of the circle, holding his son (his wife is still outside) and explaining the story of his injury. Two or three press forward to touch his stumps. A woman and a ten-year-old boy appear in the doorway. She kneels in front of him, sobbing into her hands. Chap Ly Orn pulls the boy close, then turns to us. “I left a wife and child here when I left in 1987. I took another wife on the border.”

In fact, yet another son by yet another wife is still living here, though she has since departed with a new husband. “Well, this is a normal thing,” says an older man. No one looks convinced. Someone asks about the other man outside. “He is a friend from the border,” Chap Ly Orn says. “He has no family left, so I invited him to come to live here.” A few nod silently and glance down the steps into the courtyard where Kong Sieng sits.

We get back to Kratie just in time to catch the boat taking two families and a year’s supply of food across the river to Prek Prasap district. Thon Sariem sits on a pile of rice sacks and boxes of canned fish and greets us with relief. “I was worried you would not come back in time.”

We curve southward around an island, then head upriver. The other returnee family gets out first. Gradually, the boat empties of everyone but the boatman, Sariem’s family, and us. We have been on the boat nearly two hours, so Prek Chik must be just ahead. Sok Sareoun holds their youngest child, Phirun. Sariem clutches tightly at his hat as if it might fly away. In a very few minutes, he will have an answer: about his mother, about his home, about where they will sleep tonight.

The boat pulls into the bank and the boatman lays out a small gangplank. The older children—Rum, 11, and the twins, Chamreun and Samnang, aged 10—scramble down first. Even before the rest of the family disembarks, I see people running down the bank, dust billowing behind them in the scorching air. The crowd grows with aunts, in-laws, cousins, neighbors.

It’s as if, after 23 years, they knew he was coming just today, just now.

Sariem greets everyone with a smile and sometimes a name while continuing to unload his supplies and belongings. But he keeps glancing up the riverbank at each arriving face. Suddenly he runs, stumbling in the soft sand, throwing himself down at the feet of a woman with a face round as the moon. She kneels and lifts him up. “They said you were dead,” she is crying. “They said you were dead.”

Sariem’s wife and six children gather around and he introduces them to his mother. Now everyone is crying and laughing. Sariem’s brother comes down to the shoreline and stands shyly until someone leads him over; they cry briefly against each other, then turn, as brothers would, to the business of getting their belongings home.
Recent Developments

PRESIDENT'S FY 94 BUDGET PROPOSES $640.7 MILLION FOR OVERSEAS AND $420 MILLION FOR DOMESTIC REFUGEE ASSISTANCE

The Clinton Administration's budget for FY 94 was released on April 8. The President's budget is only a proposal; Congress will make final decisions regarding funding levels for all programs through the development and passage of FY 94 appropriations bills. However, informed observers believe that the Democratic majority in Congress will treat this budget more seriously than it did Reagan and Bush Administration budgets. The House will act first on the appropriations bills; William Natcher (D-Ky.), chairman of the House Appropriations Committee, has stated that he wants all bills through the House by June 30.

Following are summaries of the Administration's proposed funding for overseas and domestic refugee assistance, State Legalization Impact Assistance Grants (SLIAG), and a new Undocumented Aliens Impact Grant.

Overseas Refugee Assistance/Refugee Admissions Program The proposed budget for Migration and Refugee Assistance (MRA), the program through which the United States provides assistance to refugees overseas and funds the refugee admissions program, is nearly $640.7 million (see chart).

This represents an increase of $20 million over the FY 93 funding level. The budget request allocates $33.3 million more than the FY 93 budget for assistance to refugees in the various regions, including an additional $20 million for refugees in Africa. It allocates an additional $11.5 million for the refugee admissions program but proposes a reduction of $25 million from FY 93 in aid to Israel (for resettling Jews from the former Soviet Union). Many of the increases may disappear, however. Congress is virtually certain to increase the earmark for Israel by $25 million, to equal the current funding level. Unless Congress appropriates additional funds for that purpose, the $25 million will have to be taken away from the other amounts.

According to the budget document, the $353.4 million earmarked for refugees overseas (not including the aid to Israel) will provide funds for U.S. contributions to the UN High Commissioner for Refugees (UNHCR), the International Committee of the Red Cross (ICRC), the United Nations Relief and Works Agency for Palestine Refugees in the Near East, the World Food Program, International Organization for Migration (IOM), and other international and nongovernmental organizations assisting refugees.

"With more than five million refugees and displaced persons, needs are expected to remain high in Africa, particularly as a result of continued strife in the Horn, southern, and western Africa," the budget document says. The $42 million for South Asia will be used particularly to support "the continued voluntary repatriation of Afghan refugees from Pakistan and the protection and initial reintegration of returnees." In Europe, "the focus of refugee assistance will be the two to three million refugees and displaced persons in the former Yugoslavia. Major attention will be given to humanitarian needs in Bosnia and Croatia."

The request of $220,775 million for refugee admissions is expected to support the admission of up to 120,000 persons. According to the budget document, "Admissions of refugees from the former Soviet Union will continue at about the same level as the average for the past two years. Specific regional ceilings will be set by a Presidential Determination after the FY 94 consultations process, which is expected to occur this summer."

Refugee advocates say that the amount that the Administration has proposed for MRA is not nearly enough to meet growing needs. According to John Fredriksson, Lutheran Immigration and Refugee Service's (LIRS) Washington representative, "The Administration has underestimated substantial refugee protection and assistance crises in their FY 94 budget projections."

U.S. Committee for Refugees (USCR) director Roger P. Winter had expressed similar sentiments in testimony before the House Committee on Appropriations on March 1, 1993. He said, "The world is producing more refugees, and there is no sign that this trend will abate." Winter noted that the International Federation of Red
Cross and Red Crescent Societies is seeking $53.3 million for programs to aid refugees, returnees, and displaced persons, nearly three times as much as the agency sought in 1992, and that ICRC has sought 12 percent more in its emergency appeals for 1993 than it did in 1992. Together, Winter said, "UNHCR, the Federation, and ICRC are appealing for a combined $108 million more than last year--an indication of the growing needs worldwide."

Winter also noted the increased need for assistance to repatriating refugees. "The good news is that millions are trying to repatriate to Afghanistan, Mozambique, Eritrea, and Cambodia," Winter said. But, he added, "There must be recognition that the repatriation process--even when it runs smoothly--can actually cost more in the short-term than maintaining refugees in camps...but is cost-effective in the long-run. It is an investment in future peace and stability."

Refugee advocates are calling on Congress to increase MRA funds to $760 million for FY 94. Representatives of various private and voluntary agencies met informally in Washington to discuss what specific increases are necessary, with a view to bringing those to the attention of Congress. Among the increases they identified as particularly urgent are an additional $40 million for Europe (double the Administration request) and another $20 million for South Asia.

According to Jana Mason, Washington Representative of the American Council for Nationalities Service (ACNS), the Administration's earmark of $40 million for Europe "only allows for an increase of $539,000 for the whole of Europe, including the former republics of Yugoslavia and the Soviet Union. That is very inadequate given what is happening in those parts of the world."

In South Asia, USCR's Winter noted, massive numbers of Afghan refugees are repatriating, but continued conflict is causing new displacement. Meanwhile, "the Afghan refugee population outside the country remains the world's largest...requiring continued care and maintenance," Winter said.

Tim Rieser, a professional staff member with the Senate Appropriations Committee, Subcommittee on Foreign Operations, recognizes the extent of the need, and said that the Committee would like to be able to appropriate additional funds for refugee assistance, as it would for other humanitarian programs. "But," he added, "there

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**FY 94 BUDGET REQUEST**

**MIGRATION AND REFUGEE ASSISTANCE**

*Program Activities Summary (dollars in thousands)*

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<td>72,500</td>
<td>76,500</td>
<td>4,000</td>
</tr>
<tr>
<td>South Asia</td>
<td>29,683</td>
<td>42,000</td>
<td>12,317</td>
</tr>
<tr>
<td>Western Hemisphere</td>
<td>4,455</td>
<td>6,600</td>
<td>2,145</td>
</tr>
<tr>
<td>Europe</td>
<td>39,461</td>
<td>40,000</td>
<td>539</td>
</tr>
<tr>
<td>Other Activities</td>
<td>19,300</td>
<td>20,813</td>
<td>1,513</td>
</tr>
<tr>
<td><strong>Subtotal</strong></td>
<td><strong>320,050</strong></td>
<td><strong>353,413</strong></td>
<td><strong>33,363</strong></td>
</tr>
<tr>
<td>Refugee Admissions Program</td>
<td>209,138</td>
<td>220,775</td>
<td>11,637</td>
</tr>
<tr>
<td>Refugees to Israel</td>
<td>80,000</td>
<td>55,000</td>
<td>-25,000</td>
</tr>
<tr>
<td>Administrative Expenses</td>
<td>11,500</td>
<td>11,500</td>
<td>--</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>620,688</strong></td>
<td><strong>640,688</strong></td>
<td><strong>20,000</strong></td>
</tr>
</tbody>
</table>

Source: U.S. Department of State
are such unbelievable demands on the funds that we have available for foreign assistance--aid to Russia, for example--that I don't think we are going to see an increase in refugee assistance.”

Rieser said that while the additional $20 million proposed by the Clinton Administration for refugee assistance “is not a huge amount,” at least it is an increase, and it has been budgeted. In recent years, Rieser noted, if the Committee wanted to provide any additional funds for refugee assistance (and Bush Administration budgets often proposed less, rather than more funds), “the Committee was essentially forced to come up with the money.”

**Domestic Refugee Assistance** The budget proposes $420 million for Refugee and Entrant Assistance, the category for domestic refugee assistance, which is administered by the Office of Refugee Resettlement. This is an increase of $39 million over the FY 93 appropriation of $381 million, and is intended to provide eight months of reimbursement for cash and medical assistance to newly arrived refugees who are not eligible for Aid to Families with Dependent Children (AFDC). The budget assumes the arrival of 120,000 refugees, the same as the expected number of arrivals in FY 93.

The line item breakdown for the domestic program is as follows:

<table>
<thead>
<tr>
<th>Category</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Transitional and Medical</td>
<td>$284.4 million</td>
</tr>
<tr>
<td>Social Services</td>
<td>81.0 million</td>
</tr>
<tr>
<td>Targeted Assistance</td>
<td>49.0 million</td>
</tr>
<tr>
<td>Preventive Health</td>
<td>5.6 million</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>$420.0 million</strong></td>
</tr>
</tbody>
</table>

The budget also requests $27 million in supplemental funds for FY 93 to allow for the continuation of eight months of refugee cash and medical assistance for the remainder of FY93.

(See related article on this page.)

Although the budget narrative includes no language regarding program reform, the appropriation level and accompanying line items appear to allow for two possibilities: the continuation of the current refugee cash and medical assistance program, or the implementation of reform, either in the form of the Private (or Transitional) Resettlement Program that was due to begin in January 1993 but was blocked by the courts, or another reform program. (See Refugee Reports, Volume XIII, No. 10; and Volume XIV, No. 1.)

**State Legalization Impact Assistance Grants (SLIAG)** The President’s budget provides $812 million for SLIAG. The Immigration Reform and Control Act of 1986 (IRCA) established SLIAG to reimburse states for a portion of the costs associated with providing certain services to persons granted amnesty under IRCA. IRCA authorized and appropriated a total of $4 billion for SLIAG--$1 billion per year in FY 88 through FY 91; Congress gave the states seven years to spend the funds. In FY 90 and again in FY 91, the Administration and Congress “borrowed” from the FY 90 and FY 91 SLIAG appropriations (a total of $1.1 billion over the two years), promising to repay the states in FY 92. Repayment did not take place in FY 92. In FY 93, $325 was repayed. The Clinton budget allows for the full repayment of the balance. It is anticipated that most of the funds will go to cover expenses already incurred by the states and not to new services.

**Undocumented Aliens Impact Grant** The budget also proposes $400 million for a new grant to states for unreimbursed costs of emergency medical services to undocumented aliens. According to the budget document, this new, temporary program is proposed to “provide additional funding for medical services to states that are disproportionately burdened by serving undocumented alien populations.” It is not clear whether this is intended as new funding or as a way to cap reimbursement for the non-federal share of Medicaid for emergency medical services to undocumented aliens.

**CASH AND MEDICAL ASSISTANCE: FROM 8 MONTHS TO 5 MONTHS TO 8 MONTHS TO 3 MONTHS?**

Between March and April, three separate notices appeared in the Federal Register that have kept states and private and voluntary agencies guessing about how long there will actually be federal
reimbursement for refugee cash and medical assistance for the remainder of FY 93.

On March 1, an emergency final rule was published in the *Federal Register* that "would reduce the duration of the special programs of refugee cash assistance (RCA) and refugee medical assistance (RMA) from a refugee's first 8 months in the United States to a refugee's first 5 months in the United States for the remainder of FY 1993, effective April 1, 1993."

According to the Office of Refugee Resettlement (ORR), this action was being taken because the amount Congress appropriated for transitional and medical services for FY 93 was insufficient to allow the continuation of the eight-month eligibility period. If no reduction were made, the RCA/RMA program would run out of funds by July 31, 1993. ORR originally maintained the eight-month period because it planned to replace RCA/RMA with the Private (or Transitional) Resettlement Program (PRP) and a private medical insurance program effective February 1, 1993. (See *Refugee Reports*, Vol. XIII, No. 10.) However, a Seattle-based lawsuit and resulting injunction aborted the implementation of PRP and, according to ORR, necessitated the reduction of RCMA time eligibility from eight to five months. (See *Refugee Reports*, Vol. XIV, No. 1.)

In mid-March, ORR advised states that it intended to reverse the rule it had published on March 1. It did so on March 31, one day before the reduction to five-months' eligibility would have been implemented. On that date, it published a "withdrawal of a final rule" in the *Federal Register* that said, "The Department [of Health and Human Services] intends to seek supplemental funding during FY 1993 to maintain the RCA/RMA eligibility period at the current 8-month eligibility level for the remainder of FY 1993."

Recognizing the possibility that it might not obtain the $27 million supplemental funding it would need to keep eligibility at eight months, ORR published a second rule the same day. This second rule would come into effect June 1 if ORR did not obtain the supplemental funding it sought and would, according to the *Register*, "reduce the duration of...RCA and RMA from a refugee's first 8 months in the United States to a refugee's first 3 months."

In other words, if ORR succeeded in obtaining an additional $27 million for FY 1993, eligibility would remain at eight months. If it did not, beginning June 1, RCA/RMA benefits would be limited to a refugee's first three months in the United States. Refugees arriving on or after June 1 would be eligible for RCA and RMA for their first three months. Refugees already in the United States on June 1 would only continue to be eligible for benefits if they had been in the United States less than three months. Those in the United States for more than three months as of June 1 would cease to be eligible for RCA/RMA on June 1, regardless of how long they'd been told they would be eligible when they first arrived.

For example, a refugee who arrived February 1 may have been told he/she would be eligible for eight months of RCA/RMA. If the second rule goes into effect, on June 1 that refugee would immediately cease to be eligible because he would already have been in the United States more than three months. In its April UPDATE, ORR explained the necessity for the second rule:

> *In the absence of additional appropriations... ORR estimates that the state-administered refugee cash and medical assistance benefits would be exhausted by July 31, 1993, if the current 8-month eligibility level is maintained. Without a supplemental appropriation to continue the current benefit eligibility, the second rule would become effective, hereby reducing the benefit levels for eligible refugees to 3 months, effective June 1, 1993.*

ORR's request for the additional funds needed to maintain eligibility at eight months was reflected in the President's budget proposal for FY 94, which was released on April 8, 1993. Even though the budget is for FY 94, it contains a request for $27 million in supplemental FY 93 funds to allow ORR to maintain eligibility at the eight month level. (See related article, p. 9.)

Rhode Island's State Refugee Coordinator, Christine Marshall, said that the continued changes represent not only uncertainty for clients and service providers, but considerable extra work and cost to the states. "We find this a very serious problem," Marshall said. "Our programs are computerized; every time there is a new proposal, computer programs have to be
changed, notices of the proposed change written, clients [who will be affected by the change] identified, and notified, and policy has to be rewritten. All this is very costly."

"Even more important," Marshall added, "is the anxiety it causes our clients." "They arrive and we tell them they can be assisted for eight months, then we tell them it's for five months, then it's eight months again--except that we may have to cut their benefits to three months in June."

Very similar sentiments were expressed by Sr. Dorothy Strelchun, Director of the Catholic Charities, Migration and Refugee Services in Hartford, Connecticut. She said, "Having to tell refugees one thing, then another, then yet another, has created a lot of mistrust and uncertainty in their lives--and, having just come into a new country, they are already in a fragile situation."

Sr. Strelchun said she was disappointed that PRP did not come into effect, thus setting into motion the string of proposed changes in the eligibility period. She also expressed concern over the possibility that refugees would end up with less than eight months' eligibility. "The refugee agencies have found that the time available up-front to work with the refugees helps their ability to be self-sufficient in the long-run." Sr. Strelchun added that the uncertainty has created unnecessary expenditures--both in time and money--for nonprofit agencies that are already struggling to make ends meet.

To prevent such confusion over the length of the eligibility period in the future, ORR is currently developing a formula for better predicting the RCA/RMA reimbursement period. ORR staff are currently consulting with states and private agencies on the specifics of the formula.

No New Leadership Yet at ORR The Clinton Administration has yet to appoint a new director for ORR (David B. Smith, who has been heading ORR's Division of State Legalization and Repatriation, is ORR's acting director). The Administration has nominated Mary Jo Bayne, Commissioner of New York state's Department of Social Services (HHS), to be Assistant Secretary for Children and Families at the Department of Health and Human Services. Bayne's confirmation hearing has not been scheduled but is expected soon. If confirmed, Bayne would head the Administration for Children and Families (ACF), which oversees ORR within HHS. While observers are concerned about the vacuum at the top at ORR and ACF, they are encouraged by reports that Donna Shalala, the new HHS Secretary, has taken a personal interest in the refugee program. Shalala recently asked ORR to brief her on the refugee program. According to ORR's April 1993 UPDATE, Shalala "spearheaded" the move to seek the $27 million needed to maintain the eight month RCA/RMA eligibility level.

ERITREANS, INCLUDING ERITREANS IN NORTH AMERICA, PARTICIPATE IN REFERENDUM ON INDEPENDENCE

From April 23 through 25, Eritreans are participating in an internationally observed referendum in which they are being asked if they want Eritrea to be an independent country. Eritreans living in the United States and Canada, including Eritrean refugees, are also participating in the referendum. According to the Referendum Commission of Eritrea, nearly 14,000 Eritreans have registered to vote in North America (11,000 in the United States and 3,000 in Canada). They will vote on April 23 at 36 locations--ranging from Miami to Seattle--in the United States and 12 in Canada.

Eritrea was an Italian colony from the early 1880s until World War II. Following Italy's defeat, Eritrea came under British administration. In 1950, a UN commission assigned to determine the future of Italy's former colonies visited Eritrea and found strong support for independence. Nevertheless, spurred by the United States, in 1952 the UN federated Eritrea with Ethiopia, with whose people Eritreans share some cultural and historical ties (the United States believed its strategic interests would best be served by a strong Ethiopia). In 1962, Ethiopia annexed Eritrea outright. Between 1961 and 1991, Eritreans favoring independence fought a guerrilla war against successive Ethiopian governments. That conflict, one of this century's longest, uprooted hundreds of thousands of
people, many of whom fled to Sudan.

In 1991, the Marxist regime in Ethiopia fell, and the Eritrean People's Liberation Front (EPLF) gained control of all of Eritrea (it had controlled most rural areas for many years). The EPLF formed a Provisional Government of Eritrea, which announced plans to hold a referendum on independence in two years' time.

## Resources

**WOMEN'S COMMISSION REPORTS ON CAMBODIAN REPATRIATION AND REHABILITATION NEEDS IN CAMBODIA**

The Women's Commission for Refugee Women and Children has recently issued a report on the findings of a Commission delegation that visited Cambodia and Thailand in February 1993 to “gain an understanding of the repatriation process and the issues surrounding that operation...[and] the environment into which the refugees--now--returnees--were moving.”

The report, *Cambodia Can't Wait*, concludes that the United States has a moral responsibility to assist in the rehabilitation of Cambodia. “Between August and December 1973 alone, our country dropped 40,000 tons of bombs monthly on Cambodia--a country with which we were not at war,” the report says. “During the 1975 to 1979 reign of Khmer Rouge genocide, the United States, along with much of the world, stood by silently. During the 1980s, we helped legitimize the Khmer Rouge.... These actions charge us with a humanitarian responsibility to respond forcefully to the Cambodian crisis,” the report adds.

The Commission's delegation found that women account for 60 to 65 percent of Cambodia's adult population, and that 30 to 35 percent of all households are headed by women. “This sizable minority of women merits specialized assistance in the form of education and training programs, credit programs, and day care programs that will allow them to provide for themselves and their families,” the delegation reported.

The report recommends that the international community “not abandon the effort that has begun in this transitional...period, if reintegaration, rehabilitation, and reconstruction are to succeed.”

Copies of *Cambodia Can't Wait* are available free of charge from the Women’s Commission for Refugee Women and Children, c/o International Rescue Committee, 386 Park Avenue South, 10th floor, New York, NY 10016. (212) 679-0010.

**WHAT IT'S LIKE TO LIVE IN A REFUGEE CAMP: NEW BOOK ANALYZES LAOTIAN REFUGEES' EXPERIENCE**

Lynellyn D. Long spent almost a year in Thailand's Ban Vinai refugee camp, talking to both refugees and relief workers and participating in camp life. In *Ban Vinai: The Refugee Camp*, Long describes and analyzes the experience of the Laotian refugees living there. Established in 1975, Ban Vinai, literally “Village of Discipline,” had a refugee population of approximately 45,000 at the time of Long's research in 1986.

Through her fieldwork in Ban Vinai and ethnographies of five Laotian households, Long attempts to understand the international context of camp life, as well as the daily life experiences of refugees. Using the form of a personal narrative, she explores the political, sociocultural, and psychoanalytic dimensions of the refugee experience.

*Ban Vinai: The Refugee Camp* is available from Columbia University Press, 562 W. 113th Street, New York, NY 10025, (212) 316-7100.

**REPARTITION DURING CONFLICT IN AFRICA AND ASIA**

A book with the above title has just been published by the center for the Study of Societies in Crisis. The book is edited by Frederick C. Cuny, Barry N. Stein, and Pat Reed. Cuny and Stein, along with Mary Ann Larkin, also edited *Repatriation Under Conflict in Central America*.

*Repatriation During Conflict in Africa and Asia* includes articles on refugee repatriations to Sri Lanka, Cambodia, Afghanistan, and Ethiopia during the 1980s and 90s, and on efforts to reestablish displaced populations in southern Sudan.
Stein and Cuny note that, "Today, most voluntary repatriations occur during conflict, without a decisive political event such as national independence, without any change in the regime or conditions that originally caused flight...frequently without any amnesty, without a repatriation agreement or program...without international knowledge or assistance.... The fact that refugees are returning to their homelands under these circumstances requires new thinking about voluntary repatriation and the ways of promoting it."

For information on ordering Repatriation During Conflict in Africa and Asia, contact Audun Honm the Center for the Study of Societies in Crisis, 3511 North Hall Street, Dallas, Texas 75219. Tel: (214) 521-8920.

Job Board

**Director, JVA-Saudi Arabia** The American Council for Nationalities Service (ACNS) seeks a director for the Joint Voluntary Agency (JVA) in Riyadh, Saudi Arabia. Responsibilities include pre-screening Iraqi refugees, administering program, and supervising staff. Requires ability to work effectively with U.S. embassy personnel, INS, IOM, and other agencies. Refugee and administrative experience strongly preferred. Position available June through September at least, with probable extension. Housing provided in embassy compound. **Contact** Send résumé to: Patricia Schaffel, ACNS, 95 Madison Ave., New York, NY 10016.

**Program Director** The Refugee Services Program of Lutheran Social Services of Illinois seeks a program director to assist in the resettlement of refugees. Duties include interpreting refugee concerns to interested churches and organizations and ensuring effective ongoing services for refugees. Requires bachelors degree or equivalent four years of social service experience; appreciation and respect for differing cultural values; and good oral and writing skills. International or refugee related experience highly preferred. **Contact** Send résumé and supporting materials to: Patrick Crotty, Ph.D., Lutheran Social Services of Illinois, 4840 West Byron Street, Chicago, IL 60641. No calls accepted.

**Human Rights Monitor/UN Volunteer, Haiti** The UN Development Program (UNDP) urgently seeks individuals to serve under the UN Volunteer (UNV) program as human rights monitors in Haiti. Requires: bachelors degree, preferably in human rights-related field; at least two years professional experience; background in human rights work (even if only part-time); fluency in French; and the ability to adapt to difficult and stressful conditions. UNV provides living allowance, health insurance, and other necessary support. **Contact** Send two-page résumé of bio data, education, and work experience by fax to: Frank O'Donnell, Chief, Humanitarian Assistance Unit-ref.HAI, United Nations Volunteers, Palais des Nations, 1211 Geneva 10, Switzerland. Fax: (41-22) 788-5854 or (41-22) 740-0863.

The U.S. Catholic Conference's Office of Migration and Refugee Services (USCC/MRS) seeks to fill the following positions at the Provincial Processing and Assistance Center (PPAC) in Cape Haitien, Haiti:

**Representative** Duties include directing the PPAC; supervising expatriate and local staff; gathering relevant information needed by INS to adjudicate refugee applications; and interviewing a limited number of applicants in the surrounding area. Requires five years of overseas experience (at least three in a developing country) including project management; and substantial overseas JVA/refugee processing experience or good language skills in French and/or Creole. Must be available immediately for up to one year assignment. Salary: $30,000 plus benefits and housing allowance.

**Senior Case Presenter/Caseworker** Duties include managing PPAC operations in absence of representative; conducting interviews with Haitians seeking refugee status in the U.S.; compiling case files and documentation; and traveling within Haiti to conduct interviews. Requires fluency in Creole and/or French and experience living/working in a developing country. Extensive knowledge and experience in Haiti and/or experience in a JVA processing activity preferred. Must be available immediately for up to one year assignment. Salary: $16,000 plus benefits and housing allowance. **Contact** For USCC/MRS positions, fax résumé and availability to: Shep Lowman, USCC/MRS, 3211 4th Street, NE, Washington, DC 20017. Fax: (202) 541-3399.
## Temporary Protected Status (TPS):
### Eligible Groups and Registration Dates

<table>
<thead>
<tr>
<th>Country</th>
<th>Program Announced</th>
<th>Registration End Date</th>
<th>Number Registered</th>
<th>Program Expired</th>
<th>Registration Extended To</th>
</tr>
</thead>
<tbody>
<tr>
<td>El Salvador</td>
<td>11/29/90</td>
<td>12/31/91</td>
<td>187,128</td>
<td>6/30/92</td>
<td>6/30/93*</td>
</tr>
<tr>
<td>Somalia</td>
<td>9/16/91</td>
<td>9/16/92</td>
<td>347</td>
<td>-</td>
<td>9/16/93</td>
</tr>
<tr>
<td>Bosnia</td>
<td>8/10/92</td>
<td>8/10/93</td>
<td>219</td>
<td>-</td>
<td></td>
</tr>
</tbody>
</table>

* Salvadorans who registered for TPS were granted “Deferred Enforced Departure” for one year after their TPS expired.

Source: U.S. Immigration and Naturalization Service
SENATE HEARING REACTS TO TERRORIST INCIDENTS: CALLS FOR ASYLUM REFORM

In the wake of the February 26 bombing of the World Trade Center, the shooting of CIA employees outside CIA headquarters in January, and a 60 Minutes television exposé on March 14 suggesting that possible terrorists could easily enter the United States at JFK airport in New York by uttering the words "political asylum," the House and Senate refugee subcommittees recently held hearings to determine what steps ought to be taken to speed up and toughen the procedure to expedite the removal of nonrefugees applying for asylum.

In opening the May 28 hearing of the Senate Subcommittee on Immigration and Refugee Affairs, Sen. Edward M. Kennedy (D-Mass.), chairman of the subcommittee, said, "Our immigration laws and procedures are being overwhelmed by applicants for asylum, many of whom are making fraudulent claims, and some of whom are terrorists."

Noting recent incidents involving Chinese nationals being smuggled on freighters, Kennedy said this "modern-day slave trade" needed to be stopped, and called for closer cooperation among the Immigration and Naturalization Service (INS) and U.S. law enforcement and intelligence agencies to identify potential terrorists.

Sounding a cautionary note at the April 27 House hearing, Robert Rubin, assistant director of the Lawyers' Committee for Civil Rights of the San Francisco Bay Area, said, "When certain individuals abuse our laws, we must respond quickly and forcefully. When such individuals commit criminal or terrorist acts, the public justifiably demands corrective actions. But our response must be thoughtful, not reflexive. It must be motivated by a desire to address core problems while resisting the urge to offer quick-fix, superficial answers that only lend the appearance of a 'solution.'"

Kennedy's and Simpson's Legislative Approaches The Senate hearing focused on two bills, a draft bill by Kennedy that had not yet been formally introduced, as well as a measure introduced by Sen. Alan K. Simpson (R-Wyo.), the
## MONTHLY AVERAGES OF ASYLUM APPLICATIONS FILED FOR TOP TEN NATIONALITIES FY 1992-93

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>TOTAL</td>
<td>8,620</td>
<td>8,591</td>
<td>10,051</td>
</tr>
<tr>
<td>Guatemala</td>
<td>3,653 (1)</td>
<td>2,253 (1)</td>
<td>2,510 (1)</td>
</tr>
<tr>
<td>El Salvador</td>
<td>561 (2)</td>
<td>843 (2)</td>
<td>822 (3)</td>
</tr>
<tr>
<td>Haiti</td>
<td>441 (3)</td>
<td>588 (3)</td>
<td>354 (7)</td>
</tr>
<tr>
<td>Philippines</td>
<td>334 (4)</td>
<td>343 (7)</td>
<td>292 (9)</td>
</tr>
<tr>
<td>China, Mainland</td>
<td>287 (5)</td>
<td>462 (5)</td>
<td>1,335 (2)</td>
</tr>
<tr>
<td>Pakistan</td>
<td>277 (6)</td>
<td>434 (6)</td>
<td>330 (8)</td>
</tr>
<tr>
<td>India</td>
<td>263 (7)</td>
<td>511 (4)</td>
<td>442 (5)</td>
</tr>
<tr>
<td>Cuba</td>
<td>197 (8)</td>
<td>139</td>
<td>82</td>
</tr>
<tr>
<td>Yugoslavia</td>
<td>191 (9)</td>
<td>175</td>
<td>157</td>
</tr>
<tr>
<td>Romania</td>
<td>174 (10)</td>
<td>95</td>
<td>80</td>
</tr>
<tr>
<td>Bangladesh</td>
<td>87</td>
<td>229 (8)</td>
<td>395 (6)</td>
</tr>
<tr>
<td>Russia</td>
<td>NA</td>
<td>220 (9)</td>
<td>265 (10)</td>
</tr>
<tr>
<td>Peru</td>
<td>95</td>
<td>208 (10)</td>
<td>228</td>
</tr>
<tr>
<td>Mexico</td>
<td>51</td>
<td>200</td>
<td>482 (4)</td>
</tr>
</tbody>
</table>

Source: Immigration and Naturalization Service.

ranking (and lone) Republican on the three-person subcommittee.

Kennedy's draft bill would provide expedited procedures for excluding persons who do not have valid asylum claims and who attempt to enter the United States with fraudulent travel documents or without travel documents.

An excludable alien seeking asylum would be detained for up to ten days after arrival pending a senior asylum officer's determination of whether or not the alien had a "nonfrivolous claim for asylum" or had been firmly resettled in a third country.

If the claim was found to be frivolous or if the alien had been firmly resettled, then the senior asylum officer would find the alien ineligible to apply for asylum and order him or her excluded.

Aliens so excluded would have 48 hours to request an administrative review of the order before a specially trained inquiry officer, which would be the sole and exclusive administrative review of the order.

The senior asylum officers would be authorized to parole from detention aliens who establish nonfrivolous asylum claims, if the aliens are found not likely to abscond or pose a threat to public safety.

Kennedy defines a "frivolous" asylum claim as one that "is non-credible, abusive, or manifestly unfounded, as used within the meaning of guidelines promulgated by the United Nations High Commissioner for Refugees" (UNHCR).

Simpson's bill, S. 667, would allow "an immigration officer" to summarily exclude "any alien" from entering who uses fraudulent documents or who fails to show documents upon arriving into the United States on a common carrier. Such aliens would not be permitted to apply for asylum unless they could show that false documents were used in the "direct departure" from a country in which they had a "credible fear of persecution" or from another country where there was a significant danger that they would be returned to a place where they would have a credible fear of persecution. If found by a specially trained immigration officer not to have used false documents to directly depart from a country where they had a credible fear of perse-
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PAGE 3

cution, such aliens would be returned to
the country from which they departed.

Unlike Kennedy, Simpson does not use
the "nonfrivolous" standard in his bill, preferring
a "credible fear of persecution" as the threshold
test for going forward with a hearing on an asy-

...mum claim. He defines a "credible fear of persecu-
tion" as meaning that it is "more probable than
not" that the alien is telling the truth and that
there is "a significant possibility" that the alien
could establish that he or she had a well-founded
fear of persecution.

S. 667 eliminates administrative review of
the immigration officer's decision, and limits
judicial review.

Simpson's bill would also increase the
penalty for smuggling aliens from five to ten
years.

Clinton Administration Not Ready To Back Particular Bill

Clinton Administration witnesses, none of whom were permanent Clinton appoin-
tees, endorsed neither Kennedy’s nor Simpson’s
bill, although the hearing had been postponed to
allow the Administration more opportunity to
consider them.

INS Acting Commissioner Chris Sale
outlined key principles the Administration was
prepared to support:

- the development of effective procedures
  for expedited exclusion of persons who present
  false documents or no documents upon arrival;
- the creation of a substantive standard
  for threshold determination of asylum claims;
- the use of specially trained officers with
  expertise in asylum law and country conditions;
- a supervisory mechanism and system of
  review for ensuring quality decisions, and limited
  judicial review, provided there are adequate
  procedural safeguards, which might include
  counseling in the administrative process.

Congress Anxious To Move Quickly

The mood of the subcommittee was captured by Simpson,
who spoke of our “feckless, pathetic, ...embar-
rassing, ...stupid inability to control illegal immi-
gration,” and said that the public demands that
this time we do something meaningful to change
the system.

“Where is the new sense of urgency?”

Kennedy asked. He warned that the Clinton
Administration needed to get its act together
quickly with a set of reforms or “legislation will
just whistle through this body.”

Simpson chided the Administration for
endorsing neither his nor Kennedy’s bill. “We
delayed the hearing before to give them time to
get some things together, and still nothing except
a vague listing of needs.”

Sale said the Attorney General would send
a more definitive letter or memorandum “shortly”
that would set out the government’s position.
She said that an interagency task force headed by
the National Security Council is now looking at
this issue.

Simpson said the Administration “ought to
begin producing something for us,” but specu-
lated that the new Administration is “in the grip
of the groups,” that “every bleeding heart in
America is there telling them some horror story.”
He said, “It’s time to get serious.”

House Considers Several Bills

The Senate

...n was shared on the other side of the
Capitol. On April 27, Romano L. Mazzoli (D-Ky.),
chairman of the House Subcommittee on Interna-
tional Law, Immigration, and Refugees, held a
hearing in which he declared the asylum system
to be “sick” and in need of attention “in the worst
way.” The hearing considered three pending bills.

H.R. 1355, introduced by Rep. Bill
McCollum (R-Fla.), is similar to Simpson’s bill. It
would allow immigration officers to summarily
exclude without a hearing aliens who present
false documents or no documents upon arrival.
If, however, such aliens claimed asylum, they
would go before a specially trained immigration
officer to whom they would have to establish that
they had used fraudulent documents to directly
depart from a country where they had a credible
fear of persecution. If found not to have such a
credible fear, they would also be excluded. The
bill would bar administrative or judicial review.

H.R. 1153, introduced by Rep. Charles E.
Schumer (D-N.Y.), is primarily aimed at speeding
up the movement of international passengers at
airports by establishing preinspection stations at
a number of large-volume foreign airports. It
would limit the establishment of such stations to
countries that "maintain practices and proce-
Refugee Reports/May 31, 1993

The second problem identified by Sale is with the system of affirmative asylum claims heard before the corps of INS asylum officers from persons who have already entered the United States. “The regulations which govern these proceedings, combined with the backlog which already exists in this area, create rich avenues for abuse,” she said.

“The problem,” said Sale, “is not the number of applications from true asylum seekers at our ports of entry or through our affirmative asylum process. It is the procedural structure of statutes, regulations, and Federal court decisions that, combined with the lack of resources, results in inefficient adjudication and protracted review of immigration benefit applications.”

Curbing Abuses at Ports of Entry Both the Kennedy and Simpson bills, as well as the McCollum and Schumer bills in the House, focus on the first problem identified by Sale, the arrival at U.S. airports of large numbers of aliens with improper documents claiming asylum.

At the House hearing in April, Rubin, of the Lawyers’ Committee in San Francisco, devoted much of his testimony to the relevance of document fraud to the legitimacy of asylum claims. He said that the insinuation that use of a fraudulent document shows a person to be of bad character “is particularly misguided” in the context of a refugee’s experience.

Rubin cited the UN High Commissioner for Refugees (UNHCR) Handbook to suggest that “possession of a valid travel document is often viewed as evidence that the individual does not have a well-founded fear of persecution in his country,” since authorities would appear unlikely to issue a passport to someone they intended to persecute.

Testifying at the same hearing, Warren Leiden, executive director of the American Immigration Lawyers Association, said, “The means of escape should not become the litmus test for legitimacy. To do so would deny the reality that persons often must use fraudulent documents to escape persecution or rely on unsavory characters to flee for safety.” He suggested focusing “not on the documents themselves, but on the bearer of those documents.”

Leiden proposed identifying and sum-

dures” in conformity with the UN Refugee Convention and Protocol.

Mazzoli’s own bill, H.R. 1679, represents the most sweeping changes of any of the bills introduced. It would create a “nonrefoulement” hearing, dropping the current asylum standard of a “well-founded fear of persecution” in favor of the tougher standard of a “more likely than not” probability that the alien’s “life or freedom would be threatened” if returned to his or her country, the standard currently used for withholding deportation.

A refugee claimant would have to submit a notice of intent to apply for nonrefoulement status within seven days of arrival; a hearing would have to be held within 45 days of the filing; and a decision rendered within 30 days of the hearing. Mazzoli’s bill would also eliminate administrative review from the asylum procedure, although it would preserve limited judicial review.

Defining the Problem The five bills before the two bodies of Congress not only provide differing solutions, but address a variety of problems or perceived problems.

One obvious question arises with the linking of terrorism and the asylum system. Neil Gallagher, the FBI’s section chief for counter-terrorism, told the Senate hearing, “While the entry of illegal aliens into the United States does represent a concern, the facts remain that since 1983 only two acts of international terrorism have been conducted within the United States.”

David L. Hobbs, acting assistant secretary in the State Department’s Bureau of Consular Affairs, testified at the same hearing that the State Department maintains a “lookout list” with more than 3.5 million names and aliases of suspected or known terrorists and criminals to deny them visas.

The INS’s Sale differentiated in her testimony what she saw as two distinct problems. First, she said, is the arrival of large numbers of undocumented or falsely documented aliens at U.S. airports who claim asylum, thereby overwhelming dockets of immigration judges and exceeding the detention capacity of the INS. “As a result,” she said, “individuals are released before their claims are resolved, and often the most undeserving claimants do not return to complete the process.”
marily rejecting persons with frivolous asylum claims; eliminating the delays between the time of applying for asylum and the adjudication of the claim; and instituting a “reasonable and consistent detention and release policy” that would only detain persons likely to abscond or who pose a threat to public security.

Representing an opposing viewpoint, Dan Stein, executive director of the Federation for American Immigration Reform (FAIR), the only nongovernmental witness who testified at both hearings, supported Simpson’s and McCollum’s bills, and gave qualified support to Mazzoli’s. Stein argued that there is frequently no way to learn the past history and conduct of persons arriving with false documents. “We know some have brought terrorism and violence to this country,” he said. “We cannot even say this is a remote aberration because so many requesting asylum conceal their true identities.”

Stein recommended that asylum seekers using false documents be deemed ineligible for asylum unless they can show beyond a reasonable doubt that use of false documents was necessary for their escape. “Then, only after true identity is established, should the alien be considered for asylum.” Asylum, Stein urged, should only be granted as temporary and conditional “based on some identifiable pattern of conduct, or political belief, or, less frequently, because of race or religion.”

Stein also suggested that aliens be summarily denied for having passed through safe countries en route to the United States.

Stein criticized Kennedy’s bill as being “costly and cumbersome” because it would require the government to “dispute the factual basis of each frivolous claim,” and because it would create a series of procedural reviews.

Sale told the Senate hearing that the INS had thought about how it might implement the expedited exclusion provisions of some of the bills. She said that current plans would be for the INS to use about 60 asylum officers to “circuit ride” from the existing asylum offices to the major airports where large numbers of excludable asylum seekers are arriving to conduct the expedited exclusion procedures.

**Appropriate Standard for Screening Excludable Asylum Applicants** Both Kennedy and Simpson questioned the witnesses about the threshold standard that ought to be used in allowing an applicant with false documents at a port of entry to proceed with the asylum claim.

Robert Juceam, testifying for the Lawyers Committee for Human Rights, said that the international standard for abusive applications for asylum was whether the claim was “manifestly unfounded,” which, he suggested, was the equivalent of the “frivolous” standard in Kennedy’s bill. He said that the “credible fear” standard, on the other hand, “does not find any support in international documents,” and only recently came into use by the United States in screening Haitians at Guantánamo Bay. He said that under the narrow time frame of the pending bills, the “credible fear” standard could not realistically be met by a newly arrived asylum claimant with no lawyer and no knowledge of the system.

David A. Martin, Professor of Law at the University of Virginia, disagreed, saying that he thought the “credible fear” standard would be more useful because the frivolous standard, “as it has been implemented, is extremely deferential, and requires only the most formulaic evaluation.”

Martin said, however, that some of the definitions of “credible fear” have been too strong. “This is a preliminary stage of screening,” he said. “One ought not to have to find that everything the individual says is more probably true than not.”

While witnesses differed on the standard for the threshold test in an exclusion setting, there was little support from either governmental or nongovernmental witnesses, conservative or liberal, to Mazzoli’s effort to substitute the more burdensome standard of a likelihood of persecution at the full asylum hearing for the “well-founded fear” standard.

At the House hearing, former INS Commissioner Gene McNary commented, “In keeping with the INS assertion that we can be substantively generous if we are procedurally rigorous, I would not change the refugee definition or the burden of proof. If our procedures are tightened and those who seek to abuse our system are quickly returned, then we will better positioned to help those who reasonably believe that they would be persecuted if repatriated.”

McNary’s immediate successor, Sale, the current INS Acting Commissioner, volunteered
her view that when the deliberative process is finished, "we will ultimately conclude that the standard that is currently in the law and the 'credible fear' concept will prevail."

**Detention** The image broadcast on *60 Minutes* of undocumented aliens carrying their bags out of JFK airport for lack of INS detention space was troubling to the members of Congress.

Sen. Paul Simon (D-Ill.) said, "Detention facilities really do pay off," and observed that detention sends a message that "you can't come in here and disappear, walking into the streets of whatever community and becoming part of the United States." Simon suggested establishing detention facilities at the key points of entry.

Sale reported a General Accounting Office study finding that the INS has the resources currently to detain fewer than 25 percent of those whom the agency could detain. At JFK, she said, the INS is presently detaining 5 percent of the people in exclusion proceedings. "We are now detaining, on average, more than 10 percent of the people that we would be able to detain if we had the resources," she said.

She said that the INS now has the appropriated funds to detain about 4,500 at any one time, most of whom are criminal aliens, and another 2,000 from the user fee account for people who arrive on commercial carriers.

**Reforming the Affirmative Asylum Procedures** Although the second problem area identified by Sale, the affirmative asylum system, is not currently on the legislative table, it clearly was very much on the minds of the legislators.

Sale said that 103,000 asylum claims were registered in FY 92 and that current receipts suggest 120,000 in FY 93. The present backlog stands at 260,000 cases.

She said that although the FY 94 budget includes a $3.5 million increase for the asylum program that would add 59 positions, the backlog is expected to grow to more than 300,000 with the additional positions.

Simon called the numbers "astounding," and said it would be "well worth it" to find funding for more asylum officers. He pointed to a chart comparing the size of the staffs of asylum systems in the United States and European countries, showing how resource-poor the U.S. system is. Among those were:

<table>
<thead>
<tr>
<th>Country</th>
<th>Asylum Staff</th>
<th>1992 Claims</th>
</tr>
</thead>
<tbody>
<tr>
<td>Germany</td>
<td>3,500</td>
<td>438,191</td>
</tr>
<tr>
<td>Sweden</td>
<td>800</td>
<td>83,963</td>
</tr>
<tr>
<td>Netherlands</td>
<td>750</td>
<td>17,462</td>
</tr>
<tr>
<td>France</td>
<td>600</td>
<td>27,486</td>
</tr>
<tr>
<td>U.K</td>
<td>500</td>
<td>24,610</td>
</tr>
<tr>
<td>Switzerland</td>
<td>500</td>
<td>17,960</td>
</tr>
<tr>
<td>Australia</td>
<td>460</td>
<td>9,795</td>
</tr>
<tr>
<td>Norway</td>
<td>400</td>
<td>5,238</td>
</tr>
<tr>
<td>United States</td>
<td>297</td>
<td>103,447</td>
</tr>
</tbody>
</table>

"Two Bites of the Apple" Simpson pointed to a flow chart showing the asylum procedure. "This flow chart is the essence of absurdity," he declared. "More due process is given to the people here illegally than to the citizens of the United States."

Sale told the subcommittee that the INS has been meeting with nongovernmental organizations to "identify and reach consensus concerning streamlining and reform measures that could be implemented administratively," and announced a goal of completing asylum adjudications within a 90-day period.

"Under the proposed streamlining measures," she said, "employment authorization would be granted only to individuals found eligible for asylum within the new 90-day period."

She observed that "the current system permits two *de novo* considerations of asylum, first before the asylum corps, and then before an immigration judge in removal proceedings." She said that this duplication delays final processing and increases total costs. "This issue warrants careful review," she said.

Martin addressed the issue, saying that the best solution to the airport problem as well as the backlogs in the affirmative asylum procedure "is to streamline the overall system and then provide adequate resources to assure prompt final orders" to deport persons determined not to be refugees.

Martin recommended creating a system that would eliminate the "two bites at the apple" before both INS asylum officers and the immigration judges. He recommended not going exclu-
sively with either the asylum officer or the immigration judge model, but rather trying something that "would fall somewhere between the two." He suggested one nonadversarial hearing before a specially trained adjudicator, but with better record keeping than under asylum officers and a more significant role for the applicant's counsel. The hearings would operate under a new Asylum Board within the Executive Office of Immigration Review (EOIR)--currently the locale of the Immigration Judges and the Board of Immigration Appeals.

Responding, it seemed, to Martin, the following witness, Robert A. Boswell, Professor of Law at the University of California, said, "It's not the number of "bites at the apple," but the quality of the bites." He suggested that given the life and death consequences for asylum seekers, there is "nothing special" in the level of review currently accorded persons in asylum proceedings.

The senators did not appear overly receptive to observations about maintaining current levels of review, however. Simpson concluded his remarks by saying, "We have to do something swift, and sure, and certain."

Kennedy ended the hearing by remarking, "Quite frankly, I agree with Sen. Simpson. There are going to be changes."

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**Recent Developments**

**STATE DEPARTMENT RAISES CEILING ON BOSNIAN REFUGEE RESETTLEMENT, BUT BOTTLENECK PERSISTS**

On March 26, the U.S. State Department announced the expansion of its admission program for Bosnian refugees. Bosnia was added to the countries designated as being "of special humanitarian concern" for the purposes of refugee admission, and the number of admission places was raised from 1,000 to 3,000.

The first 1,000 places had been limited to 300 former detainees and 700 of their family members (see *Refugee Reports*, Vol. XIII, No. 11).

The additional 2,000 places will be made available to two distinct groups:

- vulnerable cases, including victims of torture and women victims of violence, and other individuals referred by the UN High Commissioner for Refugees (UNHCR) as being in need of resettlement; and

- Bosnian Muslim relatives of U.S. citizens, lawful permanent residents, refugees and asylees, and parents and siblings of U.S. citizen children who have been displaced as a result of the conflict in Bosnia.

Although it is anticipated that most processing for this program will occur from Zagreb, Croatia, eligible persons are also permitted to apply at U.S. diplomatic posts in Belgrade, Rome, Vienna, Frankfurt, Madrid, Athens, and Istanbul.

Although not part of the official announcement, a State Department source informed *Refugee Reports* that Bosnian Muslims who are not secure in their countries of first asylum and persons in ethnically mixed marriages for whom there is a specific requirement for U.S. resettlement would also be considered for the program.

**Program Proceeding Slowly** So far, only 136 Bosnian refugees have been admitted to the United States under the refugee resettlement program. Of that number, 39 were released detainees and 97 were family members. Another 413 are scheduled to depart from Croatia in June.

In late 1992, when the program was exclusively related to ex-detainees, Switzerland agreed to act as a staging area for U.S.-bound refugees in order to relieve the burden on Croatia, particularly the refugee processing center in Karlovac. However, the Swiss were reluctant to admit family members of the detainees, so the U.S. authorities decided to process refugees directly out of Zagreb.

Although UNHCR had requested the United States to offer the first 1,000 resettlement places for the ex-detainees back in September 1992, the agency did not request the additional 2,000 places in March. The impetus for that came in large part as a result of advocacy efforts by U.S. nongovernmental organizations (see *Refugee Reports*, Vol. XIII, No. 11).

"We were perfectly happy with the 1,000
offered places,” a UNHCR officer in Zagreb responsible for resettlement told *Refugee Reports.* “We did not ask for the additional 2,000 places, and we are not promoting resettlement as a solution here.” The UNHCR officer said that the additional resettlement places would send “the wrong message” to the refugees and “raise false expectations.” Another UNHCR resettlement officer said that UNHCR did not have the resources to perform this function for the U.S. refugee resettlement program, and was not consulted before the 2,000 additional places were publicly announced, resulting, this source said, in “sudden lines outside our doors.”

The UNHCR officer in Zagreb said, “I believe the actual number of refugees referred by UNHCR will not be much larger than the original 1,000.”

She noted that family unity cases do not require UNHCR referral.

**A Trade-Off Between Bosnians and Other Refugees in Need of Resettlement?** The UNHCR officer said that every year the agency identifies refugees worldwide in need of resettlement, but that every year there is a large shortfall in the number of resettlement places offered on their behalf. “If we start opening up large numbers for resettlement out of former Yugoslavia—refugees who are highly educated and skilled and who can be easily integrated—there will be fewer offers to resettle refugees from other parts of the world.”

UNHCR’s 1993 global needs assessment for refugee resettlement lists 72,020 refugees in need of resettlement this year. Because the 1993 global assessment was prepared in July and August 1992 and was not published until September, a month before the October resettlement appeal for Bosnian ex-detainees, not a single resettlement place was listed for refugees from former Yugoslavia. (The European subtotal of 200 represents Albanian refugees in Yugoslavia as the host country.) The totals are:

<table>
<thead>
<tr>
<th>Region</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Middle East/ S.W. Asia</td>
<td>39,760</td>
</tr>
<tr>
<td>East and Southeast Asia</td>
<td>21,180</td>
</tr>
<tr>
<td>Africa</td>
<td>10,730</td>
</tr>
<tr>
<td>Europe</td>
<td>200</td>
</tr>
<tr>
<td>Latin America</td>
<td>150</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>72,020</td>
</tr>
</tbody>
</table>

From the U.S. perspective, it is clear where the additional 2,000 resettlement places are coming from. They are being made available by reallocating 1,000 resettlement places each that previously had been assigned to the former Soviet Union and East Asia, numbers that would not likely have been among those identified by UNHCR in its global assessment. Unused numbers will revert back to those regional ceilings.

**Do Bosnian Refugees Want To Be Resettled in the United States?** According to the State Department, of the 139 ex-detainee cases who were originally slated for U.S. resettlement, only 39 agreed to be interviewed for admission to the United States. “Many have relatives in other parts of Europe whom they would rather join,” said the State Department source, “while others do not know the whereabouts of family members and, therefore, do not wish to leave until they are reunited.”

UNHCR has said that many had no interest in coming to the United States. “I’ve been working in refugee resettlement for eight years, dealing with people desperate for resettlement,” said the UNHCR officer in Zagreb. “But here, I had to...tell them the Croatian government wouldn’t allow them to stay. Most of the ex-detainees, regardless of the horrors they experienced, said they would go back the day they could return.”

The UNHCR source in Zagreb said that the refugees were particularly reluctant to go to faraway countries such as Canada, Australia, and the United States, and that most preferred nearby countries, such as Germany, Austria, and Switzerland, where they often had strong ties.

Although most of the refugees *Refugee Reports* interviewed during a recent site visit to Croatia did indeed want to stay close to home, and expressed an interest in returning to Bosnia as soon as possible, other Bosnian refugees in Croatia clearly stated a desire to be resettled in the United States. (See feature article, p.15.)

A State Department source said that 99 former detainees at the Karlovac transit center have currently expressed an interest in being resettled in the United States. UNHCR is now trying to locate their family members and transfer them to Karlovac.
UNHCR has made a distinction between those former detainees who were identified by the ICRC and put on buses by UNHCR to take them out of Bosnia, as opposed to others, including ex-detainees, who arrived spontaneously. UNHCR Zagreb contends that the latter group, the "parallel cases," as they are called, generally should be considered the primary responsibility of Croatia, unlike those brought out by international humanitarian agencies. The UNHCR representative in Zagreb said that since Croatia agreed to abide by the Refugee Convention in October and since it reached an agreement in February to register as refugees previously undocumented Bosnians who arrived since July 30, 1992, those registered now fall under Croatia's protection.

A senior UNHCR resettlement official based in Geneva told Refugee Reports that UNHCR has now decided that it will consider the parallel cases for resettlement.

American Private Voluntary Agencies Unhappy with Pace of Resettlement. As is usual in U.S. refugee processing elsewhere in the world, the United States has established a Refugee Resettlement Office (RRO) staffed by U.S. voluntary agency representatives—in this case the International Rescue Committee (IRC)—to prepare cases for interviews and placement. What is new in this instance is the requirement that all vulnerable cases be referred for U.S. resettlement by UNHCR.

Bob Carey, IRC's resettlement program coordinator, told Refugee Reports that the RRO screened and presented 100 vulnerable cases, representing about 300 persons, to the UNHCR. Thus far, however, UNHCR has referred only three vulnerable cases to the United States for resettlement, none of which was identified by the RRO, according to Carey.

"Our feeling was that unless something moved quickly," said Carey, "it would be unlikely to move more than the original 1,000 places before the end of this fiscal year."

He said that because UNHCR referrals have not taken place, the RRO has concentrated on family connection cases that have some prospect of being resettled this year.

Carey noted that during a recent RRO team visit to Split and Dubrovnik the UNHCR protection officer there conducted joint assessment interviews with the RRO and agreed to refer another 31 vulnerable cases. According to Carey, however, "it is unclear whether those referrals will stand" because UNHCR is still working out its internal mechanism for referring cases.

Refugee Reports also met with UNHCR and International Organization for Migration (IOM) personnel in Belgrade, who said that they had referred 25 vulnerable cases on the Serbian side for U.S. resettlement. Here, again, however, UNHCR sources outside Serbia were unclear about the status of these vulnerable case referrals.

Shep Lowman, senior policy analyst with the U.S Catholic Conference/Migration and Refugee Services, said, "The UNHCR seems very doctrinaire about this." He said that the agency ought to be "doing its job, the hard job of drawing the lines, making distinctions to find the select numbers who need resettlement."

He said that UNHCR's position on Bosnian resettlement "flies in the face of experience worldwide." Citing Afghan resettlement as one example among many, Lowman said that "a select number" of vulnerable refugees can be identified as being in need of resettlement, without implying that large numbers will be resettled or that on-the-ground refugee assistance will suffer as a result.

THAILAND FORCIBLY RETURNS 573 CAMBODIANS

On May 7, Thai military authorities deported 573 Cambodians who had refused to return to Cambodia as part of a UN High Commissioner for Refugees (UNHCR)-sponsored repatriation program that ended officially on April 28, 1993. A total of 363,061 Cambodians repatriated from Thailand between March 30, 1992 and April 30, 1993 with UNHCR assistance; 22,000 others returned home spontaneously.

The 573 Cambodians deported by Thailand on May 7 were the last of a group of some 800 so-called "refuseniks" who chose not to join the UNHCR repatriation program, saying that
they feared persecution in Cambodia. About 230 of the "refuseniks" were persuaded to join the UNHCR repatriation just before it ended.

According to a UNHCR official in Thailand, UNHCR reviewed the cases of anyone who refused to volunteer to return and found that none had a valid claim to refugee status. UNHCR advised the group that once the repatriation program officially ended, they would no longer enjoy UNHCR protection and assistance in Thailand, and that they would likely be considered illegal immigrants by the Thai authorities. The 573 still refused to repatriate, and when the last UNHCR repatriation convoy left, they remained at Site 2 Camp under Thai government jurisdiction.

On May 7, Thai soldiers forced the Cambodians onto buses with UNHCR markings and took them across the Thai-Cambodian border to a UNHCR returnee reception center near Sisophon, Cambodia. Staff of the U.S. Committee for Refugees (USCR/Refugee Reports) who were on a site visit to Cambodia and Thailand were present at the reception center the day the deportees arrived. The deportees said that they had not been given water for several days before their deportation, and that on the day of the deportation, Thai soldiers had told them that it was the UN that had withheld water from them and was responsible for their forced return to Cambodia. Upon arrival at the reception center in Cambodia, some of the deportees smashed the windows of the buses in which they had arrived.

Following the deportation, UNHCR issued a press release that said, "UNHCR wishes to state expressly that it was in no way associated with this deportation exercise." The agency said that the buses used by the Thai military were no longer under lease to UNHCR, that their use (with UNHCR marking still on them) had caused "unnecessary confusion in the minds of those deported and for observers," and that UNHCR would seek "official clarification" from the Thai government regarding the matter.

On May 11, USCR director Roger P. Winter wrote to Thai Prime Minister Chuan Leekpai, "UNHCR's decision to withdraw protection and assistance from this entire population is a matter for separate discussion. But UNHCR policy was very clear that it would not be party to involuntary return. It was Thailand's decision alone to classify this group as illegal immigrants and to summarily deport them. Your government's actions, in the end, seemed a cynical attempt to shift responsibility for this deportation back to UNHCR."

Winter also urged the Prime Minister to reconsider Thailand's policy of not offering asylum to Cambodians in the future. Winter said, "There still are ample reasons for Cambodians to fear ethnic and political violence as well as acts of war and terror. We fervently hope that Thailand will not close its borders to those who may seek temporary haven in the coming weeks and months."

**Updates**

- **Deferred Enforced Departure (DED)** for nationals of El Salvador who have already applied for DED is being extended for another 18 months. The extension was announced by Attorney General Janet Reno on May 22. The extension period, which had been due to expire on June 30, will now run through the end of 1994.

Salvadorans were initially granted temporary protected status (TPS) as part of the Immigration Act of 1990. Some 187,000 Salvadorans registered for the new protected status, which withheld deportation and authorized employment. When TPS expired on June 30, 1992, President Bush extended protection from deportation and work authorization for another year under the DED rubric. Only 83,000 Salvadorans out of the original 187,000 registered for DED, however.

Those who have not reregistered for DED have until June 30 to do so, at which time their protected status will be extended for the additional 18 months.

- **On May 25**, the House of Representatives passed a bill, H.R. 2128, that reauthorizes funding for the domestic refugee resettlement program for FY 93 and FY 94. The Senate passed an identical bill on May 27. The legislation has gone to the President for signature.
On May 24, a Honduran-registered fishing trawler steamed under San Francisco's Golden Gate bridge to unload its cargo of undocumented Chinese passengers. The Immigration and Naturalization Service (INS) reported that 169 of the passengers were apprehended within hours of having landed. The ship's crew was caught about 70 miles out to sea and charged with smuggling. The San Francisco Chronicle reported the following day that some of the passengers had already placed calls to area attorneys seeking counsel in filing asylum claims.

Passengers reportedly told local law enforcement officials that they had been traveling for 60 days and had paid $20,000 each for the voyage. This was the second time in six months that a ship seeking to smuggle undocumented Chinese immigrants into San Francisco was caught. In December, another ship was interdicted about 250 miles from the coast.

A State Department spokesman told a Senate hearing on May 28 that 1,400 Chinese nationals have been apprehended this year while attempting to enter the United States from what the State Department believes to be five different vessels. Ten other ships in the past two years are known to have carried Chinese passengers to Mexico or Guatemala as part of smuggling operations.

On May 15, about 200 Chinese nationals who were detained in Mexico pending their deportation to China escaped. The U.S. Border Patrol reportedly apprehended 87 of them as they crossed the border. The deportation of the group had been delayed because neither Canada nor the United States would allow a plane carrying them to stop on their territory for fear that the passengers would then ask for asylum.

On May 24, another group of 61 PRC nationals was discovered in a padlocked building in Jersey City, N.J., apparently being held pending the payment of smuggling fees by their relatives in China and the United States.

On April 30, the INS published a notice in the Federal Register establishing guidelines for submitting master exhibits to its Resource Information Center (RIC) for use in asylum applications. Master exhibits are compilations of documents concerning the status of one specific "population at risk," said the notice, such as Guatemalan Kanjobal Indians, Salvadoran trade unionists, Jews in Georgia, Iranian Baha'is, Chinese pro-democracy activists, etc. Master exhibits can also relate to legal issues, such as the issue of statelessness and Palestinians or the legal concept of firm resettlement.

Any private voluntary organization, law firm, or other groups or individual willing to meet the specifications outlined in the notice are eligible to submit master exhibits, which are presented by the RIC to asylum officers to support individual asylum applications. The Federal Register notice (Vol. 58, No. 82, p. 26165) also includes a listing of currently available master exhibits.

The UN High Commissioner for Refugees (UNHCR) plans to implement cuts and changes in services to Vietnamese asylum seekers held in detention centers in Hong Kong beginning in June. The cuts include termination of all adult education programs, supervision of recreational programs, and most income-generating projects. Although the impending cuts will not affect basic services such as provision of food and water, relief groups assisting the Vietnamese consider them worrisome given the adverse conditions in which the detainees live.

UNHCR is also terminating the contract of Community and Family Services International (CFSI), which provides mental health and other social services to the detainees, as of August. CFSI has been credited by other relief groups working in the centers with helping reduce tensions in the detention centers. UNHCR also intended to terminate the contracts of two international relief groups providing medical services to the detainees, but had to reverse that decision following protests from the Hong Kong government.

The cuts in services are apparently intended to encourage the Vietnamese to repatriate. However, many observers doubt that the cuts will achieve that objective, and fear they may contribute to increased crime and violence in the detention centers as the detainees would have even fewer activities to occupy their time constructively.
• On May 26, Germany’s lower house of parliament, the Bundestag, voted 521 to 132 to amend the country’s constitutionally guaranteed right of asylum. The amendment will allow border guards to turn away asylum seekers who try to enter Germany from neighboring countries. The amendment is expected to pass the upper house of parliament, and to be enacted by July 1.

On the same day, the Bundestag passed another bill the same day to cut benefits for asylum seekers in Germany by 25 percent.

Demonstrators in Bonn had tried to block parliamentarians from arriving for the vote. UNHCR also criticized the new law, saying it would deny individuals from so-called “safe” countries from having their asylum claims considered in Germany.

Earlier in May, Germany concluded an agreement with Poland for the return of asylum seekers from Germany to Poland.

• The International Organization for Migration (IOM) re-elected James Purcell on May 26 to a five-year term as its director general. The IOM Council re-elected Purcell by a vote of 44 to 2.

Purcell said the vote “strengthens my determination to go forward and ensure that IOM plays its full part to assist States in the resolution of international migration issues.”

Current Research

REPORTS FOCUS ON CONSEQUENCES OF RAPE ON BOSNIAN REFUGEE WOMEN AND CHILDREN

Several recent reports assess the social and psychological needs of refugee women and children, particularly as it relates to sexual brutalization as part of “ethnic cleansing” in Bosnia.

Balkan Trail of Tears Revisited: Living with the Nightmare is an update to an earlier report produced by the Women’s Commission for Refugee Women and Children. The report contrasts the earlier visit in which “women were willing to talk, thinking that if they told of the atrocities that were happening to them, the international community would act to stop the slaughter and dehumanization,” with the situation at the time of their February-March 1993 site visit when “the victims are angry, and most refuse to be identified.”

The change is attributed both to the media and various NGO delegations asking victims to repeat their stories, “subjecting them to continued trauma and exploitation,” as well as the failure of the international community to intervene on their behalf to halt the ethnic cleansing.

Rape as a Weapon of Ethnic Cleansing

A recent report stunning in its breadth of detail is War Crimes in Bosnia-Hercegovina: Volume II, published by Helsinki Watch in April 1993. The 422-page book, based largely on refugee testimonials, documents the full range of abuses of human rights and humanitarian law that have been perpetrated during the war. Among those violations, the study documents rape as a weapon of war by all parties to the conflict, sometimes at random, but other times in a highly organized manner. “Whether a woman is raped by soldiers in her home or is held in a house with other women and raped over and over again, she is raped for a political purpose—to intimidate, humiliate, and degrade her and others affected by her suffering. The effect of rape is often to ensure that women and their families will flee and never return.”

Another consequence is forcible impregnation. Women interviewed by Helsinki Watch described how they were “gang raped, taunted with ethnic slurs and cursed by rapists who stated their intention forcibly to impregnate women as a haunting reminder of the rape and an intensification of the trauma it inflicts.”

How Many Babies Born of Rape?

The number of babies born of wartime rape in Bosnia will never be known. Several studies concur that numerous abortions have occurred. It also appears that many women are keeping their babies and not divulging how they were conceived.

The Women’s Commission report noted a total of 51 infants out of a total camp population of 845 in one Croatian refugee camp, Varazdin I. “This seems an extraordinary number of infants,” said the report. “We deduced—but could not ask
Meeting the Health Needs of Women Survivors of the Balkan Conflict, by the Center for Reproductive Law and Policy, notes that the number of births reported in Croatia increased by 25 percent in 1992 after the influx of Bosnian refugees. Yet the report, based on a February 1993 site visit, also notes that official reports have only shown four babies to have been given up by women who had been impregnated by wartime rape. While the study says that “official counts of raped women who have given birth are far too low,” it also notes that “estimates of abandoned babies appearing in the Western press have been grossly overinflated.”

Abortion Meeting the Health Needs focuses especially on the effects of rape, and particularly addresses legal issues relating to abortion, citizenship, and adoption, and includes the texts of relevant laws in Croatia on these subjects.

The Center for Reproductive Law and Policy study finds that women in Croatia are able to have legal abortions during the first ten weeks of gestation without giving reasons. A special commission of health professionals reviews requests for abortions after the tenth week of pregnancy, but no abortions are performed after 22 weeks. The report notes, however, that “little information on the availability of abortion exists for women in refugee camps,” and therefore many women who desire safe and legal abortions may not be availing themselves of them.

The report also notes that women still within Bosnia have greater difficulty obtaining access to legal abortions, “largely due to their difficulty in obtaining access to any health care whatsoever.”

Adoption Media reports about mass rape in Bosnia have generated a great deal of interest internationally, including in the United States, among people offering to adopt babies born as a result of rape or otherwise separated from their families as a consequence of the war.

Bosnian Children of War: The Adoption Question by International Social Service/American Branch, in cooperation with the U.S. Committee for Refugees, is a pamphlet intended to explain why international adoptions are neither realistic possibilities nor in the best interests of children in the Bosnian context.

Both the Bosnian and Croatian governments have stated that these babies will remain in Bosnia or be returned to Bosnia until the end of the war when permanent placement decisions will be taken. The pamphlet notes that there are already waiting lists of childless Croatian couples wishing to adopt, and says, “at present, no infants are likely to leave the country or to be legally adopted by foreigners.”

Bosnian Children of War argues that decisions regarding placement of children must not be taken away from parents or close surviving relatives, and cautions against approaches that prematurely place children in adoption before adequate time and effort have been devoted to trace relatives. Premature adoption, says the report, “can result in long-term negative effects on the children involved, tremendous loss on the part of parents, and bitter disappointment for adoptive families who wish to care for a child permanently.”

Helping Traumatized Refugee Women The recent studies show a concern that victimized women should not be revictimized through inappropriate treatment. “Care for rape survivors should not be provided in a manner that isolates women, operates so as to compel disclosure or admission of rape, or compromises privacy and anonymity,” says the Center for Reproductive Law and Policy report. “Programs should provide women with opportunities to participate in soothing, productive activities in a group context.”

The same study urges that rape survivors not be isolated from the refugee community for treatment, but that health care should be provided to refugees at the refugee camps and other locations where they reside.

The Women’s Commission report suggests that although the trauma women and children have suffered is severe, in general this is not the time for intense psychotherapy. “One’s survival needs must be met and a more stable environment created before this is appropriate. Many people need to suppress or deny the effect of their traumatization in order to survive it. Not every survivor needs therapy.”

The Women’s Commission recommends
establishing low-key groups that allow women to "express their needs for child care, social pro-
grams, or just to chat, knit, or drink coffee" as a
way of relieving anxiety and alleviating boredom
and feelings of isolation. The Women's Commit-
sion cites a knitting program at the Varazdin
camp as an example of a helpful program. A
group of Austrian women organized knitting
programs at the camp, purchasing the materials for
the women to transform into slippers and socks
that could be sold elsewhere in Europe. "A vari-
ety of small programs tailored for specific refugee
settings should be tried and models offered from
the most successful projects."

Finally, the Women's Commission notes
that "men, too, should be included in the healing
process, as they often cannot accept the raped
women.... We must recognize that all have been
touched by such atrocities. However the trauma
is ongoing. No one can talk of a post-trauma
period at this time."

_Balkan Trail of Tears Revisited: Living with
the Nightmare_ is available free of charge from the
Women's Commission for Refugee Women and
Children, c/o the International Rescue Commit-
tee, 386 Park Avenue South, Tenth Floor, New
York, NY 10016. (212) 679-0010.

_War Crimes in Bosnia-Hercegovina: Volume
II_ is available for $20 each, plus 20 percent for
shipping, from Helsinki Watch, 485 Fifth Avenue,
New York, NY 10017-6104.

_Meeting the Health Needs of Women Surviv-
ors of the Balkan Conflict_ is available for a sug-
gested contribution of $8 from the Center for
Reproductive Law and Policy, 120 Wall Street,
New York, NY 10005. (212) 514-5534.

_Bosnian Children of War: The Adoption
Question_ is available free of charge from Interna-
tional Social Services/American Branch, 95
Madison Avenue, Third Floor, New York, NY
10016. (212) 532-5858.

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**Job Board**

**Executive Director** The Coalition for Humane
Immigrant Rights of Los Angeles (CHIRLA) is
seeking an executive director. Position requires
at least three years experience managing non-
profit or public interest organization, knowledge
of immigrant and refugee communities, public
policy background, and masters degree or equiva-
 lent. Bilingual candidates in Spanish, Korean,
Cantonese, or Mandarin strongly preferred.
Salary: $37,500 to $42,000, plus benefits.
**Contact** Send résumé to Niels Frenzen, Public
Counsel, 3535 W. 6th Street, Suite 100, Los
Angeles, CA 90020. Fax: (213) 385-9089. Apply
as soon as possible.

**Policy Analyst** The American Immigration
Lawyers Association (AILA) seeks an energetic
policy analyst/government relations professional
to develop strategy, prepare written materials,
work with congressional and executive branch
staff, and organize advocacy efforts through the
media, scholars, and the public. Issues include
asylum, family immigration, employment and
business immigration, immigration procedures,
legal representation, and due process. Requires
excellent writing and communication skills; at
least three years experience with immigration law
or policy or equivalent; and the desire and ability
to work with people. A law degree is preferred,
and legal analysis experience is essential. Com-
petitive nonprofit salary, plus full benefits.
**Contact** Send résumé and statement of interest
to: AILA, Attn.: Executive Director, 1400 1 Street,
NW, Suite 1200, Washington, DC 20005. Fax:
(202) 371-9449.

**Media Coordinator** The National Immigration,
Refugee, & Citizenship Forum seeks a media
ordinator to generate public support for fair
and generous refugee and immigration policies.
Duties include cultivating press contacts, placing
spokespersons on radio and TV public affairs
programs, and drafting op-ed letters and press
releases. The coordinator also oversees produc-
tion of posters, ads, etc. Requires B.A. and
minimum of three years experience in communi-
cations or media department. Second language
and knowledge of immigration issues helpful.
Salary: $34,000 to $40,000.
**Contact** Send cover letter and résumé to:
Laura Garcia-Melendez, Office Manager, National Fo-
rum, 220 I Street, NE, Suite 220, Washington,
DC 20002.
A VOICE FROM THE BOSNIAN WHIRLWIND

Refugee Reports co-editor Bill Redick traveled to refugee camps in Croatia in April and May. This interview was conducted in Karlovac on April 29. It represents but one voice among the masses of victims on all sides of the conflict. We print it with the conviction that mass atrocities can only be understood when their impact on a single life is known.

My wife and I were born in Prijedor. We lived in the village or neighborhood of Gornja Poharska on the outskirts of Prijedor. I am a qualified technician for processing timber.... Gornja Poharska was an entirely Muslim village. Our house was on the edge of the village. The first Serb house was about 500 meters away, a small Serb hamlet. The region was about 47 percent Muslim, 40 percent Serb, the rest Croat. We had excellent relations with our Serb neighbors. They were like brothers. We always helped each other whenever there was a big job to do. We went to each other's houses. On religious holidays, we would invite them to our homes and they would do the same for us at Christmas....

The first problems started at the beginning of the war in Croatia. The Serbs were mobilized, and wanted to mobilize us too for the JNA [the Yugoslav Army]. Our President [Alija Izetbegovic] had called on all the Muslims not to join up, not to respond to calls to join in the war.... So, we didn't respond to the calls for mobilization. They sent military police to our homes, so the men, aged 18 to 55, hid. I was on the outskirts of town, so it was easy for me. I could hide quite easily in the cornfields.... I lost my job at the factory at that time, July or August 1991, when they called for the mobilization. All the Muslims lost their jobs. Two years have passed that I haven't worked at all....

None of us believed the war would happen. None of us could see any reason to start firing at us. We couldn't see any reason to fire on them either. They already had all the arms, all the power; they managed all the political structures. We saw no reason to justify their shooting at us or repressing us....

They started with the "cleansing" of the larger settlements and proceeded to the smaller. Our own village was spared from the shelling because the President of the SDS [the Serb Party] was married to a Muslim woman from our village, a relative of mine. He gave the order that there should be no shelling of our village. He also ordered that her parents should not be touched. They are still there.

We were told to put white flags outside our homes to show our surrender, which we all did. They said if we put out the white flag, we wouldn't be harmed. The very next day, May 30, they came in with four or five tanks and about 500 soldiers. They broke the agreement that had been made been made between our leaders and theirs. They came in and took all the men of military age, about 250 in all. I had my child in my lap when they came for me....

In the mosque they told us to do our bowing. They said, "Pray to Allah. Where is your Allah now? How come He isn't helping you?" Among the Muslims were people I know had never set foot in the mosque before. They had nothing to do with religion. But everyone was taken to the mosque. The Serbs know the way we pray, they know that the Imam stands in front and leads the prayers, and that the more religious are in the row directly behind him. They went down the rows striking people with the barrels of their guns and clubs, especially the people in the front row....

They immediately identified and separated political leaders, policemen, and educated people. They were put separately on the bus. Half the bus was "special cases," political, policeman, former soldiers who had served in the JNA call up....

The bus drove about 15 kms. from Prijedor to the Omarska camp. There were three buses holding about 250 of us. We had to kneel on the floor of the bus with our foreheads on the wooden seats. The bus was very hot, overcrowded. They beat us during the bus ride. We heard people moaning from the pain. Some couldn't keep this position. By the time we reached Omarska, three people were already dead. One I saw was struck on the back of the neck with a gun barrel. When we arrived at Omarska...the "special cases" were immediately separated. Most were killed shortly after arrival.

Those of us who were new arrivals were kept on a tarmac in the open between two large buildings. This was called the "pista," a sort of runway. We stayed in the open on this tarmac with no food or water for four days. There were about 800 of us on this tarmac. During this time, they conducted interrogations. After people had been interrogated, they would be moved to a large hanger that had been used for the repair of big dump trucks used for mining. It had six entrances for trucks. It was now divided into small rooms that held 120 men each. The building held about 1500 prisoners. The rooms there were very hot, walls of corrugated iron, doors of steel. Each room had one very small window. There wasn't so much as a bucket for defecating. The rooms were frightfully hot. On the other side of the tarmac was more of an administrative building that held what had been a
The interrogations took place on the upper floor of that building. I think that building also held about 2,000 prisoners. All these buildings had a steel structure.

During the first four days on the tarmac, we each waited for our turn to be questioned. We saw those brought back ahead of us. Each person who was questioned came back bleeding and could hardly walk. Interrogations lasted from 15 minutes to an hour and a half, depending on who did the questioning and who was being questioned. The most unlucky were those who happened to be wearing anything with the color green, the color of the SDA [the Muslim Party]. If you were wearing this color, you were finished. People tried to pick off that color from their clothes so as not to be killed.

They would ask questions like "Where are your weapons?" "Were you a member of the SDA?" "Do you like Alija?" [President Izetbegovic] and beating us with each question. They beat with everything available, hands, fists, guns, night sticks, baseball bats. I don't understand where they got the baseball bats. We were made to sing Chetnik songs and songs proclaiming Greater Serbia. They forced us to take off all our clothes to see if we were circumcised.

When I went upstairs for my questioning, I was surprised how much information they already had about me--my mother's name, my father's name, where I had been employed. They had all this information on each one of us. I was in such fear that I could have made a mistake. If what I said didn't agree with their information, I could be killed. I was questioned for about one hour. There was an interrogator in civilian clothes who asked all the questions. I was seated in a chair. Behind the chair were three men in uniform. As I first sat down and the first questions were asked, the three of them were slapping their billy clubs into their open palms right next to my ears. The three uniformed men called each other by nicknames. They were Zoka, Brana, and Dule, which is a nickname for Dusko. The interrogator's name I never learned. He never touched me. He started by asking me the name of my wife and children, and about my wife's parents. He then asked why I hadn't responded to the call for mobilization. I told him that I had served in the JNA when it was a real Yugoslav army. I showed him my JNA tattoo. [Editor: he rolled up his sleeve to show me; it says JNA with the date his service ended. He told me that he loved his time in the JNA, that he was like brothers with his fellow recruits, and they all put the tattoo on their arms to show their love for each other when they ended their service. This is a common army custom]. I told him I thought national armies meant death. Then they started beating me. One hit with a night stick was so hard on the side of my neck that it knocked me off the chair. The three men who beat me were tall, heavily built. They swore at me, calling me an Ustasha. When I fell off the chair, they would put me back on it. The interrogator would then say they wouldn't beat me anymore if I told the real truth. He asked if I was in any resistance groups. Asked if I was a Green Beret [a Muslim militia]. I told him I was just holding my child on my knee when they came to take me. He accused me of lying, and swore at me. The interrogation lasted about one hour.

At night, while we were on the tarmac, they would shoot over our heads to keep us awake. There were also new arrivals who kept coming from other suburbs and towns. Many came from the old part of Prijedor--Berek, which is a Muslim quarter. Berek was razed to the ground.

The Serbs had a hero from the war in Croatia, Major Zoran Karlica, a supporter of Seselj, who was actually an especially brutal person, who robbed and pillaged. He was killed during the takeover of Berek. Someone threw a grenade at his feet. He was taken to Belgrade for medical treatment. When it was learned that he died, we suffered greatly. That was also when Berek was completely flattened. The people there had already been moved out. We were told that every time one of their men was killed at the front, they would execute ten of us in camps or villages. It was direct, calculated retribution. We had to pay for each one killed at the front.

On the third day there, we were told to lie down on our stomachs. We had to make space for them to walk between us. They called out names from a list. As people called "Here" to their names, they would be struck on the back of their neck with a baseball bat and killed. I heard the necks of people near me cracking. I heard their groans.

So many people were killed there. Omarska had been an open pit mine, where they mined iron ore. There were parts where they had started digging but hit clay instead of iron ore, and abandoned those mines. We carried the bodies to those places and threw them there. Some who were thrown in were still alive. The men from Kozarac were killed the most.

After four days, I was moved into the building where 120 people were crammed into a small room with no air. I get a feeling of fear again talking about it. I was a little over a month and a half at Omarska. After seven days, they started feeding us. We got one-eighth loaf of bread every 48 hours, and leftover rotten food that their soldiers left on their plates. Not fit for pigs. We were given one glass of water a day. They mixed fuel oil with the water to drink. Some people who had stashed money were able to buy a liter of water for 100 Deutsche Marks.

I weighed about 86 kilos before this started, but went down to about 40 kilos at the worst point, when I
was near death. I am 192 cms. tall. I have the feeling I will never return to my former weight and health.

In our room, there was no toilet bucket. And people were not making normal feces. They were defecating blood. You weren't able to ask to go out to use a toilet. Everyone was full of fleas. There was hepatitis. Sick people didn't dare say they were sick. They would be taken out and killed.

There was a doctor at Omarska, and a nurse. One young man, I can't remember his name, was a diabetic, who had not had food or water. He was beaten and died. I was told with another to carry his body to the doctor in front of the "White House," a small building. We brought the body to the front of the White House. The doctor didn't even come outside. He just looked at the body through the window.

Omarska was run by a mix of militias. No one group seemed to be in charge. Some of the most extreme of the local Serb population were there too. Some of the guards were more gentle, and would even sneak us a bit of bread, but not many of those. Others were sadists, looking to beat us as often as possible. They would beat us with chains as well as bats, and sometimes with the inner tubes from the dump trucks, where the valve of the tube that sticks out would strike us.

Omarska was only supposed to hold men of military age, but there were young boys too, it depended if they were well-developed or not. There were two boys brought in from Kozarac, about thirteen years old. They said they were extremists that they had caught. But we could see they were only children. When we saw them, they had already been beaten--there were white scarves on their heads that were bloody. It had rained overnight. There was a muddy puddle, about two meters wide. They were ordered to lie down in it. All day, they had to lie there. Each guard would kick them as he went by. The boys had to sing Chetnik songs or repeat the Muslim call to prayer. They tortured them this way all day long. By the end of the day, those two boys were dead. I can't remember their names. I wish I could remember more. Very few of us can remember the names of the people killed or doing the killing. At times, I forget my own name. We were hungry, exhausted, thirsty. I would have kissed someone's feet for a piece of bread.

I can't talk about it. It is indescribable. I don't know how this must sound to you. There is an Orthodox Christian religious holiday, Djurdjevdan, where the Serbs traditionally build bonfires to ward off evil spirits. Well, on this night, they set one of the big tires from a dump truck on fire. They made us form a circle around the burning tire. There were about 200 of us. Then they gave the order to reduce the circle. We got closer and closer until someone had to be thrown in. They threw in a "Horuzo." [Editor: another ethnic group] onto the fire, and we had to stand there and watch him burn alive, all the while thinking you might be next. The guards were drunk and they had very loud music going.

One day, one extreme guard came in. One of the inmates made the mistake of thinking he was one of the ones who would sneak in a bit of bread. He said, "I'm hungry." Any sentence spoken to these guards could provoke them and end in death. The guard ordered one inmate in the room to take off his pants. Then he ordered the man who said he was hungry to kneel in front of him. "If you're hungry, now you'll eat eggs," he said. Both men looked confused, and then they realized what was wanted. "If you don't eat, I'll cut your throat," the guard said. We all watched as the man bit off the testicles of the other prisoner. After five minutes, that prisoner died. I don't remember the name of the man who died this way. But the guard who ordered this atrocity went by the nickname "Kracka."

I knew two of the guards who were local people. I used to cut timber for them near their houses when I had a motorized saw. They were Bosko Ajdaric from Veliko Palanciste and Dusko Cverica from Donji Jelovac. The two of them were inseparable. They didn't work regularly at Omarska, but rotated in and out between the front line and the camp. Once I watched Bosko Ajdaric beat a man on the buttocks. His buttocks were bleeding, and as we walked by, he turned the man for us to see his wounds. Then he took a powerful fire hose and hosed him on his lacerations as we watched. I witnessed this. Most of the time, however, I was in the room. We weren't let out often. But what I didn't see, others saw. Bosko Ajdaric and Dusko Cverica were directly responsible for killing 35 unarmed civilians from my village. Bosko killed some in their own homes. During the period between May 25 when the assaults started and May 30 when I was taken to Omarska, Bosko caused the death of Tina Delic, the oldest woman in our village. She was 85 years old. She was religious and kept her prayer beads. There are 33 beads on the string that she used to say her prayers. Bosko forced her to eat the 33 prayer beads. Two days later she died.

Bosko and Dusko went together to burn and loot. They took 35 innocent people, all peaceful civilians from their homes in my village, Gornja Poharska, and they were never seen again. These are the names I can remember:

| Hakija Kurtovic | Stefan Pijak | Karlo Pijak (Stefan's brother) |
| Munib Delic (and his son) | Said Pasic | Islam Cirić |
| Suljo Ceric | Osman Kurtovic | Azmir Kurtovic |
| Sefer Trnjanin | Esef Hajdarevic | Enes Hajdarevic |
Of these people, everything they had was stolen. Everything was taken from their homes, the rest destroyed.

At the end of July, I can't remember the date, we were transferred to Tmopolje camp from Omarska. We were taken on ordinary city buses. We were taken to Tmopolje because we were the weaker ones and our guards knew the Red Cross was coming to Omarska. They wanted to empty out Omarska. That was the worst place. I heard that by the time the Red Cross got to Omarska there were only 170 prisoners there. They had arranged the accommodations to make it look almost like a hotel. I remember seeing them bringing in beds as they were taking us out.

Tmopolje was also a concentration camp with barbed wire, but it was more open, with people in tents, and visitors could come and bring food and blankets. Of course, wives would have to walk about 11 kms. to get to Tmopolje, and if they came by bike, the guards would steal their bikes. By that time, Muslims were not allowed to ride on buses. We still had abuses at Tmopolje, but not as bad as Omarska. The biggest problem was drunken Serb soldiers coming from the front who would just start shooting at crowds of people. They would still come and take some people out who they didn't like. And some had personal scores to settle as well. The camp commander, Major Kuduzovic, gave the orders who should be taken out and killed.

At this time, I was only in Tmopolje for a short time, maybe 15 days. The Serbs knew journalists were coming to Tmopolje and didn't want them to see me. The gaunt man on the cover of Newsweek looked good compared to me. I was so thin that I couldn't stand by myself. They were really afraid the journalists would come and take a photo of me and others who were also bad off. So they announced on Radio Prijedor that 30 people were being let go. I had to be supported by others to walk. When Serbs on the street saw me, they looked in horror and made the sign of the cross. When some Serbs saw me, they would start to cry. It was a miracle that some felt sorry for me. Women gave me food, and I started to feel alive again for the first time. I was brought back to Prijedor and was brought home to my wife. Everything else had been taken, but somehow our cow hadn't been taken or killed, and I drank milk.

On October 1, the ICRC brought the detainees from Tmopolje to Karlovac, but, of course, I wasn't among them. That day, the ICRC took about 1,800 ex-detainees from Tmopolje, and left about 1,000 behind to pick up later. The Serbs got the idea that they could have the ICRC do their ethnic cleansing for them. So, on October 5, they went from house to house rounding us all up and taking us to Tmopolje. This time they took the whole family to the camp. To the surprise of the ICRC, when they came back to collect the remaining 1,000, there were instead 3,500 at Tmopolje. This created a problem, because when asked how all these extra people got to Tmopolje, the Serbs said we had come voluntarily in order to be taken away. That wasn't true at all. We were forced there against our will. ICRC didn't want to take us. They would only supply the minimal amount of food for our survival, thinking by doing so, we would voluntarily go home, but the Serbs wouldn't let us leave. The ICRC came once a week to inspect the camp. We told them that the Serbs were stealing what food they brought, but the ICRC told us they were powerless to do anything about it. The ICRC food appeared in the open market in Prijedor where the Serbs made a profit from it. In between ICRC visits, the tortures went on. One day a week they would let up, because we requested the ICRC not to arrive at the same time of day on the day of their visits.

Now the system was different at Tmopolje because the families were there. There were some houses around the camp and a school attached to the camp, but not in the camp proper, where people could stay, maybe 1,800 packed into the school like sardines.

This was the time when our women were raped. Every night they took our women and raped them. They knew our customs. They know that there is nothing worse for a Muslim than to take his wife. It is the greatest humiliation a person can suffer. Sometimes they were drunk. But even a drunk person knows what he is doing. I thought it was organized, intentional, as though it was planned.

We couldn't resist. There was nothing we could do. If anyone tried to resist, they made an example of him, and no one else could do anything. I was made such an example.

I couldn't keep quiet any longer. I tried to tell our leaders in the camp who met with the ICRC to tell the ICRC what they were doing to our women, but they were afraid to talk to the ICRC because Major Kuduzovic was there when the ICRC came.

Major Kuduzovic also had informers among the prisoners. Because that night after I made the suggestion that we tell the ICRC what was happening, three of the guards came in to where I was sleeping. I was there with my wife and two little girls. There were others present too. In front of them all, in front of my little children, they beat me. I was beaten very badly. They demanded that I raise my hands in the three fingered Chetnik salute. I could raise my right hand in the salute, but I couldn't lift my left arm, it was beaten too badly. He again demanded I give the salute with my left hand, but I couldn't lift my arm. With his boot he stepped on the back of my left hand,
crushing the bones of the hand. Then he pulled my thumb back. He had a knife with a blade on one side and a saw on the other. He sawed my thumb off, then left.

My wife bandaged my hand. The next day, I was allowed to go to the hospital in Prijedor. When I went, they barely looked at me. Part of the thumb was still hanging there, and I hoped they would try to sew it back on, but the doctor on duty barely looked at it, and said, "Cut it off." I begged them to save it. In cutting what was left of the thumb off and sewing it up they refused to use any anesthetic, which I also begged for.

Until then, I had never hated the Serbian people. I thought it was always a bad individual here and there. But when I went to the hospital and they treated me like that, I lost faith that they had any humanity at all.

I believe Major Kuduzovic gave the order to make an example of me. What was said among us would have been told to him. I'm only surprised they didn't kill me. While they were beating me, one of the people in the room kept saying, "Leave him alone. He's got small children." I think that saved my life.

My kids were there when this happened. They saw me screaming with pain. [Editor: His wife now explains the effect on his daughters, age 4 and 18 months. The older one was very close with her father. She was sitting in his lap when he was first taken by the Serbs. Now she sits and shakes her head, as if to be saying no, which the interpreter and interpreter observed during the course of the interview. Both daughters look traumatized and small for their ages. The mother is now pregnant.]

When the Serbs realized the ICRC wasn't going to take us from Tmopolje, two buses of Serb soldiers, with special helmets, came to beat and drive us out of there. They killed some people in doing that. We all had to go on foot from Tmopolje to Prijedor. I found a wheelbarrow to carry the children, but I could hardly manage it with the damage to my hand. I found a rope, and my wife pulled it from the front as I tried to balance it from the back. When we arrived at the site of our old home, we found that it was gone. There was nothing left. No home to go back to. We moved on, staying nights in Muslim houses, but no one had any food and we didn't want to impose on them. I sent my wife to the Serbian Red Cross to ask for food, but they refused to give her so much as a gram of bread.

Then a Serb saved our lives. He was a good man, whom we had always had good relations with. Towards the end, he refused to allow us to call him by his Serb name and adopted a Muslim name for us to use when talking to him. By that time, he was living alone in a Muslim's abandoned house. He hid me, my three brothers, father, and a cousin in this house...

This man [whose name he gave the interviewer], arranged transit papers and found money to pay tax bribes to get out of Bosnia and into Croatia. He only had enough money to pay for the four of my family, not for my brothers and father. My father and brothers are still hiding in his house. As I'm being so open, I guess I have to say that I am expecting to hear the day they have been killed....

We were on a convoy of 5 or 6 buses filled with refugees with...transit papers saying we would not stay in Croatia. [Editor: He shows a copy of the document, which is titled "Control Point Police Administration," and which says, in part, "Persons mentioned in transit may not seek or receive refugee status in the Republic of Croatia."]....

Before leaving Bosnia, we had to pass through about 10 different Serb checkpoints. They compared the list of passengers with their own lists. Persons appearing on their lists were taken out and killed. About 6 persons on these buses were killed in this way. I saw a person just ahead of me taken out and shot.

I am worried now. I wasn't registered as a detainee by the Red Cross. I wasn't in Trnopolje when they were registering people there. I don't have any valid document for Croatia. I can't move. I'm not registered with the police. They won't register me as a refugee. I'm here hoping the UNHCR or Red Cross will help me. They're the only people I can rely on for help.

To stay in this room, this isn't a condition for living. I don't know about the future of our children. The older one is still banging her head. She's not aware of the head shaking she does. The little one was toilet trained, now she regresses. Most of all, I'd like to go to America. A place to make a future for the children. I don't see any return to Bosnia. After ten years, it still won't be peaceful.

I have not done any harm to anybody. But I now have nothing. Everything I had was destroyed. We have to take care of these kids. Now my wife is pregnant. And she will need a caesarian. We have no money. I don't know what we will do.

I am fearful that the Croatians will take me. I heard that Tudjman and Izetbegovic [the presidents of Croatia and Bosnia] have signed an agreement that agrees to put Muslim refugee men in Croatia in the army. I've had enough of war. I have no document putting me under the protection of UNHCR. I can't go anywhere. I am not free. If I'm picked up by the police, I can't even prove I have a wife and two kids.
Refugee Arrivals - Age/Sex
FY 1983 - 1992

<table>
<thead>
<tr>
<th>Males Total: 432,095</th>
<th>Females Total: 388,446</th>
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<tr>
<td>11.23%</td>
<td>00-05</td>
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<tr>
<td>11.57%</td>
<td>06-11</td>
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<td>13.42%</td>
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<td>5.13%</td>
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<tr>
<td>4.54%</td>
<td>65-UP</td>
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U.S. SUPREME COURT FINDS SUMMARY RETURN OF INTERDICTED HAITIANS PERMISSIBLE

In a decision the UN High Commissioner for Refugees (UNHCR) called "a setback to modern international refugee law," the U.S. Supreme Court ruled 8-to-1 that international law prohibiting the forced return of refugees does not apply to a country that goes outside its borders to apprehend and return refugees to a place where they could be persecuted.

The case, Sale v. Haitian Centers Council, called for an interpretation of the legality of an executive order issued by President George Bush in May 1992 and continued by President Bill Clinton upon his inauguration. It ordered the Coast Guard to interdict Haitians fleeing Haiti by boat and to return them to Haiti without a hearing to determine if they might fear persecution upon return. The policy had earlier been found to be illegal by the U.S. Court of Appeals for the Second Circuit (see Refugee Reports, Vol. XII, No. 7); it was argued before the Supreme Court on March 2 (see Refugee Reports, Vol. XIV, No. 3).

Writing for the majority on June 21, Associate Justice John Paul Stevens said that "the wisdom of the policy choices made by Presidents Reagan, Bush, and Clinton is not a matter for our consideration." Instead, he said, the question before the Court centered on whether the Coast Guard's practice of forcibly repatriating Haitians without first determining whether they may qualify as refugees violates section 243(h)(1) of the Immigration and Nationality Act (INA) or Article 33 of the UN Protocol Relating to the Status of Refugees.

Stevens held that the protections against forced repatriation of refugees applies "only to aliens who reside in or have arrived at the border of the United States."

He arrived at this conclusion by studying the drafting history of the Refugee Act of 1980, which amended section 243(h) of the INA. The Refugee Act made three significant changes: adding the phrase "to return"; deleting the phrase "within the United States"; and making the withholding of deportation for refugees mandatory on the Attorney General.

As it was originally written in 1952, INA § 243(h) said that "the Attorney General is authorized to withhold deporta-
tion of any alien... within the United States to any country in which in his opinion the alien would be subject to persecution.” (Emphasis added.)

As amended, the current law reads that “the Attorney General shall not deport or return any alien... to a country if the Attorney General determines that such alien's life or freedom would be threatened in such country.” (Emphasis added.)

The Supreme Court's majority found that Congress's use of the two words, “deport or return,” and its deletion of the phrase “within the United States” was intended to extend this protection to aliens in exclusion proceedings, and not just to those in deportation proceedings. “Although the phrase 'within the United States' presumed the alien's actual presence in the United States, it had more to do with the alien's legal status than with his location,” wrote Stevens. He said, “By...removing the words 'within the United States'...[the Refugee Act] did nothing to change the presumption that both types of aliens [in deportation or exclusion proceedings] would continue to be found only within United States territory.”

Stevens pointed out that in reviewing the history of the Refugee Act, there is “not a scintilla of evidence” that Congress intended to make the prohibition on return of refugees apply extraterritorially. “It would have been extraordinary,” he wrote, “for Congress to make such an important change in the law without any mention of that possible effect.”

Stevens said that if the word “return” only referred to the place to which the alien would be removed, including the word “deport” would have been unnecessary and redundant. By using both words, Stevens reasoned, “the statute implies an exclusively territorial application” in deportation and exclusion proceedings.

Dissent: “Return” No Longer Means Return

The lone dissenter, Associate Justice Harry Blackmun, wryly noted, “Today's majority... decides that the forced repatriation of the Haitian refugees is perfectly legal because the word ‘return’ does not mean return, because the opposite of ‘within the United States’ is not outside the United States, and because the official charged with controlling immigration has no role in enforcing an order to control immigration.” (Citations deleted.)

Blackmun said that it was not extraordinary that Congress would have intended the ban on returning “any alien” to apply to aliens at sea, since “Congress would have meant what it said.” However, said Blackmun, “What is extraordinary in this case is that the Executive, in disregard of the law, would take to the seas to intercept fleeing refugees and force them back to their persecutors—and that the Court would strain to sanction that conduct.”

Blackmun went on not only to interpret the plain language of the law, but its drafting history as well. “To read into § 243(h)'s mandate a territorial restriction is to restore the very language that Congress removed,” he said. He notes, “Here there is no room for doubt: a territorial restriction has been deliberately deleted from the statute.” To understand congressional intent, Blackmun suggests looking at the text of a particular section of law for its ordinary meaning, and then, if it is ambiguous, at the Refugee Act as a whole. Looking at the latter, he found, “When Congress wanted a provision to apply only to aliens 'physically present in the United States, or at a land border or port of entry,' it said so.”

The Attorney General’s Role

The Supreme Court's reasoning about the intent of the law is based, in part, on the role assigned to the Attorney General. The term “Attorney General” in § 243(h) “cannot reasonably be construed to describe either the President or the Coast Guard,” wrote Stevens. He also suggests that placing the implementation of § 243(h) in the hands of the Attorney General suggests that this is part of her normal responsibilities. “The most relevant of these responsibilities...are her conduct of the deportation and exclusion hearings in which requests for asylum or for withholding of deportation under § 243(h) are ordinarily advanced,” he noted. He then said that there is no provision in the law for conducting these hearings outside the United States.

In his dissent, Blackmun challenged the majority's assertion that the term “Attorney General” could not reasonably be construed to include the Coast Guard. He said that “the statement that 'the Attorney General shall not
deport or return any alien' does not mean simply that the person who is the Attorney General at the moment is forbidden personally to deport or remove any alien, but rather that her agents may not do so. In the present case, the Coast Guard without question is acting as the agent of the Attorney General.”

Blackmun said that the Bush Executive Order places the Attorney General “on the boat” with the Coast Guard by purporting to give her “unreviewable discretion” to decide that an alien not be returned. “Such discretion cannot be given,” Blackmun declared. “Congress removed it in 1980 when it amended the Immigration Act to make mandatory (‘shall not deport or return’) what had been a discretionary function (‘The Attorney General is authorized to withhold deportation’). The Attorney General may not decline to follow the command of § 243(h). If she encounters a refugee, she must not return him to persecution.”

The Refugee Convention and Protocol. The majority found that Article 33 of the 1951 Refugee Convention and its 1967 Protocol do not apply extraterritorially. Article 33 states, “No Contracting State shall expel or return (‘refouler’) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.”

Stevens determined that the use of the two words “expel or return” in the Convention maintains the deportation/exclusion distinction that is found in American law, saying that “Article 33.1 uses the words ‘expel or return (‘refouler’)’ as an obvious parallel to the words ‘deport or return’ in § 243(h)(1). The dual reference...suggests that the term ‘return (‘refouler’)’ refers to the exclusion of aliens who are merely ‘on the threshold of initial entry.’”

In saying that Article 33 made an “obvious parallel” to INA § 243(h), Stevens failed to note that the Convention was written in 1951, prior to the original 1952 Immigration and Nationality Act and to the 1980 amendment that added the word “return.”

Blackmun said that the majority “relies almost entirely on the fact that American law makes a general distinction between deportation and exclusion” and that “return” in the Convention therefore carries the technical meaning of exclusion of aliens “on the threshold of initial entry.” But, says Blackmun, “The text of the Convention does not ban the ‘exclusion’ of aliens who have reached some indeterminate ‘threshold’; it bans their ‘return.’”

Blackmun said that “by taking as its starting point the assumption that ‘return,’ as used in the Treaty, "has a legal meaning narrower than its common meaning, the majority leads itself astray.” (Citations omitted.)

He suggests the ordinary Webster’s dictionary definition of “return” as “to bring, send, or put (a person or thing) back to or in a former position,” and notes, “That describes precisely what petitioners are doing to the Haitians.”

The majority also held that Article 33.2, which says that the nonrefoulement provision of Article 33.1 does not apply to a criminal in “the country in which he is,” implies that Article 33.1 itself applies only to persons within the country as well. “If Article 33.1 applied extraterritorially,... Article 33.2 would create an absurd anomaly: dangerous aliens on the high seas would be entitled to the benefits of 33.1 while those residing in the country that sought to expel them would not.” Stevens suggests that it is more reasonable to assume that the coverage of Article 33.2 was limited to those within the country “because it was understood that 33.1 obligated the signatory state only with respect to aliens within its territory.”

Blackmun, however, says that the Convention makes a reasonable geographical limitation in 33.2 concerning criminals who would present a danger to the country in which they are living, but that the ban on nonrefoulement in Article 33.1 is intentionally not limited geographically. “The fact that a state is permitted to ‘expel or return’ a small class of refugees found within its territory but not seize and return refugees who remain outside its frontiers expresses precisely the objectives and concerns of the Convention.” Blackmun said that the signatories to the Convention were understandably willing to make a “sole exception” to the rule on nonrefoulement only in cases where their own country would be endangered by the presence of a criminal alien on
its territory. This, he said, "hardly suggests an intent to permit the apprehension and return of noncriminal aliens who have not entered their territory, and who may have no desire to enter it."

The Drafting History of the Convention  The Court dug back into the negotiating history of the 1951 Convention to determine what the delegates meant when they agreed that no refugee should be expelled or returned.

Stevens cites _inter alia_ the intervention of Baron van Boetzelaer, the Dutch delegate, on July 11, 1951, in which he says that the Netherlands, Germany, Italy, and Sweden favored a Swiss interpretation that "expulsion" related to a refugee already admitted into a country and that "return" related to a refugee "already within the territory but not yet resident there."

Van Boetzelaer asked that "it be placed on record that the Conference was in agreement with the interpretation that the possibility of mass migrations across frontiers or of attempted mass migrations was not covered by Article 33."

The record of the Conference shows the President to have "placed on record" the Dutch delegate's interpretation.

Stevens said, "Although the significance of the President's comment that the remarks should be 'placed on record' is not entirely clear, this much cannot be denied: at one time there was a 'general consensus,' and in July of 1951 several delegates understood the right of _nonrefoulement_ to apply only to aliens physically present in the host country."

Blackmun's retort: "First, the isolated statement of a delegate to the Convention cannot alter the plain meaning of the Treaty itself. Second, placed in its proper context, van Boetzelaer's comment does not support the majority's position."

Blackmun cites UNHCR's amicus brief that van Boetzelaer's comment was merely "a parliamentary gesture by a delegate whose views did not prevail upon the negotiating conference as a whole." Blackmun also cites the U.S. delegate to the conference, Louis Henkin: "Whether it was a question of closing the frontier to a refugee who asked admittance, or of turning him back after he had crossed the frontier.... he must not be turned back to a country where his life or free-

UNHCR. Private Agencies Lament Decision  UNHCR issued a statement following the decision challenging the Court's interpretation of international law, noting that Article 33 prohibits the
involuntary return of refugees "in any manner whatsoever."

UNHCR called the decision "a setback to modern international refugee law" that "renders the work of the Office of the High Commissioner in its global refugee protection role more difficult and sets a very unfortunate example."

Roger Winter, director of the U.S. Committee for Refugees, said that the Court decision "appeared to be politically result-oriented, rather than based on a neutral reading of the plain meaning of the law." He warned that it would "invite other countries to move outside their borders as well to prevent refugee flows."

Rev. Richard Ryscavage, S.J., executive director of the Catholic Bishop's Office of Migration and Refugee Services, noted that the Court's action says that refugees can be sent back even in the face of documented human rights abuses. "In a world rapidly closing its doors to those fleeing desperate situations," said Ryscavage, "this action will only encourage further discrimination by other nations against refugees."

Recent Developments

HOUSE HEARING LOOKS AT ALIEN SMUGGLING, ASYLUM REFORM

On June 30, the House Subcommittee on International Law, Immigration, and Refugees held a full-day hearing on alien smuggling. The hearing was prompted, in part, by two national weekly news magazines that both carried major reports on the smuggling of Chinese nationals under the banner headline "The New Slave Trade."

Subcommittee Chairman Romano L. Mazzoli (D-Ky.) announced that he along with the vice chairman and ranking Republican on the subcommittee, Reps. Charles Schumer (D-N.Y.) and Bill McCollum (R-Fla.), would introduce a bill shortly to combat alien smuggling and overhaul the asylum adjudication procedure. Mazzoli, Schumer, and McCollum have each introduced separate bills relating to the issue (see Refugee Reports, Vol. XIV, No. 5).

Mazzoli warned several times that "excessive due process" was clogging the asylum system and contributing to a backlog of asylum cases approaching 300,000.

Schumer said that a "wretched trade in human flesh" has "grown up right under our noses." He described the use of freight steamers to transport aliens, who wind up in sweatshops as virtual slave labor, and of "Asian-based" drug cartels and other crime organizations taking advantage of "frightened newcomers." He said that they take advantage of loopholes in the immigration law, simply by instructing their human cargo to utter the word "asylum." He said, however, that the problem is not intractable. "It needs a little focus, diligence, and give," he said, and we will come up with a system that will "make everyone better off."

Rep. Hamilton Fish (R-N.Y.) ticked off a series of reforms he felt were necessary, including additional criminal penalties for smuggling aliens; tracing the registry of vessels; involving the Chinese government in law enforcement efforts; expedited exclusion proceedings; and pre-clearance at foreign airports.

Rep. Nancy Pelosi (D-Cal.) testified that the "tactics of fear" were being used by some to "stop all immigration to this country." While supporting expedited asylum hearings, Pelosi expressed concern that such procedural reforms not change the standard of proof for claiming asylum nor impose a statute of limitation for filing an asylum claim. "Without a right to counsel, without adequate notice, and without an adequate outreach system," she said, "a time bar to making a claim is unreasonable to ask of someone unfamiliar with our language and our laws."

Bill Likely To Streamline Asylum Process

Although the Mazzoli-Schumer-McCollum bill had not been introduced, reliable sources indicated that key elements of the bill would include doubling sentences for alien smuggling from 5 to 10 years; stationing Immigration and Naturalization Service (INS) agents at foreign airports to pre-screen passengers' documents; "expedited exclusion" for undocumented aliens arriving at ports of entry; reducing appeals of negative asylum decisions; imposing a 30-day time limit after arriving in the United States for filing an asylum applica-
ANTI-IMMIGRANT SENTIMENT ON THE RISE

A New York Times/CBS News poll released on June 26 revealed that 61 percent of those polled thought that immigration to the United States should be decreased. In 1986, when the same question was asked, 46 percent favored a decrease. In 1965, only 33 percent favored a decrease.

The New York Times said that the poll showed that “anti-immigrant feelings are also colored by a perception—which is not supported by the facts—that most immigrants are in the United States illegally. In the poll, 68 percent agreed with the statement that “most of the people who have moved to the United States in the last few years are here illegally.”

At the June 30 House hearing, the General Accounting Office (GAO) estimated that 3.3 million undocumented aliens currently are living in the United States. Another 8.9 million persons have immigrated legally during the past decade, according to the Immigration and Naturalization Service.

Attitudes towards immigrants, though generally negative, were mixed. While 30 percent of respondents said that new immigrants “contribute to this country,” and 45 percent said that “today’s immigrants work harder than people born here,” 50 percent said that most immigrants “cause problems.”

By a margin of nine percentage points, blacks were more likely than whites to say that immigrants took jobs away. However, blacks by the same margin were less likely than whites to prefer a decrease in immigration, according to the poll.

Telephone interviews were conducted with 1,363 adults between June 21 and 24.

Administration Witnesses Outline Government Plan Chris Sale, the Acting INS Commissioner, testified that President Clinton has established an interagency action plan to deal with the problem of alien smuggling. She said that the Administration would be introducing legislation that would 1) expand prosecutorial and investigative authority for the INS; 2) increase penalties for smugglers; 3) apply the Racketeering Influenced and Corrupt Organizations (RICO) Act to smuggling offenses; and 4) expand asset seizure authority.

She said that the Administration would also be introducing legislation that would provide for “expedited exclusion” authority at ports of entry.

Mazzoli said, ‘I’m not sure there is such an ‘Administration Plan.’ I haven’t seen anything implemented.” He asked Sale, “When will it be revealed to us?”

Sale said that the plan essentially is being implemented by the relevant agencies. She said that the Administration is reviewing the affirmative asylum procedures conducted by the INS, and reiterated that legislation would be introduced, probably before September, for enhanced authority to combat smuggling and for expedited exclusion proceedings.

In response to a question from Mazzoli on funding, Sale said that the Administration would not be requesting a supplemental appropriation to fund these initiatives. Mazzoli said that he thought there should be a supplemental for this purpose.

GAO Comments on Cost of Detention Laurie E. Ekstrand, associate director of the General Accounting Office (GAO), estimated that there were about 489,000 aliens who could have been detained by the INS in the past two years. She noted, however, that there are currently only 6,259 detention beds available to the INS. She said that most aliens who are apprehended by the INS are released on their own recognizance or
post a bond.

Estimating that about 70,000 aliens were smuggled into the United States in 1992, she said that the GAO multiplied the average number of days that excludable aliens are held by the per diem cost to arrive at an estimate of $200 million to detain those 70,000. She noted that this represents one-fifth of the INS budget. She said that the cost of detaining all detainable aliens would be "astronomical," and suggested that "detention won't be the solution."

Ekstrand said that pre-flight inspection deserved attention as a possible response to the problem. She said that emphasis ought to be placed on preventing initial arrival. "Once the alien arrives," she said, "removal is very difficult."

Chinese Smuggling The smuggling of Chinese nationals was spotlighted by the hearing. Sale testified that 2,300 undocumented Chinese aliens have been intercepted on ocean-going vessels since September 1991. Since that time, she said, the Coast Guard has intercepted 14 vessels carrying Chinese nationals, and identified 12 other vessels landing in foreign ports whose passengers were destined for the United States.

Sale spoke about the "appalling sanitary conditions" aboard the ships, which have resulted in the presence of contagious diseases such as hepatitis, measles, and tuberculosis. She also noted instances of beatings, rape, and murder aboard the vessels.

Upon landing, she said, the aliens are further threatened and abused. She said that INS agents have discovered "safe houses" in Brooklyn and Queens, New York and in Jersey City where smuggled aliens were held captive and beaten for nonpayment of smuggling fees.

She said that the INS has established a Chinese Boat Smuggling Task Force, which has resulted in convictions of 85 individuals for smuggling. Other indictments are pending.

Several Chinese-American organizations testified. Henry Der, executive director of Chinese for Affirmative Action, said that "the smuggling of these undocumented Chinese persons is an organized crime problem, not an immigration problem." All three groups representing the Chinese-American community recommended stronger penalties against smugglers.

Der said, however, that Congress and the public at large "should be careful not to overreact to this series of smuggling incidents and support legislation and administrative procedures that would undermine the basic principles of granting political asylum to victims of political and religious persecution." He noted that the number of Chinese who have been apprehended while attempting to land by boat "pales in comparison" to the number of undocumented aliens apprehended at the nation's land borders.

Among other recommendations, Stanley Mark, program director of the Asian American Legal Defense and Education Fund (AALDEF), suggested that the Clinton Administration ought fully and vigorously to enforce labor laws that "would eliminate slave-like working conditions and minimum wage violations that serve as fertile ground upon which the slave trade of indentured servants has grown during the past two years."

China's One-Family, One-Child Policy The sharpest debate of the day engaging the largest numbers of Representatives concerned President Bush's Executive Order 12711, which calls for "enhanced consideration" of asylum applicants who claim a well-founded fear of persecution based on China's coercive family planning policies.

Der, of Chinese for Affirmative Action, called for repeal of the order, saying that it gives Chinese petitioners an advantage not enjoyed by others in the political asylum process. "Not requested by pro-democracy activists concerned about the human rights conditions in China," he said, "the 'enhanced consideration' provision was motivated by the former presidential administration's efforts to placate their political supporters in America." He said that the INS has implemented the order "so as to invite abuses of the political asylum process."

Schumer questioned Sale about the "universe" of Chinese potentially covered by the executive order. After Sale declined to speculate on a number, saying that cases would be decided on a case-by-case basis, Schumer suggested that the order could make a billion Chinese eligible for asylum in the United States.

Sale said that based on a review of 80 percent of the 173 Chinese affirmative applicants
granted asylum last year, only 16 percent had claimed persecution based on China’s coercive family planning practices.

Mazzoli questioned INS general counsel Grover Rees, the author of instructions to the field implementing the executive order. Rees said that those instructions for “enhanced consideration” were based on an interim regulation that was published in the Federal Register shortly after President Bush vetoed emergency legislation on behalf of Chinese students, promising to implement the intent of the legislation administratively.

Mazzoli pointed out that the interim rule allows a man to win asylum in the United States based on China’s coercive family planning program even if his wife is still in China.

Rees said that attempts had been made to “tighten that loophole,” but that the interim rule would not permit such a change. He said that a final rule that would make such a change has been pending at the Federal Register since January.

In response to a question from Mazzoli, Rees said that about half of the cases of those making claims involving coercive family planning are men whose wives are still in China.

TIGHT FEDERAL BUDGET CHALLENGES REFUGEE ASSISTANCE FUNDING LEVELS IN FY 94

A flurry of congressional activity in mid-June signalled that widespread cutbacks are likely in U.S. foreign assistance in FY 94--perhaps including reductions in some refugee assistance accounts.

During a span of three days from June 15 to 17, the U.S. House of Representatives approved two foreign assistance bills that tentatively set funding levels for Migration and Refugee Assistance (MRA) and the Emergency Refugee and Migration Assistance (ERMA) fund, and a key Senate panel conducted its own hearing to examine FY 94 budget requirements of refugee programs.

By month’s end, one House bill cut the authorized spending ceiling for MRA but authorized significantly more funds for ERMA. A second House bill took the opposite tack, appropriating more funds for MRA and substantially less for ERMA.

“Authorization” levels serve as caps on the final amounts that lawmakers can ultimately “appropriate” for MRA and ERMA.

House Authorization Bill Limits MRA The House voted on June 16 to authorize a funding ceiling of $673.5 million for MRA in FY 94 and FY 95--a cut of $11.5 million from the $685 million authorized for FY 93. The House bill authorizes $100 million for ERMA--double the FY 93 ceiling of $50 million.

“The need for refugee assistance worldwide, and the appropriate U.S. response to such need, would suggest a significantly higher authorization” for MRA instead of a cut, the report of the House Foreign Affairs Committee stated, but “severe budgetary constraints” prevent Congress from authorizing sufficient funds.

The House authorization bill, H.R. 2404, would introduce a two-tier ceiling on MRA expenditures. The measure authorized up to $80 million for refugee resettlement in Israel, and up to $593.5 million for all other accounts within MRA.

House Appropriation Bill Slashes ERMA, Raises MRA The second House bill, titled the “FY 94 Foreign Operations Appropriations,” passed the House one day later, on June 17. The measure, H.R. 2295, appropriates $670.6 million for MRA--$50 million more than the FY 93 appropriation level, and $30 million more than the President requested for FY 94.

The bill’s higher MRA funding, however, was partially undone by a $30 million reduction in ERMA. H.R. 2295 appropriates $19.2 million for ERMA, compared to the FY 93 appropriation of $49.2 million. The House Appropriations Committee explained in its report that it shifted “$30 million from the emergency account [ERMA] to the migration and refugee assistance account to allow more flexibility to meet known requirements.”

Refugee advocates urged the Senate to reverse the ERMA reduction contained in the House appropriation bill during a hearing by the Senate Appropriations Subcommittee on Foreign
Operations last month. Several refugee organizations argued that the House bill had drained money from a high priority need--ERMA--in order to give more funds to refugee resettlement in Israel, which they said does not require additional money.

"Thirty million dollars were transferred from the ERMA to the MRA account [by the House bill] and, at the same time, the earmark for refugees to Israel was increased by $25 million [by recommendation of the House Appropriations panel]. This action in effect decreased overseas refugee assistance funds by that amount," said Ralston Deffenbaugh, Jr., executive director of Lutheran Immigration and Refugee Service.

Deffenbaugh told the Senate panel that "there has been a significant decrease in the number of persons migrating to Israel from the former Soviet Union" and that ERMA, or overseas refugee assistance within MRA, should be the first priority for increased funding in FY 94. Deffenbaugh and Shep Lowman, of the U.S. Catholic Conference Migration and Refugee Services, urged the Senate to appropriate at least $49 million for ERMA and add $15 million to the MRA appropriation of $670 million contained in the House bill.

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**Overall Foreign Assistance Faces 7 Percent Cut** Although refugee advocates warned that H.R. 2295 appropriates insufficient funds for refugee programs, most other foreign assistance programs in the bill suffered even greater potential funding shortfalls. The overall House appropriations bill allots $12.9 billion for foreign assistance--$1 billion less than FY 93, and $1.4 billion less than the President’s requested budget for FY 94. Virtually the only programs that avoided cuts were MRA, the Peace Corps, and aid to Israel, Egypt, and Russia.

"The bill contains large reductions in virtually all accounts and will require new approaches to the delivery of aid," said Butler Derrick (D-S.C.).

The Senate Appropriations Committee expects to complete action on its foreign operations appropriations bill in July.

**DIRECTOR OF BUREAU FOR REFUGEE PROGRAMS CALLS HOUSE ERMA APPROPRIATION INADEQUATE**

In testimony before a Senate subcommittee, Ambassador Warren Zimmermann, director of the State Department’s Bureau for Refugee Programs (BRP), characterized as "inadequate" the $19 million appropriated by the House of Representatives for the FY 94 Emergency Refugee and Migration Assistance (ERMA) fund. The ERMA fund is the primary means by which the United States can respond quickly to new refugee emergencies. The House had earlier voted to shift $30 million from the Administration’s FY 94 ERMA request to the Migration and Refugee Assistance (MRA) account (see related story above).

Appearing before the Subcommittee on Foreign Operations of the Senate’s Committee on Appropriations, Zimmermann said, "Our strong preference would be to maintain the money in the emergency account.... We need the flexibility that an adequate emergency fund [provides]." Neither Zimmermann nor Sen. Mark Hatfield (R-Or.), who requested the hearing and was the only Senator to question the witness, made any reference to widespread speculation that the House earmark of $80 million for resettling refugees in Israel is related to a cut in funds for ERMA.

In opening remarks, Subcommittee Chairman Sen. Patrick Leahy (D-Vt.) noted that there are presently more than 17 million refugees and 24 million internally displaced persons worldwide, "putting the world’s homeless population at more than 40 million people." The Senator suggested it was time to "reassess the way the international community deals with refugee..."
problems." The hearing sought the Administration's perspective on its FY 94 budget request for refugee assistance, State Department reorganization, and refugee emergencies around the world.

**State Department Reorganization** In January, the Clinton administration proposed a reorganization of the State Department that would put BRP under a new Bureau of Population, Refugees, and Migration (PRM), headed by an Assistant Secretary and responsible to a new Under Secretary for Global Affairs. (See *Refugee Reports*, Vol. XIV, No. 3.) Hatfield expressed concern that in such a realignment, refugees—with a relatively small constituency—would be the losers in any competition with population control interests. Zimmermann told the Senator, "I can assure you that whoever is the [Assistant Secretary of PRM], that will not happen.... We will maintain a bureau that will be, in terms of personnel, four-fifths refugee and migration [oriented]."

**World Refugee Situation** Zimmermann responded to questions from Hatfield about several refugee situations worldwide, noting that the population of more than 40 million refugees and internally displaced persons throughout the world is eight times as large as twenty years ago. On Bosnia, Zimmermann indicated that he is pessimistic about the chances of the coming winter taking as few lives as did last winter. Asked what the strategy for dealing with the predicted crisis is, Zimmermann offered, "The strategy is to try to find the funding."

Hatfield questioned Zimmermann on the prospects of those Vietnamese asylum seekers determined not to qualify for refugee status who, under the terms of the Comprehensive Plan of Action (CPA) adopted by Southeast Asian countries, should be returned to Vietnam. While Zimmermann indicated that he hopes those screened out would volunteer to return to Vietnam, he offered no prescription for dealing with those who refused. He concurred, however, that "there is a need to come to grips with what happens to these 80,000 to 85,000 who have not [received] refugee status."

On Haiti, Hatfield was clearly concerned not only by the specifics of the Clinton administration's policy, but by that policy's impact on asylum throughout the world. "Here we are trying to push other countries to abide by [the principle of] first asylum," said Hatfield, yet the United States is summarily returning Haitians. Hatfield compared the current U.S. policy on Haiti to Malaysia's "pushbacks" of Vietnamese boat people several years ago, and noted that, at the time, he advocated withholding International Monetary Fund assistance from Malaysia while it pursued its policy of preventing Vietnamese from landing on its shores.

In defending the Administration's policy, Zimmermann said, "I don't think there's anyone who feels good [about the interdiction policy]." Zimmermann did not express any specific concern regarding the potential impact of the U.S. policy on other first asylum situations. "This," he said, "is a case which I think is unique."

Hatfield also sought Zimmermann's critique of the idea of creating a "demilitarized safe area in southern Sudan" to facilitate humanitarian assistance to internally displaced and other Sudanese. Zimmermann said he would welcome "any kind of a demilitarized zone to get relief in."

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**HMONG TOLD THEY MUST CHOOSE RESettlement OR REPATRIATION**

Refugee Reports staff writer Hiram A. Rulz was in Thailand in May and visited Chiang Kham refugee camp.

In mid-May, Thai government and UN High Commissioner for Refugees (UNHCR) officials visited Chiang Kham refugee camp in northern Thailand, whose residents are Laotians, mostly Hmong, to announce the camp's official closure at the end of 1993.

UNHCR gave the refugees a form on which they had to indicate their choice among four options: resettlement in a third country, in which case they would be moved to Phanat Nikhom camp; voluntary repatriation, in which case they would move to Ban Napho camp to await repatriation; a move to Ban Napho with the understanding that they would repatriate at a
later date; or none of the above. Those opting for
the latter were told they would be moved to Ban
Napho and would still be expected to repatriate
someday. The form provided a space for UNHCR
staff to certify that the individual refused to sign
the form or choose an option, but that the infor-
mation was read to him or her.

Many of the refugees interviewed by Refu-
gee Reports two days after the announcement of
the closure said that they did not plan to sign the
form, and that, push come to shove, they would
"disappear" from the camp rather than move to
Na Pho.

Chiang Kham is officially home to some
13,000 refugees, but in fact, about 3,000 of those
are thought to have already disappeared (moved
out of the camp without authorization) in the
past few months.

"Disappearance" has become a significant
phenomenon in the past year. Laotian refugees
and asylum seekers in Thailand numbered
59,000 at the end of 1991, but only 38,700 as of
mid-May 1993. During 1992, 7,500 resettled in
the United States and 1,770 repatriated, but an
even larger number disappeared, mostly unoffi-
cially departing Ban Vinai camp during the
months preceding that camp's closure in Decem-
ber 1992. As many as 10,000 Hmong, mostly
former residents of Ban Vinai, moved to a Bud-
dhist temple complex north of Bangkok, where
they remained out of view until May, when news-
paper reports drew attention to their presence
there.

The Thai authorities do not appear unduly
upset about the illicit exit of the Hmong from
the camps. Their main concern appears to be to
reduce the number of Laotians living in refugee
camps along the border, so that the Laotian
government won't think Thailand is still support-
ing the Hmong resistance, which in the past has
reportedly used the refugee camps as bases of
support. Thailand now seeks to develop closer
economic ties with Laos. A Thai government
official responsible for refugee matters told Refu-
gee Reports, "Those that run away [from the
camps] are saying they do not want our protec-
tion, therefore they are not our responsibility. If
they want to run away, good, let them disappear." He added that any caught living outside the camp
could, however, be deported as illegal aliens.

The fate of those who move to Ban Napho
is unclear. Only a minority are likely to opt for
voluntary repatriation, and even those who do
will find that it takes a long time actually to
repatriate, mostly because the Laotian govern-
ment is very slow to accept the returnees.

The repatriation agreement signed by
Laos, Thailand, and UNHCR in 1991 called for all
Laotians who were not planning to resettle in
third countries to repatriate by the end of 1994.
It is almost certain, however, that unless more
refugees volunteer to repatriate and the Laotian
government significantly speeds up the process of
accepting returnees, many Laotians will remain
at Ban Napho at the end of 1994. Nevertheless,
Thai officials have been quoted in the Thai media as saying that all Laotians must leave by the end of 1994, and any who do not will be considered as illegal aliens. That concerns refugee advocates, who note that the Thai authorities labeled Cambodians who did not volunteer to repatriate as illegal aliens and forcibly returned them to Cambodia. (See Refugee Reports, Vol. XIV, No. 5.)

MOZAMBIQUE BRACES FOR AFRICA'S LARGEST REFUGEE REPATRIATION

Refugee Reports staff writer Jeff Drumtra recently returned from southern Africa where he assessed plans for repatriation of Mozambican refugees.

More than 1.5 million Mozambican refugees are expected to return home to their war-devastated southern African homeland during the next three years, following a peace accord last October between Mozambican rebels and the government that has apparently ended 16 years of war. The ceasefire has held firm for seven months, to the surprise of many international observers who feared a resumption of violence.

The United Nations High Commissioner for Refugees (UNHCR) has appealed to international donors for $203.4 million over the next three years to fund the huge repatriation program. The UN Office for Humanitarian Assistance Coordination (UNOHAC) in Mozambique—newly created to coordinate relief, rehabilitation, and troop demobilization efforts—is appealing to international donors for an additional $594 million beyond UNHCR's funding request. Mozambicans are expected to repatriate from neighboring Malawi, Zimbabwe, South Africa, Zambia, Tanzania, and Swaziland.

Dozens of international relief and development organizations plan to start or expand programs to assist the return, led by World Vision's $52 million operation.

The massive expense of repatriation and rehabilitation reflects the extreme population displacement and devastation remaining from Mozambique's war and three years of drought. In addition to more than 1.5 million refugees, some 3 to 4 million persons became internally displaced. The war directly or indirectly killed as many as 1 million Mozambicans and destroyed thousands of schools and health posts.

Many NGO (nongovernmental organization) workers in Mozambique acknowledge that the level of destruction has left the country—and the NGOs working there—ill-prepared to assist the returnees when they arrive. Vast areas of Mozambique remain potentially dangerous because of an estimated 2 million land mines left behind by the war, and armed rebels still retain control over extensive rural regions.

The slow pace of troop demobilization by both sides in Mozambique has prevented UNHCR from setting a fixed date to begin its organized repatriation program. "We cannot in good conscience send people back until demobilization has occurred," said Catherine Huck, UNHCR program officer in Mozambique.

Some 200,000 refugees have already repatriated on their own despite the risks, primarily to farm land in border areas. UNHCR's repatriation plan anticipates that 600,000 refugees will return in the next 12 months, followed by 600,000 in the second year, and some 300,000 in the third year ending in mid-1996.

UNHCR and NGO personnel acknowledge, however, that their hope for an orderly, phased-in repatriation is beyond their control: nearly a million refugees may choose to return spontaneously to Mozambique for the September planting season, and a sudden influx of that proportion would overwhelm even the best-laid repatriation assistance program.

"I worry about a repatriation push that is too big and too quick. The repatriation should be well-paced. It should be based on Mozambique's capacity to receive [returnees]," said Kirk Selsman, of Save the Children (U.S.) in Zimbabwe, where some 240,000 Mozambican refugees live. "We can make all the plans we want, but they [the refugees] are going to do what they're going to do. They are resourceful and competent people" who will return whenever they feel ready.

UNHCR, the Red Cross, and Save the Children have prepared a computer data base of all refugees in Zimbabwe to monitor their destinations, special needs, and travel plans. No
The vast majority of Mozambicans repatriating to their war-torn homeland are women and children.

Photo: USCR/J. Drumtra

comparable data base exists for the 1 million refugees in Malawi.

UNHCR is preparing a $2.1 million program to educate refugees about the dangers of land mines before they return home, and UNOHAC's $28 million de-mining effort will place an early priority on clearing travel routes likely to be used by refugee returnees, according to UNHCR.

Most refugees wishing to repatriate in UNHCR's organized program will receive a travel grant from UNHCR to finance their transportation home. UNHCR plans to provide direct transportation only for a minority of refugees. All returnees will be eligible to receive food rations and agricultural tools and seeds immediately after their arrival in Mozambique, according to UNHCR.

Although extensive plans exist on paper, relief and development workers in the region insist that the repatriation of 1.5 million refugees and the resettlement of more than 3 million internally displaced in a country with a destroyed infrastructure will be chaotic.

"We NGOs have to put aside our angst about wanting to be in control," said one NGO worker with long experience in the region. "We're trying to put control on a situation that is inherently uncontrollable."

Updates

- On June 8, a federal judge in New York ordered the U.S. government to release from detention 158 Haitians held at the U.S. naval base at Guantánamo Bay, Cuba. The Haitians, all of whom had shown a credible fear of persecution if returned to Haiti, had been held at Guantánamo for up to twenty months because they had tested positive for HIV. The judge ruled that the Administration had violated the Haitians'
constitutional and statutory rights, as well as the rights of lawyers seeking to give them legal advice.

On June 18, President Clinton announced the nomination of Doris M. Meissner to become the Commissioner of the Immigration and Naturalization Service (INS). Since 1986, Ms. Meissner, the daughter of German immigrants, has been the director of the Immigration Policy Project at the Carnegie Endowment for International Peace in Washington, D.C. Previously, Ms. Meissner had served at INS from 1981 to 1985, where she rose as high as Acting Commissioner.

The UN Secretary General has decided to remove the designation of the Deputy UN High Commissioner for Refugees (UNHCR) position as a U.S. slot. Secretary General Boutros-Ghali has apparently concluded that too many U.S. citizens occupy senior management jobs within the UN specialized agencies. InterAction, a membership organization of more than 140 U.S.-based private voluntary organizations, has urged its members to contact the Secretary General in an effort to persuade him to reverse his decision.

Projects and Programs

IOM TO EXPAND "RETURN OF TALENT" PROGRAM TO AFRICA

An expanded program to help African professionals living in Europe and North America resettle in their country of origin will begin in September if funding permits, according to the International Organization for Migration (IOM).

IOM's Return of Talent program, which has returned nearly 1,300 African professionals primarily to seven African countries since 1983, will fund returns to as many as six additional countries in Africa if the European Community and other donors provide funding as expected, according to IOM officials.

The Return of Talent program is meant to counteract the so-called "brain drain" by assisting professionals from developing countries who want to return to their country and make a permanent professional contribution. The program provides job placement and travel assistance for professionals and their families, and offers additional financial assistance to smooth the reintegration of some professionals.

The IOM program for Africa has operated in Kenya, Zimbabwe, Somalia, Ghana, Uganda, and Zambia. IOM expects to receive funding to expand this ongoing program and help settle professionals in Ethiopia, Sierra Leone, Mozambique, Angola, Cape Verde, and Guinea Bissau, according to Frances Sullivan of IOM. The new five-year program aims to assist another 700 African professionals.

"The program has been successful. It is a cost-effective way to start long-term, sustainable development," Sullivan said. The average cost is $7,500 to $10,000 per case, she said.

IOM is also seeking funding to resume a Return of Talent program in Eritrea. Five Eritrean professionals have resettled in Eritrea with IOM assistance in the past eight months, and 10 others have applied for travel assistance, but the program has been suspended for lack of funding.

"The need in Eritrea is very high," Sullivan said, "and there are a number of Eritrean professionals who are extremely interested in going back. Eritrea is a situation where the entire public and private sector is reorganizing itself, and professionals from abroad would be a real benefit to a new country."

Resources

REPORT ON LAO REPATRIATION

The Indochinese Refugee Information Center (IRIC) of Chulalongkorn University in Bangkok, Thailand has published a report, The Lao Returnees in the Voluntary Repatriation Programme from Thailand, that analyses the effectiveness of the repatriation program that was initiated in 1980 for Lao refugees living in camps in Thailand.

The report describes the repatriation process, studies the policies and programs
adopted by governmental, nongovernmental, and international agencies, and assesses the extent to which returnees are integrated into local society and are satisfied with their new lives. Field data for the report were collected from April 1989 to June 1991. However, the main portion of the fieldwork in Laos was not conducted until 1991, and then only in the region of the Laotian capital, Vientiane.

For information on obtaining copies of this report, contact the Institute of Asian Studies, Chulalongkorn University, Bangkok, Thailand. Tel. (66-2) 255-8854; Fax. (66-2) 255-1124.

HISTORICAL ANTHROPOLOGY OF THE HMONG IN THE TWENTIETH CENTURY

Since 1975, tens of thousands of Hmong from Laos have been resettled in the United States. In *Hmong at the Turning Point*, Dr. Yang Dao, the first Hmong ever to earn a doctorate (in economics and social development), examines the history and lives of the Hmong in the four decades leading up to the pivotal year of 1975, when the communist Pathet Lao overthrew the Royal Lao Government and started the exodus that drove about one-third of the Hmong population from Laos. Within days of the Pathet Lao’s ascent, Yang writes, “Thousands of Hmong, fearing for their lives, began to leave the mountains.... Many would die of hunger and disease, others would be killed in communist ambushes or be swept away in the swift waters of the Mekong River. Only the lucky ones would eventually reach the safety of Thailand.”

*Hmong at the Turning Point* details Yang’s views on what is needed to rebuild Laos today and create a country where Hmong and other minorities are integrated into society and are vital components of development.

*Hmong at the Turning Point* is available for $29.99 from WorldBridge Associates, Ltd., 3249-55 Hennepin Avenue South, Suite 2150, Minneapolis, MN 55408.

REPORT SAYS LAND MINES SHOULD BE BANNED

The existence of hidden land mines has become a growing deterrent to the safe repatriation of refugees around the world and has prompted Africa Watch to advocate that anti-personnel mines be banned worldwide, as chemical and biological weapons are banned by international law.

Africa Watch makes the recommendation in its new report, *Land Mines in Angola*, in which the human rights organization documents how land mines used in Angola’s ongoing civil war have given that country the dubious distinction of having more land mine victims per capita than any country on earth.

The report reviews international law pertaining to land mines, specifically the Land Mines Protocol of 1981. Africa Watch concludes that “the Land Mines Protocol has proved wholly irrelevant to the conflict in Angola, as it has been shown to be unworkable elsewhere in the world.... Only a complete ban on the use of anti-personnel land mines can remove the unreasonable danger that they pose to civilians.”

For information on obtaining *Land Mines in Angola*, contact Africa Watch/Human Rights Watch, 485 Fifth Avenue, New York, NY 10017 Tel. (212) 972-8400.

Job Board

**Administrative Supervisor**

Agency involved in providing services to refugee and immigrant communities seeks an administrative supervisor to manage administrative operations in its Washington, D.C. office. Duties include assuring compliance with government contracts, managing automated systems, serving as office manager, and supervising support staff. Candidates should have strong general administrative experience, 3-5 years in a managerial capacity preferred, good knowledge of automated systems, and excellent organizational and interpersonal skills.

**Contact**

Interested candidates should send a letter of interest including salary requirements and a résumé to: U.S. Committee for Refugees, Attn: Jacqueline, 1025 Vermont Ave. NW, #920, Washington, DC 20005. No phone calls please. Women and minorities are encouraged to apply.
Refugee Resettlement Funds vs. Refugee Arrivals

Prepared by the National Conference of State Legislatures, December 1992

Prepared by the National Conference of State Legislatures from data from the U.S. Department of Health & Human Services.

Refugee Reports/June 30, 1993

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CALIFORNIA BILLS SEEKING TO LIMIT SERVICES TO UNDOCUMENTED ALIENS SET OFF HEATED IMMIGRATION DEBATE

More than 20 bills that refugee and immigrant advocates label as "anti-immigrant," but which supporters term "anti-illegal immigration" have been introduced in the California state legislature (Senate and Assembly) in this year's legislative session. The bills reflect a growing concern among some Californians about the number of immigrants, legal and undocumented, who settle in the state each year.

The bills are aimed at restricting the access of undocumented aliens to a number of health, welfare, educational, and other services, identifying undocumented aliens already in California and referring them to the Immigration and Naturalization Service (INS), or keeping undocumented aliens out of California altogether. (For details, see box on page 2.)

Some of the bills have already failed at committee level, but four have passed the state Senate floor, and even some of those that have failed will come forward again for consideration in January 1994 because they were introduced as two-year bills.

The California bills coincide with efforts at both the national and international level to restrict immigration and access to asylum. (See next story.) The U.S. Supreme Court has recently upheld the Administration's policy of interdicting and returning Haitians outside of U.S. waters regardless of whether or not they claim to fear persecution. Congress is considering legislation that would restrict entry into the United States of asylum seekers. Germany and other countries are also restricting access to refugee determination procedures for asylum seekers. (See Refugee Reports, Vol. XIV, Nos. 5 and 6.)

National organizations such as the Federation for American Immigration Reform (FAIR), which seek to curb immigration to the United States, and similar groups that have sprung up in various California communities, support the California legislation. FAIR legislative advocate Kathy Turner said, "The bills have no intention of harming legal immigrants; they're focused on reducing the impact of illegal
SELECTED IMMIGRANT RELATED LEGISLATION INTRODUCED IN THE 1993
CALIFORNIA LEGISLATIVE SESSION

AB* 150, Mountjoy (R-San Gabriel): This bill would prohibit Medi-Cal [California Medicaid] reimbursement of state funds for emergency or pregnancy-related services provided to undocumented patients unless the Medi-Cal provider reports the patient to the INS.
(Failed in Assembly Committee on Health.)

SB** 733, Russell/Kopp (R-Glendale/I-San Francisco): Would require agencies that provide employment and job training services to verify the legal status of individuals seeking to use these services; would also require that these agencies "post in a prominent location," notices that only citizens or persons authorized to work in the United States may utilize the agency's services.
(Passed Senate floor; now in Assembly Ways and Means Committee.)

SB 976, Alquist (D-San Jose): Prohibits the Department of Motor Vehicles from issuing an original driver's license until the person shows proof of citizenship or legal status; also, makes it a misdemeanor to assist a non-citizen/undocumented person to obtain a driver's license/I.D. card.
(Passed Senate floor; now in Assembly Committee on Transportation.)

AB 149, Mountjoy (R-San Gabriel): This bill would prohibit the allocation of state funds to school districts and public postsecondary institutions for the education of "undocumented alien" students.
(Failed in Assembly Committee on Education.)

AB 1525, Nolan (R-Glendale): This bill authorizes the Governor to call into service the National Guard for the purpose of patrolling the U.S.-Mexico border and authorizes the National Guard to detain and arrest persons suspect of violating immigration law.
(Failed in Assembly Committee on Governmental Organizations.)

SB 691, Kopp (I-San Francisco): Prohibits local ordinances that seek to prohibit cooperation between local [police] officers and the INS when an officer has placed in custody a person suspected of committing a felony.
(Passed Senate floor; now on Assembly Floor.)

* Assembly Bill  ** Senate Bill

Source: New California Coalition

immigration on California and the magnets that bring them [illegal immigrants] here."

But immigrant and refugee advocates and service providers say that all immigrants and refugees are ultimately affected, because the bills, the politicians who support them, and the media's coverage of the issue are fanning worrisome anti-immigrant sentiment in California. Maria Matan, Chair of the Catholic Charities of California Immigrant and Refugee Advocacy Committee, said that the rhetoric being used by politicians and the media deliberately blurs the distinction between people with different types of status. "Many Californians are seeing anyone who is not a citizen as not having a right to be here." Anyone who looks different or has an accent, Matan added, can end up being discriminated against.

Claudia Martinez, California state policy analyst with the Mexican American Legal Defense and Educational Fund (MALDEF), said, "The basic thrust of the legislation has been to deny
services to immigrants, specifically undocumented immigrants, in an effort to curb illegal immigration. The thinking behind it is that immigrants come to California because of the benefits available to them, and that denying them those benefits will deter more from coming.” Martinez said that such thinking reflects legislators’ lack of understanding about immigrants, legal and illegal, and the amount of misinformation being put out by anti-immigrant groups and spread by the media. “Of course, none of these bills will reduce illegal immigration,” she added. What they do achieve, Martinez said, is to give the message that “it’s okay to target this population [immigrants and undocumented aliens] for all of our ills.”

Advocates Say Politicians Are Using Immigrants as Scapegoats According to Cathi Tactaquin, director of the California-based National Network for Immigrant and Refugee Rights, “There have been attempts to enact similar legislation in previous years,” but most such bills have died early in the legislative process. Tactaquin adds that in the past couple of years, California Governor Pete Wilson has set the tone for increased “anti-immigrant” legislation by accusing immigrants, particularly undocumented aliens, of draining state resources. Tactaquin said that Wilson’s reason for doing this was to “deflect blame onto immigrants for cuts in state spending that he [Wilson] was planning.”

Matan concurs that politicians have been using immigrants as scapegoats. Matan told Refugee Reports that the proposed legislation was “an attempt on the part of politicians to exploit Californians’ fear that they’re not going to have jobs, and that income and property values are going down.” Matan said that the bills’ sponsors know that few, if any, of the bills are actually likely to pass. However, she added, in accusing immigrants of causing the problem by using state services and soaking up state funds, the politicians are seeking to take the political heat off of themselves. “It is clear that they have something to gain by deflecting blame for the economic situation onto immigrants,” she added. “Immigrants are an easy scapegoat,” said Angelo Ancheta, staff attorney for the Asian Pacific American Legal Center in Los Angeles. “They are easy to attack because they lack power, and most legislators don’t feel accountable to them.”

According to immigrant and refugee advocates, the media are also contributing to misperceptions about immigrants and their impact on California. “In doing so,” said Catholic Charities’ Matan, both the media and politicians “are fanning xenophobia, hate and fear of immigrants, and promoting an ‘us versus them’ mentality. That is very irresponsible. The last thing we need in a place like California is more division between different cultural groups.”

Supporters of the legislation see the introduction of the bills in a very different light. FAIR’s Turner said that in introducing the bills, legislators were acting on the wishes of their constituents. She said that during their last campaigns, “legislators did informal polling about what constituents’ concerns were. Many were surprised by the level of concern among constituents about the impact of illegal immigration on their communities.”

Turner disputes immigrant and refugee advocates’ claims that the legislation is “anti-immigrant,” but also criticizes the media. “These bills are pro-legal immigrant in the sense that those injured by illegal immigration are your working poor and recent immigrants…. These bills prevent jobs going to illegal aliens instead of to legal residents and citizens.”

“The media is being irresponsible in utilizing terms that have no meaning…. An example is that the media calls these bills ‘anti-immigrant’ when they only relate to illegal immigrants,” Turner added. “The media is blurring the issue in order to sensationalize it.”

Some Bills Described as Unconstitutional Opponents of the legislation said that some of the bills introduced could never become law because they are unconstitutional. Martinez cited the example of AB 149, a bill introduced by Assemblyman Richard Mountjoy (R-San Gabriel) that sought to deny state funding for the education of undocumented children in public schools in kindergarten through high school. According to Martinez, “In 1982, the [U.S.]
Supreme Court decided that states cannot deny access to public education on the basis of immigration status, because doing so would allow the development of a caste-based educational system contrary to democratic principles. She added, "Yet, we have a governor in this state who has pandered to the anti-immigrant mentality and endorsed this type of legislation."

If any of the bills do pass the full legislature and are signed into law, the effects could be felt nationwide. Lavinia Limon, former executive director of the International Institute of Los Angeles, and recently selected to be the new director of the U.S. Office of Refugee Resettlement, told Refugee Reports, "What is taking place in California now may be what other areas will be looking at in the future. What happens with these bills will set a precedent for other states."

California Representatives Bring Issue to Washington At the national level, a number of bills have been introduced to "reform" the asylum system and limit the number of people entering the United States. (See Refugee Reports, Vol. XIV, Nos. 5 and 6.) Elton Gallegly (R-Cal.), who represents the Los Angeles suburb of Simi Valley, is at the forefront of that movement. He has introduced seven bills that mirror the contents of some of the bills introduced in the California legislature. The number of co-sponsors for these bills ranges from about ten to forty. The bills, all of which are presently in various committees, would prohibit federal financial benefits and unemployment benefits to undocumented aliens (H.R. 1080), provide for 2,500 additional border patrol agents (H.R. 1082), and prohibit federal financial assistance to localities whose officials refuse to cooperate in the arrest and deportation of illegal immigrants (H.R. 1083).

Gallegly has also introduced a joint resolution (H.J. Res. 129) that proposes an amendment to the Constitution of the United States to restrict the requirement of citizenship at birth by virtue of birth in the United States to persons with citizen or legal resident mothers. This amendment, if passed, would represent a fundamental change in the conferring of U.S. citizenship. It would deny U.S. citizenship to children born in the United States whose parents are not legal residents. At present, all children born in the United States are entitled to U.S. citizenship.

In a June 23 press release, Rep. Dana Rohrabacher (R-Cal.), who co-sponsored all but one of Gallegly's bills, said, "Illegal aliens are swamping schools and health facilities and government services are being stretched to the breaking point." In an earlier statement, Rohrabacher said, "Illegal aliens who apply for federal assistance are taking food from the mouths of our own needy." He added, "This country has become a welfare magnet for the poor of every country."

Debate Rages on Whether Immigrants, Legal or Undocumented, Help or Hurt the Economy The impact of immigrants is debated with particular urgency at the state and local level, where growing concerns are most evident.

A February 1993 report by the Immigrant Policy Project of the State and Local Coalition on Immigration about new immigrants (legal and undocumented) titled America's Newcomers, A State and Local Policymaker's Guide to Immigration and Immigrant Policy (See Resources, p. 15) notes:

Although the federal government has exclusive jurisdiction over immigration policy...federal-level decisions have direct and indirect effects on the state and local governments.... Though more immigrants are arriving, the federal government has reduced or constrained the few programs that assist new immigrants to integrate into the economic, social, and civic life of the United States. Finally, new legislative and judicial mandates are extending state and local responsibility for providing services to immigrants. For states and localities, federal immigration policy thus becomes state and local policy.

In California, supporters of the proposed legislation cite several recent reports that indicate that immigrants pose an economic burden. Among the studies they point to is one that the
Los Angeles County Board of Supervisors asked the county’s Internal Services Department (ISD) to undertake. ISD analyzed the impact on the economy of legal immigrants (including resettled refugees) who have entered the United States since 1980 (identified in the report as “recent legal immigrants”), formerly undocumented persons who obtained legal status as a result of the amnesty provisions of the Immigration Reform and Control Act of 1986 (identified in the report as “amnesty persons”), undocumented persons, and citizen children with at least one undocumented parent. ISD published its findings in a November 1992 report titled Impact of Undocumented Persons and Other Immigrants on Costs, Revenues, and Services in Los Angeles County.

The report found that of Los Angeles county’s 9.19 million inhabitants, 3.1 million are foreign born. Of these, 630,000 are recent legal immigrants, 720,000 are amnesty persons, 700,000 are undocumented persons, and 1.1 million are other foreign born residents, including pre-1980 immigrants. There are also 250,000 U.S.-born citizen children with at least one undocumented parent. ISD focused on the economic impact on the county of recent legal immigrants, amnesty persons, undocumented persons, and citizen children with at least one undocumented parent. Among ISD’s findings:

- These four groups make up 25 percent of Los Angeles County’s population.

- The estimated net costs to Los Angeles County of providing services to these four groups in 1991-1992 were about $947 million, while the estimated revenues, taxes, and fees generated by the four groups to Los Angeles County were $139 million, resulting in a net deficit of about $808 million.

- The first three groups--recent immigrants, amnesty persons, and

Source: California State Department of Finance, Demographic Research Unit.
undocumented persons—generated $4.3 billion through taxes, fees, etc. to all levels of government in 1991-1992. Of that, 60 percent went to the federal government, 29 percent to the state government, 8 percent to other local entities, and only 3 percent ($139 million) went to the county of Los Angeles.

- The four groups' share of the total net county costs was 31 percent, which exceeded both their 25 percent share of the county's population, and the 10 percent share of the county's total revenues that they provided in 1991-1992.

- The four groups' greatest impact in 1991-1992 was on county health services. They accounted for 68 percent of total net county costs for health services.

ISD invited researchers Jeffrey S. Passel, Michael Fix, and Rebecca Clark of the Washington, D.C.-based Urban Institute to comment on the study. The researchers, whose comments were published in an addendum to the ISD report, said that they had several reservations about ISD's methodology and therefore the study's findings. "The study is somewhat uneven in documenting the assumptions on which calculations are based.... Consequently, most of the assumptions concerning costs are quite difficult to assess," they said.

"The overall context of the costs cannot be judged from this report," the three researchers said. They added:

Some county funds come from state and federal payments to the county.... Obviously, some proportion of the taxes that generate these funds are paid by the immigrants. In addition, some portion of these funds received by the county can be attributed to the presence of the various immigrant groups. If these funds are not included in your estimates, you have underestimated the contribution of immigrants.

The researchers added that the study had also overestimated the cost of providing health services and public social services.

Immigrant and refugee advocates and service providers also emphasize the positive contribution of immigrants to the economy. The Asian Pacific American Legal Center's Ancheta said that there are many studies that show "that the net economic effect of immigrants is positive," and that it is a misperception that "immigrants take away jobs and tap into the welfare system without putting anything back into the economy." Advocates also argue that immigrants use services less than non-immigrants, that immigrants fill vital gaps in the job market, and that they contribute positively to the overall economy. The New California Coalition (NCC) compiled the following statistics on the economic impact of new immigrants:

- Immigrants comprise 22 percent of California's population, but only 12 percent of recipients of Aid to Families with Dependent Children (AFDC). (Source: California State Department of Finance, 1991-92.)

- Many of the United States' new businesses are started by new immigrants. Between 1982 and 1987, Latino businesses grew 81 percent and Asian American businesses grew 89 percent. In 1987, California's Vietnamese Americans operated 11,855 firms and produced $665 million in revenue. (Source: U.S. Census Bureau.)

**Debate Encompasses Concerns Beyond the Economy** While the economic impact of immigrants, legal or undocumented, may be a primary reason why some local groups support the legislation, it is not the sole reason. Californians for Population Stabilization (CAPS) supports some of the legislation primarily because the group believes there are too many people in California, and worries about the effect of overpopulation on a range of issues from overcrowded classrooms to the environment. "Our main concern is the environment," said CAPS' Ric Oberlink. "It's a matter of too many people." According to Oberlink, CAPS members "don't consider ourselves anti-immigrant; we have nothing against them as individuals." CAPS
would just like to see fewer of them. The group favors "increased enforcement of immigration laws," and a yearly cap of 200,000 new immigrants to the United States.

Immigrant and refugee advocates say that groups supporting the legislation favor curbing not only illegal immigration, but also legal immigration, and that demonstrates that they are really embarked on an "anti-immigrant" campaign.

**Groups Organize Both To Support and Oppose Legislation**  
FAIR has been actively supporting the legislation regarding undocumented immigrants introduced in the California legislature. FAIR's Turner said that the organization had "worked to get bipartisan legislation introduced." “The bills that FAIR sponsored and has been working on...have passed through the Senate with bipartisan support and currently are in Assembly policy committees waiting to be heard," she added. A number of other local groups have formed in recent years with the aim of curbing immigration.

On the other side, scores of groups that work with or on behalf of immigrants and refugees, as well as groups within the refugee and immigrant communities, have organized to battle the legislative initiatives. Besides the educational and advocacy work of individual groups and coalitions, they have formed the New California Coalition (NCC), a new statewide organization whose purpose, according to information provided by the group, is to "combat legislation which targets immigrants as scapegoats for the economic troubles of the state. It is our [NCC] belief that the inordinate amount of anti-immigrant legislation introduced this year in the California state legislature is an attack on all immigrants and persons of diverse racial and ethnic backgrounds."

According to MALDEF's Martinez, who is also actively involved with the NCC, the coalition has sought to educate legislators. "Many legislators are uninformed about immigration law and what the respective powers are of states and the federal government regarding immigration legislation. We hope to assist them in gaining the necessary expertise in this area in order for them to see through the anti-immigrant proposals and to ask critical questions."

Ancheta said that his organization has worked through the Coalition for Humane Immigrant Rights of Los Angeles (CHIRLA) to mobilize opposition to the legislation among social service organizations that deal with immigrants and refugees and among immigrant and refugee communities themselves. Ancheta said that his organization has also undertaken education and public information campaigns, working particularly with the Latino and Asian media to make them more responsive to the situation.

While many of those involved in organizations opposing the legislation are themselves older immigrants or descendants of immigrants, the involvement of members of the many different immigrant communities is uneven. According to the Asian Pacific American Legal Center's Ancheta, "There is a perception among Asians that it's more of a Latino problem." Ancheta said that although there are many undocumented Asians, and some Asians understand that the problems that the Latino community is facing now will eventually catch up with them, many still are not perceiving it as a problem at this time.

Martinez notes that those most at risk, the undocumented, are the least able to mobilize. "The undocumented are not going to organize, they are not going to become visible, they are not going to speak up for themselves because they are so vulnerable." Drawing attention to themselves could put them at risk of deportation.

Martinez gave an example of the undocumented's vulnerability. She said that a group of undocumented women were scheduled to speak at a meeting organized by the Coalition for Immigrant and Refugee Rights and Services in San Francisco about the many abuses they have suffered. But a local "anti-immigrant" group asked the INS district director to have INS agents present at the meeting to detain and deport the women. The district director declined to say whether he would send the agents. But, given the possibility that INS agents might in fact be present, some women chose not to speak at the event, though others still came forward to share their testimony in spite of the threats.
Recent Developments

CLINTON ADMINISTRATION UNVEILS SUMMARY EXCLUSION, ANTI-SMUGGLING PLAN

Reacting, in part, to a rash of recent negative publicity about smuggling of aliens and abuse of the asylum system (see Refugee Reports, Vol. XIV, Nos. 5 and 6), the Clinton Administration on July 27 announced a plan to boost penalties for alien smuggling and to require aliens arriving with false documents to demonstrate a substantial likelihood that they would ultimately win asylum before they would be allowed to apply for asylum.

On July 30, Sen. Edward M. Kennedy (D-Mass.) introduced the President’s bill, the “Expedited Exclusion and Alien Smuggling Enhanced Penalties Act of 1993” (S. 1333).

Unveiling the plan at the White House on July 27, Clinton said, “This has nothing to do with our support for keeping the rainbow and the melting pot of America going and growing and enriching this country.... But the kinds of practices that are manifest in who can get into this country on an airplane, what kinds of illegal smuggling can go on, and the fact that our borders leak like a sieve: those things cannot be permitted to continue in good conscience.”

The Clinton proposal prevents any falsely documented alien seeking entry to the United States from applying for asylum, unless he or she can show that the false document was used to depart directly from a country where the alien had a credible fear of persecution, or from which the alien had a credible fear of return to persecution. The same bar applies to an alien who boards a plane with documents purporting to give permission to enter the United States, but who fails to present those documents upon arrival.

If aliens in these circumstances indicate a desire to apply for asylum, the proposed legislation instructs immigration officers to refer them to asylum officers (AOs). The proposed legislation says, “If the officer determines that the alien does not have a credible fear of persecution or of return to persecution in the country in which the alien was last present prior to attempting entry into the United States.... the alien may be specially excluded and deported.” The proposal includes a provision for deporting asylum seekers back to the country where the applicant was “last present” before entering the United States.

The AO’s determination is not subject to administrative appeal beyond a “prompt review” by another officer who is at least as qualified as the AO from a division of the Justice Department that is independent of the Immigration and Naturalization Service (INS).

A “credible fear of persecution or of return to persecution” is defined in the proposed legislation as a “substantial likelihood” that the statements made by the alien are true; that the alien “could establish eligibility as a refugee...;” and that “the alien could be returned, without access to a full and fair procedure for refugee status determination, to a country with respect to which there is a substantial likelihood that he or she is a refugee....”

In introducing the President’s bill, Kennedy said that the standard of a “substantial likelihood” of winning an asylum case “places the standard squarely in the middle between the existing credible fear standard used on occasion by INS and the lowest standard of nonfrivolous.”

[Editors’ Note: The “credible fear” standard was used by the INS for screening Haitians at Guantánamo and aboard Coast Guard cutters, but is found in neither statute nor regulation; the “nonfrivolous” standard is currently used in work authorization decisions on the basis of a paper review of the claim.]

The bill allows the alien to avail himself or herself of the right to counsel at this stage only “at no expense to the government” and if such counsel “shall not delay the process.”

Anticipating continuing interdictions of boats in international waters, a provision of the bill says that aliens who are brought or escorted by U.S. authorities into the United States shall either be detained aboard the vessel, or in facilities designated by the Attorney General, or paroled pursuant to her parole authority.

The bill severely limits judicial review for asylum seekers in these circumstances to the minimal constitutional requirement of a habeas corpus petition. The bill would limit habeas corpus review to examining whether the person be-
ing detained is an alien and was ordered excluded according to the new exclusion provisions relating to use of false documents.

The bill also seeks to prevent suits challenging its own legality by dictating that "regardless of the nature of the suit or claim, no court shall have jurisdiction...to certify a class in an action challenging the special exclusion provisions of this Act or any portion or implementation thereof."

**Proposal Would Beef Up Enforcement Tools**
The bill also increases penalties for alien smuggling from five to ten years, and doubles those penalties if the smuggler causes serious bodily harm or jeopardizes the life of the alien.

It expands the INS's authority to use wiretaps, and amends the Racketeer Influenced and Corrupt Organizations (RICO) statute to apply its forfeiture and other penalty provisions to alien smuggling. The bill would allow the INS to seize any property, such as houses, used to harbor aliens.

President Clinton said that he would seek an additional $172.5 million in FY 94 to cover the plan over the FY 94 budget he had earlier proposed to Congress. An Administration spokesman said that $87 million of this would be financed through INS user and examinations fees, State Department visa surcharges, and funds drawn from the current Custom Service budget. The other $85.5 million would have to be appropriated funds.

An increase of $45.1 million would boost the Border Patrol by another 600 agents. Another $45 million would go to the State Department to upgrade consulates' ability to issue fraud-proof, machine-readable visas. Pre-inspection at foreign airports and other enhancements of efforts to thwart passengers with improper documents from boarding planes overseas would receive $12.7 million, according to the plan.

The expedited exclusion provisions of the legislation, described above, would cost $31.2 million in FY 94, according to the Administration.

The Administration also announced that it will seek $14.6 million in FY 94 to double asylum adjudication resources at the INS in order to reduce the backlog of more than 275,000 asylum cases. The President said that the number of INS asylum officers would double to more than 300 by the middle of FY 94. The Administration announced that it would "promulgate new regulations establishing a procedure for prompt and fair adjudications, which will allow INS to keep up with the demand."

**Advocates Criticize Plan**
Representatives of nongovernmental organizations voiced concerns over the lack of appeal process in the plan and the "credible fear" standard, as well as on the risk of sending persons back to presumably safe third countries.

Warren R. Leiden, executive director of the American Immigration Lawyers Association (AILA), said that the legal standard of a credible fear that would be used for screening is too difficult and has been proven to overlook many true refugees, and that the proposal "does not provide a fair hearing or an objective record to decide who should be screened out and excluded."

Referring to the concept of returning asylum seekers to so-called "safe third countries," he added, "the proposal would send true refugees away to an uncertain fate if their trip touched in a country that has some form of refugee processing, without regard to whether they would actually be afforded protection."

J. Michael McWilliams, president of the American Bar Association (ABA), objected to giving "final authority to reject asylum seekers" to "low-level immigration officers." He said that asylum seekers arriving without valid documents would have to prove a credible fear of persecution "after a stressful and fatiguing journey, and without the assistance of counsel, an interpreter, or the involvement of any judicial or quasi-judicial officer."

Lucas Guttentag, director of the Immigrants' Rights Project of the American Civil Liberties Union (ACLU), said that it was "dismaying that the Clinton Administration would propose a procedure that tries to completely insulate the INS from judicial oversight even if INS action is blatantly discriminatory or in violation of its own statute." Guttentag pointed out that the INS has a history of illegal and discriminatory treatment of aliens in the asylum process, and that such abuses have been successfully challenged in the courts--legal challenges of the kind that this bill attempts to preclude.
Robert Rubin, assistant director of the Lawyers' Committee for Civil Rights of the San Francisco Bay Area, said that "with its due process shortcomings, and limits on individual habeas and class action review, the Executive gives the unfortunate impression that it is willing to tolerate a significant measure of error in asylum decision making, and that aggrieved persons will be denied any and all remedies to correct such error."

In the criminal justice system, he said, "because of the high stakes, we have made the decision to err on the side of acquitting the guilty rather than convicting the innocent. For asylum, we should also err on the side of protection, so that we don't risk returning a bona fide refugee."

**Sen. Simpson Says Bill Has Too Much Due Process** Although the conventional wisdom in Washington was that Sen. Alan K. Simpson (R-Wyo.), the ranking Republican on Kennedy's refugee subcommittee, would co-sponsor the bill, at the last minute he balked.

Noting that "many provisions are similar, even identical, to the two bills I introduced earlier in the Congress to address alien smuggling and asylum abuse," Simpson said he nevertheless would not support the bill because it would "create a new corps of superasylum review officers outside the Immigration Service." He said, "This overemphasis on process--it is almost an obsession with process--has created a backlog of hundreds of thousands of these cases."

**Editorials Give Mixed Reviews** The bill drew fire in a lead New York Times editorial, which termed it "a politically driven, poorly targeted package of legal changes." The Times said that President Clinton "has now outdone his predecessor in returning boat people to countries they are trying to flee," and added that America recently has "devalued" the guarantee of due process to persons claiming asylum here. "The real crisis in U.S. asylum policy," said the editorial, "is one of poor management and scandalously inadequate resources."

On the other hand, the Washington Post said that the reform package demonstrates that the Clinton Administration is "serious about curbing immigration abuses," and praised Clinton for "recognizing a substantial problem" and for taking steps, "because a failure to act would have left the field to those who favor more repressive measures."

The Miami Herald said the bill "should be dubbed 'the Sheik Omar bill'," and accused the Clinton Administration of using a "chest-pounding tone...[that] gives an exaggerated impression of the seriousness of the problem."

Kennedy's home paper, the Boston Globe, said the plan "more closely resembles an efficiency program for a fast-food restaurant than it does a sound policy on immigration."

**CONTROVERSIAL REPATRIATION OF LITTLE KNOWN BANGLADESHI REFUGEE GROUP DELAYED**

On May 10, following a visit by Bangladeshi government officials to Tripura, India, the governments of India and Bangladesh issued a communique saying that they had "agreed to arrange speedy repatriation of all Chakma refugees to Bangladesh in full safety and security." The communique added, "The refugees were responsive to the proposal...and expressed their eagerness to go back to their homes." The repatriation was set to begin the first week of June.

Bangladesh estimates the number of Chakma refugees to be 25,000; India estimates 56,000, who have been living in India's Tripura State since 1986.

Shortly after the two governments issued the communique, an Indian human rights group issued an urgent action alert appealing for a stop to what it termed the refugees' "forcible repatriation." The group said that when the Bangladeshi government delegation visited the refugees, refugee leaders presented a list of 13 conditions that the Bangladesh government would have to meet before the refugees would agree to repatriate. According to the action alert issued by the human rights group, "The demands of the refugees were set aside."

U.S. Committee for Refugees (USCR) director Roger P. Winter wrote to both governments expressing concern over the repatriation,
asked for reassurance that any repatriation would be fully voluntary, and urged Dhaka and New Delhi "to invite the UN High Commissioner for Refugees (UNHCR)...to monitor any future plans for repatriation." Since the Chakmas first fled to India, the Indian government has prevented UNHCR and other international groups from assisting the refugees, preferring to do so itself without international involvement or monitoring. India has allowed few outsiders even to visit the refugees. Responding to Winter's letter, on June 29 the Charge d'Affaires at the Indian Embassy in Washington, K. Sibal, said, "India will make every effort to ensure that the repatriation of the Chakma refugees will be on a voluntary basis."

The Indian human rights group that first raised concern about the repatriation wrote to USCR on July 12, "The repatriation has failed to take place. On the day of the repatriation, i.e. June 8, the refugees shut the doors of their huts...to protest against the repatriation." The group said that the Indian government had reportedly written to the local authorities in Tripura ordering them to "progressively dismantle the six relief camps housing the refugees" and "reduce the quota of food and other facilities such as medical aid and water."

A report by a Bangladeshi newspaper suggested that a split among the refugee leadership was the reason the repatriation did not begin. The newspaper, Dainik Ittefaq, reported on June 15 that the refugee leaders who met with the Bangladeshi authorities agreed to the repatriation, but that after the Indian/Bangladeshi communique, new leaders surfaced who presented demands not made at the time of the original meeting. Among the new demands was that UNHCR supervise the repatriation. The paper said, "This sudden appeal for UN intervention after all modalities relating to repatriation were finalized...has made this issue complex and its solution uncertain."

Updates

- A Thai government official has said that Thailand will be more flexible regarding the future status of Laotian refugees than it had earlier indicated. According to the July 16 Bangkok Post, Thailand's National Security Council chief, General Charan Kullavanich, who headed the Thai delegation to a meeting on the repatriation of Laotian refugees between Thai and Laotian government officials and representatives of the UN High Commissioner for Refugees (UNHCR), said that Thailand would not take legal action against Laotians remaining in Thailand after the end of 1994. A year ago, General Charan had said that any Laotians who did not repatriate (or resettle to the United States or other countries) by the end of 1994 would be regarded as illegal immigrants.

In early July, Thai newspapers, including the Bangkok Post, reported concerns expressed by the U.S. Committee for Refugees (USCR) over the future of Laotians and other refugees in Thailand. One Thai newspaper, the Bangkok Nation, ran an editorial that said, "Thai authorities have to accept the fact that Thailand is still a country of first asylum for many refugees.... Thailand has to be more humane to these people.... Their only crime back home was to ask for freedom."

In a letter to the Thai government, USCR director Roger P. Winter and policy analyst Hiram A. Ruiz said, "We also welcome General Charan's comments that the Laotian government should allow returnees to settle in areas of their choice, and that the safety and human rights of the returnees should be protected. We believe that these steps, if followed and adhered to, would encourage greater voluntary repatriation."

- In late June, five separate attempts by Cubans to seek refuge at the U.S. naval base at Guantánamo Bay, Cuba were foiled by Cuban border guards, who opened fire on them. A State Department spokesman called the actions of Cuban border guards "extraordinarily cruel."

The Washington Post reported 195 Cubans have fled to Guantánamo in 1993, compared to 152 in all of 1992. The Post also reported that Cuban border guards were sighted pulling three bodies from the water on June 26 and June 27. The guards reportedly shot and used hand grenades against the would-be refugees.
Most of an estimated 650 Chinese migrants aboard three ships ended their three-month journey by being deported to China by chartered jets from Tijuana, Mexico. The three ships had been interdicted in international waters by the U.S. Coast Guard, and, following intensive diplomatic negotiations, Mexico agreed to allow them to dock at the port of Ensenada.

As soon as the ships entered Mexican territorial waters, according to press reports, armed Mexican soldiers boarded the vessels, arresting the ships' crews and forcing the passengers into the holds of the ships. The passengers were handcuffed and their heads were spray painted. Media and human rights monitors' access to the scene was barred, however. The Chinese were reportedly flown to the port city of Ximen in Fujian province.

A Chinese Foreign Ministry statement said that the government would "handle these illegal emigrants, upon their repatriation, according to law, and if they are really being deceived by smugglers, then they will not be put into prison," the Washington Post reported.

In March, 112 passengers aboard the East Wood, who were repatriated via the Marshall Islands, were reportedly imprisoned upon return (see Refugee Reports, Vol. XIV, No. 3).

Lavinia Limon, Executive Director of the International Institute of Los Angeles, an American Council for Nationalities Service (ACNS) affiliate, has been selected--though not yet officially appointed--to be the next director of the Department of Health and Human Services' Office of Refugee Resettlement (ORR).

Congress has passed, and the President has signed, the 1993 supplemental appropriations bill: The new law, PL103-50, allows unexpended FY 92 funds to be utilized in FY 93. According to the Office of Refugee Resettlement's July 1993 Update, "States which have unexpended funds that were awarded to them in FY 1992 for refugee cash and medical assistance (RCA/RMA) can use them to fund FY 1993 RCA/RMA costs." This will help to cover the costs of RCA/RMA for an eight-month period. To help states that do not have unexpended FY 1992 funds to also cover RCA/RMA costs for eight months, the Update said, "ORR's FY 1993 fourth quarter grant awards to top States will be adjusted. The fourth quarter awards will be based on projected State needs after taking into account unexpended FY 1992 RCA/RMA funds that a State may have."

The House of Representatives has passed a bill that includes $400 million for ORR programs in FY 1994. The $400 million earmarked for the Office of Refugee Resettlement (ORR) in the FY 1994 Labor, Health and Human Services, and Education and Related Agencies Appropriations bill is $18.519 million more than the FY 1993 ORR appropriation, but $20.052 million less than the Administration requested for ORR. According to ORR's July 1993 Update, the bill calls for $264.330 of the $400 million to be used for transitional and medical services, which include RCA/RMA, the unaccompanied minors program, the matching grant/voluntary agency program, and various Fish/Wilson programs. Proposed FY 1994 funds for social services ($80.802 million), preventive health ($5.471 million), and targeted assistance ($49.397) are the same as for FY 1993.

On July 1, the Immigration and Naturalization Service (INS) published an interim rule in the Federal Register to implement the Chinese Student Protection Act (CSPA) of 1992. The CSPA allows Chinese nationals who have been in the United States continuously since before April 11, 1990 (except for brief, casual, and innocent absences) to apply for permanent resident status. It grows out of an executive order issued by President Bush in April 1990 after the Tiananmen Square massacre to protect Chinese nationals in the United States from forced return and to allow them to work. The interim rule allows eligible Chinese nationals to obtain lawful permanent resident status without applying for an immigration visa at a U.S. consulate abroad, and waives other of the usual requirements. The interim rule says provisions of the CSPA will be "interpreted liberally," such as the meaning of "brief, casual, and innocent" absences from the United States, which it says should be no longer than five months, but that "circumstances requiring longer absences will be
given consideration.” Chinese nationals covered by the CSPA may apply for its benefits between July 1, 1993 and June 30, 1994.

- On July 14, a lawsuit was filed in U.S. district court in Los Angeles challenging conditions of detention in INS detention centers in the Los Angeles area. The class action represents persons in INS custody in deportation or exclusion proceedings, many of whom are seeking asylum. The suit alleges that the INS fails to provide minimally decent conditions due to overcrowding by, for example, forcing detained aliens to sleep on the floor of detention facilities. It also alleges that the detainees’ are being denied effective assistance of counsel, because, among other things, legal service providers are restricted from access to detainees, severely impeding detainees from conferring privately with counsel. The plaintiffs are represented by the Central American Refugee Center (CARECEN), El Rescate Legal Services, Public Counsel, and the law firm of Heller, Ehrman, White, and McAuliffe. The complaint asks for an injunction to halt the actions by the INS which it alleges to be illegal. The government has 60 days to respond.

Reader Exchange

PROJECTS PROVIDE DIVERSE INFORMATION TO AND ABOUT IMMIGRANTS

- The International Institute of the East Bay, an Oakland, California-based affiliate of the American Council for Nationalities Service, has begun a project to provide information about refugees and immigrants in the East Bay to agencies, both governmental and nongovernmental, that provide services to newcomers, and to the media, to use in educating the public.

According to the Institute, the project, called The Newcomer Information Clearinghouse, “serves as a catalyst in the development of relevant and expanded services to immigrant and refugee populations in the East Bay by providing up-to-date, detailed information about newcomers. Among the information the Clearinghouse provides are census data on ethnicity, languages spoken by public school students, health indicators by ethnicity, and economic and employment data.

For more information on this project, call the International Institute of the East Bay at (510) 451-2846.

- On the East Coast, the Massachusetts Office for Refugees and Immigrants (ORI) has begun a project that helps employers and employees avoid workplace discrimination based on national origin or citizenship status. The multilingual program seeks to alert employers and employees about their rights and responsibilities under the employee verification provisions of the Immigration Act of 1990 and the Immigration Reform and Control Act (IRCA) of 1986.

According to ORI director Regina Lee, “Sometimes employers, knowingly or not, go overboard with the verification process and end up discriminating against people.” The education campaign helps employers “comply with both sides of this tough law,” Lee said. “But we also want employees to know their rights,” she added.

ORI has developed written materials in English and six other languages, produced a teaching video, and instituted free information hot lines, also in seven languages. For further information on this project, call Maureen Martel at (617) 727-7888.

Job Board

Executive Director InterChurch Refugee and Immigration Ministries, the Illinois affiliate of Church World Service, seeks an executive director for its statewide operation.

Responsibilities include administration of program and budget, management of grants and contracts, grant writing and fundraising, financial oversight, and support for statewide board.

Requires graduate degree or equivalent experience, at least 3 years administrative and management experience in nonprofit or public agency, experience with refugee/immigrant services, and ability to relate with church groups.
Statewide travel required, including 5 to 7 days per month in Chicago. Salary: high 30ks commensurate with experience, plus benefits. **Contact** Send resume and cover letter by August 27 to: Janie Rempel, Chair of IRIM Search Committee, 30 Chatsford Court, Bloomington, IL 61704.

**Program Officer for Disaster Response** InterAction, a coalition of 150 private voluntary organizations, seeks a program officer for disaster response. Responsibilities include staffing InterAction’s Disaster Response Committee, facilitating coordination among member agencies on operational and policy issues related to international disasters, and acting as a liaison with U.S. and UN agencies. Requires previous experience in international disaster response, excellent writing and communication skills, and ability to work with a coalition. Master’s degree and field experience in disaster situations preferred. Salary: low 30ks. **Contact** Send resume to: G. Sherwood, InterAction, 1717 Mass. Ave., NW, Suite 801, Washington, DC 20036.

**Staff Attorney** The American Civil Liberties Union Foundation (ACLUF) seeks applicants for a one-year staff attorney position with the ACLU’s Immigrants’ Rights Project in New York. Responsibilities include participation in all aspects of trial and appellate litigation, analysis of legislative and regulatory proposals, supervision of cases placed with pro bono attorneys, and public speaking on immigration issues. Requires law degree, commitment to civil liberties and civil rights of immigrants, and excellent analytical, research, and writing skills. Substantial travel may be required. Salary is determined by the number of years out of law school. Health and welfare benefits and some student loan subsidies are provided. The position will commence on or after September 13, 1993. **Contact** Send letter of interest, resume, names and phones numbers of three references, and at least two legal writing samples to: Lucas Guttentag, Immigrants’ Rights Project Director, American Civil Liberties Union Foundation, 132 West 43rd Street, New York, NY 10036.

**Program Assistant** The Refugee Policy Group (RPG) seeks a program assistant to provide overall staff support for RPG’s program activities. Responsibilities include managing program office files, performing secretarial functions, conducting preliminary research assignments, maintaining mailing lists, organizing and maintaining a resource center, and answering telephones. Requires facility with word processing (preferably WordPerfect), capacity to learn or perform desktop publishing, communication and interpersonal skills, and ability to function with limited supervision and under pressure. Salary commensurate with experience. **Contact** Send letter of interest and resume to: Kate Lawler, Refugee Policy Group, 1424 16th Street, NW, Suite 401, Washington, DC 20036.

**Asylum Officers** The U.S. Immigration and Naturalization Service (INS) is seeking to update its data base of persons who may be interested in applying for asylum adjudication positions. Should such positions become available, persons in the data base will receive vacancy announcements. (Those who have already applied need not do so again.) Asylum offices are located in Newark, NJ, Arlington, VA, Miami, FL, Chicago, IL, Houston, TX, San Diego, CA, and Los Angeles, CA. Persons interested in being placed in the data base should send a letter of interest indicating the office in which they would like to work. **Contact** Gregg Beyer, Director of Asylum, Office of Refugees, Asylum, and Parole, INS, 425 I (Eye) Street, NW, Room 1218, Washington, DC 20536. No phone calls accepted.

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**Conferences**

**AFRICAN REFUGEES**

A national conference titled “African Refugees: Human Dimensions to a Global Crisis” will be held in Washington, D.C., on September 9 and 10. The conference is being organized by the Ethiopian Community Development Council, Inc., with funding from the Office of Refugee Resettle-
ment, and co-sponsored by voluntary agencies involved in refugee resettlement.

The purpose of the conference is to renew the national commitment to African refugee assistance, protection, admissions, and resettlement. The first day of the conference will focus on conditions and refugee programs in Africa. Government and international experts have been invited to brief the conference on recent developments. The second day will focus on domestic resettlement issues. Refugees, service providers, and other experts will discuss experiences and lessons from the resettlement of African refugees.

Special arrangements for lodging have been made with a local hotel. Reservations must be made before August 18 to guarantee conference rates. For further information and registration materials, please contact Eric Olson at the Ethiopian Community Development Council, (703) 685-0510.

RACE, ETHNICITY, AND NATIONALISM

The University of Wisconsin will sponsor a conference from September 30 through October 2 titled "Race, Ethnicity, and Nationalism at the End of the Twentieth Century." The conference will examine the impact of race, ethnicity, religion, and nationalism on stability in the post-Cold War era. An international roster of scholars will present conceptual and theoretical discussions, as well as case studies from throughout the world. Conference participants will be asked to discuss the possibility of regional and supranational organizations to help transcend racial and ethnic divisions.

The early registration fee for the conference, which must be received by August 16, is $125. It is also possible to register for a single day's events. Contact: For further information, contact either Thomas Tonnesen or Judy Treskow at the University of Wisconsin System Institute on Race and Ethnicity at (414) 229-6701/4700/4804 (phone) or (414) 229-4581 (fax).

Resources

NEW AMERICANS: A STATE AND LOCAL POLICYMAKER'S GUIDE

A February 1993 report about new immigrants (legal and illegal) by the Immigration Policy Project of the State and Local Coalition on Immigration titled America's Newcomers, A State and Local Policymaker's Guide to Immigration and Immigrant Policy notes, "Immigrants in the 1990s are the most diverse population ever to come to the United States. They bring widely divergent experiences and skills to this country. Many come to the United States with education and job skills, and quickly become economic contributors.... Other immigrants, however, face a broad range of problems and barriers to successful participation in American society."

The Immigration Policy Project is a collaboration of the American Public Welfare Association, National Association of Counties, National Conference of State Legislatures, National Governors' Association, and the United States Conference of Mayors. The project seeks to document immigration trends, innovative policies and programs, and priorities for state and local government.

America's Newcomers reviews the history of immigration to the United States, attitudes of Americans towards immigrants, and effects of immigrants on the labor force and economy. It presents the definitions and variations in legal status of immigrants in the United States, provides current demographic information on immigrants, outlines the federal responsibility for immigration, and describes the three major pieces of legislation reforming legal, humanitarian, and illegal immigration in the 1980s and their impact on state and local government.

America's Newcomers is available for $10 plus $4 postage and handling from the National Conference of State Legislatures, 1560 Broadway, Suite 700, Denver, CO 80302. (303) 830-2200.
### First Six Months of Arrivals - FY 1993
#### Refugees, Amerasians and Entrants

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Total Arrivals: 60,179


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**Refugee Reports**

A News Service of the U.S. Committee for Refugees, a Project of the American Council for Nationalities Service

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For years, agencies implementing the Office of Refugee Resettlement's (ORR) Planned Secondary Resettlement (PSR) program struggled to find refugees willing to risk leaving familiar surroundings and the security of the welfare net in exchange for the promise of a job and economic self-sufficiency in another part of the country. But now, that is changing. Though some PSR programs still experience difficulties recruiting participants, others have waiting lists of interested refugees. And, though the total number of families signing up for PSR is still relatively low compared with the number of refugees receiving public assistance nationwide, the PSR program is proving that it is possible for refugees who have been receiving assistance for years to find jobs and shape better lives for themselves and their families.

According to ORR, the PSR program, which began in 1985, "provides an opportunity for unemployed refugees and their families to relocate from areas of high welfare dependency to communities in the United States that offer favorable employment prospects."

At the end of FY 92, every employable adult who resettled through the PSR program during the year and remained in his or her resettlement site was employed. [Ed. Note: The term resettlement is used throughout this article to refer to planned secondary resettlement rather than to initial resettlement in the United States.] Though most earn modest incomes, all adults in the family work, often in shifts to avoid day-care costs, and in a number of cases a family member may work two jobs or double shifts to increase the family's income. Many PSR families have purchased their own homes; others are saving to do so. Some families have bought new cars, others are saving for their children's education. Several Hmong PSR families in Grand Prairie (near Dallas), Texas, own their own businesses, including a grocery store, auto body repair shop, and a Mexican restaurant.

Kane Sengphet and his family resettled in Greensboro, North Carolina, in January 1993. Sengphet works from 7:00 a.m. to 3:00 p.m. cutting foam in a sofa and bed
Most days, he works a second shift until 10:00 p.m. His wife, Bouakham, works from midnight to 8:00 a.m. at a clothing factory. Between them, they take home nearly $2,500 per month. The couple know that many of the refugees who resettled in Greensboro before them managed to buy homes within two or three years, and that's their goal too. "Buying a house is what we dream about. I work hard every day, six to seven days a week, to save money to buy a house...so our children will have a good place to live," Sengphet told Refugee Reports.

Sombounh Vilaiphanh is 35 years old. He spent 10 years of his life in a refugee camp in Thailand, and from the time he arrived in the United States in 1987 until he left California and resettled in Charlotte, North Carolina, in July 1992, he could only find part-time work as a cleaner or grounds keeper. Now he works full-time in a factory, and said he "has enough money for the rent, bills, and to buy anything we need." But Vilaiphanh wants something better for his children. He said, "In California, there are too many people and too few jobs. Employers can demand [that job applicants have] English language and education. I didn't have a high school degree or speak English. I only had a name and address." He added, "I know that what employers want is people with an education. That is why I am saving, so that my kids will be able to go to college."

Besides offering refugees a new lease on life in the United States, supporters of the program argue, PSR also makes economic sense. "I'm sure that the amount of public money that this program is saving is just phenomenal," said Frank E. Williams, state director for refugee programs at Lutheran Family Services (LFS) in Greensboro (which resettles PSR families in both Greensboro and nearby communities, and in Columbia, South Carolina). "In California [the state from which most PSR clients have moved to North Carolina], cash assistance alone is about $1,000 per family, not counting Medicaid [Medi-Cal in California] costs. Not only is that money not being spent, but the resettled refugees are now paying taxes. And they will do so long-term."

ORR confirms the assessment that PSR is cost-effective. According to an agency report, "The average cost of resettling families through the PSR program [in FY 92] was $8,000 per family, while average welfare cost savings to the government were estimated at $987 a month per family [not including Medicaid savings]." At that
rate, ORR estimates, the cost to the government of resettling a PSR family is paid back in just eight months, and that does not take into account the income that PSR families generate for the government in taxes.

Five Agencies Nationwide Currently Implementing PSR Projects

ORR-funded PSR projects can be implemented by states, national or local voluntary agencies, or mutual assistance associations (MAAs) with experience in providing services to refugees. At present, ORR funds PSR programs in Greensboro, North Carolina/Columbia, South Carolina; Grand Prairie, Texas; Charlotte, North Carolina; Syracuse, New York; Garden City, Kansas; and Denver, Colorado. While most PSR clients have resettled to the above sites from California, others have resettled from New York, Wisconsin, and Minnesota, particularly during the program's earlier years.

Families participating in the PSR program receive various forms of assistance, including: a transportation grant to relocate to the PSR site; temporary payment of rent and utilities (usually no more than 45 days); a temporary allowance for food and other basic necessities; job placement services; and short-term, emergency health coverage. Depending on need and the PSR implementing agency's resources, PSR families may also receive job or language training, transportation to job interviews or work sites, day care, or other services.

The type, level, and cost of services provided to PSR families depends on a number of factors. Roger Vilaysing of the Southeast Asian MAA in Garden City, Kansas, told Refugee Reports that his agency saves money on transportation costs because it often resettles several families at once. Both of the agencies that implement PSR projects in North Carolina rely on donations from people in the local community to furnish PSR families' new homes. Greensboro LFS's PSR program director Somchith (Sandy) Thonesavanh said, "Once the families arrive, I base the level of assistance we offer them on their level of need."

To be eligible to participate in the PSR program, families must live in areas having high refugee welfare utilization, they must have children (single people and childless couples are not eligible), and the head of household must be unemployed or underemployed and receiving cash assistance. Clients must also not be U.S. citizens, and must not have received education in the United States beyond a high school diploma, except for vocational or technical training received as part of an ORR-approved employability plan.

Proposed planned secondary resettlement sites must not have high welfare utilization rates among the overall population, and must have a job market that provides employment opportunities that will enable refugees to become self-sufficient. Everyone involved with the PSR program agrees that being able to place PSR clients in jobs as quickly as possible is a key to the program's success. Many of the agencies employ job developers who identify potential jobs even before a family arrives at the PSR site. In most sites, for example in North Carolina (where the economy is good and there are many manufacturing jobs) and Kansas (where most PSR clients are employed in one of two large meat packing plants that between them employ some 4,600 people), resettled refugees are often working within a week or two of their arrival. But that is not always possible. In Syracuse, which in 1992 experienced an economic slump (from which the city is now reportedly recovering), placing PSR clients in jobs has sometimes taken up to several months.

Nationwide, 580 families, representing about 2,400 individuals, resettled through the PSR program from 1985 through the end of FY 92; another 200 families are expected to have resettled by the end of FY 93, nearly three times the average yearly total during the period FY 85 through FY 92. Most of those resettled under the PSR program have been families, but some singles, including ten Vietnamese Amerasians now living in Syracuse, were also resettled before the eligibility criteria were changed in 1992 to include only families with children.

PSR families are earning an average of $1,830 to $2,300 per month, depending on the resettlement site, according to ORR. Approximately 95 percent of families who have resettled through PSR remain in their new communities. LFS's Williams said that although a few families have moved away from their original resettlement sites in Greensboro and Columbia, all moved to
Khamsene Manivanh arrived in the United States in 1981. After eight years of only sporadic work and living on public assistance in Missouri, Iowa, and California, she, her husband, and her two children applied to resettle in North Carolina through the Lutheran Family Services' (LFS) Planned Secondary Resettlement (PSR) program. She arrived in Greensboro in April 1989. Two years later, her family bought a three-bedroom house. "I needed a job, work, so that I could pay for a good place to live," Manivanh told Refugee Reports. "Now life is normal. We're happy here; we're glad we came."

Manivanh has had clear goals and has been willing to study and work hard to achieve them. Even before fleeing Laos in 1980, she studied English. She did not know at the time just how useful that would prove. In Iowa, she studied for and passed her high school G.E.D. But she and her husband were unable to maintain permanent jobs in Missouri and Iowa, so they moved to California.

But Manivanh wasn’t happy living on assistance in California. She wanted more for herself and her family. When she heard about the PSR program, she was interested, but her husband was unsure about another move, and her teenaged children did not want to leave California. Nevertheless, after thinking it over for a few weeks, her husband agreed that the move would be a good idea.

Since the family resettled in Greensboro, Manivanh has worked at a stocking manufacturer; her husband has worked two jobs. Her son, who graduated from high school and is now 19, also works full-time. Manivanh hoped he would use his earnings to finance a college education, but he recently opted for buying a new car.

"NOW LIFE IS NORMAL."

Khamsene Manivanh shows LFS's Sandy Thonesavanh the garden outside the home her family purchased in Greensboro. Photo: USCR/H. Ruiz
cities where they are employed. In Syracuse, three of the five Hmong families resettled there moved away. For two of those families, the move occurred because the wife gave birth after arriving in Syracuse, making it difficult for her to work and for the family to make ends meet. The two families returned to California and public assistance.

PSR Program Faced Numerous Obstacles in Its Early Years According to An Evaluation of the Planned Secondary Resettlement Program, a study carried out by a private consulting firm in 1987-1988 and published by ORR in 1992, PSR encountered a number of obstacles that kept the program from reaching its potential in its early years. Not all of those obstacles have been overcome, but time and the obvious success achieved by participating families have helped reduce the impact of the obstacles.

A major obstacle that the ORR-sponsored evaluation of the PSR program found was fear, especially among larger families, of leaving the security of the welfare system for the uncertainty of the job market. The report noted that families were reluctant to consider PSR because they felt reassured by the "total predictability" of the "same [welfare] check for the same amount arriving on the same day each month," and "that the system provided free medical care as well as cash and Food Stamps."

Another obstacle was that many potential PSR families could not believe that the government would give them money to pay for their move from one part of the country to another and not ask them to repay it later. They had good reason to find this surprising, because when they first resettled in the United States from overseas, they had indeed been asked to repay the cost of their flight. Greensboro Lutheran Family Services' Thonesavanh said that to convince the families that they would not have to pay back the money, she sent them a notarized form stating that their transportation costs would not be deducted from their salaries once they were in North Carolina.

Opposition of Some Community Leaders the Major Obstacle The most significant obstacle agencies found to recruiting PSR families was the opposition of some community leaders.

When it began, PSR targeted primarily Hmong (and, to a lesser degree, Cambodian) refugees, who were over-represented in the long-term welfare-dependent refugee populations that PSR sought to assist. According to the PSR evaluation study, some community leaders were against the program because they saw it as splitting apart a community that they had endeavored to bring together in the United States, and whose culture and identity they hoped to preserve. Some leaders also worried that "movement away from the areas of [Hmong] concentration would complicate fund-raising programs aimed at supporting the resistance efforts [against the Laotian government] in Laos," the evaluation noted. The report added that some local MAAs and even governmental agencies were also concerned that "they would lose ORR funding if too many refugees were recruited away from the region."

To overcome the obstacle of lack of cooperation from some community leaders in California, recruiters for PSR implementing agencies found that they often had to bypass the leaders. LFS's Thonesavanh said that during her recruitment trips, she posted notices in grocery stores and other establishments frequented by refugees. Kansas's Vilaysing gave potential PSR clients in California the addresses and telephone numbers of families who had resettled in Kansas, "so that they could contact them and ask them how they had fared."

Chris Monzel, PSR director at Syracuse's Inter-Religious Council, said that her agency is careful about its approach in California. "We're not trying to convince anyone to move from California if they don't want to. But if they want to work and are planning to relocate, we would like to help them do that in a planned way."

Not all community leaders have been negative about PSR, however. One community leader from Modesto, California, resettled in North Carolina in June of last year. His resettlement is expected to encourage more refugees from the Modesto area to resettle in the future. Thao Phia Xaykao, director of the Hmong American Planning and Development Center in Grand Prairie, Texas, said that his agency "no longer finds resistance from the Hmong leaders [in
California." In September 1992, Xaykao invited several Hmong leaders from central California to see the situation in the Dallas area for themselves. That visit generated more interest in the PSR program, and in May 1993, five refugee leaders from Stockton, California, paid their own way to visit Grand Prairie to learn more about the PSR program there.

Phen Vue, of the Hmong Council, Inc., a Fresno MAA, said that he is supportive of PSR. "It is a good program," he told Refugee Reports. At one point, the Hmong Council considered applying for an ORR-PSR grant to recruit families in Fresno and refer them to agencies implementing PSR programs in receiving cities. However, that did not materialize. That may have been partly due to the reluctance of agencies at the receiving end to resettle families that they had not screened themselves. Vue said that he continues to support PSR by informally referring people to the program.

Turning The Program Around Agency personnel interviewed by Refugee Reports agree that the most important factors in turning the PSR program around were the long-term success of the families resettled during the first years of the program, and the trust that the agencies and their staff were able to generate among potential PSR families in the California communities from which most PSR families resettle. Luke Siharath of Catholic Social Services (CSS) in Charlotte said, "When our PSR clients were living in California, they saw no future. Initially, they didn't know that it could be different. But the first families who resettled here did well, and they sent letters and photographs to their friends in California. They then saw that there was an alternative and decided to pursue it."

LFS's Thonesavanh noted that the key to recruiting new PSR families is to ensure that every family who resettles has a positive experience. Doing so will inspire trust in the program and its staff, and give other families the confidence they need to make the decision to move. "We go out of the way to make the program successful," Thonesavanh told Refugee Reports. "That's what ultimately pays off. If people are satisfied [with their resettlement experience], that's the message they send back."

Thonesavanh, who besides her work with LFS's PSR program is involved with the local Laotian MAA, is a fervent advocate for the PSR program, and for Greensboro. She said that she has seen how families have benefitted by moving to Greensboro through the PSR program, and wants to help others share those benefits. "I make them feel that my reason for helping them is not because we get money from the government, but because I want to help them.... When there's a personal relationship, that gives people the confidence to move." Vilaysing, of Kansas's Southeast Asian MAA, said that his agency tells potential PSR clients, "We will stand beside you when you move. We'll be there to help you. If you have a problem, day or night, we'll come to help you."

Both Thonesavanh and CSS's Siharath noted that agencies' willingness to assist PSR families even after they have been at the PSR site for some time also promotes the program's long-term success. "Our support is on-going, not just on-off," Siharath said. "For example, when people are ready to buy a house, they often come to us for advice."

Others place their emphasis on helping PSR clients to become more self-reliant. Grand Prairie's Xaykao said metaphorically, "When the families arrive, we try to teach them to fish, so that they can fish for themselves. That's our philosophy, not to encourage dependence on our agency." Syracuse's Monzel shares that philosophy. "We see ourselves as a self-sufficiency project. That means helping people learn to help themselves," she said. But Monzel noted that not all PSR clients go along with that philosophy. She recounted how, although her agency places PSR clients in jobs, agency staff encourage the clients also to participate in the job-search by looking through help wanted advertisements in the newspaper. But the staff have encountered resistance, because some clients expect the agency to provide them a job.

Various agency staff emphasized that regardless of how much an agency may try to do to help new PSR families, it is important that potential PSR clients have a clear understanding of agencies' limitations. Thonesavanh said, "You've got to be honest about what they [PSR families] will or won't get by way of assistance. If
Somphone Sysourath and his wife Sou fled Laos in 1975. After living for five years in refugee camps in Thailand, they were resettled in the United States. Nine years later, Somphone, Sou, and their three children, two of whom were born in the United States, were still living in a one-room house in Merced, California. Sou had not worked a single day since arriving in the United States, and Somphone had only held part-time jobs. The family relied on welfare for their survival.

Somphone and some of his friends knew of families living in North Carolina who were doing well, but had not considered moving because they did not have the means to do so. When they heard about the PSR program in early 1989, they contacted LFS, and within a few months the Sysouraths and six other families they knew moved to North Carolina.

Today, the families are living in Greensboro, North Carolina. Somphone earns more than $9.00 per hour working as a machine operator at a company that manufactures commercial air conditioning units and employs five PSR clients. Bobby Martin, who supervises Somphone and the other PSR clients, told Refugee Reports, "We have found them to be quality workers. Their work attitude, willingness to learn, and production level are all good. We are very pleased."

Sou, who feared that never having worked outside her home before she would find it difficult to get a job, now works full-time at a clothing manufacturer. Her production level is so high that she sometimes earns up to $10.00 per hour. Somphone and Sou and four of the six other families who moved from Merced to North Carolina with them own their own home. In fact, once in Greensboro, the Sysouraths managed to save enough money for their down-payment in little over a year. Their children, initially unhappy about the move because they did not want to leave their friends, are now happy that the family moved. Ai, the couple's 13 year-old son, said, "It was a good move for the family, because there were few jobs in California, and here there are jobs." Sou added, "Everything is going well here."

Somphone Sysourath cuts a length of duct connector at the commercial air conditioning manufacturer where he works. Photo: USCR/H. Ruiz
you promise more than you can deliver in order to get them to move, you may have good [statistical] short-term results, but negative long-term consequences."

**ORR Changes Also Made Program Easier To Implement** ORR also played a role in turning the program around by making changes in regulations that had hindered agencies' ability to successfully implement the PSR program.

Initially, the PSR program had a planning stage and an implementation stage. The implementing agency had to recruit an agreed-upon number of families during the planning stage, and could not receive any ORR funds until that stage was completed. By the time the agency received the funds to begin implementation, some of the families who had signed up for PSR would have moved away by themselves, or have lost interest in the program, and the agency was not allowed to recruit more families. In 1990, ORR changed the regulations in order to give implementing agencies more flexibility.

ORR has also made PSR project grants more easily renewable for up to three years. Although grant awards are made on a competitive basis for a one-year budget period, according to ORR, "Applications for continuation grants...beyond the one-year budget period but within the maximum three-year project period will be entertained on a non-competitive basis." Essentially, if agencies meet their obligations under the grant during the first year of the project, and funds are available to continue the project, ORR can renew grants for a second and then a third year fairly easily, with reduced paperwork for the grantees.

In FY 93, ORR has awarded grants totaling $1.2 million to five agencies implementing PSR projects. Other agencies sought grants to implement PSR projects this year, but the funds ORR earmarked for the PSR program, which come from its budget for discretionary grants, only permitted the agency to fund the five agencies whose projects appeared most promising based on past performances and an evaluation of the grant proposals submitted.

Extending outreach to groups other than Hmong and Cambodians has also contributed to the PSR program's turn-around. In the past two to three years, most of the families who have resettled in the Carolinas have been lowland Lao. Interestingly, however, as the program's success has grown, it has attracted more Hmong families. In 1993, half of the families that LFS has resettled in the Greensboro/Columbia areas, and more than a third of the families CSS has resettled in Charlotte, are Hmong.

**New Recruiting Strategies and Screening of PSR Families Cited as Factors in Current Success of PSR Projects** All of the agencies Refugee Reports interviewed noted that another key development in their increased success in recruiting families has been the strategy of seeking referrals of potential PSR candidates in California from members of their local refugee communities. LFS's Thonesavanh said that targeting relatives and friends of Laotians already living in Greensboro, and ensuring that they did well, was a real boost to the program. These new PSR families in turn referred other families. Grand Prairie's Xaykao said that 30 percent of his agency's most recent PSR clients are relatives of earlier PSR clients.

This strategy has been so successful that some of the PSR implementing agencies do only minimal recruiting now, relying on self-referral by families who have heard about the program and call the agencies to apply. CSS's Siharath has not made any recruitment trips to California since 1990. He said that now information about the Charlotte project spreads by word of mouth among refugees in California. This year, the agency has had more refugees request PSR than it could resettle.

The record of the Greensboro Lutheran Family Services is particularly impressive in this regard. Besides resettling the largest number of families of any PSR project this year, LFS has a waiting list of some 90 families who have asked to resettle in Greensboro or Columbia. All of these families meet ORR's basic PSR eligibility criteria (more than 10 other families applied but did not meet the ORR criteria). But all of those families will not necessarily be selected to participate in LFS's project.

LFS personnel said that screening PSR applicants to ensure that they are both motivated and capable of making their resettlement work is
an important component in the success of the program. LFS's Williams told Refugee Reports, "Just because a family meets the PSR criteria and asks to come here doesn't mean that they would be successful. An important element is our evaluation of whether the family would make it." LFS staff point out that they have successfully resettled refugees who have few work skills, little work experience, and who do not speak English. The main determinant, according to Thonesavanh, is the family's motivation.

But there are also other, practical factors to consider. Thonesavanh added, "If a family has several young kids and only one employable adult, their chances for success are low. We don't want to put people in a 'lose' situation." Williams said that screening is also important because the agency needs the support of the existing refugee community, and that community "is interested in getting people who will be good members of the community."

Besides aiding recruitment, having links between new PSR arrivals and established members of the community can also boost support for the program in the community. Syracuse's Monzel, whose PSR project has attracted fewer clients than some of the other projects, said, "We are now targeting more people in Fresno who have relatives in Syracuse. By doing this, we'll have more community support in the Hmong community here [in Syracuse] for the program." Members of the Hmong community in Syracuse initially encouraged the Inter-Religious Council to apply for a PSR grant. Now, though they continue to support the program in theory, in practice, members of the community have largely tended to offer practical assistance only to those new PSR families with whom they have some familial affiliation.

Refugees Who Choose PSR Want To Work, Provide Better Life for Their Families  Interviews with families that have opted for PSR revealed striking similarities in the reasons for choosing to resettle: a desire to work and have more money; wanting to get off of public assistance; and seeking a better living environment for themselves and their children.

Ath Anounonh, who now lives in Charlotte, said he signed up for PSR because he wanted "permanent, regular work with benefits." Khamsane Manivanh, who lives in Greensboro, said, "I'm not afraid of working; that's what made me decide to move here." But Manivanh said that concern about crime was also a factor in her family's decision to resettle. "In Modesto, we lived in fear. There was too much crime."

Kane Sengphet in Greensboro also cited both financial reasons and concern about crime as his reasons for moving. He said, "In California, welfare was $840 per month. I earned another $400 repairing cars. But our rent and utilities were $700 a month. Sometimes, we didn't have enough to eat." But, he added, "Even if there had been jobs in Fresno, I wouldn't [have wanted to] stay there. There's too much crime. We got robbed once by three men with guns. They hit my sister in the head with a gun; the children saw it happen. The next day we applied [for PSR]."

Charlotte's Sunbounh Vilaiphanh, who is saving to put his kids through college, said, "If we had stayed in California, the kids would grow up bad. They wouldn't go to school. They'd get in gangs."

Also highly motivated to change their lives are the hundreds of families that are resettling in PSR communities on their own. CSS staff estimate that two to three families resettle independently in Charlotte every week. According to Greensboro LFS, more than 80 families resettle there independently every year. Many have friends or relatives in the communities to which they move and have heard that employment is available there and that the community is supportive. Most become known to the PSR implementing agencies because they ask for help finding employment. Many of the families who resettled on their own do not meet PSR eligibility criteria, or move from sites where there has not been PSR recruitment.

An example is the case of Greensboro PSR client Manivanh, whose brother recently lost his job in Iowa. He has been unable to find another job, and the family cannot afford to live on his wife's income alone. Manivanh's brother recently drove to Greensboro to explore the possibility of the family moving there, and has decided that they will do so. The family does not qualify for the PSR program because it has not been on welfare, so they will finance their own move and
stay with Manivanh until they can find jobs and their own place to live. LFS will help Manivanh’s brother and his wife find jobs through the agency’s ORR-funded Joblinks program.

**PSR’s Future**  PSR advocates would like to see the program continue and expand. Grand Prairie’s Xaykao said, “PSR is one of the best and most successful programs ORR ever had. It can help people become self-supporting taxpayers within months, with only a limited financial investment. I think the new Administration should support it.” Xaykao expects his agency’s program to continue to attract new families. “We expect to increase our numbers in the coming year because of the continuing availability of employment here.”

LFS’s Thonesavanh said that she’d like to see the project expanded to other towns in North Carolina and the number of families participating increase. Her colleague Williams cautioned, however, that it is important to move at the right pace, one at which the community can absorb the flow without becoming over-saturated. Syracuse’s Monzel has added a new job developer to the PSR project’s staff and hopes that will help the project attract more PSR clients.

It is not only agency staff who support PSR, however. The PSR clients themselves are enthusiastic about the program and would like to see others benefit from it. Bouphone Rasavong, who lives in Charlotte, said, “I think it is a very good program, because it gave me a second chance to start a new life in the United States.” His neighbor, Ath Anounonh added, “I think they should extend this program to many cities.”

Although the PSR program is doing a good job getting refugees off public assistance and into jobs, some observers worry that ORR’s shrinking resources (which has led to reductions in the time period during which newly arrived refugees are eligible for some types of assistance) and the PSR program’s relatively small scale may threaten the program’s future. LFS’s Williams said, “As the program’s funds get cut back and the time period during which the agency is able to provide assistance after resettlement is shortened, people will be less likely to want to risk making a move.”

Also, some of the program’s benefits are not easily identifiable or widely distributed. The state of California benefits in that its welfare rolls are reduced, and the federal government gains new tax monies from newly employed refugees. But, as Williams noted, “Each level of government—federal, state, county—looks only at savings at its level. They don’t see the total picture.”

Another observer expressed concern that as ORR faces continued budget crunches, some at ORR may make the case that PSR funds would be better spent on assisting new arrivals rather than on helping refugees who have already been here for several years.

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**Recent Developments**

**CONGRESSIONAL RECESS DELAYS FINAL ACTION ON MAJOR LEGISLATION**

Congress adjourned for its four-week August recess on August 6 with several pieces of refugee-related legislation awaiting final action.

- The Senate Appropriations Subcommittee on Foreign Operations delayed its final consideration of the FY 94 foreign assistance bill until September. The measure will set funding levels for Migration and Refugee Assistance and the Emergency Migration and Refugee Assistance (ERMA) fund.

  Fifteen refugee advocacy organizations signed a joint letter August 6 urging the Senate Foreign Operations Subcommittee to appropriate $49.2 million for ERMA as the Clinton administration requested in its original budget plan. The House passed a foreign assistance bill in June that would cut ERMA to $19.2 million.

  “The amount contained in the House appropriation bill...clearly fails to meet demonstrated humanitarian needs and is woefully insufficient,” the groups stated in their letter to the Senate subcommittee. Signers of the letter included the U.S. Committee for Refugees, the U.S. Catholic Conference Office of Migration and Refugee Services, Lutheran Immigration and Refugee Service, and the Hebrew Immigrant Aid Society, among others.

- Prior to the August recess, the Senate Foreign Relations Committee approved a mea-
sure, S. 1099, authorizing the Senate Appropriations Committee to appropriate up to $665.6 million annually for MRA in FY 94 and FY 95. The Senate panel authorized that up to $80 million of the MRA total could go to refugee resettlement in Israel. S. 1099 awaits action by the full Senate in September.

Authorization bills such as S. 1099 set a ceiling on the amount of money that can be appropriated. Actual appropriations levels are usually less than the amount authorized. The House in June authorized up to $673.5 million for MRA in FY 94 and FY 95, but a subsequent appropriations bill passed by the House would appropriate $670.6 million.

The FY 93 authorization level for MRA is $685 million, of which $620 million was actually appropriated.

- S. 1099 would authorize the Senate Appropriations Committee to budget up to $100 million annually for ERMA in FY 94 and FY 95. Congressional appropriators could--and likely will--appropriate less than that for ERMA.
- The Senate Foreign Relations Committee approved the State Department’s plan to reorganize its Bureau of Refugee Programs (BRP). The full Senate expects to vote on the measure containing the reorganization in September. The plan would shift BRP into a larger new Bureau of Population, Refugees and Migration and would abolish the position of U.S. Coordinator for Refugee Affairs. The House authorized the reorganization plan when it passed H.R. 2333 in June.
- During congressional deliberations on the $5.7 billion emergency flood relief bill for the Midwest, a coalition of refugee advocacy groups failed in their efforts to persuade Congress to attach an amendment allocating up to $200 million in emergency appropriations for refugees in the former Yugoslavia.

Updates

- Following the fall of the town of Fizuli to Armenian forces in Azerbaijan on August 23, tens of thousands of displaced Azeris jammed the one remaining road leading to the capital, Baku. That road skirts the border with Iran. On August 19, prior to the fall of Fizuli, the International Committee of the Red Cross (ICRC) reported that 60,000 people were fleeing from the Fizuli area, and that another 100,000 from the Zangulan and Gubati areas would potentially be forced to seek refuge in Iran in the event that this one remaining open road linking them to Baku is cut off.
- Preliminary figures indicate that the Immigration and Naturalization Service (INS) has denied 51 percent of all Liberian applicants for refugee status in West Africa in FY 93. Included among those denied are at least 50 unaccompanied minors. The approval rate among Liberians in FY 92 was 89 percent. In FY 93, 751 people have been denied refugee status, and 724 approved. Refugee advocates believe the INS employed a narrower interpretation of “persecution” than in years past. As of June 30, 412 Liberians had been admitted to the United States in FY 93.
- On July 29, the INS announced a one-year extension of temporary protected status (TPS) for nationals of Bosnia and Herzegovina. The extension, until August 10, 1994, applies only to the approximately 300 Bosnians in the United States who have already been granted TPS. The deadline for applying for the extension was August 30, 1993. The initial registration period for Bosnian TPS ended August 10, 1993.
- The INS has extended until December 9, 1993 the period of voluntary departure for former TPS Lebanese and “other Lebanese currently in voluntary departure status whose status will expire during this period.” Lebanese TPS expired April 9, 1993. About 9,200 Lebanese had registered for TPS.
- In July, the INS, in a sting operation criticized by many immigration attorneys, mailed offers of work permits on INS stationery to persons whom INS officials said were under deportation orders. Recipients of the letters were arrested, and dozens deported, when they arrived at INS headquarters in San Diego to claim the promised permits. Reportedly, the letters were sent to about 600 people; 60 were arrested.
- Dr. Elizabeth G. Ferris is the new director
of Church World Service’s Immigration and Refugee Program. Most recently, Ferris served as research director for the Life and Peace Institute in Uppsala, Sweden.

Field Notes

ETHNIC VIOLENCE TIED TO POLITICS PRODUCES 350,000 DISPLACED PERSONS IN ZAIRE; SITUATION MAY WORSEN

USCR consultant Renée Roberts recently returned from Zaire where she assessed ongoing violence and internal displacement.

As many as 350,000 Zairians have fled their homes due to politically inspired ethnic violence during the past year, and the turmoil may grow worse in coming months as President Mobutu Sese Seko clings to power.

Some 200,000 mostly ethnic Luba have been uprooted in the Shaba Region of southern Zaire. About half of them have made an arduous trek to the Kasai Region for safety, while the remaining displaced Shaba residents remain in Shaba, where they are subject to continued harassment by government authorities.

An additional 150,000 Zairians, primarily ethnic Banyarwanda as well as other ethnic groups, have fled their homes in the remote Kivu Region of eastern Zaire because of ethnic unrest.

Zaire’s 35 million population includes more than 200 ethnic groups. Inflammatory statements by Zairian government officials in the past year have aggravated ethnic tensions into episodes of violence, murder, and looting against...
minority groups in some regions. Western diplomats and relief workers have accused Mobutu and his supporters of instigating the violence to frustrate democratic reforms underway in Zaire.

An estimated half-million or more ethnic Luba have moved from Kasai to Shaba during this century in search of employment. Indigenous Shabans began attacking the homes of their Kasaian neighbors last year, wielding machetes and burning the Kasaian's homes. Frightened Kasaians fled to makeshift camps and crowded near railway stations to await trains out of Shaba. Other Kasaians who remained at home in Shaba told USCR that they too felt endangered and were considering fleeing.

Violence in Shaba continued during USCR's site visit. Mobs in the city of Kolwezi burned to the ground a camp for 23,000 displaced Kasaians. In the town of Likasi, authorities unexpectedly bulldozed a camp housing 75,000 displaced Kasaians. Destruction of the camps has complicated relief efforts by Médecins Sans Frontières and the International Committee of the Red Cross.

Many Kasaians are fleeing Shaba Region on overcrowded freight trains that operate irregularly. Kasaians clinging to the roofs of boxcars have reportedly fallen and died during the difficult journey. Large numbers of children who survive the five-day train ordeal--it often takes many days longer--arrive in Kasai Region malnourished and ill. Health workers recorded a 29 percent child malnutrition rate among the 11,000 persons living temporarily at the Mwene Ditu camp in Kasai visited by USCR. Nearly three-fourths of the 18,500 displaced persons who arrived in the Kasai city of Mbuji-Mayi during May were younger than age 12.

The local government in Kasai has hindered efforts to assist the displaced by forcibly moving some of them to remote locations with little access to water or employment.

In Kivu region, up to 150,000 persons have fled continuing ethnic violence. Local witnesses reported to USCR that some 1,000 people were killed during a two-day period in March. Although the possible participation of the Zairian military in the Kivu violence remains unclear, the military clearly did not move to stop the violence, USCR's site visit concluded.

Kivu area hospitals visited by USCR reported large numbers of patients with shotgun wounds and cuts from machetes.

Much of Kivu Region's displaced population has taken refuge in churches, while others are hiding in the hills and forests.

Evidence indicates that the Zairian government's attempt to strip some ethnic groups of their Zairian citizenship helped spark the ethnic violence.
WORKING GROUP FORMED TO ADVOCATE FOR RIGHTS OF REFUGEE WOMEN

On the day President Clinton announced his administration’s plans for more restrictive access to asylum procedures (see Refugee Reports, Vol. XIV, No. 7), a group of refugee advocates and service providers met in New York to discuss strategies for making the U.S. asylum system more responsive to female refugees.

Refugee and human rights experts at the July 27 consultation focussed on how current refugee determination procedures discriminate against women. Regan Ralph, of the Women’s Rights Project of Human Rights Watch, explained how the type of persecution occurring in a country relates to the victim’s gender and asserted that “too often the gender-based nature of some types of persecution is ignored.” Ralph reviewed two approaches to improving women’s chances of gaining refugee status in the United States. The first is to interpret the definition of a refugee to include women as members of a particular social group. The other is to change U.S. law to include gender as a basis for persecution in the refugee definition.

Elsa Musa, of Canada’s Working Group on Refugee Women’s Issues, detailed how refugee advocates in Canada have worked toward both approaches. The most notable success of the Canadian working group was the adoption by the Canadian Immigration and Refugee Board of a document entitled Guidelines on Women Refugee Claimants Fearing Gender-Related Persecution (see Refugee Reports Vol. XIV, No. 2). Musa called the guidelines “a positive step,” but said that they could be ignored by Board members because they lacked the force of law.

The participants also considered the social needs of refugee women in the United States. Esther Chavez, of the Center for Central American Refugees in Plainfield, N.J., explained how the Center serves women facing domestic violence, employment discrimination, and sexual harassment. “First, we teach [the women] they don’t have to take that kind of treatment. Second, we tell them how they can be protected,” said Chavez.

Participants also formed a Refugee Women’s Issues Roundtable, which will be convened by Annie Wilson of Lutheran Immigration and Refugee Service in Washington, D.C. on October 19, 1993. Persons interested in becoming part of the roundtable’s future work should contact Wilson at (212) 532-6350.

Resources

ASYLUM IN EUROPE

The European Consultation on Refugees and Exiles (ECRE) has recently published Asylum in Europe: An Introduction. Volume I, updating a publication that had last been published in 1983. In the ensuing ten years, major changes have occurred in Europe, primarily along the lines of harmonizing governments’ asylum policies.

The 105-page book outlines the legal framework that defines “refugee” in international law, including concepts such as nonrefoulement and “refugees in orbit.” It highlights the international conventions relating to refugees, and particularly describes Council of Europe treaties and other treaties concluded through the European Community. It also sketches the system of cooperation established by the Conference on Security and Cooperation in Europe (CSCE). Of particular interest is the book’s discussion of the Convention Determining the State Responsible for Examining Applications for Asylum Lodged in One of the Member States of the European Communities of 15 June 1990, popularly known as the “Dublin Convention.” It notes that the Dublin Convention is the first formal instrument of international law that defines “asylum seeker” and “asylum claim.” The book is careful, however, to note that the Dublin Convention does not define “asylum” or prescribe how contracting states shall grant or deny asylum. It observes, “The Dublin Convention does not provide for a ‘harmonized’ European asylum policy,” but merely refers to it as a possibility. What the
Dublin Convention does do, the book declares, is "exactly what its title says: it sets rules for determining the State responsible for examining applications for asylum." The book then outlines those rules. The authors relate the debate on the Dublin Convention, and side with its critics, saying that it could result in "orbit" cases outside the EC and increases the threat of *refoulement*. It says that by "precluding the possibility for asylum seekers rejected in one Member State to submit a new application to another Member State [the Dublin Convention] is in flagrant contradiction to the position taken by the Executive Committee of the High Commissioner's Programme...Conclusion No. 12...'that a decision by a Contracting State...not to recognize refugee status does not preclude another Contracting State from examining a new request for refugee status made by the person concerned.'"

*Asylum in Europe* also describes the institutions involved with refugees and asylum in Europe, including a listing of European-based organizations. It includes bibliographies and other useful references.

The book is available from ECRE, Bondway House, 3 Bondway, London SW8 1SJ, U.K., for £6.75 per copy, including postage and packaging, or £5.75 per copy for orders of 5 or more. Payment may be made either by a sterling check made payable to ECRE or by bank transfer directly to British Refugee Council-ECRE Project, Sort Code 6C-16-13, Account No: 32093150, National Westminster Bank plc, Park Lane Grosvenor House Branch, London W1 4EJ, U.K.

and assesses the German decision to restrict the constitutional right to asylum as an example of the asylum dilemma in Europe.

"The answer to the influx of asylum seekers in Europe," say the authors, "...is not to vilify the structures of international law, but rather to find interim solutions, such as forms of temporary protection which do not risk undermining the protection of genuine refugees."

The paper recommends basic standards that each state should meet in its refugee determination procedure. Beyond that, it opposes many of the restrictive practices that have been instituted to block access to those procedures, such as carrier sanctions on airlines and visa requirements. The paper recommends a comprehensive migration policy for Europe, perhaps under the auspices of the Conference on Security and Cooperation in Europe (CSCE), and urges that consultations on migration and refugee matters include nongovernmental organizations (NGOs). The Lawyers Committee calls for a coordinating committee of senior government officials, UNHCR, and NGO representatives to "monitor and ensure the adjustment of refugee status determination procedures in order to achieve a substantial equivalence in the quality of refugee recognition."

*Asylum in Decline* is available for $5 from the LCHR, 330 Seventh Ave., 10th floor, New York, NY 10001. (212) 629-6170.

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**MORE ON ASYLUM IN EUROPE**

The Refugee Project of the Lawyers Committee for Human Rights (LCHR) has published a 35-page briefing paper entitled *Asylum in Decline*, focusing on recent restrictive measures taken by Western European governments.

The paper outlines the most common methods used by Western European governments to restrict access to asylum procedures, surveys the various European intergovernmental organizations that deal with refugee and asylum issues,
Number of Families Resettled through Planned Secondary Resettlement Program
FY 87 - FY 93

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Projected

Source: Office of Refugee Resettlement
121,000 REFUGEE ADMISSIONS PLANNED FOR FY 94: ADMINISTRATION CONCEDES ITS PLAN IS "NOT BOLD"

Up to 121,000 refugees will be admitted into the United States during FY 94, according to proposals presented by the Clinton Administration during its annual congressional consultation hearings on refugee admissions held on September 23.

The Administration announced that it will soon bring an end to longstanding refugee admissions programs for Amerasian children and Vietnamese reeducation camp detainees, and insisted that the planned reorganization of the State Department's Bureau for Refugee Programs (BRP) will bolster the department's attention to refugee matters.

Members of both houses of Congress used the consultation hearings as an opportunity to voice their confusion and disgruntlement over recent reports that thousands of Iraqi prisoners of war have gained admission to the United States as refugees (see accompanying article, page 4).

Congress had originally scheduled the consultations for early August, but delays within the new Administration forced postponement until late September, eight days before the Administration's admissions proposals were scheduled to take effect at the start of the new fiscal year. The House Judiciary Subcommittee on International Law, Immigration, and Refugees heard verbal testimony from 12 witnesses representing the Administration, state resettlement programs, and private voluntary agencies.

The Senate Judiciary Committee's abbreviated hearing the same day was limited to Administration witnesses, led by Secretary of State Warren Christopher.

The Administration set a ceiling of 120,000 on publicly funded refugee admissions and a limit of 1,000 on privately funded admissions during FY 94. "It is not a bold program," noted Warren Zimmermann, director of BRP.

The new ceilings are lower than the 122,000 public and 10,000 private admissions authorized for FY 93. A coalition of private voluntary agencies active in refugee resettlement issues recommended an admissions ceiling of 149,000 in FY 94.

House subcommittee chairman Romano Mazzoli (D-
Ky.) chided the Administration for its reluctance to propose bold reforms in the refugee admission and resettlement system and warned that he will attempt to write a comprehensive reform bill by next year's consultation hearings. Mazzoli repeatedly expressed his impatience during the House hearing, noting that "in some cases the testimony today is exactly what it was ten years ago."

State resettlement officials reiterated their recommendations from earlier years for federal resettlement funding commensurate with refugee admissions totals, and called for more involvement of states in federal resettlement planning.

Nongovernmental organizations (NGOs), as in previous years, again urged that admissions numbers be increased over the Administration's proposed ceiling and recommended improved refugee processing in several parts of the world. NGOs repeated their requests made in prior years for a more efficient "case management" approach to assist each refugee family resettled in the United States.

"There is a lot of skepticism, a lot of healthy concern about where this [refugee resettlement] program is going," concluded an obviously restless Mazzoli. "Should we continue the [resettlement] programs from the Soviet Union? Should we continue programs in Southeast Asia after all these years, when they are in fact immigration programs rather than refugee programs?" He added, "Frankly, I've sat at this table for ten years, and there's been relatively little change."

States Bear Unfair Burden, Resettlement Coordinators Contend State refugee coordinators told the House subcommittee that all states will spend an estimated $620 million to give resettled refugees 12 months of assistance in FY 94, far more than the $420 million federal budget proposed by the Administration.

Bruce Bushart, refugee coordinator for New York, noted that the federal government will reimburse his state for only 60 percent of the $69 million it expects to spend this year on refugee cash and medical assistance. "The federal government has a responsibility to balance the number of admissions with sufficient resources to alleviate the financial burden...on the public and private sector," Bushart said.

Federal funding covers eight months of assistance for each refugee family, compared to 24 months of assistance several years ago, state officials noted. They urged lawmakers to appropriate enough funds in the future to cover at least 12 months of assistance—a suggestion that gained only partial sympathy from Mazzoli, who wondered why the U.S. shouldn't solve the funding crunch simply by reducing the number of refugee admissions.

"The refugee resettlement program is a kind of worldwide business," Mazzoli told the panel of state coordinators. "There is pressure to keep the numbers [of admissions] up even as you are struggling with the people who do come in."

State refugee officials at the hearing said they were encouraged by their early meetings with Lavinia Limon, the Administration's new director of the Office of Refugee Resettlement (ORR) within the Department of Health and Human Services. They praised Limon for listening to their concerns but said that poor coordination and "fragmentation of responsibilities" continue to plague ORR, BRP, and the Community Relations Service within the Department of Justice, all of whom have responsibilities for refugee admission or resettlement.

Several state refugee coordinators warned lawmakers that they have observed "mounting public hostility" against refugees and immigrants settling in this country, partially fueled by recent news reports about boatloads of undocumented Chinese immigrants and the admission of former Iraqi soldiers into the United States. Bushart urged lawmakers to "speak out" on behalf of refugees and legal immigrants, and state officials conceded that they should better publicize the fact that most refugees who have resettled in the United States since 1975 are employed or self-sufficient.

Regina Lee, director of the Massachusetts Office for Refugees and Immigrants, told lawmakers that three-fourths of refugees resettled in her state are finding employment within six months, albeit at an average annual wage of only $14,000.

Within four years of their arrival in Illinois, welfare dependency among refugees is lower than the state average, said Edwin Silverman, state coordinator of the Illinois Refugee Resettlement
Program. Refugees eventually return $18 in taxes for every $1 spent to assist their resettlement in Illinois, Silverman said.

Sen. Howard Metzenbaum (D-Ohio) suggested during the Senate hearing that federal laws should require refugees to repay the federal government for money spent to assist them. Secretary of State Christopher responded that Metzenbaum’s idea would be administratively impractical because most refugees would need at least ten years before they reach income levels that would enable them to repay the government.

**Worldwide Regional Allocations Show Little Change** The Administration announced that the FY 94 ceiling of 120,000 on publicly funded admissions will include 55,000 from Eastern Europe/former Soviet Union and 45,000 from East Asia. The allocation for refugees from Africa and the Near East/South Asia will total 7,000 and 6,000 respectively. Up to 4,000 refugees from Latin America/Caribbean will be admitted, and 3,000 unallocated slots will be available for “sufficient flexibility to react to emergencies.”

The regional allocations for FY 94 are similar to allocations used in FY 93. A ceiling of 51,000 existed for refugees from East Asia during FY 93, while the Eastern Europe and the former Soviet Union had combined allocations of 52,500. Africa and Near East/South Asia operated with ceilings of 7,000 each during FY 93. Latin America/Caribbean had a final allocation ceiling of 4,500 in FY 93, including 1,000 admissions slots that were shifted from BRP’s unallocated reserve.

During the Senate hearing, Sen. Alan Simpson (R-Wyo.) questioned whether the State
After a flurry of media headlines in August riled Congress and the public with stories depicting former Iraqi soldiers from the Persian Gulf war being admitted to the United States as refugees, the biggest surprise at the September 23 House consultation hearings on refugee admissions was that the issue of Iraqi soldiers did not surface until 45 minutes into the hearing.

Once the matter was raised, however, it dominated the day's proceedings.

"Is the United States resettling individuals who fought for the Iraqi armed forces against U.S. troops during Desert Storm?" Rep. Bill McCollum (R-Fla.) asked Warren Zimmermann, director of the State Department's Bureau for Refugee Programs.

"The last thing that we would want to do would be to bring Iraqis into the U.S. who have fired shots against American soldiers in Kuwait," Zimmermann responded.

Three-fourths of the approximately 2,000 Iraqis granted refugee admission to the U.S. during FY 93 were civilians, Zimmermann said. Only 533 were former Iraqi soldiers, according to a State Department review of the matter.

"Very few of those [former Iraqi soldiers who] resettled to the U.S. from the camps in Saudi Arabia fit the classic definition of an 'enemy prisoner of war,'" the State Department review said. "Most defected rather than fight in Saddam's [Hussein] war, many participated in the uprising in the south against Saddam's government, and those who deserted in Kuwait were members of ethnic groups who have a history of persecution by Saddam's government."

Among the 533 former Iraqi soldiers admitted to the United States, 453 never entered Kuwait, the State Department said. Four hundred twenty-five of them deserted prior to the Iraqi invasion, and 28 defected inside Iraq after coalition airstrikes began, the State Department reported. Among the 80 Iraqi soldiers who did participate in Iraq's occupation of Kuwait, all of them were ethnic Kurds or members of other ethnic or religious minorities subject to persecution by Saddam's government.

"They had to prove to four people that their story hung together," Zimmermann said. "Obviously you can never be 100 percent sure because documentation is not possible to obtain from Baghdad, but these were all experienced interviewers, and the view was that the ones who went to the United States were in fact opponents of Saddam Hussein."

Zimmermann said he could not "give a full guarantee that one hasn't slipped through who was not genuinely a refugee, but I think the
probability of accuracy in these interviews is probably as high as anywhere in the world."

"I am not sure that's good enough," Gallegly retorted.

Gallegly and George Sangmeister (D-Ill.) urged the State Department to pressure other countries to resettle their share of Iraqi refugees, particularly Kuwait and Saudi Arabia. Since March 1992, 3,173 Iraqis from Saudi camps have resettled in the U.S., 2,088 have resettled in Iran, 820 in Sweden, 186 in Norway, 177 in Finland, 124 in Syria, and 108 combined in Pakistan, England, Australia, and Canada.

Zimmermann predicted that the United States will grant refugee admission to some 3,000 Iraqi civilians and former soldiers during FY 94 and defended it as "an honorable policy in full accord with the American tradition."

"We encouraged them to rise up against Saddam Hussein. We promised them that we would take care of them if they did that. From our point of view, they are freedom fighters," he said. "They are people who tried to get rid of a tyrant and a dictator. I think we have more than just a legal or political obligation to them--I think we have a moral obligation to them."

Department would ever reduce its worldwide admissions total back to what many used to call a "normal" level of 50,000 admissions. "For the 15th consecutive year, an Administration is asking for admission numbers far beyond the normal flow," he said.

Simpson complained that the nation's refugee program had in practice become an immigration program. Mazzoli voiced a similar concern in the House, noting that about 80 percent of refugees admitted under the FY 94 allocations will again be processed in their own country even though, he said, "a refugee is someone who left their country."

Eastern Europe/Former Soviet Union: Administration Seeks More Flexibility

The Administration announced that it will set a combined single ceiling of 55,000 on admissions from Eastern Europe and the former Soviet Union. This is a change from the previous four years, when Eastern Europe and the former Soviet Union were given separate admissions ceilings.

The Administration explained that combining the two regions under a single allocation in FY 94 would provide greater flexibility in expanding the number of Bosnian admissions, if necessary. Officials currently expect to admit up to 10,000 Bosnians.

The U.S. has designated Bosnian Muslims for special humanitarian concern when they are former detainees, torture victims, or women victims of violence, providing that the UN High Commissioner for Refugees (UNHCR) has referred them for resettlement. Also of special humanitarian concern, the Administration said, are Bosnian Muslims with relatives in the United States, and close family members of U.S. citizen children.

Non-Muslims will receive case-by-case consideration if referred by UNHCR. The Administration said it will adjust its processing criteria "as developments in the former Yugoslavia unfold."

A coalition of NGOs represented by InterAction, an umbrella organization of U.S. assistance agencies, agreed with the Administration's plan to allocate 10,000 slots to refugees from the former Yugoslavia, and warned that the Administration should brace for "the awful possibility that a massive third-country resettlement program may become necessary" for Bosnian Muslims due to increased fighting and the expected partition of Bosnia.

NGOs at the hearing criticized the small number of Bosnian admissions to the United States in FY 93 and denounced previous contentions by U.S. and UNHCR officials that few Bosnians are interested in or qualified for U.S. resettlement. "The evidence on the ground clearly refutes this claim," said Donald Hammond, testifying for the InterAction agencies. "Some UNHCR officials in Zagreb and also members of the U.S. embassy have not been active in trying to solve this problem."

Reverend Richard Ryscavage, executive director of the U.S. Catholic Conference/Migration and Refugee Services (USCC/MRS), urged the Administration to alter its processing system
by making Bosnians eligible for U.S. resettlement even without prior referral by UNHCR.

The Administration said it will continue the admissions program from the former Soviet Union virtually unchanged, but hinted that it expects to "adjust" the program within two years to reflect "the new realities of Russia in which the government is not anti-semitic but is democratic," according to Zimmermann.

Most persons resettled from the former Soviet Union in FY 94 will be Jews, evangelical Christians, Ukrainian Catholics and Orthodox, as mandated by Congress in the so-called Lautenberg amendment. Some 85,000 resettlement applicants on file have met eligibility requirements and await admission, the Administration reported. New applications from the former Soviet Union average 5,000 to 8,000 per month.

"Isn't it true that many of these refugees have lived safely in the Soviet Union for years?" Simpson asked. Secretary of State Christopher responded that "persecution has diminished but is not dead."

During House proceedings, Martin Wenick of the Hebrew Immigrant Aid Society said that "Jews have been an historically vulnerable population, particularly in difficult times, and we are witnessing hard times now" in the former Soviet Union. Anti-semitism is increasing there, Wenick said.

InterAction agencies recommended more admissions processing locations in the former Soviet Union. Persons eligible for U.S. admission currently must travel to Moscow twice, for processing and final departure.

**East Asia: Two Large Admissions Categories Move Closer to Termination** The special admissions program for Amerasians in Vietnam will end after FY 94, and special allotments for former detainees in Vietnamese "reeducation centers" will cease within two years, the Administration announced.

Nearly 79,000 former Vietnamese detainees and more than 82,000 Amerasians and accompanying family members have been admitted to the United States throughout the history of these programs. Zimmermann said the programs will soon end because the United States will complete its resettlement of "all known and eligible Amerasian children and their families" by next year, and the backlog of eligible former detainees will be exhausted after FY 95.

In FY 94, the 45,000 admissions from East Asia will include about 30,500 former detainees, 3,500 Amerasians, 7,000 ethnic Hmong refugees now in camps in Thailand, 2,000 other Vietnamese and Burmese, and 2,000 others. Thirty-six thousand admissions from the region will arrive in the United States via the Orderly Departure Program in Vietnam.

The Administration said it expects to continue its previous designation of Vietnamese, Burmese, and Lao as nationalities of special humanitarian concern to the United States. The total allotment for East Asian refugees represents an 11 percent reduction from the final FY 93 level.

**Near East/South Asia: Admissions of Iranians and Iraqis** The 6,000 refugee admissions from Near East/South Asia expected in FY 94 will be 1,000 fewer than in FY 93 because processing of Iraqi refugees in Turkey is nearly completed.

The United States plans to resettle some 4,500 Iraqis during FY 94, including 3,000 living in Saudi Arabian refugee camps, 1,000 living in Europe, and 500 who sought asylum in Turkey. Some 1,500 Iranians, primarily religious minorities, will gain admission during the year (see accompanying article regarding U.S. resettlement of Iraqi soldiers, page 4).

**Africa: Mix of Refugees Will Change** Although the FY 94 ceiling of 7,000 admissions from Africa is the same as in FY 93, significant changes will occur in the composition of nationalities admitted to the United States, according to the State Department.

The number of Ethiopian and Liberian admissions will likely decline, while the number of Sudanese, Zairians, and other nationalities resettled in the United States will likely increase.

About 4,500 slots will go to Somali refugees during FY 94, with the remaining 2,500 positions divided among other African nationalities, according to the Administration plan. The Administration has designated Liberians, Somalis, Sudanese, and Zairians as nationalities of special humanitarian concern, but the planned
The closure of processing offices in Sierra Leone will limit the number of Liberian entrants to the United States.

During FY 93, approximately 1,500 Ethiopian refugees gained admission to the United States via Sudan, and 4,500 Somalis and Ethiopians were admitted after screening in Kenya. The remaining 1,000 admissions places during FY 93 went to some 750 Liberians and 250 Africans of other nationalities.

A coalition of NGOs represented by InterAction recommended 10,000 admission slots for Africa to "reflect the growing needs of African refugees." John Fredriksson, of Lutheran Immigration and Refugee Service, noted that although Africa accounts for about one-third of the world's refugees, only 5 percent of the refugees admitted to the United States in FY 93 were Africans.

InterAction NGOs urged the Administration to retain processing posts in Sudan and Sierra Leone that are currently scheduled for closure.

Latin America/Caribbean: 4,000 Slots and Fewer Designated Countries

Although the Administration said it no longer considers Guatemalans and Salvadorans to be nationalities of special humanitarian concern for refugee processing, sustained refugee flows from Haiti and Cuba will require an allocation of 4,000 admissions from the region, according to the Administration.

In FY 93, U.S. officials began the year with 3,500 admission slots reserved for refugees from the region, but events in Haiti during the year prompted authorities to shift an additional 1,000 slots to the region from the unallocated reserve. Approximately 1,300 Haitians and 2,800 Cubans gained admission during FY 93, and Administration witnesses at the hearings predicted similar proportions in FY 94.

Chris Sale, acting commissioner of the Immigration and Naturalization Service, noted that her department had expanded its processing capability in Haiti beyond the capital, Port-au-Prince, enabling more Haitians to apply, she said.

Sale said her agency completed its "most extensive circuit ride ever" in Cuba during June 1993, resulting in 2,000 approvals for eventual refugee admissions from the country. In FY 94, the United States will continue to give priority consideration to Cubans who were imprisoned, persecuted on religious grounds, active in human rights issues, pressed into forced labor during the 1960s, or subjected to discrimination or harsh treatment due to political or religious beliefs.

"The expanded parameters for screening, along with a declining economic and political situation in Cuba, have resulted in increased interest in the [U.S. admissions] program," Sale said.

InterAction refugee groups took issue with several aspects of the U.S. resettlement program for Latin American and Caribbean refugees. The NGOs urged 7,000 admissions slots for Latin America and Caribbean refugees. The NGOs urged 7,000 admissions slots for the region and recommended that 3,000 slots be reserved for Haitians--more than twice as many Haitians as the Administration plans to admit.

The NGOs urged that 1,000 Peruvians, Guatemalans, Colombians, and other nationalities from the region be admitted to the United States in addition to the expected 3,000 Cubans.

InterAction NGOs commended the Administration "for aggressively pursuing a resolution of the crisis in Haiti" and noted that in-country processing there had improved, but said President Clinton's policy of forcibly returning Haitians interdicted on the high seas is "wrong." In-country processing "is never an adequate substitute for the right to flee your country and seek asylum elsewhere," the agencies said.

Unallocated Reserve: Administration Invites More Flexibility

Events in Bosnia and Haiti during FY 93 apparently convinced U.S. refugee officials that they need more flexibility during the year in determining which nationalities warrant extra admissions.

In FY 94, the Administration will triple the number of unallocated admission slots to 3,000. The 1,000 unallocated slots set aside in FY 93 ultimately went to accommodate more Haitian entrants.

InterAction refugee agencies urged the Administration to set aside 5,000 unallocated positions to help particularly vulnerable groups of refugees such as unaccompanied minors, victims of torture, women at risk, and other compelling emergency cases.

NGO witnesses emphasized the need to
Resettle unaccompanied refugee children. "The number of kids referred for resettlement [has] dwindled to almost nothing," Fredriksson of LIRS said. "Unless sufficient pressure is brought to bear, there will be very few refugee unaccompanied minors arriving through the U.S. program in FY 94."

**Ceiling on Private Refugee Admissions Drops to 1,000** The Administration will lower the allocation for the Private Sector Initiative (PSI) to 1,000 in FY 94, compared to a ceiling of 10,000 in FY 93. Since fewer than 500 refugees came to the United States in this category during FY 93, the Administration argued that the reduction will not impinge on the existing PSI. The vast majority of private admissions have been from Cuba since PSI began in 1988.

**Effects of State Department's Refugee Bureau Reorganization** The Clinton Administration plans to abolish the position of U.S. Coordinator for Refugee Affairs and merge BRP into a larger Bureau of Population, Refugees, and Migration, to be headed by an Assistant Secretary of State. The new Assistant Secretary would, in turn, report to a newly created position, the Undersecretary for Global Affairs.

Refugee advocates have raised concerns that the reorganization might downgrade refugee issues within the State Department, but current BRP director Zimmermann argued at the House consultation hearing that the reorganization is, in part, a deliberate effort by the Clinton Administration to "put more emphasis" on refugee matters at home and abroad. He insisted that the reorganization would improve coordination on refugee programs.

The as yet unnamed Assistant Secretary who will be responsible for refugee issues "will rank higher in the hierarchy than the position that I hold now," Zimmermann said. "I think that is very good news for attention to the refugee program in the State Department."

"Unless it is a 'show' position," Mazzoli immediately responded, apparently unconvinced. NGO representatives testifying at the hearing were not asked to state their viewpoints about the reorganization plan.

### Recent Developments

**CONGRESS SETTLES ON FINAL FY 94 BUDGET FOR MRA AND ERMA**

Congress approved a final FY 94 appropriations level of $670.6 million for Migration and Refugee Assistance (MRA) and $49.2 million for the Emergency Refugee and Migration Assistance (ERMA) fund in the final week of September.

MRA and ERMA are among only a handful of accounts that escaped cutbacks in the federal foreign assistance budget.

The final FY 94 funding for MRA is $50 million higher than the FY 93 level of $620.6 million. The final bill passed by Congress for FY 94 includes an $80 million earmark within MRA for refugee resettlement in Israel. The MRA account includes no other earmarks. The State Department's Bureau for Refugee Programs will determine levels for admissions funding and overseas refugee assistance.

The final $49.2 million appropriation for ERMA in FY 94 equals the FY 93 funding level. The House had originally voted in June to cut ERMA by $30 million, but the Senate restored full funding and the House acceded during a conference committee between the two bodies.

The MRA and ERMA budgets were included in the $13 billion FY 94 Foreign Operations Appropriations measure, H.R. 2295. The final version of the bill cut overall foreign assistance by $1 billion from FY 93 levels and by $1.4 billion from the President's requested budget.

**MEISSNER PRAISED IN SENATE CONFIRMATION HEARING**

Members of the Senate Judiciary Committee enthusiastically endorsed President Clinton's nominee for Immigration and Naturalization Service (INS) Commissioner, Doris Meissner, at her September 30 confirmation hearing.

All Senators present for the hearing, from Senators Alan Simpson (R-Wyo.), Orrin Hatch (R-Utah), and Strom Thurmond (R-S.C.) on the political right to Senators Edward Kennedy (D-
Mass.), Diane Feinstein (D-Cal.), and Paul Sarbanes (D-Md.) on the left, expressed enthusiastic support for the nomination.

Citing several recent reports critical of INS management, Kennedy asked Meissner what she would do to correct the problems. Meissner said that she sees the current organizational structure of the agency to be centralized, and that her bias is in the direction of a decentralized approach so that decisions take place "where the action is." She said that such a decentralized structure would nevertheless need to be based on "clear, national guidelines, and nationally established goals and objectives."

Saying that bureaucracies are unsettled by uncertainty, Meissner said she would work quickly on organizational restructuring. She also said there is a need for a thorough, comprehensive review of the mission of the INS.

Asked about her views on asylum reform, Meissner said that the Administration's proposal for reform of the affirmative asylum procedure "is ready" and that she would brief members of Congress on it in the next week or two. She said that the proposals are "very ambitious" and "are based on the notion that you have to make a timely decision." She noted that abuse results mainly from delays due to the failure of the government to adjudicate cases in a timely manner. The solution, she said, is for prompt decisions "so that the delays in and of themselves don't invite applications that create further delays."

Several senators solicited Meissner’s views on employer sanctions. She said that workplace enforcement is needed to discourage illegal immigration, and that she would concentrate on employers who egregiously violate immigration and other labor laws. But, she said that the "essential flaw" in legislation has been the inability of employers to examine documents and comply with the law without discriminating against job applicants.

Sen. Simpson provided a warm and colorful welcome to Meissner. He said, "I know of no better person who I could imagine to be the Commissioner of the Immigration and Naturalization Service at this critical time, bar none."

Simpson warned that the widespread belief that "something has to be done" about illegal immigration could lead to ill-advised legislation, and said that the subject represents a "dangerous political minefield." He told Meissner, "You have a head start.... You know the players, you know where the bones are buried, and where the groups lurk."

Since 1986, Meissner, the daughter of German immigrants, has been the director of the Immigration Policy Project at the Carnegie Endowment for International Peace in Washington, D.C. Previously, Meissner had served at INS from 1981 to 1985, where she rose to be Acting Commissioner.

Field Notes

ETHNIC WARFARE SPURS NEW REFUGEE MOVEMENT IN AZERBAIJAN

Refugee Reports co-editor Bill Frelick recently returned from Armenia and Azerbaijan, where he assessed the current refugee situation.

After five years of persecution, warfare, and population transfers, Armenia and Azerbaijan have almost succeeded in "ethnically cleansing" their territories of one another's civilian population. Virtually the entire Azeri population of Armenia, about 195,000 people, fled to Azerbaijan in 1988 and 1989, and more than 200,000 have been displaced internally from fighting in Nagorno-Karabakh, the predominantly Armenian mountain enclave in Azerbaijan that has been the nucleus of the conflict. By the same token, about 260,000 Armenians have fled from Azerbaijan to Armenia, and another 60,000 from Nagorno-Karabakh.

In 1993, however, the fighting has taken a new turn. Prompted, in part, by the disarray of the Azerbaijan army caused by an internal political crisis, Armenian forces went on the offensive, crossing outside Nagorno-Karabakh and into territory beyond that ever claimed by Armenian political leaders. The new battle areas are in a direction away from Armenia itself and are entirely Azeri populated.

Azerbaijan's response to the estimated...
100,000 persons newly displaced from these areas outside Nagorno-Karabakh is also markedly different from its treatment of earlier flows of refugees and displaced persons.

For the first time, displaced persons are being prevented from traveling to the capital, Baku, or the other major city, Sumgait. Roadblocks are keeping them close to the front lines, preventing their dispersal around Azerbaijan.

In a blessing that could be mixed, the Iranian government has sent personnel across the border into Azerbaijan to construct tent camps along the border. As Refugee Reports traveled into this area, near the town of Imishli, about 10 kms. from the Iranian border, the first camp was being constructed. Lines of as-yet empty tents stood ready, with the flag of the Islamic Republic of Iran flying overhead. On the outskirts of the camp, displaced persons were spontaneously settled in makeshift shelters.

Iran's tent camp is being built to accommodate 25,000; the Iranians have agreed to build camps for up to 100,000. Displaced Azeris are not being permitted to cross into Iran.

Why Tents Now? Until now, Azeri refugees and displaced persons have been accommodated in private homes or public buildings. Culturally and climatically, these are not people who are used to living in tents. In September, the weather is mild; but in a few months, the temperatures will dip below the freezing point.

Azerbaijan officials give several reasons for preventing the onward movement of these displaced persons. First, they argue, the cities and towns of Azerbaijan have already reached their absorptive capacity. Fully 15 percent of Azerbaijan's population are refugees or displaced persons, according to government statistics.

Most vocational-technical schools are
closed completely in Baku, secondary schools have been closed in four other towns, and the college year has been delayed because dormitories are filled with the uprooted. *Refugee Reports* visited several dormitories in the Baku area that were indeed jammed with refugees.

Secondly, they say, under the Soviet system, residence and movement were always strictly controlled. The government is not prepared to cope with spontaneous movements, which it says are disruptive to a society and an economy that is clearly showing the effects of five years of war. The newest wave of displaced are almost all farmers; if they were to flood into the cities, say these officials, they would not be able to find work. Keeping them in the central part of the country opens up the possibility for them to continue to work the land.

The most fundamental reason for the change in policy, however, is the insistence of the government--and most of the displaced persons interviewed by *Refugee Reports*--that the only solution for this group is their return to their original towns and villages.

Although government officials have called for the return of all refugees and displaced persons, the government's actions on behalf of earlier waves suggests a willingness to work for their integration in Azerbaijan, accepting a de facto population transfer between the two countries.

But since the latest wave of displaced persons comes from areas of Azerbaijan to the south and east of Nagorno-Karabakh, from Azerbaijani towns such as Fizuli and Jebrail, the issues of territory, security, and ethnic demographics are decidedly different. This is land that might well represent a bargaining chip as part of a negotiated peace.

If that is the case, the displaced can only hope for a negotiated settlement before the arrival of winter, a prospect that does not appear probable.

Displaced persons from Fizuli, all of whom fled on August 23. At the time of the *Refugee Reports* visit, they had been living in makeshift shelters on the roadside for 24 days. Except for a single visit from *Médecins Sans Frontières* (MSF), which supplied them with plastic sheeting, they have had no outside assistance. When the Iranian camp opens, they will probably move there. Photo: USCR/B. Frellick
THE MONTAGNARDS: A RESETTLEMENT CHALLENGE

(In August, Refugee Reports staff writer Hiram A. Ruiz traveled to North Carolina to examine planned secondary resettlement in that state. (See Refugee Reports, Vol. XIV, No. 8.) While there, he also looked into the resettlement of a group of Montagnard refugees from Vietnam.)

On November 22, 1992, the first of a group of 398 refugees with a very unusual history arrived in the United States to start new lives. The contrast between that new life and the one they left behind could not have been more dramatic: these refugees had spent the past 17 years living in the jungles of Cambodia, fighting a war that, for the rest of the world, had ended long ago.

The refugees are Montagnards (French for mountain people), or Dega (as the Montagnards refer to themselves), an ethnic group whose homeland is in the highlands area of southern Vietnam. Helping them start their new life has been a taxing but rewarding process for the resettlement agencies involved. It has also, by many measures, been a remarkably successful process.

Montagnards Assisted U.S. Troops during the Vietnam War

The men in the group were members of a Montagnard rebel group, the United Front for the Liberation of Oppressed Races, known by the French acronym FULRO, that since 1964 has fought against successive Vietnamese governments, seeking autonomy for the Montagnard people. The Montagnards actively assisted the U.S. military during its involvement in Vietnam. The U.S. military promised them support for their cause in return. According to the Far Eastern Economic Review, as many as 250,000 Montagnards (out of a total Montagnard population of 3 million) died during the Vietnam war. Informed observers say that the Vietnamese authorities continue to discriminate against the Montagnards, and cite a Vietnamese law that forbids Montagnard men from marrying Montagnard women. The observers say that law is aimed at eventually eliminating the Montagnard people.

When the United States pulled out of Vietnam, thousands of FULRO fighters, reportedly promised continued U.S. support, retreated into the jungles of Cambodia to continue guerrilla warfare against the Vietnamese. Over the years, most died either in clashes with the Vietnamese or from various diseases. One group of some 200 separated from the main group in the early 1980s and eventually wound up in Thailand, where they were granted refugee status. In 1986, that group was resettled in the United States. The FULRO fighters who stayed in the Cambodian jungle, some with wives and children, remained almost completely out of touch with the outside world until mid-1992, when their existence became known to the UN forces in Cambodia. After a few months of debate over their future (the Montagnards wanted to continue their fight, but the Cambodian government and the UN insisted that they must withdraw from Cambodia), the 398 sought and received refugee status, and the United States agreed to resettle them.

Montagnards Resettled in North Carolina

Thanks to the efforts of various individuals and organizations, including U.S. Vietnam veterans groups, and the cooperation of government agencies, the resettlement process was hastened, and the first Montagnards began arriving in the United States. All 398 were flown to North Carolina, home to some 800 Montagnards (the largest Dega community outside Vietnam, including most of the former FULRO fighters and their families resettled in 1986), between November 22 and December 6, 1992.

A majority of the new arrivals, 239 (including 43 children under age ten), were resettled in Greensboro (176) and Raleigh (63) by Lutheran Family Services in the Carolinas (LFS), which had also resettled the 1986 Montagnard group. Since 1989, LFS has assisted Montagnards in Vietnam through its
Vietnam Highlands Assistance Project, which has provided medical supplies, textbooks, and other assistance.

**Refugees' Speedy Arrival Poses Problems**

Resettling the Montagnards proved a major--albeit welcome--challenge for LFS. According to Frank E. Williams, state director for refugee programs at LFS, resettling 239 refugees arriving within such a short time would have been difficult with any group, but was doubly difficult in the case of the Montagnards. Williams told *Refugee Reports*, “Only a few members of the group spoke any English; most were illiterate in their own language. They didn’t know about heating, or about refrigerators, or running water.”

Because the group arrived so soon after being accepted for resettlement, LFS was only able to find sponsors for 163 of the 239 Dega it resettled. Sponsors not only help the refugees get settled and oriented, but often make necessary financial contributions. Since many of the Montagnards did not have sponsors, resettlement costs to LFS were very high. The issue of finances was further complicated in that, because of the Montagnards’ special characteristics and needs, helping them to get established took longer than usual. According to Williams, “We received federal reception and placement funds to help the Montagnards for three months, but it took us six months to help them find jobs. We received some financial help, including thousands of dollars from veterans’ groups, but that still didn’t nearly meet the need. We're still suffering from it.”

Many of the Montagnards also arrived with health problems that required costly medical attention--for which there was no extra federal funding available. “Although a number of doctors and other medical personnel volunteered to help, the County Health Department also had to absorb a lot of extra costs,” Williams said.

Williams said that it would in fact have been preferable for the Montagnards to have spent some time at the U.S. refugee processing center in the Philippines, where they could have received adequate medical screening and treatment, some English language training, and orientation to life in the United States, which would have helped them be better prepared psychologically for their new life.

**All Employable Adults Working**

Despite the difficulties and financial burden, however, the Montagnards’ resettlement has enjoyed considerable success, especially in helping the refugees find employment. According to Michel Strickland, director of LFS’s Montagnard (Dega) Resettlement Project, by March 15, 1993, 65 percent of the Montagnards in Greensboro and 100 percent of those in Raleigh were employed. By May 15, all employable adults were working (all in companies that offer health benefits). English language training was also a priority. A local community college devoted four English classes to the Montagnards, and LFS also provided transportation for those who needed it.

Now, all of the Montagnards are settled and relatively stable. Many still experience acculturation problems, not only learning to live in an American community, but also among a large number of Vietnamese, whom they used to view as their oppressors. *Refugee Reports* interviewed Y, a Montagnard refugee, at his place of work, an aeronautics company. Y is a janitor and groundskeeper, but his supervisor has found him so quick to learn, that Y now spends much of his time assisting the airplane mechanics. His supervisor, Jack Via, said that working with Y, the first refugee the company has employed, has been a very “rewarding” experience. He said that Y is so popular with his colleagues that when he went to buy his first car, his co-workers pooled together and gave him $800.

**Job Board**

**Asylum Officer**

The Asylum Branch of the Immigration and Naturalization Service (INS) may be hiring a number of additional asylum officers to supplement its Asylum Officer Corps. New positions may be available at all seven of INS’s asylum offices, located in Arlington, Va., Chicago, Ill., Houston, Tex., Los Angeles, Cal., Miami, Fla., Newark, N.J., and San Francisco, Cal. Starting
salaries will be in the GS-9, GS-11, and GS-12 ranges.

**Contact** To be included in the Asylum Officer Corps applicant databank, send a letter of interest (no résumé required) to: INS Headquarters, Attn: Gregg Beyer, INS/CORAP, c/o ULLICO Bldg., 3rd Floor, 425 I Street, NW, Washington, DC 20536. Vacancy announcements will then be mailed to all persons registered in the databank. At that time, prospective candidates will be requested to file U.S. Government Form SF-171. Anyone who has already sent a letter of interest to the databank need not do so again.

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**Reader Exchange**

**HUMAN RIGHTS CLINIC OPENS**

Doctors of the World, in collaboration with New York's Health and Hospitals Corporation and Montefiore Medical Center, has established a Human Rights Clinic at North Central Bronx Hospital. New York is home to thousands of immigrants and refugees from across the world, a surprising number of whom have been tortured. The Human Rights Clinic provides an evaluation, treatment, and documentation service for such individuals, many of whom are alone, without significant financial resources, and speak little or no English. The clinic provides the same services to people in New York who are targets of bias crimes, crimes that often result in serious medical and psychological harm.

The clinic is integrated into the Primary Care Residency Training Program at North Central Bronx Hospital, and is thereby developing physicians for the city that are trained in the uses of medical skills in these matters. All sub-specialty referral services available to other patients are accessible to clinic patients. A payment scale corresponding to that of all New York public hospitals is in effect. For further information on the Human Rights Clinic, or to make an appointment for a client, please call Dr. Douglas Shenson at (718) 920-5508.

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**Resources**

**Critique of In-Country Refugee Processing in Haiti**

Americas Watch, the National Coalition for Haitian Refugees, and the Jesuit Refugee Service/USA have jointly issued a report that condemns U.S. policy toward would-be Haitian refugees. The September 1993 report, *No Port in a Storm: The Misguided Use of In-Country Refugee Processing in Haiti*, declares that in-country processing "has been unfairly used as an excuse for forcibly repatriating Haitians." The report notes, "Those potential asylum seekers who do not feel that they can safely avail themselves of the [in-country processing] program are left with no option." According to the report, "there is no protection component" of the in-country processing program.

*No Port in a Storm* highlights other deficiencies in the present system, among them: built-in characteristics that lead to limited access to reasonably expedited treatment; inconsistency in adjudication; unfair application of the asylum standard; questionable credibility determinations; and, for those forcibly returned to Haiti by the United States, the danger of arrest in Haiti under a 1980 decree that prohibits "illegal" departures. The report notes, "The existence of this law blurs the distinction between illegal departure and refugee flight."

To improve the current U.S. response to the situation in Haiti, the report calls for: ending the U.S. policy of forcibly returning Haitian refugees; developing alternatives such as increasing the number of refugee admissions places for Haitians, opening a safe haven enclave in the Caribbean, and providing a temporary status to Haitians currently in the United States; and using in-country processing as part of a broader plan that includes local and international non-governmental organizations and the UN High Commissioner for Refugees. "Only in this context," the report concludes, "could specific recommendations regarding [in-country processing] operations in Haiti contribute to improving the program."
The State of World Population 1993

The UN Population Fund (UNFPA) has published its annual report, titled The State of World Population 1993. The report presents not only an update on refugee and immigration issues, now critically important in many countries, but on internal migrations in the developing world and overall population trends. The 54-page report focuses on five specific topics: migration from rural to urban areas; international migration; costs and benefits to migrants and the regions that produce and host them; the role of gender in migration issues; and the development dimension of refugees and asylum seekers. Also included are statistical population and social indicators for countries throughout the world. The report concludes with policy recommendations to benefit both those who migrate and the regions to which they migrate.

In the chapter on refugees and asylum seekers, the report notes that most refugees are living in developing countries, often the countries least able to assist them. According to the report, “Support must take into account the conditions of the local population, as well as refugees... There is a need to link refugee relief with the development needs of the populations of countries providing asylum.”

Throughout the report, the links between education, health care, economic opportunities, development, and the needs of women are examined within the overall context of population movements. “Migration decisions,” says the report, “are about family security and long-term life chances, rather than simply the maximization of income. They are ultimately strategies designed to look after the individual’s and the household’s needs, safeguard their security, and respond to their aspirations.” The overall philosophy advocated in the report is one that will permit people to live under conditions that make migration less of a necessity. “Improving conditions of personal and family life can make a crucial difference in the decision to migrate, reducing dependence on migration as a strategy,” concludes the report.

Copies of The State of World Population 1993 can be obtained from the UN Population Fund, 220 East 42nd Street, New York, NY 10017.

Report Documents Struggle for Survival of Guatemalan “Communities of Population in Resistance”

Lesser known even than the plight of Guatemalan refugees and internally displaced persons is the history and present situation of Guatemala’s Communities of Population in Resistance (CPRs). According to a new report issued by the Ecumenical Program on Central America and the Caribbean (EPICA) and the Center for Human Rights Legal Action (CHRLA), there are tens of thousands of Guatemalans living in CPRs in remote areas of the Guatemalan highlands.

“These communities are democratic and self-governing,” the report says. “They refuse to participate in Army-run civil defense patrols or collaborate in any way with the Army counterinsurgency plan, and for this reason they have suffered relentless persecution for most of the past eleven years,” the report adds.

Titled Out of The Shadows: The Communities of Population in Resistance, the report documents the history of the communities, their social organization, and the challenge their existence represents for the new Guatemalan administration of former human rights ombudsman and now president Ramiro de Leon Carpio, who has said of the CPRs, “I am convinced that if we recognize the problems of the CPRs, we will have taken an important step towards achieving peace in our country.”

Out of The Shadows: The Communities of Population in Resistance, is available from CHRLA for $3.50 plus $1.00 for postage and handling. Contact CHRLA, 1601 Connecticut Avenue, NW, Suite 612, Washington, DC 20009. (202) 265-8712.
<table>
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<th>FY 93 REVISED AUTHORIZED LEVELS</th>
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a Separate ceilings for Eastern Europe and the former USSR exist in FY 92. Actual admissions from Eastern Europe were 2,886. Actual admissions from the former USSR were 61,298.

b East Asia's original authorized ceiling in FY 93 of 52,000 was revised to 51,000 during the year.

c Separate ceilings for Eastern Europe and the former USSR exist in FY 93. The original ceilings were 2,500 for Eastern Europe and 50,000 for the former USSR. The revised ceilings were 2,725 for Eastern Europe and 49,775 for the former USSR.

d Expected arrivals from Eastern Europe total 2,725. Expected arrivals from the former USSR total 49,775.

e Overseas postage is an additional $45.00 for second class or an additional $85.00 for airmail; by ACNS, 95 Madison Avenue, Third Floor, New York, NY 10016. Second Class Postage paid at New York and additional mailing offices. POSTMASTER: Send address changes to Refugee Reports, Sunbelt Fulfillment Services, P.O. Box 5026, Brentwood, TN 37024.

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ASYLUM REFORM MOVES INTO HIGH GEAR

After weeks of negotiation and debate, both the Clinton Administration and the House refugee subcommittee have unveiled their respective plans for reforming the U.S. asylum system. Aside from a bill on one aspect of the asylum question—expedited exclusion for persons arriving at airports without documents—the Senate refugee subcommittee has yet to weigh in on a comprehensive asylum reform package.

A political dynamic appears to be at work in Washington between a new Administration that is trying to buy time to deal with a problem inherited from the previous Administration and a Congress anxious to move forward on a hot political issue. Part of the question revolves around whether to make statutory changes in the Immigration and Nationality Act (INA) as opposed to administrative measures that can be handled through regulations and other means.

Although the Clinton Administration submitted a proposal in July for expediting procedures for asylum seekers arriving at airports with missing or fraudulent documents—which is reflected in the Senate bill (see Refugee Reports, Vol. XIV, No. 7)—its proposal for dealing with asylum seekers already present in the United States was not revealed until mid-October, and, then, not in the form of legislation.

The Clinton Proposal: Prompt Decisions, Cut Down on Automatic Issuance of Work Authorization Among the major criticisms of the asylum system is the charge that too many layers of review and appeal protract the process and add to a backlog of asylum cases that had grown to 329,069 by the end of FY 93.

Faced with this enormous backlog, the Immigration and Naturalization Service (INS) decided to concentrate on keeping up to date with current applications, and to let the existing cases sit for the time being. Newly confirmed INS Commissioner Doris Meissner told Refugee Reports that presently only one-third of asylum applicants are being interviewed because the asylum officer corps is so overwhelmed by the sheer numbers. With two-thirds of the
applicants going directly into the backlog, she said, the whole system loses integrity. Meissner noted that asylum applicants are given almost automatic work authorization after their claims have sat unadjudicated for 90 days. This, she said, invites abusive claims.

The twin goal of the Administration, according to Meissner, is to come up with a way to approve meritorious claims promptly, but also to speedily deny those ineligible for asylum and to have a credible capacity to deport those who do not have the right on other grounds to remain.

Meissner outlined a number of the key points in the plan. First, she said, the Administration would adhere absolutely to the international standard defining refugees as persons with a well-founded fear of persecution. Second, she said, the Administration would not call for imposing time limits on filing asylum applications. Third, however, she said that the INS needs to eliminate automatic work authorization. The way to do this, she said, is to come to grips with current receipts and adjudicate claims before work authorization would become automatic.

A specific provision of the plan is to extend that limit from 90 to 180 days. If the INS asylum officer corps and the immigration judge are not able to issue a final decision within 180 days, the request for work authorization would be adjudicated during the last 30 days, and an employment authorization document (EAD) would be issued to persons with cases judged to be nonfrivolous. Under the plan, cases denied by immigration judges would not be eligible for work authorization unless the Board of Immigration Appeals (BIA) agrees to hear the appeal. Persons granted asylum would be granted work authorization immediately.

Integrating INS Asylum Officers and Immigration Judges One of the perennial criticisms of the current asylum procedure is that applicants get “two bites of the apple,” two chances to apply for asylum before two different agencies within the Department of Justice (see chart, page 4). First, the applicant who applies affirmatively (i.e., presents himself or herself to the INS voluntarily) has an interview with an INS asylum officer. If the applicant is denied at that stage, the current procedure is for the INS asylum officer to issue a Notice of Intent to Deny (NOID), which the applicant has an opportunity to rebut, followed by a denial and the issuance of an Order to Show Cause (OSC). The OSC places applicants who are believed to be deportable in proceedings before an immigration judge. Those proceedings take place in immigration courts under the auspices of the Executive Office of Immigration Review (EOIR), an agency that is independent of the INS. During the deportation or exclusion hearing, persons have the right to raise completely new--de novo--asylum claims as a defense against deportation.

Phyllis Coven of the Office of the Associate Attorney General, and one of the architects of the Administration plan, told Refugee Reports, “The problem is not so much the different levels of review, but a lack of integration between the INS and EOIR processes.”

She said that—for the limited sample the Justice Department was able to track—only 54 percent of cases denied by asylum officers actually resulted in the issuance of OSCs to initiate proceedings before immigration judges.

A general problem with the system, she said, is the difficulty of keeping track of applicants throughout the process. Currently, asylum seekers are not definitively identified and are able to present totally different claims before asylum officers and immigration judges, based on different sets of facts, or to submit multiple claims.

The Administration reform is intended to create an integrated approach. First, the same asylum application—the I-589 form—would be used as the basis for the claim at the asylum officer interview and before the immigration judge. Enhanced hand print technologies would also be used to identify applicants throughout the process.

Coven said that the asylum officers’ functions would be modified to allow them to identify quickly bona fide refugees, but that the procedure as a whole would be streamlined by eliminating NOIDs completely and by doing away with detailed written denials by asylum officers (cases not granted would be “referred” to immigration judges, not “denied”).

Applicants would be required to appear in
UNREPRESENTED ASYLUM SEEKERS: THE DIFFICULTY IN TELLING THEIR STORIES

The following two cases are presented in "An Assessment of the Asylum Process of the Immigration and Naturalization Service" (see Current Research, page 12). The first case is based on materials supplied to the National Asylum Study Project by the Zairian applicant. The second is based on an interview with an attorney and legal worker assisting the Romanian applicant when her case went before the EOIR, March 31, 1993, Chicago, Ill.

An unrepresented applicant from Zaire filed for asylum but did not mention that he had been tortured and sexually abused due to the pain and shame he felt from reliving the experience. Instead he described the threats to his life from his activities in opposition to the government, leaving out his arrest and torture. After receiving a final denial from the asylum officer, he wrote a long letter describing in detail the torture and sexual abuse, its political motivation, and the shame he felt in disclosing it: "I have had a big fight going on my mind and soul whether or not I should tell the main reason why I came to the United States.... I wish I would never have to go over what I lived during those seven days, because for me, going over that story again is synonymous of living that hell one more time.” He called his torture "the most humiliating, the most degrading week of my life.” The asylum officer, however, rejected his request for asylum.

An unrepresented applicant from Romania filed for asylum and explained that she had left after being interrogated and followed. Her husband, whom police had beaten, remained in Romania. After being denied asylum, she went to a nongovernmental organization with the NOID [Notice of Intent to Deny] that contained only two paragraphs explaining the facts of her claim and totalled two and a half pages. When a paralegal interviewed her, the paralegal thought it obvious that something else was wrong and tried to encourage her to talk. The applicant broke down crying and revealed that Securitate had raped her and that because she was a devout Christian, she had not acknowledged it. This organization referred her to a center for victims of torture, and after counseling, she was able to present her case to an immigration judge, who granted her asylum.

person to learn the asylum officer’s decision. They would receive a sealed envelope that would contain either a letter granting asylum and an EAD, or one referring the case to an immigration judge with an OSC. Failure of the applicant to appear for the immigration judge hearing would result in an in-absentia deportation order.

Coven said that the Justice Department wanted to preserve the role of immigration judges in the process because of the "efficiency" of their hearings, the ability of judges to "rule from the bench," and, "most importantly, because of their link to enforceable orders of deportation.”

She said that the Justice Department also favored preserving administrative appeal before the Board of Immigration Appeals (BIA), but is reviewing whether or not such appeals would be automatic. Coven said that the Justice Department is considering a "leave to appeal" procedure, whereby the BIA would only hear appeals "that raise novel questions of law or good grounds for appeal.” She said that if the BIA denied the petition for a hearing, work authorization would not be granted.

The Administration proposal would preserve judicial appeal.

House Subcommittee Marks Up Wide-Ranging Measure To Change Asylum Procedures

Congress has not been willing to stand pat and wait for the Clinton Administration to come up with its proposal for asylum reform. Several hearings have already been held this year relating especially to the arrival of undocumented asylum seekers at airports (see Refugee Reports, Vol. XIV, No. 5), and bills representing the Administration’s
U.S. Asylum Procedure
(As of July 14, 1993)

DOJ / INS AFFIRMATIVE CLAIMS
Voluntarily apply to INS for Asylum, regardless of immigration status or manner of entry into the United States [May not be detained]

Asylum interview scheduled within 90 days and adjudication completed within 90 days from date of filing [May not be detained]

If unable to schedule the interview in a timely manner, adjudicate work authorization and place case in the backlog [May not be detained]

Asylum interview conducted by an INS Asylum Officer (AO)

Asylum approved: family may join if abroad
Asylum denied: charged by INS via an OSC

After 1 year, may apply for status to Lawful Permanent Residence (LPR)

May apply for naturalization as a U.S. citizen

GLOSSARY:
AO - Asylum Officer (INS)
BIA - Bureau of Immigration Appeal
DOJ - Department of Justice
EOIR - Executive Office for Immigration Review
IJ - Immigration Judge (EOIR)
INS - Immigration and Naturalization Service
OSC - Order-to-Show-Cause
POE - Port-of-Entry

DEPORTATION
Aliens already in the U.S. illegally are apprehended and charged by INS. [May be detained]

Initial deportation hearing scheduled before an EOIR/IJ (1-4 month wait) [May be detained]

Alien claims asylum (as a defense against deportation/exclusion) during the initial hearing; hearing then suspended and rescheduled as an asylum hearing (4-24 month wait) [May be detained]

Asylum hearing conducted before an EOIR/IJ

Asylum approved: family may join if abroad
Asylum denied: removal proceedings continued [May be detained]

Removal by INS

Appeal to EOIR/BIA; [May be detained]

Appeal to circuit court [May be detained]

Appeal to Supreme Court [May be detained]

Asylum approved: family may join if abroad
Asylum denied [May be detained]

Asylum approved: family may join if abroad
Asylum denied [May be detained]

Asylum approved: family may join if abroad
Asylum denied [May be detained]

Detention of detainable aliens is at the discretion of INS and dependent upon a number of factors such as availability of detention facilities, space, severity of offense, etc. If not detained, an alien filing a "non-frivolous" asylum application must be authorized to work within 90 days of requesting such authorization; such permission extends throughout the pendency of asylum proceedings and appeals, unless subsequently detained.

Source: INS, Asylum Branch
Clinton Administration
Asylum Reform Proposal

Application filed at
INS Service Center

Return or Reject Boilerplate

Asylum Corps
1. Fingerprinting
2. Interview

Referral to Immigration Judge
Order to Show Cause

Immigration Court
1. Master Calendar
2. Merits Hearing

Grant and Work Authorization

Denial
or
No Show

Deportation
Order

Motion for Leave to
Appeal

Grant and Work Authorization

Board of Immigration Appeals
Modified Procedure

Deny

Judicial Review

Source: Justice Department
proposals on expedited exclusion procedures for persons falling in this category have been introduced in both the House and Senate (H.R. 2836 and S. 1333).

A bill (H.R.3363) combining earlier measures separately introduced by Reps. Romano L. Mazzoli (D-Ky.), Bill McCollum (R-Fla.), and Charles E. Schumer (D-N.Y.) was approved by the Subcommittee on International Law, Immigration, and Refugees, on October 20.

H.R. 3363 is divided into three parts: 1) smuggling and fraud; 2) asylum; and 3) inspections. The first part most closely presents an alternative to H.R. 2836 and S. 1333. The second, on asylum, contrasts with the Administration's proposal, outlined above. And part three, authored principally by Rep. Schumer, and dealing with pre-inspection at foreign airports, stands somewhat by itself. (Refugee Reports, Vol. XIII, No. 7 discusses Schumer's bill when it was separately introduced.)

Subcommittee Chairman Mazzoli said, "Our goal is to maintain generous legal immigration and fair procedures for those seeking relief from persecution. What we are all trying to do is to make sure people entering illegally are not able to do so as freely, not able to play with, to abuse the system."

Schumer said that H.R. 2602 is an attempt to "strike a balance," so that someone fleeing "real persecution can find safety here," but that flaws in the system have created a "rogue" world whereby "those who work by the system, play by the rules, come out last."

Main Provisions of H.R. 3363 The first part of H.R. 3363 relates to aliens arriving at airports with false or missing travel documents. Such persons not seeking to apply for "provisional asylum" (defined below) would be ordered excluded from the United States.

Those seeking to apply for provisional asylum would have to satisfy an asylum officer at the airport that they have a "credible fear of persecution." The credible fear is defined as being 1) "more probable than not that the statements made by the alien in support of his or her claim are true," and 2) "that there is a significant possibility...that the alien could establish eligibility for provisional asylum."

If the asylum officer determines that the alien does not have a credible fear of persecution, says the bill, "the officer shall order the alien excluded from the United States without further hearing."

The decision of the asylum officer would be subject only to "immediate review by another asylum officer" at the port of entry. There would be no further administrative appeal, and the bill would also preclude any court from reviewing decisions at this stage, except by petitions for habeas corpus, limited to determining whether the petitioner is an alien and was ordered excluded from the United States according to this law.

This section of the bill is quite similar to the Administration's expedited exclusion bill (see Refugee Reports, Vol. XIV, No. 7). Both have a similarly defined "credible fear" threshold test at the airport, and share the same abbreviated administrative and judicial review.

Like the Administration's bill on expedited exclusion, H.R. 3363 would also double from 5 to 10 years the penalty for smuggling undocumented aliens into the United States.

Provisional Asylum The Administration has not yet put its affirmative asylum reform proposal (described at the beginning of this article) in the form of a bill, and is reluctant to do so, preferring to make changes in the law only where necessary.

However, the Mazzoli-McCollum-Schumer bill seems to take the asylum procedure in a different direction than the Administration's approach.

As indicated above, H.R. 3363 creates a status of "provisional asylum," which protects aliens granted that status from deportation and grants them work authorization. H.R. 3363 would give the Attorney General discretion to terminate provisional asylum, however, if she determines that the alien no longer meets the refugee definition, for example, owing to a change in circumstances in the home country, or if the alien is convicted of a particularly serious crime, is found to have persecuted others, to have committed a serious nonpolitical crime outside the United States, or is regarded otherwise as representing a danger to U.S. security. The
Attorney General may also terminate provisional asylum if another country is identified as being willing “to accept the alien” as long as the alien cannot establish that it is more likely than not that he or she would be persecuted in that country.

Aliens would be required to file an intent to apply for provisional asylum within 30 days of arriving in the United States, and actually file within 60 days. The only exception would be for cases where the alien could show “clear and convincing evidence [of] changed circumstances in the alien’s country of nationality...affecting eligibility for provisional asylum.”

After being physically present in the United States for one year, persons granted provisional asylum would be able to apply to adjust for full “asylum” status. At that time, the Attorney General would be able to review the applicant’s continuing eligibility for asylum. Spouses and children would then be able to follow to join a person granted full asylum.

The bill would allow fees to be charged for applying both for provisional asylum and asylum.

H.R. 3363 maintains, in its own way, the distinction under current law between the standard for withholding deportation and for granting asylum (see Refugee Reports, Vol. VIII, No. 3). In the bill, a mandatory grant of provisional asylum is made in cases where the applicant can show “that it is more likely than not that...such alien’s life or freedom would be threatened" on account of race, religion, nationality, membership of a particular social group, or political opinion.

The Attorney General may also make a discretionary grant of provisional asylum for aliens able to establish a “good reason to fear persecution” on account of the same reasons as above.

The bill comes down very hard on persons submitting frivolous applications for provisional asylum, making them “permanently ineligible for any benefits under this Act.” It says “frivolous” includes, but is not limited to, an application which contains a willful misrepresentation or concealment of a material fact.”

**Some Want Stronger Measures** Several legislators at the October 20 subcommittee markup (a session where amendments can be entertained and in which a bill is voted on to determine if it continues to move forward in the legislative process) expressed a desire for more restrictive measures. Rep. George E. Sangmeister (D-Ill.) said that he had wanted to introduce an amendment to cut off federal benefits to illegal immigrants, but that the subcommittee staff had asked him to keep the present bill focused on asylum. He said that he reserved the right to introduce additional amendments in the full Judiciary Committee.

Rep. Charles T. Canady (R-Fla.) said not only that he would like to address further illegal immigration by, for example, making employer sanctions more effective, but that he would also like to question “whether the levels of legal immigration are consistent with our economic goals.”

Rep. Elton Gallegly (R-Cal.) complained that the bill only deals with about 1 percent of the number of people entering the United States illegally, and expressed an interest in more legislation to curb “inducements, magnets, carrots.”

Rep. Lamar Smith (R-Tex.) echoed these sentiments, saying that this bill should be considered a first step in the effort to stop illegal immigration.

Mazzoli said that the subcommittee would be holding further hearings on criminal aliens and strengthening employer sanctions. Citing how word spreads among smuggling networks, Mazzoli said, “If we deal with this part of it today [i.e., asylum], it will be one facet of the total effort” to control illegal immigration.

All of those who said the bill did not go far enough nevertheless said that they would support it.

**Others Say H.R. 3363 Would Turn Away Genuine Refugees** Rep. Jerrold Nadler (D-N.Y.) said that the airport hearings proposed in H.R. 3363 would be “so perfunctory they wouldn’t match up to traffic court.” He said that the requirement of immediately demonstrating a credible fear at the airport “asks too much.” He said that the provision that would permit the return of asylum seekers to third countries would create a situation where “determinations of what are safe countries are bound to be subject to the
vicissitudes of politics." Nadler also said that the bill provides no meaningful administrative or judicial appeal. In all, he said, "The harm of H.R. 3363 outweighs the good."

Nadler and Rep. Xavier Becerra (D-Cal.) have introduced an alternative comprehensive asylum bill, H.R. 3223, which was not discussed at the October 20 mark up.

**Amendments**

Schumer introduced an amendment to make the criminal penalties for smugglers apply separately to each alien who was smuggled. Nadler asked whether the enhanced penalties would apply to family members caught bringing in immediate relatives and suggested that language be added to limit such penalties for persons smuggling for commercial gain.

Schumer said that the provision was intended to apply only to "smugglers under the conventional definition." Schumer said he would work on this provision before the bill reaches the full Judiciary Committee. Schumer's amendment passed by voice vote.

Schumer introduced another amendment, which also passed by voice vote, to make property used by smugglers subject to forfeiture and to allow the INS to use wiretaps, features that are also included in the Administration's expedited exclusion bill.

Mazzoli introduced several "technical" amendments suggested by the Administration, including one to substitute the term "well-founded fear" for the term "good reason to fear," which the bill had used as the standard for discretionary grants of provisional asylum.

Another would do away with State Department advisory opinions, but would direct State Department information on country conditions to the INS's Resource Information Center. Another amendment suggested by the Administration was that the right to counsel not be allowed to "unduly delay the proceedings."

Nadler questioned whether this was a problem. No one could provide information that it was. The amendments passed by voice vote.

Another amendment requested by the Administration, which passed by voice vote, would clarify that the granting of work authorization while a case is pending is at the discretion of the Attorney General.

Although supporting the amendment, Mazzoli said that the amendment should go even farther, to make it clear that applicants are not automatically entitled to work authorization.

McCclum also spoke in support, saying that work authorization creates a very serious magnet effect.

Rep. John Bryant (D-Tex.) introduced an amendment that would mitigate fines on carriers who are deceived by aliens carrying false documents. He said that there has been a $25 million increase in fines levied against carriers in the past three years, but that the INS has issued no guidelines to carriers on how to prevent this practice. His amendment also passed by voice vote.

**More Objections to Mazzoli-McCollum-Schumer**

Realizing that they did not have the votes behind them in the subcommittee, Reps. Nadler and Becerra did not introduce amendments, but rather raised questions about a number of the asylum provisions.

Becerra said that the bill's provisions for returning aliens to any country that would accept them leaves open the door to having refugees returned to their countries of origin, where they would have genuine fears of persecution. He suggested that the concept of "firm resettlement" is a more internationally accepted standard for returning an asylum seeker to a third country.

Mazzoli said that the United States is only barred mandatorily from *refoulement*, forcibly returning refugees to places where their lives or freedom would be threatened, but "whether to allow them into the United States is totally discretionary and not mandated by anyone."

Nadler suggested that some transit countries might be way stations from where it is commonplace to return refugees to their countries of origin and that language should be added that would bar the return of refugees to countries where they would likely be returned to their country of origin.

Mazzoli commented that the Administration had requested an amendment along those lines, but, he said, "Our responsibility under international law is not to return a refugee to a country where he would actually be persecuted. We shouldn't look into the mind of a third country to see if they will send the person back."
Becerra suggested that the time limits on filing asylum claims would violate the provision of the UN Convention prohibiting refoulement (Article 33). He said that penalties could be imposed for late filing, but international law prohibits a legitimate refugee claim from being denied for missing a deadline.

Mazzoli, quoting from Article 31 of the Refugee Convention, said that refugees are required by international law to “present themselves without delay” to the authorities in order to avoid sanctions for illegal entry.

Nadler criticized the provision that would limit judicial appeals to habeas corpus, saying that this would leave no opportunity even to challenge willful misconduct by an INS officer. Becerra added that the lack of administrative appeal would place an undue burden on the federal courts. “The Judiciary would not be happy to see that,” he said.

Becerra also objected to barring applicants permanently who make frivolous claims from immigration benefits. He said that preparers of claims should be penalized, not the applicants themselves.

Mazzoli said that “frivolous” is defined as a “willful misrepresentation of a material fact.”

Becerra pointed out, however, that while the definition of “frivolous” is inclusive of misrepresentations, it is not limited to them. He reiterated that even if there is a willful misrepresentation, the attorney or preparer should be held accountable, not the applicant “who may know nothing of the law.”

Becerra also objected to fees for applying for asylum. “We’ve never done this before,” he said. “We’ve never required a fee for protection of a basic human right.”

Mazzoli responded that fees “make sense. People must pay for services.” He said, however, that any fee schedule should make allowances for the indigent.

McCollum closed the mark-up by saying that he might raise concerns before the full committee about shortening the time of appeals. “While we all want to see rights,” he said, “we want to move the process.” He asked, “Do we even need habeas corpus for affirmative claims?”

The bill, as amended, passed by voice vote. By month’s end no mark-up was scheduled in the full Judiciary Committee.

Recent Developments

COALITION SEEKS TPS FOR GUATEMALANS

A coalition of Guatemalan immigrants, human rights groups, religious organizations, and immigration lawyers have asked Attorney General Janet Reno to extend Temporary Protected Status (TPS) to Guatemalans living in the United States. A letter sent to Reno in late October by a number of participants in the coalition said that former human rights ombudsman Ramiro de Leon Carpio, who was elected president by the Guatemalan Congress in June, “has expressed a commitment to democracy and recently presented a plan to the United Nations for ending Guatemala’s armed conflict. Despite these intentions,” the letter said, “it is clear that he will not be able to reverse Guatemala’s history of armed conflict overnight.”

The letter added that according to a recent report, human rights violations have in fact increased during de Leon Carpio’s tenure as president, and that “Guatemala’s widespread violence, human rights abuses, and ongoing armed conflict make it precisely the type of situation contemplated” by the framers of the TPS provisions in the Immigration Act of 1990.

The call for TPS for Guatemalans has been supported by 1992 Nobel Peace Prize winner Rigoberta Menchu. According to John Stover of the National Immigration, Refugee & Citizenship Forum, one of the groups supporting the call for TPS for Guatemalans, Menchu and several members of the coalition met Attorney General Reno on October 13 and had an “affirmative and encouraging exchange.” Stover added that Reno “appeared interested in the [TPS] request and promised to review the materials that were provided her.”

CONTROVERSIAL REPATRIATION OF SRI LANKAN TAMIL REFUGEES RESUMES

Refugee Reports staff writer Hiram A. Ruiz, who recently returned from a three-week fact-finding visit to Sri Lanka and southern India, interviewed
Surrounded by the belongings her family brought back from India, a Sri Lankan Tamil woman who repatriated in August waits in a transit center in Vavuniya district until she can return to her original home. Photo: USCR/H. Ruiz

More than two dozen Tamil families who returned from India during the recent repatriation to determine their reasons for repatriating and their situation upon return.

More than 6,900 Sri Lankan Tamil refugees repatriated from India between August 13 and September 7. Previous Tamil repatriations have been marred by reports that the Indian government has forced some refugees to return home.

During this recent repatriation, New Delhi permitted officials of the UN High Commissioner for Refugees (UNHCR) to interview refugees before their departure for India to establish whether they were returning voluntarily. Nevertheless, the repatriation was still controversial because human rights groups argue that the refugees did not have access to enough information about conditions in Sri Lanka to make an informed decision about repatriation because armed conflict continues there, because the Indian government has been exerting pressure on the refugees to repatriate, and because UNHCR was not allowed to monitor the early stages of the repatriation process.

A large majority of those interviewed by Refugee Reports said that they had made their decision to repatriate voluntarily. Their decisions to go home, they said, were made prior to the Indian government’s imposition of new restrictions aimed at coercing their return. Restrictions making day-to-day life for the refugees increasingly difficult include a limit on the hours that refugees may leave the camps, making it difficult for them to find daily work or keep regular jobs; refusing to allow refugee children to attend school beyond eighth grade; and barring access to the refugee camps to nongovernmental organizations (NGOs) that had
been assisting the refugees.

More than 171,000 Sri Lankan Tamil refugees remain in India. An estimated 73,000 are living in refugee camps run by the Indian government, while 98,000 others live outside the camps. Some 3,000 refugees who registered to repatriate in August, but who were unable to do so because transportation was not available to the area of the country from which they originate, are expected to repatriate in early 1994.

UNHCR in Sri Lanka assisted most of the recent returnees to return to their original homes very quickly. Those who went to government-controlled areas received--or are eligible to receive--the same government assistance that the government makes available to internally displaced families who return to their home areas. For refugees returning to areas under the control of the Liberation Tigers of Tamil Eelam (LTTE) rebel group, UNHCR gives a grant to enable them at least to purchase some shelter material and the government provides them temporary food aid. UNHCR is housing returnees who could not or did not wish to return to their homes right away in transit camps.

- **Updates**

  * The repatriation of Hmong refugees from Thailand to Laos could be affected by the disappearance in Laos of a prominent Hmong leader. The leader, Vue May, formerly supported the Hmong resistance group that seeks to overthrow the Laotian government. In 1991, he severed his links to the resistance, and decided to repatriate to Laos. He reportedly did so to demonstrate to other Hmong refugees that safe repatriation was possible. (See Refugee Reports interview with Vue May, Volume XIII, No. 8.) Vue May's 1992 repatriation was highly touted by the Thai and Laotian governments. He was featured in a video about repatriation that is shown to Hmong refugees in Thailand to encourage them to repatriate.

  Vue May disappeared from Vientiane, the Laotian capital, on September 11. News of his disappearance did not begin circulating widely in the United States until mid-October. Informed sources report that the Laotian security forces, which had been tracking Vue May's movements for several months, arrested him. Reportedly, the Laotian authorities have told one of Vue May's relatives that he will be released soon, but offered no reason for his arrest nor any indications of his whereabouts.

    - UNHCR is rushing hundreds of tons of relief supplies to assist more than 36,000 people displaced by recent fighting in southwestern Azerbaijan. They began to flee after Armenian forces severed the narrow corridor linking the Zangelan region with the rest of Azerbaijan. After being cut off, up to 28,000 Azeris crossed into Iran. They reportedly are transiting through Iran and then crossing back into Azerbaijan in the Imishli area (see Refugee Reports, Vol. XIV, No. 9).

      The total number of displaced people and refugees in Azerbaijan is now estimated at 900,000.

    - The *Washington Post* reported on October 6 that the Immigration and Naturalization Service (INS) used powerful antipsychotic drugs to sedate a man who was resisting deportation.

      The man, Tony Ebibillo Epken of Nigeria, had been denied political asylum. He had claimed that he would be killed upon return for his political statements.

      In two previous attempts to deport him, Ebibillo had resisted boarding by kicking and biting.

      On the third attempt, in December 1991, Ebibillo was strapped to a bed for two days in the Krome Detention Center near Miami and injected with Thorazine and other tranquilizers. According to medical records reviewed by the Post, he was never diagnosed as being mentally ill.

      He was brought aboard the plane by ten INS officers, one with a syringe, and was bound in a straitjacket, with ten-pound weights on his ankles, and his mouth taped shut.

      The pilot of the plane refused to take off with Ebibillo aboard.

      A similar incident caused a furor in
Canada in 1990 when it was reported that the Canadian immigration authorities were drugging persons who resisted deportation (see Refugee Reports, Vol. XI, No. 5).

**Current Research**

**TWO STUDIES CRITIQUE CURRENT ASYLUM SYSTEM**

Two major studies, one from within the government, the other, outside, present a comprehensive overview of the current functioning of the Immigration and Naturalization Service's Asylum Branch.

Under the direction of Harvard Law School, the National Asylum Study Project published its 198-page assessment (the Study) in September. The Study, written by Sarah Ignatius and directed by Deborah Anker, collected data from 389 attorneys and others assisting asylum applicants in 65 cities. While the Study found that "overall, the asylum officer corps is a substantially more professional, informed, and impartial body than the INS examiners who adjudicated asylum claims previously," it noted continuing flaws and inconsistencies in their handling of claims, and found that "asylum officers in over 50 percent of cases are still making fundamental errors."

The most prevalent serious error, according to the Study, "was requiring applicants to show they have been 'singled out for persecution,' a high standard that the regulations explicitly reject." The regulations state that an applicant need not show a "singling out" for persecution if there is a "pattern or practice of persecution" of "similarly situated" people. The Study also noted that some asylum officers misunderstood what constitutes past persecution and made errors in analyzing claims alleging past persecution.

The Study noted a number of serious administrative problems as well, mostly traceable to inadequate staffing levels. "This reduced staffing led to an inability to remain current with new cases filed, an inability to adjudicate cases in the backlog of pending cases, and serious administrative problems, such as failure to enter over 170,000 asylum cases into the computer database for one and half years, lost files, and wrongful termination of cases without explanation."

The study found that 77 percent of the applicants in the first eleven months of FY 93 were unrepresented by counsel in the asylum officer interviews. It found, however, that "the demeanor of asylum officers at interviews does not vary significantly depending on whether the applicant appears with or without counsel."

Whether applicants were represented or unrepresented, asylum officers appeared sympathetic, professional, and polite about 70 percent of the time. On the other hand, the Study found cases where unrepresented applicants had limited ability to correct legal errors and were less likely to present their cases fully.

Among the recommendations of the Harvard Study are to double the asylum officers corps, and increase resources for clerical personnel and the Resource Information Center; to grant permanent legal status to long-term resident Salvadorans and Guatemalans under the American Baptist Church (ABC) v. Thornburgh settlement to eliminate the burden of adjudicating as many as 235,000 asylum cases; and to implement meaningful case completion standards for asylum officers that allow at least two additional hours, bringing the total to five hours per case.

**Justice Department Management Review** The Justice Department also released its own review (the Review) of the INS affirmative asylum processing system in September. Unlike the Harvard Study, the Review did not address qualitative aspects of the system, such as fairness and accuracy of decisions, but rather focused on process, management, and administrative activities.

The Review noted that asylum officers are expected to complete 29 cases per month. Although the corps has increased its productivity from 6.7 case completions per month per officer in 1992 to 12.3 in mid-1993, it noted that
“productivity remains substantially below the standard set by Headquarters.” Among the principal reasons cited for this failure were the burden of collateral duties on officer time; the demands placed on the offices to adjudicate employment authorization...; the failure of some officers to appropriately balance quality concerns with production needs; and inadequate equipment and other resources needed to perform the work.”

Both the Study and the Review were highly critical of the Newark asylum office, but showed that the problem there is principally due to severe understaffing. The caseload in the Newark office in FY 93 was 183 cases per officer per month, whereas the caseload in Houston and Arlington was 32. The national average was 83 cases per officer per month.

Although the Review recommends increasing the involvement of INS Regional Service Centers (RSCs) in the asylum program, transferring to them full responsibility for all matters relating to issuing and extending employment authorization documents, it also notes many mistakes involving incomplete and inaccurate treatment of files. It said that every asylum office has said that the RSCs misdirect files. “One reported an instance where 90 files had been sent to the wrong office within a single week.”

The Review also looked at the INS Resource Information Center (RIC), which was created to provide balanced information on country conditions for asylum officers. The Review said that it “received mixed reviews on the usefulness of the RIC in asylum adjudication.” Quite simply, “time constraints often preclude officers from reading lengthy documents prepared by RIC or outside experts.”

Among the recommendations made by the Review were to limit Notices of Intent to Deny (NOIDs) to cases where the basis for the proposed denial rests on information not already known to the applicant; to leave to the discretion of asylum officers the decision whether to seek a State Department advisory opinion; to transfer responsibility for issuing Orders to Show Cause to INS district offices; and to grant employment authorization only to approved cases, provided that the decision to grant or deny can be made within the prescribed time frame.

The Management Review of the INS Affirmative Asylum Processing System was prepared by the Management and Planning Staff, Justice Management Division, Department of Justice, Tenth Street and Constitution Ave., NW, Washington, DC 20530.

An Assessment of the Asylum Process of the Immigration and Naturalization Service is available from the National Asylum Study Project, Harvard Law School, Pound 511, 1563 Massachusetts Avenue, Cambridge, MA 02138.

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Reader Exchange

Consumer Action (CA), a nonprofit consumer education and advocacy organization that serves multilingual consumers throughout the United States, is offering its line of consumer fact sheets (in bulk and free of charge) to agencies that provide services to refugees, immigrants, and others. Fact sheets are issued in Chinese, Korean, Spanish, Vietnamese, and English.

Many recent immigrants may be paying more for services while receiving fewer benefits because they don’t understand fully the phone and credit systems in the United States. CA’s fact sheets are designed to explain the ins and outs of these systems. Fact sheets include Phone Fraud, Using the Services of Operators, Saving Money on Credit Cards, and others.

For information on how to order Consumer Action’s fact sheets, or on how to become a Consumer Action member, contact: Kathy Li, Outreach Specialist, Consumer Action, 116 Montgomery Street, Suite 223, San Francisco, CA 94105. Tel: (415) 777-9648.

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Resources

FOUR NEW U.S. COMMITTEE FOR REFUGEES ISSUE PAPERS AVAILABLE

The U.S. Committee for Refugees (USCR) has recently produced four publications that are
available free-of-charge to *Refugee Reports* subscribers and for $4.00 each to nonsubscribers.

- **Burundi in Transition: Context for a Homecoming** (September 1993), by Catharine Watson, traces the dramatic political changes that have occurred in Burundi during the past year, changes that have led to the repatriation of Burundians. It provides a clear background for understanding the October 1993 political crisis in that country, which has led to the violent displacement of hundreds of thousands of refugees.

- **Inducing the Deluge: Zaire's Internally Displaced** (October 1993), by Renée Roberts, explores the reasons why more than 350,000 Zairians have fled their homes in the past year. The report concludes that Zaire’s political turmoil may grow worse, uprooting still more people who would face an uncertain and perhaps desperate future amid Zaire’s crumbling economy.

- **Quantifying Genocide in the Sudan: 1983-1993** (October 1993), by Millard Burr, is the first systematic attempt to compile evidence that at least 1.3 million southern Sudanese have been killed, directly or indirectly, as a result of Sudan’s civil war during the past decade.

- **To Build Anew: An Update on Peru’s Internally Displaced People** (October 1993), by Robin Kirk, examines the desperate situation of more than 600,000 Andean Indians in Peru, displaced as a result of the civil unrest in that country. The report update’s USCR’s 1991 groundbreaking report, *The Decade of Chaqwa*.

To order, send check for $4.00 per copy to the U.S. Committee for Refugees, 1717 Massachusetts Ave., NW, Suite 701, Washington, DC 20036. Tel: (202) 347-3507 Fax: (202) 347-3418. Indicate that you are a subscriber to *Refugee Reports* in order to receive free copies.

**MAYA IN EXILE: GUATEMALANS IN FLORIDA**

In this comprehensive work on the subject of immigrant Guatemalan Mayans, Allan Burns, Professor of Anthropology and Latin American Studies at the University of Florida, discusses the lives of Mayans who have migrated to the United States.

During the early 1980s, due to political violence and civil strife in Guatemala, hundreds of thousands of Mayans fled their country. Many settled in refugee camps or settlements in Mexico. But in part because of increasingly harsh conditions in Mexico, and Guatemalan military raids on refugee camps there, many Guatemalans continued on to the United States. Thousands have settled in or near a Mayan community in Florida called “Indiantown”. Burns discusses the Mayans’ adjustment to life in the United States and the ways in which the Maya work to keep their culture alive.

*Maya in Exile* reviews the history of the Maya migration to Mexico, the attitudes that Americans have towards them, and their experience in the United States, particularly in Indiantown.

*Maya in Exile* is available for $39.95, cloth, and $14.95, paper, through Temple University Press, Broad & Oxford Streets, Philadelphia, PA, 19122.

**URBAN INSTITUTE ANALYZES U.S. IMMIGRATION AND IMMIGRANT POLICY**


In the reports, written for the Institute by Michael Fix and Wendy Zimmerman, the authors differentiate between policies towards immigration and policies towards immigrants. According to Fix, “While the United States has an inclusive, open immigration policy, the federal government
has a largely laissez faire, hands-off immigrant policy. As a consequence, public responsibility for incorporating newcomers has fallen, mostly by default, to state and local governments."

The authors address the problems of rising admissions in the face of declining federal dollars, immigrants' constrained access to public benefits, and the impact on states of federal funding cutbacks, including what they call "sharp, draconian cutbacks" in funding for the refugee program.

After Arrival, An Overview of Federal Immigrant Policy in the United States and Immigrant Policy in the States, a Wavering Welcome are available for $9.00 each from the Urban Institute, Publications Department, 2100 M Street, N.W., Washington, D.C. 20037. (202) 857-8687.

HUMAN RIGHTS AND UN FIELD OPERATIONS

Human Rights Watch has issued a report titled Human Rights and UN Field Operations, which chronicles the UN's approach to human rights issues in five of the UN's recent major field operations. Using Somalia, Iraq, El Salvador, Cambodia, and the former Yugoslavia as examples, the report states, "...while severe human rights abuses often play a critical part in fueling armed conflict and aggravating humanitarian crisis, they have been given a low priority by the officials who oversee UN field operations." According to the report, issued in June 1993, only in El Salvador were human rights concerns given a high priority by UN planners. "The exception of El Salvador," says the report, "shows both the feasibility and the importance of a more energetic human rights agenda."

For information on ordering Human Rights and UN Field Operations, contact Human Rights Watch, 485 Fifth Avenue, New York, NY 10017-6104. Tel: (212) 972-8400 Fax: (212) 972-0905.

BEYOND BORDERS: REFUGEES, MIGRANTS, AND HUMAN RIGHTS IN THE POST-COLD WAR ERA

Elizabeth Ferris, the new director of Church World Service's Immigration and Refugee Pro-

gram (see Update), has written a book discussing major issues concerning refugees. Beyond Borders: Refugees, Migrants, and Human Rights in the Post-Cold War Era surveys the present refugee situation throughout the world, the players involved, and prospects for the future.

Beyond Borders begins with a discussion of what Ferris calls the "rules of the game," the way in which the international community currently responds to refugee emergencies. In Ferris's view, the present system consists of three component parts: definitions that specify who is of concern; a body of law that spells out the responsibility of the international community; and the various organizations that attempt to fulfill those obligations. Ferris presents a general overview of those players, as well as background on how they came to assume their present roles.

Ferris devotes a chapter to "root causes" of refugee movements, examining factors such as war and violence, governmental policies, nationalism, and state-building, and proposes that "we must devote more energies to preventing the violence which displaces people." She concludes, "The international system of refugee protection... is breaking down," she concludes.

The second half of Beyond Borders presents a "round the world" update of the present refugee situation in Africa, Asia, Latin America, the Middle East, and Europe, and highlights what Ferris sees as today's challenges and tomorrow's likely consequences.

The final chapter, "Alternatives to the Present System of Assistance and Protection," outlines five prospective targets for reform within the present system: the United Nations; operational humanitarian work of the UN; the 1951 UN Refugee Convention; regional initiatives; and specific national policies. Ferris concludes, "Any new international system will have to be based on a new consensus--a consensus that includes shared responsibility in preventing the violence that uproots people and that sees uprooted people in terms of the search for peace and justice."

Beyond Borders (344 pages) is available for $19.95 from the World Council of Churches, 475 Riverside Drive, Room 915, New York, NY 10115-0050. (212) 870-3340.
### ASYLUM CASES PENDING, RECEIVED AND COMPLETED

(Estimates and Projections)

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Cases Pending Beginning FY</th>
<th>Asylum Cases Filed with INS</th>
<th>Asylum Cases Completed</th>
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<td>FY 1989</td>
<td>73,109</td>
<td>101,679</td>
<td>102,795</td>
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<td>71,993</td>
<td>73,637</td>
<td>48,342</td>
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<td>97,288</td>
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<td>137,046</td>
<td>103,447</td>
<td>21,996</td>
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<td>219,014</td>
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<tr>
<td>FY 1994 (a)</td>
<td>329,069</td>
<td>125,000*</td>
<td>80,000*</td>
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<tr>
<td>FY 1994 (b)</td>
<td>329,069</td>
<td>125,000*</td>
<td>120,000*</td>
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<tr>
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<td>334,000*</td>
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<tr>
<td>FY 1996 (a)</td>
<td>534,000*</td>
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</tr>
<tr>
<td>FY 1996 (b)</td>
<td>414,000*</td>
<td></td>
<td></td>
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</tbody>
</table>

* Bold line indicates when Asylum Officer Corps was established.

* Data are estimates and include 60,000 cases currently registered under the terms of the American Baptist Church v. Thornburgh, (ABC) settlement. There are another potential 90,000 cases, Salvadorans with "Deferred Enforced Departure," that could be added to this backlog, after December 31, 1994.

(a) Established workload based on 150 asylum officers.
(b) Estimated workload based on 300 asylum officers, starting April 1, 1994.

Source: INS, Asylum Branch

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**Refugee Reports**

**A News Service of the U.S. Committee for Refugees, a Project of the American Council for Nationalities Service**

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LIMON SETS NEW GOALS FOR OFFICE OF REFUGEE RESETTLEMENT

(In November, Refugee Reports interviewed Lavinia Limon, the new director of the U.S. Office of Refugee Resettlement (ORR) in the Department of Health and Human Services. Below are excerpts from that conversation.)

RR: When you first took over the helm at ORR, what did you see as the strengths and weaknesses of the refugee resettlement program?

LL: The program has been doing an amazing job. When you see what this program has managed to accomplish for a million and a half people in 18 years, you have to say that the program as a whole has done a fabulous job. Having said that, I view my job as working to make it better. Therefore, I have to focus on some of the weaknesses. But I would like everyone to understand that when I make statements about what we need to correct, it doesn't mean that I don't know about what works. It is very important to me that people understand that. I've been involved in the refugee resettlement program from all different aspects: overseas; at the national level; at the local level; and now at the federal level--and I'm very proud of the program.

I see the weaknesses of the program as perhaps beginning with an overbureaucratization. When there are large flows of particular people that we can predict year after year, we tend to structure the program in a certain way. I think maybe that has made us too rigid in our approach to the program and to helping the people who need help. There's a certain rigidity in the program that I would like to see become more flexible.

In the last 12 years or so, there has been a real focus on employment. I think that perhaps the pendulum has swung too far, and we need to come back a little bit more into the middle. We still need to keep a focus on employment as something that is very valuable. Employment is having a purpose when you get up in the morning, it's vital for everyone's mental health. But I think we need to broaden our overall perspective and look at the other needs that families have when they come to this country.
RR: Did you come to ORR with any specific goals or objectives that you had wanted to see ORR work towards when you were in the private/voluntary sector?

LL: No, I really didn't, which I think is rather amazing. Obviously, after I was told that I had the job, I did a lot of thinking about what I wanted to do. I knew that I wanted the program to become more directed towards the needs of refugees and less directed towards the needs of those of us who work in the program. I also knew that one of my specific goals was wanting the program to have a major focus on women and families. We need to look at families as a whole and strengthen those families through the provision of our services, and not treat people in isolated, individualistic ways. We need to look at a family's structure and look at how we can help that family move in the direction that they have decided that they want to move. Addressing the needs of women becomes really important in that configuration.

RR: Can you give me some examples of specific kinds of programs you would like to develop for women?

LL: Women refugees very often suffer things overseas, such as rape and loss of family members, that we tend to ignore in our programming. Also, women often put aside going to programs like English as a Second Language (ESL) and job-training until their husbands and children make progress. We need to address that. Another problem is the social isolation of women, particularly those who come from cultures where women don't operate as independently as in western cultures.

RR: I would like to ask you some questions about resettlement reform. Where is the constituency for reform? Within ORR? Outside ORR?

LL: I think it's everywhere. One of the positive things that happened out of last year's experience (the discussions over the Private or Transitional Resettlement Program [PRP or TRP]; see Refugee Reports. Vol. XIII, Nos. 3 and 10.)--is that everybody put their thinking caps on and said, 'Wait a minute. If we're going to change this, let's change it this way, let's change it that way,' and there was a great deal of discussion about it.

I think that from the Congressional level, there is a feeling that this program has been more costly and less effective than they would like. So I think that there's some impetus there.

I think there is impetus from the voluntary agencies in the sense that they want to see their involvement in domestic resettlement strengthened.

States clearly have a role, and they want to maintain that role. They want to have the authority that goes along with their responsibilities, and they were feeling a little put upon last year.

The Mutual Assistance Associations (MAAs) have been basically dealt with in a local or state fashion, and I think they want to strengthen their hand in how resettlement gets reconfigured.

RR: What is it that people, including you, want to see reformed?

LL: People see this program from their own perspective. When some people talk about reform, they are talking about structural reform on a national level, e.g. which sector does what. When other people say reform, they're talking about early employment, and not having to move people into jobs before they are ready. There are many different points of view.

In terms of the elements that I would like to see reformed, at this point I can only reiterate that I want to see the program designed around what refugees need. Of course, there has to be some structure for service delivery, and there has to be some sense of accountability in all this. But we can't systematize ourselves out of realizing that we deal with human beings who have different sets of needs and different sets of problems. The measure of my success will be my ability to balance the bureaucratic needs and the human needs. At this point, I think that we need to shift a little more to the human needs.

RR: You've held a series of regional consultations around the country. What are the major lessons you learned from those consultations, and what are some program or policy outcomes that may come out of them?
First, let me say that people who work with refugees are incredibly dedicated. I was not surprised, but was impressed by that. One of the things I learned is how different structures are in different places. Some of the other things I heard around the country were:

- A call, from lots of refugees in particular, for orientation. I thought we had done orientation years ago. We put together orientation books, and orientation programs, and everybody shared, and we thought orientation was done. But what has happened is that orientation has not kept pace with what refugees are going through now, and that needs to happen.

- ESL. There is not enough ESL out there; people are waiting for ESL.

- I heard from a lot people that the focus on employment, and the way the contracts are structured in terms of performance-based expectations and contractual requirements, hamstrings agencies from doing what needs to be done for the individual.

- I learned that in some areas there is really good coordination and in other areas there’s not enough coordination going on.

- I saw a lot of refugees from new refugee groups: Kurds, Somalis, Iraqis, and other folks who really felt that they don’t have a place in this program. That’s something that we have got to address.

**RR: How?**

**LL: How?** Well, you bring them in. You bring them in as players. I’m not talking about funding them as MAAs. I’m talking about bringing them to the table and talking with them about their needs. They need culturally and linguistically
compatible programs. That makes it tough. Four months ago, I was the employer of people who have been in this program eight and ten years—Vietnamese who are now dealing with Somalis. Do you think I want these people to be laid off? No. But what are we going to do about that [the need for culturally and linguistically compatible programs and services for new refugee groups]? We are going to have to lay people off. We have got to do this. We've got to have people who can deal with our new populations.

I've also done a lot of talking about a 36-month limitation on services. How long is a refugee a refugee? There are all kinds of answers to that, depending upon where you sit in this program. But at this point, 36 months looks like a good point to me as to when ORR-funded programs stop serving people—and if they have further needs, they go to mainstream programs. If we start putting time frames on our services, then we can start measuring our success a little bit better, we can articulate that better to the people who make decisions about funding and admissions, and we can find ourselves in a better position overall.

RR: How would a 36-month limitation affect the Planned Secondary Resettlement (PSR) program?

LL: It would probably not exist. PSR has clearly been a real success—with a limited number of people. Compared to long-term welfare dependency, it is cheap, but it's not necessarily cheap in the short-term as regards ORR funds. To me, you have to weigh the effect of that program versus providing more services more effectively to people who just got here. It's a hard thing to call, but at what point do we cut off? Right now we're in a mode where we want to focus our resources on the early stages of resettlement and see if we can be more successful with that, rather than be assisting people who have been here eight or nine years.

RR: How do you see resettlement reform being affected by reduced admissions?

LL: Reduced admissions and the changing nature of admissions are both very big issues. One of the biggest challenges to resettlement reform is the diversity issue. In the future, we're likely to have smaller groups of refugees from different areas of the world. We have to be able to accommodate that, and that's going to be really tough.

We also have to be able to expand and to shrink the program according to the admission levels. If the numbers go from 120,000 to 60,000, how many people do we need out there doing this work? It's something that none of us wants to contemplate, particularly those people who would be responsible for laying people off. But it is a reality, and not to respond to that reality keeps a structure larger than the number of admissions warrants, which keeps the price of the program up, which then makes Congress and other people less likely to want to bring people in.

I view my responsibility as making this program as effective, efficient, and cost-efficient as possible, so that those people who make the decision about how many refugees are going to come here are free to make that decision based on the humanitarian concerns overseas and not the cost of the program domestically. If we can't run a program that's totally justifiable, there are going to be fewer opportunities for people in the future. Then we would have to take responsibility for that. I'm real serious about that one.

RR: In what ways will welfare and health care reform—particularly welfare reform—affect resettlement reform?

LL: As you know, the Administration is still developing its welfare reform package. We're in touch with that. We expect to have whatever policies we issue consistent with welfare reform. Welfare reform will have a profound effect on areas where there are long-term dependent refugees. We have made the case internally that issues like language need to be taken into account when they're making these policies, but refugees who have been on welfare for a long period of time will be affected by welfare reform measures like everyone else.

Health care reform? It would be wonderful to have everyone covered by health insurance, and if the President can make that happen that'll be really terrific for refugees. That'll solve a lot of problems.
RR: You have referenced a need for locally designed services systems that build on existing strengths, as opposed to a singular national model. Do you endorse a block grant approach to states as the best funding methodology to achieve such a service strategy?

LL: No, the block grant approach is not what we are talking about.

RR: Do you then propose a nationwide Fish-Wilson approach, with different types of programs in different areas? Voluntary agencies have voiced concern about that approach.

LL: First of all, we need to recognize that what exists has a lot of variety in it. When I'm talking about having locally designed programs, what I mean is that there are programs that work that have been locally designed, and I have no intention of changing those programs with some sort of national edict that everyone has to get in line with. When we talk about a national program, we're going to have standards that are going to be national, there are going to be expectations that are national. We're trying to rationalize this program without dictating it. It's a fine line; it's very difficult. So, if I've been unclear about this, it's probably because it's so difficult to find the way to give people a kind of local autonomy, to build on their strengths and minimize their weaknesses, and yet have a national program that can be described. And I intend to have a national program that can be described. That's very important. I want the program nationally to give people a guideline or format. We cannot design this program for Los Angeles, Miami, and New York. There's a whole wide world out there where resettlement is being done by very few people, in small communities, with very few resources, and they're doing a great job. I don't want to mess that up. I think we have to respect it, and we have to allow that to happen.

RR: One last question on reform. Could you address how you see case management fitting in?

LL: I address case management as a concept in my mission statement in connection with the "primary relationship." I use that term rather than case management deliberately, because people's concepts of "case management" vary quite a bit. I know that the voluntary agencies are working on articulating what case management means, and I look forward to seeing that. What I mean by "primary relationship" is the relationship that a refugee establishes with someone whom they can always go back to over a long period of time as issues come up in their resettlement process. Having such a relationship is absolutely crucial. That and English are probably the two things that we most need to make available to refugees. If they can get the language, and if there's somebody they can talk to about whatever happens, they'll do okay.

RR: My sense about the case management discussion in the PRP/TRP context was that voluntary agencies believed that if they had a longer time period during which they had primary responsibility for certain aspects of resettlement, that they would have greater opportunity to establish that primary relationship with refugees. Could you comment?

LL: I think it is a misuse of voluntary agency resources to have them just do the reception and placement and not be involved in the longer term. Where there are structures in which they are involved in a longer term, it tends to produce better results. I'd really like people to sit back a little, and rather than think about systems, think about human beings, and take this from a human being point of view. What do we really expect refugees to go through? What is it they really want? Can we start from there? When I say, "Build on their hopes and aspirations," I've had people say to me, "What if they want to get a Ph.D?" I say, "Fine, what can you do in the first year that will help them get a Ph.D ten years from now?" English and employment--they're always going to be first steps. That's what I'm talking about.

RR: You touched earlier on the MAAs. How will the reduction in the admission of Indochinese and [former] Soviet refugees affect existing MAAs. And why don't you envision an ORR role in helping create new MAAs?
MAAs were developed by groups of people who were concerned that their countrymen and countrywomen were not getting the kinds of resettlement services that they needed. If you remember, MAAs originally wanted to be voluntary agencies, they wanted to be involved in the resettlement. That didn't happen for a variety of reasons, some of which were political. For the most part, MAAs became funded service providers through the states and counties. With the emphasis on unemployment, they became, to a great extent, employment service providers. And many of them have done fabulous jobs. To me, however, MAAs were created to help their community. And doing employment programs is important, but it is not necessarily the entire breadth of their mission. I would like to see MAAs doing mission-based programs, looking at the variety of needs that their communities may have, and developing programs to address those needs. And I would like ORR to help them do that. We'll see how far we can get with that.

Now, I understand from the Department of State that in a couple of years the flow of Indochinese refugees is going to be minimal, if not completely finished. Where does that put Indochinese MAAs vis-a-vis ORR? I don't believe that the purpose of ORR is to fund ethnic organizations over the long term. I think our function is to help refugees resettle. Ethnic organizations can be helpful in that process. I would like to see MAAs doing mission-based programs, but they have to understand that over time they will not be depending on ORR for funding. That funding needs to come from their own communities and from other local sources.

RR: Do you think that as the refugee resettlement program shrinks, other states may decide to drop out of it?

LL: It is possible that as the program diminishes, that states will not feel it's in their best interest to continue their involvement. But I believe that it is in everyone's interest to have a national program, so that the entire country is available to refugee resettlement. We should do whatever balancing acts are necessary to achieve that–including perhaps cluster placements (though that would not be a reason for doing cluster placements; my reason for wanting to do cluster placements is that it's better for refugees to be in localities that have better economic environments, better housing stock, better education systems, friendlier environments).

RR: The Amerasian program is an example of cluster placement. How have you seen that working?

LL: I don't know that much about that program, but everyone who is involved just waxes poetic about what a great program it is. I know they feel that they accomplished a lot. I understand that one of the key elements to that program was the pre-planning that went in prior to the Amerasians arriving. And pre-planning not just within the resettlement community, but with schools and health officials, and other people in the community who would be impacted or serving the Amerasian population, and that those planning and coordinating efforts were absolutely key.

RR: If you look back over the last few years, the discussion about reform has been largely driven by announced or proposed budget cutbacks: in a sense it has been the lack of "fuel" that has made the reform engine run. As we look ahead to future budgets, and bearing in mind probably reduced admissions in the not-too-distant future, what do you see evolving?

LL: Before we talk about budgets, we have to talk about reauthorization. Then we have to talk about whatever kinds of programs or changes we want to make. Then out of that come the budgets.

I know that many of the attempted or real changes in this program have been budget-driven. I really want to work the opposite way. Now that's easy for me to say, but I think that, again, one of the good things that came out of last year's debate on PRP/TRP was that even Congress took note of concerns about the program. Everyone is waiting for a rational response [to those concerns], and if we can come up with that, then the money will come, because we will have articulated a rational program consistent with the admissions.
RR: Are you able to comment on the length of time for which you see—or would like to see—refugee cash and medical assistance available?

LL: Clearly, when you look at it from a program point of view, eight months is barely sufficient for what needs to be done, and twelve months would be more appropriate. But there are financial realities, and we all have to work within those financial realities. I think we need to be planning for eight months, and hoping for more.

Recent Developments

700,000 REFUGEES FLEE BURUNDI IN FIVE WEEKS OF VIOLENCE

Since late October, some 700,000 persons have fled the central African country of Burundi, site of the world’s deadliest, most explosive upheaval in recent weeks.

Although confirmation is not yet possible, some observers believe a staggering 200,000 Burundians have been killed in their country’s political and ethnic massacres, sparked by an October 21 military coup attempt against Burundi’s democratically elected government. In addition to 700,000 new Burundian refugees in neighboring countries, weeks of unchecked bloodshed have left some 150,000 Burundians internally displaced.

Many of the killings are the result of civilian-versus-civilian violence, although Burundi’s military units continue to participate in the slaughter, according to reports.

Burundi, a geographically tiny, densely populated country of 5.6 million population, has a long, tragic history of ethnic conflict and refugee flight. Ethnic Tutsi number about 15 percent of the population but have historically controlled the country’s government and military. Ethnic Hutu constitute approximately 85 percent of the population but have historically lacked political power.


Burundi’s upheaval since October 21 may be the deadliest yet. The country’s first ever democratic elections last June shifted political power to the majority Hutu and elected a Hutu as president. Most Burundians, including Tutsi, appeared ready to embrace the election results in a spirit of national reconciliation.

Sections of the Hutu-dominated military, however, executed the president and four other top government officials during the October 21 coup attempt. Although the coup stopped short of a military takeover and military leaders now claim loyalty to remnants of the elected government, the government has been effectively decapitated. Most government leaders remain in hiding for fear of additional military executions.

Some 370,000 Burundians have fled to neighboring Rwanda, nearly 250,000 to Tanzania, and 50,000 to Zaire. The sudden, staggering number of refugees has overwhelmed relief efforts. Conditions at the impromptu refugee camps are desperate, with shortages of food, water, shelter, and sanitation.

“It’s an emergency situation out of control. It’s a catastrophe,” said an official of the United Nations High Commissioner for Refugees (UNHCR). More than 100 Burundian refugees are dying each day from cholera, dysentery, and malaria, UNHCR reported.

UNHCR has issued international appeals for $17 million to address the Burundi refugee crisis, but has received pledges of less than $5 million as of November 30. The International Federation of the Red Cross has appealed for nearly $3 million for Burundi.

State Department officials told Refugee Reports that they expect to devote more than $5 million to the emergency from the State Department’s Emergency Refugee and Migration Assistance fund.

Updates

- The U.S. Catholic Conference/Migration and Refugee Services (USCC/MRS) refugee processing office in Cap Haitien, Haiti was closed down from October 15 through November 5 for security reasons, but has resumed operations.
On November 18, the directors of twelve non-governmental refugee agencies wrote to Ambassador Warren Zimmermann, director of the State Department's Bureau for Refugee Programs, reiterating the call to end the government's policy of interdicting and summarily returning Haitian asylum seekers and expressing "grave concerns about in-country processing as well."

The letter cited low refugee approval rates and "the rejection of numerous seemingly well qualified cases," saying that a "very strict standard" was being applied. The directors, writing under the auspices of InterAction, suggested the possibility that "low approval rates have convinced some asylum seekers that the chance for approval is too slim to merit the risk of applying openly for asylum." They said, "If this continues, one must question the justification for in-country processing." They also protested that the voluntary agency personnel assisting in processing "do not have access to case files after adjudication has taken place."

Included among the agency directors signing the letter were the heads of USCC/MRS and World Relief, the two agencies representing the U.S. nongovernmental agencies in the in-country refugee processing in Haiti.

- President Clinton has made $424,000 available to offset the costs incurred by the government of Mexico in repatriating Chinese nationals who were diverted to its shores in July (see Refugee Reports, Vol. XIV, No. 7), according to a presidential determination published in the October 6 Federal Register, p. 51975.

- Persons who did not register for Temporary Protected Status because they were in valid immigrant or nonimmigrant status during the initial registration period will be eligible to apply for TPS, even if missing the initial registration deadline, according to an interim rule, effective immediately, published in the November 5 Federal Register, p. 58935.

- Temporary Protected Status (TPS) has been extended for Somalis until September 17, 1994. Only persons who registered for TPS in the initial period ending September 16, 1992 and who re-registered for the second year will be eligible to re-register for the extension. TPS registrants will be permitted to work and protected from deportation.

- Sadako Ogata, the current UN High Commissioner for Refugees, has been re-elected to a new five-year term. Following nomination by UN Secretary General Boutros Boutros-Ghali, Ogata was re-elected by acclamation of the UN General Assembly. Ogata was first elected High Commissioner in 1991, replacing Thorvald Stoltenberg and completing the three years remaining in his term when he left to become Norway's Minister of Foreign Affairs. Ogata's new term runs through 1998.

- Dawn Calabia has been appointed Senior External Relations Officer for the Washington, D.C. office of the UN High Commissioner for Refugees (UNHCR). Calabia will be responsible for increasing information sharing and dialogue with the U.S. Administration, Congress, and the private sector on how to improve assistance and protection for the world's refugees. From 1989 to 1993, Calabia served as Director for Refugee Policy and Program Development and International Affairs for the U.S. Catholic Conference/Migration and Refugee Services (USCC/MRS).

- Matthew Giuffrida, director of the American Baptist Churches Human Services Program and chair of the Church World Service Immigration and Refugee Program Committee, has retired after 38 years in the field of refugee and migration services.

- Refugee Voices, a Washington, D.C.-based nonprofit organization, has received the 1993 Achievement in Radio (AIR) award for Best Special News or Public Affairs Program. The AIR awards are sponsored by the American Federation of Television and Radio Artists and the Washington Area Broadcasters Association. "Eritrea Miracle Land," the award-winning episode, is part of a series that Refugee Voices distributes to 61 stations throughout the country. Refugee Voices also produces public service announcements that air on 250 radio stations.
Field Notes

REFUGEES AND MINORITIES IN CROATIA

Refugee Reports staff writer Tom Argent recently returned from Croatia, where he assessed the current state of asylum for Bosnian refugees, as well as the situation of ethnic minorities in Croatia. In this report, "Croats" and "Bosnians" are nationals of those two states, regardless of ethnic or religious identification. "Serbs," "Croats," and "Muslims" are members of individual ethnic/religious groups.

Sparked by partisan passions connected to Croat-Muslim conflict in Bosnia, Croatia has become an environment viewed by many as hostile to non-Croats, with Slavic Muslims now viewed by many Croats as enemies, just as were Serbs before them.

Croatia, which, following the events of 1991 was already home to some 250,000 internally displaced Croatians, has been struggling since April 1992 to meet the needs of the hundreds of thousands of Bosnian refugees who fled the conflict in that former Yugoslav republic. Initially, Croatian citizens, as well as the Croatian government, saw these refugees--Bosnian Croats and Bosnian Muslims alike--as victims of the nationalist Serb aggression in Bosnia. At one point, as many as 400,000 Bosnian refugees may have been present in Croatia. The majority were Slavic Muslims.

The Croatian government has long contended that the international community is not doing enough to offset the financial drain of the prevailing situation on Croatia's coffers, which the government puts at $2 million per day. In part because of this, and to attempt to force other countries into accepting more Bosnian refugees, Croatia has, during the past 18 months, acted to restrict access to asylum for Bosnians. Actions taken include its refusal to register new arrivals, its official closing of the border to would-be refugees, and its signing of a repatriation agreement with the Bosnian government, among others.

More recently, however, Bosnian Muslim refugees, estimated to comprise as much as 70 percent of the 270,000 refugees in Croatia, have become the specific focus of new actions--both official and unofficial--aimed at severely restricting their options within Croatia, if not forcing them out of the country.

The change can be traced to the full-scale war now raging in central Bosnia between the largely, although not exclusively, Muslim forces of the Bosnian Presidency (BiH) and the Croatian Defense Council (HVO), a largely Bosnian Croat militia backed by the Republic of Croatia. The conflict in central Bosnia has killed or uprooted tens of thousands and blocked routes critical to the transport of life-sustaining humanitarian supplies to central Bosnia and beyond. Armed members of both armies have committed atrocities against civilians, and this, combined with the nationalist fervor now in vogue in Croatia, has led some Croats--both within and outside the government--to see Bosnian Muslim refugees in Croatia in terms other than victims in need of help.

Refoulement In recent months, Bosnian Muslim refugees have been targeted for harassment and abuse, not only by individual Croats, but by Croatia's security forces. During one well-coordinated sweep on July 28 and 29, Croatian security forces arrested nearly 1,500 "illegal aliens" and forcibly returned several hundred, primarily Muslims, to Bosnia where they were immediately imprisoned by HVO to be used in prisoner exchanges with the BiH army. Some observers speculate that the number of Bosnians forcibly returned (refouled) may actually reach into the thousands.

Because Croatian authorities have refused to register as refugees many Bosnians, especially Bosnian Muslim males of draft-age, the number of undocumented refugees in Croatia likely extends into the tens of thousands. Undocumented refugees are particularly at risk. Following the July arrests and forcible returns, offices of the UN High Commissioner for Refugees (UNHCR) in Croatia were swamped with Bosnian Muslim refugees seeking UNHCR "protection letters."

However, even refugees possessing protection letters have been arrested and forcibly returned. Some refugees in Croatia interviewed by Refugee Reports claimed to have witnessed...
Croatian police tear up UNHCR protection letters, as well as other documents. There have also been cases of Croatian government-recognized refugees being forcibly returned to Bosnia. In many cases, UNHCR has argued successfully for the return of such persons to Croatia. However, it is likely that only a small percentage of the cases of those refouled have come to the attention of UNHCR.

In August, Croatian military police confiscated hundreds of automobiles owned by Muslim refugees. Many of the cars were later offered to Bosnian Croats as enticements to return to Croat-controlled regions of Bosnia. All this came on the heels of Croatia's implementation of its plan to empty Dalmatian coast hotels of Bosnian Muslim refugees, while permitting displaced Croations to remain in the same hotels. The stated reason for the moves was to open hotel rooms for the once-important tourist trade.

Many Muslims moved by the government were given three options: accept the move to refugee camps; accept offers of temporary protection from countries such as Pakistan; or lose refugee status and risk refoulement.

Targeting of Ethnic Minorities in Croatia But not only Bosnian Muslim refugees have been targeted. Serbs, Muslims, and others who were born elsewhere but have lived in Croatia for years are being ferreted out by Croatian authorities and business leaders who consider non-Croats to be undesirable guests. Many have been fired from their jobs solely because of their ethnicity. Since unemployed aliens cannot remain in Croatia legally, once fired, aliens become "illegal" and subject to arrest, and possibly deportation. Many of the those targeted are Muslims of Bosnian origin, some of whom have lived and worked in Croatia for twenty years. Once jobless, their residence permits are revoked. Their situation is a classic Catch-22: without jobs, they can't stay, but they can't get jobs without a residence permit, and the government is taking those away.

In an extreme example of citizenship laws gone astray, Refugee Reports learned of a 73-year-old man who had lived in Croatia since 1948, but is considered by the authorities to be a non-citizen living illegally in Croatia. The authorities want some outside organization to "resettle" him or to "return" him to Serbia. (The man is an ethnic Serb.)

In addition to official actions against minorities, Croatian nationalists have continued a string of bomb attacks against the homes and businesses of ethnic Serbs in Croatia. With the upswing in Croat-Muslim conflict in Bosnia, homes housing Muslim refugees have also been attacked by gun-wielding Croats.

Bosnian Croat Refugees Recently, the campaign has been extended even to Bosnian Croat refugees. In October, Croatia's Office for Displaced Persons and Refugees (ODPR) refused to renew the refugee status of ethnicCroats who fled certain HVO-controlled regions of Bosnia. Observers see the ODPR move as an attempt to convince Bosnian Croats that they should return to Croat-controlled regions and thereby bolster Croat claims for continued control. (Authorities in Serbia have taken similar steps.) About 1,000 of the refugees returned to their home areas in Hercegovina, but half found that their homes were too badly damaged to inhabit. When the homeless returnees again left Hercegovina for Croatia, ODPR acquiesced and renewed their refugee status, as the refugees/returnees had no other place to live.

Relieving the Burden Croatian authorities correctly point out that they have taken in nearly 300,000 Bosnian refugees. (In contrast, in FY 93, the United States admitted only 1,887 Bosnians for resettlement. Nearly 300 other Bosnians remain in the United States under Temporary Protected Status.) As long as Croatia feels the outside world has not done enough to ease its burden, and as long as Croatian political and military leaders continue to fan nationalist flames, the position of Bosnian Muslim refugees and others in Croatia is likely to deteriorate.

Projects and Programs

UN EXTENDS PROJECT ON THE INTERNALLY DISPLACED

Despite the fact that internally displaced persons--people dislocated within their home countries by war and persecution--far outnumber refugees worldwide, to date, there have been
few attempts to address systematically and institutionally the assistance and protection needs of this growing population, which today numbers at least 25 million. Historically, the needs of displaced persons, be they in Bosnia, Sri Lanka, Somalia, Sudan, or elsewhere have been approached only on an ad hoc basis, with no single body exercising overall responsibility for determining protection and assistance needs.

As a first step in addressing this situation, in March 1992, UN Secretary General Boutros Boutros-Ghali appointed Francis Deng, a Senior Fellow in the Brookings Foreign Policy Studies program, as his special representative to study the problems of internally displaced people. During his initial one-year appointment (which was subsequently extended for an additional two years), Deng was tasked with identifying the factors that inhibit greater assistance to, and protection of, the displaced. As part of that task, Deng submitted a report containing his preliminary findings to the UN Commission on Human Rights.

**Report to UN Commission on Human Rights**

Deng’s report to the UN, which drew heavily on six regions with significant internally displaced populations (former Yugoslavia, Russia, Somalia, Sudan, El Salvador, and Cambodia), identified the two most obvious gaps in approaching the needs of displaced people worldwide. The first is that internally displaced persons, because they remain within the territory of their home countries, do not generally fall under the mandate of any UN entity. Secondly, although individual human rights for the displaced may be affirmed in bits and pieces in various international legal instruments, there is no single legal document that outlines the specific rights of the displaced and the specific responsibilities governments and other entities have toward the displaced. Because of this, displaced people often fall into what Deng terms a “vacuum of national responsibility.” Various UN agencies, such as the UN High Commissioner for Refugees (UNHCR) and the Department of Humanitarian Affairs (DHA), as well as the International Committee of the Red Cross and nongovernmental organizations, try to fill this void, but doing so is a daunting task. To bring some order to the situation, Deng suggests developing a legal instrument "specifically addressing internal displacement" and, perhaps as a first step, adding internally displaced persons to the mandates of UNHCR or DHA.

However, doing so might prove a difficult task. Observers point out that the crafters of DHA’s mandate specifically steered away from human rights questions so as to make DHA operations within a country more acceptable to potentially resistant governments. Likewise, observers think it unlikely that UNHCR, already overburdened and underfinanced, would willingly accept assistance and protection responsibilities for an additional 25 million people. Also, UNHCR’s tradition of neutrality would seem to be at odds with the type of conflicts that likely would develop with particularly recalcitrant governments. Deng notes that this aspect of the problem "requires a delicate balance between respect for national sovereignty and the normative assumption that sovereignty carries with it responsibilities that cannot be disregarded with impunity."

At a recent roundtable discussion sponsored by the Refugee Policy Group (RPG), an independent center of policy analysis and research on refugee issues, Deng stressed that "one cannot overemphasize the problem" of internal displacement. Although there are many causes to internal displacement, according to Deng, "the most common and particularly formidable are internal conflicts, communal violence, forced relocation, and gross violations of human rights.... [T]he tragedy of internal displacement is ultimately that of war."

**The Challenges Ahead**

Deng highlighted the four general questions with which he will be dealing over the coming months: how best to create a set of recognized norms and standards that apply to displaced persons; how to approach the question of mandate; how best to make use of specific country profiles and studies; and how to address the concerns of governments around the world while working to improve the lives of internally displaced persons.

According to some observers, Deng has undertaken a Herculean task. He is the only individual in the UN system who carries the words "internally displaced" within his job title; budget
restrictions may limit him to only two on-site investigations per year; and his entire support staff consists of only one human rights officer. Recognizing that some could see his appointment to address the question of internal displacement as an end in itself, Deng warned in his report to the UN, "It would be tragically ironic if the international community were to see in the appointment..., a ground for complacency."

Deng’s original report to the UN has been revised and issued by the Brookings Institution under the title Protecting the Dispossessed: A Challenge for the International Community, and is available in paperback for $9.95 (Washington, D.C. residents add 6 percent sales tax), plus $3.00 for postage, from the Brookings Institution, Dept. 029, Washington, DC 20042-0029.

**Current Research**

**REPORT RECOMMENDS A MULTILATERAL APPROACH TO THE HAITIAN CRISIS**

The Washington-based Refugee Policy Group (RPG) has recently published a 35-page briefing paper entitled “Repression in Haiti: A Challenge for Multilateralism,” which takes a critical look at the current situation in Haiti and U.S. and international efforts to resolve the crisis. The paper recommends that the international community maintain its multilateral approach to pressure the Haitian military and that initiatives, such as responses to the possible refugee outflow, not be localized to regional or U.S.-sponsored action.

The paper reviews the current stalemate in Haiti where Haitian military forces refuse to abdicate positions of power and allow the restoration of the constitutional government of Jean-Bertrand Aristide. Although the paper characterized the UN/OAS-brokered Governors Island Accord as a “bold attempt to restore democracy to Haiti and address the root causes of repression and rural misery,” it asserts that the Accord had some drawbacks in that it did not detail guidelines for implementation, and also afforded “too many concessions” to the Haitian armed forces.

Much of the paper focuses on Haitian migration and the U.S. policy of interdiction. The paper characterizes the unilateral policy as “totally inappropriate” given its implications for international law. It cites UNHCR’s warning that other countries, including Bangladesh, India, and Malaysia, are now considering similar policies that could restrict rights of asylum seekers. The paper calls on the United States to suspend its policy of interdiction immediately, to comply with international law, and to deny a dangerous precedent for international refugee protection and rights to asylum.

Assessing the current situation in Haiti, “where cabinet ministers are gunned down in broad daylight, where arbitrary arrest is routine, and where hundreds of Haitians have been detained for months without trial,” the paper concludes that “the combination of interdiction and in-country processing is a dangerously misguided response to the crisis.” It recommends that the Haitian movement be treated as an “emergency migration” problem, to be dissociated from the U.S. agenda and addressed in the broader framework of multilateralism.

The paper presents several initiatives to help break the impasse while also addressing the human rights violations and security concerns of the Haitian people. It commends the multilateral approach to Haiti’s crisis, as evidenced by the Governors Island Accord negotiations involving the U.S., UN, and OAS, and strongly urges that the international community continue its joint efforts. The paper advocates for the return of the 240 UN/OAS human rights monitors, now in adjoining Dominican Republic, as “a visible reminder...of [international] commitment to restore the rule of law.” It endorses the establishment of temporary safe haven zones within the Caribbean, which could also serve as processing centers for asylum claims, as suggested early on by UNHCR. Lastly, the paper urges that ships enforcing the economic embargo against Haiti should, in compliance with international law, rescue and transport Haitian boats in distress to the nearest port of call.

“Repression in Haiti: A Challenge for Multilateralism” is available for $8.50 from RPG, 1424 16th Street, NW, Suite 401, Washington, DC 20036. Tel: (202) 387-3015.
Reader Exchange

RESEARCH FELLOWSHIPS AND AWARDS - YORK UNIVERSITY

York University in Ontario, Canada, has available a number of fellowships, scholarships, and awards for research on refugee issues. These include the Kathleen Ptolemy Research Fellowship (Can. $15,000), to facilitate a visiting scholar from a developing country to undertake research on refugees, the Naomi Harder Refugee Award (Can. $15,000), and five General Refugee Awards (each of Can. $9,000). Candidates for these awards should submit a statement of intent, curriculum vitae or résumé, academic records, two letters of reference, and a sample of research or publications to York University’s Centre for Refugee Studies not later than March 15, 1994.

In addition to these awards, some funding support is available for visiting scholars engaged in long-term (one academic year) research projects through the Centre for Refugee Studies. Persons interested in either the fellowships/awards or the visiting scholar program should send application materials to: Helen Gross, Student/Faculty Liaison, Centre for Refugee Studies, York University, Suite 322, York Lanes 4700 Keele Street, North York, Ontario, Canada M3J 1P3.

In conjunction with the Centre for Refugee Studies, the Osgoode Hall Law School at York University has established two fellowships, each of Can. $10,000, to permit two students to pursue studies leading to Master of Laws or Doctor of Jurisprudence degrees. The fellowships will be awarded annually to candidates with excellent academic records in law, and who want to pursue graduate research in international refugee law or a closely related field. Preference will be given to applicants with a demonstrated commitment to human rights advocacy or service to the disenfranchised, and to the advancement of human dignity through public international law.

To apply for either of these awards, the Jacqueline Greatbatch Memorial Fellowship and the Atle Grah-Madsen Memorial Fellowship, submit a statement of intent, curriculum vitae or résumé, academic records, and two letters of reference for either the LL.M. or D.Jur. program not later than February 15, 1994 to: The Director, Graduate Program in Law, Osgoode Hall Law School, York University, 4700 Keele Street, North York, Ontario, Canada M3J 1P3.

ORR ENCOURAGES SERVICE PROVIDERS TO REFOCUS MISSION

Challenging participants to affect “national policy and create a new focus” for the Office of Refugee Resettlement (ORR), director Lavinia Limon opened a two day meeting in Washington, D.C. on November 18 dubbed “Mission Refocus.” The meeting was part of Limon’s effort to develop a new mission statement for ORR and enter into dialogue with refugee leaders and service providers about ways to integrate refugee women’s issues into ORR’s new mission focus.

The meeting focused on Limon’s intent “to provide national leadership on refugee women’s issues” and was designed to allow for a free exchange of ideas between participants and ORR staff.

ORR staff led working groups and brainstorming sessions in which participants critiqued current programs and suggested new initiatives. One session considered the barriers refugee women have historically faced in gaining equal access to ORR services.

Staff member Marta Brenden explained that the office’s issue paper on a three-tiered approach to refugee women, which was discussed and revised during the proceedings, was offered as a working document and said that ORR would “welcome ongoing feedback.”

According to Limon, the sharing of ideas and strategies will be a key to the success of ORR’s refocused mission. In referring to initiatives for refugee women she admitted, “You need to...make sure [women] are on the agenda. Sometimes they get off the agenda and we don’t even know it. It is our duty and our responsibility to remind each other.”

Persons interested in receiving and commenting on the latest version of the working document on refugee women’s issues should contact Carmel Clay-Thompson in writing at ORR’s offices, 370 L’Enfant Promenade, SW, Washington, DC 20447-0001.
Reader Exchange

BOSNIAN WINTER

Refugees International, a Washington, D.C.-based advocacy group, has announced the publication of a bi-weekly newsletter, Bosnia Winter Watch. The newsletter will detail the obstacles to providing humanitarian aid in Bosnia and Herzegovina this winter, and the human fall-out that is likely to result. For information on Bosnia Winter Watch, contact Mark Prutsalis of Refugees International, 21 Dupont Circle, NW, Washington, DC 20036. Tel: (202) 828-0110.

Conferences

The National MultiCultural Institute will hold its ninth annual National Conference in Washington, D.C. from May 19 through 22, 1994. Among the more than 35 workshops on issues of diversity will be: The Media and Cultural Stereotyping; Cross-cultural Conflict Resolution; International Inter-ethnic Conflict and Resolution; and Counseling Challenges in Refugee Services-A Roundtable.

For information on the conference, contact the National MultiCultural Institute, 3000 Connecticut Avenue, NW, Suite 438, Washington, DC 20008. Tel: (202) 483-0700, FAX: (202) 483-5233.

Job Board

Assistant Deputy Director The International Catholic Migration Commission’s (ICMC) Refugee Data Center seeks an assistant deputy director to assist with management, supervision of staff, quality control, budget preparation, and project development. Requires college degree and excellent communication, organization, and management skills. Contact: Send letter of interest with salary requirements and résumé to: Livia Farkas, Director, Refugee Data Center/ICMC, 200 Park Avenue South, Room 911, New York, NY 10003. No phone calls please.

Resources

UNHCR REPORTS ON THE STATE OF THE WORLD’S REFUGEES

In its first-ever publication of the kind, the office of the UN High Commissioner for Refugees (UNHCR) has published a comprehensive report that, in the words of UN High Commissioner for Refugees Sadako Ogata, seeks “to define the current agenda of refugee protection.” The report examines evolving strategies that aim both to preserve asylum for those who need it and to address all stages in the development of refugee policies through preventive initiatives, emergency response, protection, and the promotion and consolidation of solutions.

The report gives considerable discussion to the timely topics of the needs of the growing number of internally displaced persons throughout the world, protection in times of conflict, protection needs of returnees, and the threat to asylum in the West, given the large number of refugees and economic migrants in the world.

The State of the World’s Refugees contains a number of other items of interest to those concerned with the refugee condition. These include UNHCR’s accounting of the number of refugees throughout the world, excerpts from appropriate international legal instruments, and chronologies of significant events in the recent histories of Cambodia, Somalia, and the former Yugoslavia.


MINORITIES AT RISK RESULT IN CONFLICT, REFUGEE FLIGHT WORLDWIDE

Conflict among ethnic groups, rather than wars between countries, is the major source of the world’s refugees and internally displaced persons, according to Minorities At Risk: A Global View of Ethnopolitical Conflicts.

The study, conducted by Ted Robert Gurr, professor of government and politics at the University of Maryland, identifies 233 politically active ethnic, religious, and communal groups
worldwide, composed of 900 million people, equal to one-sixth of the world’s population.

Using as a baseline the numbers of refugees and displaced persons presented in the 1992 World Refugee Survey, Gurr estimates that 18 of the 23 million internally displaced and 6.8 million of the world’s 16.6 million transnational refugees were fleeing from communally based conflicts.

The 431-page study examines the disadvantages and grievances of ethnic and communal groups and why they mobilize. It explores trends in ethnic violence worldwide and analyzes conflicts region-by-region, including the Middle East, Eastern Europe, Africa, Western democracies, and Japan.

Sub-Saharan Africa contains the highest proportion of minorities at risk—some 42 percent of the population, the study concludes. Prior to the break-up of the Soviet Union, Eastern Europe contained the second largest percentage of minorities, at 35 percent.

Minorities At Risk rejects the notion that ethnic conflicts are intractable and proposes several strategies to settle such disputes, ranging from power sharing or political autonomy to secession.

The study says that of 30 “ethno-nationalist” wars of independence since 1944, 14 have led to independence or partial accommodation, three have resulted in protracted ongoing negotiations, seven have been suppressed without significant accommodation, and six have deteriorated into persistent or escalating conflict.

Minorities At Risk is available for $37.50, cloth, and $24.95, paper, from the U.S. Institute of Peace, 1550 M Street N.W., Washington, D.C. 20005. Please include $3.00 for postage and handling.

REPORT REVIEWS ABUSES AGAINST UPROOTED LIBERIANS

Liberia: Waging War to Keep the Peace—The ECOMOG Intervention and Human Rights reviews the history of the conflict in Liberia that created a mass exodus of over one-quarter of the Liberian population, and internal displacement of another one-third. The report, published by Africa Watch, describes the warring factions and summarizes the history of atrocities throughout the war.

All parties in the war have questionable human rights records, and refugees have been the target for several heinous incidents. In May 1990, soldiers attacked a UN compound in Monrovia, shooting indiscriminately and abducting 40 refugees. On June 6, 1993, soldiers attacked a refugee camp at Harbel, murdering up to 600 refugees, including infants. A UN investigation blamed former government soldiers.

The West African peacekeeping force, known as ECOMOG, intervened in Monrovia in August 1990 in an attempt to impose a cease-fire. The report says that none of the countries participating in ECOMOG had exemplary human rights or democratic records and, therefore, human rights was not part of ECOMOG’s mission.

Africa Watch offers suggestions for ECOMOG, the UN, and the US, including the repatriation of refugees and the return of internally displaced persons, and urges accountability for past human rights abuses.

This document may be obtained for $3 from Africa Watch, 1522 K Street, NW, Suite 910, Washington, DC 20005. (202) 371-6592.

REPORT CONDEMNS ABUSES BY ALL SIDES IN SUDAN’S CIVIL WAR

A recent report by Africa Watch details abuses in southern Sudan committed by the three major military combatants in the country’s long civil war. Approximately 400,000 southern Sudanese have fled the country, and some 1.6 million southern Sudanese are internally displaced. The Africa Watch report cites a new estimate by the U.S. Committee for Refugees that some 1.3 million southerners have died as a direct or indirect result of the war.

The report, War in South Sudan: The Civilian Toll, condemns the government’s military and both rebel factions in the south for perpetrating abuses against the civilian population. Africa Watch has documented incidents of illegal imprisonment, torture, and forced relocations by all three groups. The warring parties have hampered efforts by humanitarian groups to deliver assistance to the civilian population.

To obtain a copy of War in Sudan, write Human Rights Watch, Publications Department, 485 Fifth Avenue, New York, NY 10017-6104. The cost is $3.
### Indicative Numbers of Asylum Applicants in 20 Industrialized Countries: 1983-1992 (in thousands)

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**Sources:** Statistics from national governments provided to UNHCR and the intergovernmental Consultations on Asylum, Refugee and Migration Polices in Europe, North America, and Australia; U.S. Department of Justice, 1990 Statistical Yearbook of the Immigration and Naturalization Service. Wash., DC: 1991.

1. Data refer to the number of applications ("cases") filed with the Immigration and Naturalization Service (INS). Cases filed by apprehended aliens or those denied by the INS that were renewed with immigration judges are excluded. Data are reported by U.S. Fiscal Year (October to 30 September).

2. The 1992 figure includes refugees resettled under "LUEVE" quota, whereas previous years do not. Persons under the age of 16 are not included.

3. Figure for 1992 refers only to the "Federal Republic of Yugoslavia" (Serbia and Montenegro).

4. Data refer to persons originating from outside the territory of former Yugoslavia. Figure for 1992 refers only to the "Federal Republic of Yugoslavia" (Serbia and Montenegro).

- Fewer than 50 applications: Not available
- Estimated figure

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Reference Reports

A News Service of the U.S. Committee for Refugees, a Project of the American Council for Nationalities Service

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On November 19, the Senate passed the anti-crime bill, S. 1607, by a 95-4 vote, which includes a number of provisions relating to undocumented aliens, such as increasing to 20 years the sentence for placing an alien’s life in jeopardy while smuggling him or her into the United States. The sentence would be increased to death or life imprisonment if the alien dies.

An amendment introduced by Sen. J. James Exon (D-Neb.) and passed by an 85-2 vote would deny a series of federal benefits, including Aid to Families with Dependent Children (AFDC), Supplemental Security Income (SSI), food stamps, Medicaid, except in emergencies, and unemployment compensation to undocumented aliens. The Exon amendment essentially restates current law. It initially took a harder line, but was toned down in the course of debate.

Another amendment would require states and local governments or agencies to cooperate with the Immigration and Naturalization Service (INS) in its enforcement efforts or be prohibited from receiving any federal anti-crime funds authorized by the bill. The amendment, which passed 93-6, seeks to undo local “sanctuary” initiatives, most of which were passed in the 1980s.

Another amendment, introduced by Sens. Alan Simpson (R-Wyo.) and Richard H. Bryan (D-Nev.), and passed by voice vote, would lift the confidentiality restrictions on legalization applications in cases where a court determines that the information could be used for criminal alien law enforcement. The amendment would also expand the definition of “aggravated felony,” to include, among others, alien smuggling and document fraud for the purpose of commercial advantage. Among other provisions intended to facilitate the deportation of criminal aliens, the amended bill would eliminate administrative hearings and discretionary relief from deportation, and severely limit judicial review, for aliens convicted of aggravated felonies. A habeas corpus review of a deportation or exclusion order for an aggravated felon would be limited to determining whether the alien is in fact an
alien as defined in that section of the Immigration and Nationality Act (INA) "and no court shall have jurisdiction to review any other issue."

The Simpson-Bryan amendment would add aggravated felons as a group excluded from the mandatory bar to deportation under INA 243(h) for aliens whose life or freedom would be threatened upon return.

The bill would also amend section 208 of the INA, by affirming that "an applicant for asylum is not entitled to engage in employment" except under the discretion of the Attorney General. It further states, "The Attorney General may provide for the expedited deportation of asylum applicants whose applications have been finally denied."

S. 1607 would also create a "special court" to hold secret proceedings to remove alien terrorists in cases where an open deportation hearing would disclose classified information, and in which a judge determines probable cause to believe that the alien poses an immediate threat of death or serious bodily harm.

The Senate bill will likely be subjected to a House-Senate conference committee. The House of Representatives has passed some less ambitious anti-crime bills.

- The government of the Bahamas has instituted strict new policies to apprehend and deport Haitians, according to press reports. The campaign includes raids on Haitian neighborhoods and places of employment. Even legal residents have reportedly been denied work permits and detained. The crackdown is causing increased numbers of Haitians who have been residing in the Bahamas to attempt the 50-mile boat voyage to the United States.

- On December 7, ten persons were arrested after being forcibly returned to Haiti by the U.S. Coast Guard. They had been among 28 persons on a boat that was interdicted and returned to Port-au-Prince, and were accused of organizing the boat journey.

- On December 19, a mixed group of seven Cubans and ten Haitians arrived in Miami aboard the same boat, which they bought and launched from the Bahamas. Their arrival brought into stark relief the differing legal statuses of the two nationalities under U.S. immigration law. The Cubans, who are automatically eligible to adjust to permanent resident status after one year, were released; the Haitians were detained and placed in exclusion proceedings.

In another incident, an unidentified Haitian woman on a boat bound from the Bahamas to the United States reportedly threw herself into the sea after her baby died. The apparent suicide was announced by the Coast Guard on December 22, based on accounts from other passengers aboard the vessel.

- Haiti's exiled president, Jean-Bertrand Aristide, announced on December 24 the convening of a conference to seek alternatives to the U.S. policy of interdicting and summarily returning Haitian boat people. The announcement was seen as an indication that Aristide may be shifting his position on the Clinton Administration's Haitian refugee policy.

- Governor Lawton Chiles of Florida announced on December 31 that Florida would sue the federal government to recoup its estimate of the costs incurred by the presence of undocumented aliens in the state. In a letter to Florida's Attorney General, Chiles wrote, "The people of Florida should not be compelled to subsidize the entry of illegal aliens into the United States, nor should they tolerate continued failure of the United States Government to carry out its duty under the law." The courts have previously dismissed similar suits brought by the states of New York and California.

- Fidel Castro's daughter, Alina Fernandez Revuelta, an outspoken critic of her father who had not been permitted to leave Cuba, has been paroled to the United States after managing to get to Spain, according to the December 23 Washington Post.

- The Office of Refugee Resettlement (ORR) published a final rule in the December 8, 1993 Federal Register, Vol. 58, No. 234, detailing the new methodology that ORR will use to determine the period of eligibility for Refugee Cash Assistance (RCA) and Refugee Medical Assistance (RMA) each year.

The rule, which takes effect January 7, 1994, removes from 45 CFR part 400 all references to a specific duration of eligibility. Due to cutbacks in funding for the refugee resettlement program, the period of eligibility for refugee resettlement assistance, which prior to 1982 was 36 months, has been
reduced to eighteen, twelve, and, more recently, eight months. In 1993, ORR published several rules proposing different periods of eligibility that would apply depending on the amount of funds available to ORR. By adopting the new methodology, ORR will no longer have to publish a new rule each time the eligibility period changes. A notice in the Federal Register detailing the change will suffice.

The methodology ORR intends to use to determine the eligibility period includes five steps, which are detailed in the final rule. ORR received 46 comments in response to the notice of proposed rulemaking that set out the proposed methodology in July 1993. The comments and ORR's responses to them are included in the December 8 Federal Register notice. All but one of those commenting on the proposed rule opposed it. ORR rejected most of the comments. The final rule is therefore much the same as the proposed rule.

- The INS has issued new instructions for processing employment authorization requests for asylum seekers. The six-page memorandum, issued December 1, shifts responsibilities in adjudicating and processing work authorization requests from the seven asylum offices to the INS's four regional service centers. The most immediate change is for new applications, which now will be initially adjudicated as frivolous or nonfrivolous by "asylum-trained officers" at the service centers, and further batched and processed there.

- Nationals of Lebanon will no longer be presumed eligible for voluntary departure, according to a December 7 INS memorandum. Nationals of Lebanon, who were designated for temporary protected status (TPS) on March 27, 1991, have been protected since that time from deportation and authorized to work. TPS expired in April 1993, at which point Lebanese were presumed eligible for voluntary departure, which, in effect, carries the same protections. The presumption for voluntary departure is now being dropped, according to the memo, "in consideration of current conditions in Lebanon." Further requests for voluntary departure will be considered on an individual basis. Nevertheless, The State Department still forbids Americans from traveling to Lebanon due to the high risk.

- President Clinton has appointed former Texas Congresswoman Barbara Jordan to chair the U.S. Commission on Immigration Reform. The nine-member commission was created by Congress in 1990 to evaluate the impact of recent changes in immigration policy and to recommend further changes. Jordan currently holds the Lyndon B. Johnson Centennial Chair in National Policy at the LBJ School of Public Affairs at the University of Texas in Austin.

- Jan Eliasson, Under Secretary General for Humanitarian Affairs and UN Emergency Relief Coordinator, has announced that he will leave his post at the end of January 1994. Eliasson is leaving to assume a senior position in the Swedish Foreign Ministry. No successor has as yet been named.

### Conferences

The University of Montana, in conjunction with the Japan International Cooperation Agency, will host an international symposium on refugee and development assistance titled Training for Refugee Repatriation. The symposium will be held on the University of Montana campus from March 27 - March 29, 1994.

The symposium is designed to bring together representatives of government and international agencies, NGOs, and the academic community who are involved with refugee and/or development assistance for the principal purpose of exploring and developing appropriate training strategies for refugees returning to their homeland. The symposium will feature workshop sessions on training strategies, regional approaches and lessons, re-entry and reintegration, and policy decisions affecting training for repatriation. UN High Commissioner for Refugees Sadako Ogata has been invited to deliver the keynote address.

Individuals and organizations interested in attending the free symposium should request registration materials from Dr. Peter Koehn, Director, Office of International Programs, University of Montana, Missoula, MT 59812. Tel: (406) 243-2288, FAX: (406) 243-2797.
Job Board

**Project Manager, Croatia** Immigration and Refugee Services of America (IRSA), formerly the American Council for Nationalities Service, seeks an experienced project manager to lead its program in Croatia. Manager will design, implement, and administer social service projects for refugees and internally displaced persons, with an emphasis on the needs of youth. Requires demonstrated project management skills, experience in delivery of social services or in community development, and ability to work with local NGOs and UN agencies. Familiarity with refugee issues helpful, and Serbo-Croatian language skills preferred. Start date in early 1994 for a minimum of one year.

**Contact** Send cover letter and résumé to: Jacqueline Stromberg, 1717 Massachusetts Avenue, NW, Suite 701, Washington, DC 20036. FAX: (202) 347-3418.

**Executive Directors** Middle East Watch and Americas Watch, two of the five regional divisions of Human Rights Watch, seek executive directors responsible for monitoring and promoting human rights within these regions. Each executive director represents the organization before the press, meets with high-level officials, sets regional priorities, supervises researchers, and coordinates activities with allied organizations. The two positions may be based in either New York or Washington, D.C. Requires thorough knowledge of human rights issues, a commitment to promote human rights, substantial experience in the region, and demonstrated ability to lead and manage a small staff and to write and edit in English. The Americas Watch position requires proficiency in Spanish, and Portuguese is helpful. For the Middle East Watch position, fluency in one or more regional language is strongly desirable.

**Contact** To apply for the Executive Director positions with either Americas Watch or Middle East Watch, submit a résumé, a writing sample, and references by February 1, 1994 to: Kenneth Roth, Executive Director, Human Rights Watch, 485 Fifth Avenue, New York, NY 10017.

**Project Coordinator** The National Immigration Forum ("the Forum"), a membership organization of more than 200 agencies concerned with migration-related issues, seeks a project coordinator to supervise a new 18-month project that will focus on population and development.

The coordinator will manage the project, organize and facilitate meetings with UN, U.S., and NGO representatives, write and publish essays, articles, and fact sheets, and represent the Forum in meetings and conferences in the United States and abroad. Requires at least five years experience in relevant fields, strong writing and public speaking skills, a demonstrated ability to build consensus among diverse parties, willingness to travel extensively, and project management and budget experience. Salary: $33,000 to $37,000 per year, depending on experience, plus benefits.

**Contact** Send cover letter and résumé to: Julie Ouroz, National Immigration Forum, 220 I Street, NE, Suite 220, Washington, DC 20002.

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Virginia Hamilton

Editor
## INDOCHINESE REFUGEE ACTIVITY
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<td>790,903</td>
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<td>200,132</td>
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<td>1,599,509</td>
<td>428,779</td>
<td>510,285</td>
<td>77,984</td>
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### REF. PROCESSING CENTERS (RPCs)

| BATAAN             | 2,148 | 17 | 224,584 | 222,334 | 7,066 | 0 | 12 |
| GALANG             | 0      | 0  | 55,501  | 50,651  | 4,669 | 0 | 0  |
| PHANAT NIKHOM     | 3,905  | 8,111 | 92,751  | 88,661  | 14    | 0 | 1,056 |
| TOTAL RPCS        | 6,053  | 8,128 | 372,836 | 361,646 | 11,749 | 0 | 1,070 |
| VIETN. TO U.S. IN 1975 | --    | --  | 124,547 | 123,003 | 0     | 1,547 | 0   |
| OTHER TO U.S. IN 1975 | --    | --  | 12,000  | 12,000  | 0     | 0    | 0   |
| VIET. TO CHINA IN 1977/79 | --    | --  | 263,000 | 263,000 | 0     | 0    | 0   |
| GRAND TOTAL       | 107,714 | 7,383 | 1,939,056 | 925,428 | 785,034 | 79,531 | 43,242 |

Source: U.S. Department of State, Bureau for Refugee Programs. Tabulated by the U.S. Committee for Refugees.

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## THE ORDERLY DEPARTURE PROGRAM, FY 93

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<tr>
<th>Arrivals in RPCs</th>
<th>Refugees to U.S.</th>
<th>Non-Refugees to U.S.</th>
<th>Subtotal ODP to U.S.</th>
<th>Other Third Country</th>
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<td>--</td>
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<td>11</td>
<td>11,556</td>
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<tr>
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<td><strong>TOTAL FY 93</strong></td>
<td>4,900</td>
<td>10,057</td>
<td>11,556</td>
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Source: U.S. Department of State, Bureau for Refugee Programs. Tabulated by the U.S. Committee for Refugees.
## REFUGEE PROCESSING PRIORITIES BY REGION - FY 94

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<th>P-2</th>
<th>P-3</th>
<th>P-4</th>
<th>P-5</th>
<th>P-6</th>
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<td>X</td>
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<td>X</td>
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<td>FORMER SOVIET UNION(8)</td>
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</tr>
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</table>

Designated nationalities are those groups considered to be of particular humanitarian concern to the U.S. Applications for refugee admission may be accepted from members of designated nationalities in the priorities specified for the region. For nationalities not designated, processing posts must outline the special circumstances of a case and receive permission from Washington before the case may be processed and presented to INS for interview. An individual who falls within a priority that is active for his/her nationality group is, in most cases, eligible for an INS interview.

### NOTES:

1. Non-designated Africans (except for Ethiopians and Eritreans) recommended by UNHCR can also be accepted without referral to the Department of State or INS. Refugee processing for Africans outside of Africa is limited to priorities one through five, except for Liberians (priorities one through three), provided that they arrived before July 1, 1988.
2. There is a special limited program for certain Burmese students/dissidents who arrived in Thailand between March 15, 1988 and May 1, 1992.
3. Laotians and Vietnamese who were members of certain category groups identified by the INS in 1983 may establish refugee status for U.S. admission by asserting a fear of persecution and asserting a credible basis for concern about the possibility of such persecution.
4. Bosnians: Eligible categories: released detainees and their family members; vulnerable Bosnians referred by UNHCR; Muslims with relatives in permanent status in the United States; and parents and siblings of U.S. citizen children.
5. Cuba: In-country, emphasis given to the following categories: former political prisoners; members of persecuted religious minorities; human rights activists; forced labor conscripts; persons deprived of their professional credentials or subjected to other disproportionately harsh or discriminatory treatment resulting from their perceived or actual political or religious beliefs or activities; dissidents; and other refugees of compelling concern to the United States. In third countries, government-funded priority one Cubans may be processed if they fled Cuba before November 20, 1987.
6. Haiti: In-country, emphasis given to the following categories: former political prisoners; persons who held or held leadership in positions in recognized political or religious organizations at the national or regional level; persons who held prominent positions in the Aristide government; and persons prominent in fields likely to be targets of persecution. In third countries, Haitians may be processed in priority one only.
7. Includes expanded priority four in effect for Iran.
8. Jews, Evangelical Christians, and Ukrainian religious activists may establish refugee status for U.S. admission by asserting a fear of persecution and asserting a credible basis for concern about the possibility of such persecution.
DESCRIPTION OF U.S. REFUGEE PROCESSING PRIORITIES - FY 94

**Priority One:** Compelling concern/interest: exceptional cases of (a) refugees who are in immediate danger of loss of life and for whom there appears to be no alternative to resettlement in the United States, or (b) refugees of compelling concern to the United States such as former or present political prisoners and dissidents.

**Priority Two:** Former U.S. government employees: refugees employed by the U.S. government for at least one year prior to the claim for refugee status. This category also includes persons who were not official U.S. government employees, but who for at least one year were so integrated into U.S. government offices as to have been in effect and appearance U.S. government employees.

**Priority Three:** Family reunification: refugees who are spouses, unmarried sons, unmarried daughters, or parents of persons in the United States. (The status of the anchor relative in the United States must be one of the following: U.S. citizen, lawful permanent resident alien, refugee, asylee, or member of certain groups of public interest parolees.)

**Priority Four:** Other ties to United States: (a) Refugees employed by U.S. foundations, U.S. voluntary agencies, or U.S. business firms for at least one year prior to the claim for refugee status; (b) Refugees trained or educated in the United States or abroad under U.S. government auspices.

**Priority Four (Iran):** In addition to (a) and (b) above: (c) Refugees who have served in positions of leadership or played a conspicuous role within a religious denomination whose members are subjected to discrimination, including the clergy, prominent laymen, those who have served in denominational assemblies, governing bodies, or councils; (d) Refugees who because of their minority religious affiliations have been deprived of employment, have been driven from their homes, have had their business confiscated or looted, have been denied educational opportunities available to others similarly situated in the same area, or have been denied pensions that would otherwise be available; and (e) Refugees who have become targets of persecution because of a perceived identification with the United States or the other nations of the West (including Israel).

**Priority Four (East Asia):** In addition to (a) and (b) above: (f) Persons previously in the civil service or armed forces of the former governments of Indochina who were associated with U.S. government policies or U.S.-supported programs; (g) Persons who played a meaningful role in the social, economic, political, religious, intellectual, or artistic life of the former societies of Indochina, including such persons as professors, philosophers, monks, or other transmitters of the cultural traditions of these societies.

**Priority Five (Additional family reunification):** Refugees who are: (a) married sons or married daughters of persons in the United States; (b) unmarried siblings of persons in the United States; (c) married siblings of persons in the United States; (d) grandparents of persons in the United States; (e) grandchildren of persons in the United States; (f) more distantly related individuals who are part of the family group and dependent on the family for support. (The status of the anchor relative in the United States must be one of the following: U.S. citizen, lawful permanent resident alien, refugee, asylee, or member of certain groups of public interest parolees.)

**Priority Six:** Otherwise of special humanitarian concern: other refugees whose admission is in the national interest.

REFUGEE ARRIVALS BY STATE—FY93 ENTRIES*

* Preliminary figures.

Source: Office of Refugee Resettlement / U.S. Department of Health and Human Services
## Refugee Admissions to the United States, FY 80-94*

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<th></th>
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<th>FY 82</th>
<th>FY 83b</th>
<th>FY 84b</th>
<th>FY 85b</th>
<th>FY 86</th>
<th>FY 87b</th>
<th>FY 88b</th>
<th>FY 89b</th>
<th>FY 90b</th>
<th>FY 91b</th>
<th>FY 92b</th>
<th>FY 93b</th>
<th>FY 94b</th>
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* During the period FY 75-FY 79, the United States admitted a total of 341,180 refugees from the following regions: East Asia-254,095; Eastern Europe-11,096; Soviet Union-58,989; and Latin America-19,000. These persons do not appear in this table.

a/ From FY 83 to FY 90, the Eastern Europe ceiling was combined with the ceiling for the Soviet Union. For FY 94, the two regions have again been combined.

b/ This chart shows the adjusted regional ceilings that were established at mid-year consultations in FY 84, FY 85, FY 87, FY 88, FY 89, FY 90, FY 91, FY 92, and FY 93.

The overall annual ceilings did not change, except in FY 88, FY 89, and FY 92.

c/ Ceilings and actual admissions figures for East Asia include both first asylum resettlement and the Orderly Departure Program (ODP) from Vietnam.

ODP figures include Amerasian immigrants.

d/ Beginning in FY 92, admission numbers included an unallocated, federally funded reserve for "high risk" cases. These unallocated places were incorporated into the adjusted regional ceilings, maintaining the overall funded admissions ceiling.

Source: U.S. Department of State, Bureau for Refugee Programs. Tabulated by the U.S. Committee for Refugees.
### Refugees Admitted to the United States by Nationality

**FY 80-93**

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<th>FY 82</th>
<th>FY 83</th>
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**Total**

| Total           | 207,116   | 159,252   | 97,355    | 61,681    | 71,113    | 68,045    |

* Excludes 2,028 of those listed below who were admitted to the United States under non-refugee status.
** Total combines Vietnamese arrivals from first asylum camps and through the Orderly Departure Program.
*** Breakdown by ethnic/national group is not available, or those admitted total only a very few per country.
**** Private Sector Initiative admissions not included: FY 88-733 Cubans; FY 89-1,512 Cubans, 38 Iranians; FY 90-3,003 Cubans, 6 Vietnamese; FY 91-1,524 Cubans; FY 92-882 Cubans; FY 93-251 Cubans.
<table>
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<th></th>
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<th>FY 87</th>
<th>FY 88</th>
<th>FY 89</th>
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### Asylum Cases Filed with Immigration and Naturalization Service Asylum Officers*

**Approved and Denied, by Selected Nationalities, April 1991 - September 1993**

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<tr>
<th>Country</th>
<th>April 1991-Sept. 1993</th>
<th>FY 93 (Preliminary)</th>
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<td>Approval Rate for Cases Decided</td>
<td>Cases Granted</td>
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<td><strong>TOTAL</strong></td>
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<tr>
<td>Sudan</td>
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<td>Syria</td>
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<tr>
<td>Iran</td>
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<td>Iraq</td>
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<td>Ex-Yugoslavia</td>
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<td>Cuba</td>
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<td>43.6%</td>
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<tr>
<td>Ex-USSR**</td>
<td>40.9%</td>
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<td>Ghana</td>
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<td>India</td>
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<td>Lebanon</td>
<td>24.7%</td>
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<td>Laos</td>
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<td>Bangladesh</td>
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<td>Pakistan</td>
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<td>Bulgaria</td>
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<td>Colombia</td>
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<tr>
<td>Fiji</td>
<td>11.9%</td>
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<td>Nicaragua</td>
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<td>El Salvador</td>
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<tr>
<td>Sierra Leone</td>
<td>8.8%</td>
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<tr>
<td>Guatemala</td>
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<tr>
<td>Honduras</td>
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<tr>
<td>Philippines</td>
<td>4.8%</td>
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<tr>
<td>Poland</td>
<td>1.3%</td>
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<tr>
<td>Mexico</td>
<td>0.0%</td>
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</table>

* In April 1991, the responsibility for adjudicating asylum claims was moved from INS district directors to a new corps of asylum officers. This chart is based on data for asylum cases filed with asylum officers only. See *Refugee Reports*, Vol. 13, no.12 for statistics on asylum decisions under district directors. Many applications for asylum are filed with immigration judges, particularly in the context of deportation proceedings (see next page).

** The total includes all nationalities, not just those listed here. Country-specific FY 93 data supplied by INS include only nationalities for which more than 500 cases are pending.

*** Figures for ex-USSR include all former republics. Figures for ex-Yugoslavia include all former republics.

Source: U.S. Department of Justice, Immigration and Naturalization Service (INS). Tabulated by the U.S. Committee for Refugees.
ASYLUM CASES FILED WITH EOIR IMMIGRATION JUDGES
APPROVED AND DENIED, BY SELECTED NATIONALITIES, FY 89-93*

<table>
<thead>
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<th>FY 89-93</th>
<th>FY 93</th>
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<tr>
<td><strong>Country</strong></td>
<td><strong>Approval Rate for Cases</strong></td>
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<td><strong>Rate for Decided</strong></td>
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<tr>
<td>TOTAL**</td>
<td>21.7%</td>
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<tr>
<td>Somalia</td>
<td>68.7%</td>
</tr>
<tr>
<td>Afghanistan</td>
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<td>Ethiopia</td>
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<td>Iran</td>
<td>50.4%</td>
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<td>Sudan</td>
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<td>China</td>
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<td>Liberia</td>
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<td>Sri Lanka</td>
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<td>Laos</td>
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<td>Ghana</td>
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<td>Romania</td>
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<tr>
<td>Fiji</td>
<td>26.5%</td>
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<tr>
<td>Ex-USSR***</td>
<td>24.2%</td>
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<tr>
<td>Peru</td>
<td>23.8%</td>
</tr>
<tr>
<td>Syria</td>
<td>23.7%</td>
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<tr>
<td>India</td>
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<tr>
<td>Lebanon</td>
<td>23.3%</td>
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<tr>
<td>Pakistan</td>
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<td>Nicaragua</td>
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<td>19.8%</td>
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<td>Vietnam</td>
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<td>Ex-Yugoslavia***</td>
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<tr>
<td>Guatemala</td>
<td>16.4%</td>
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<tr>
<td>Honduras</td>
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<td>El Salvador</td>
<td>14.4%</td>
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<td>Sierra Leone</td>
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<td>Poland</td>
<td>6.4%</td>
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<tr>
<td>Philippines</td>
<td>5.0%</td>
</tr>
<tr>
<td>Haiti</td>
<td>4.2%</td>
</tr>
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Note: This chart shows approval rates in proceedings before immigration judges. Asylum seekers who apply with an INS asylum officer have the option of raising their asylum claims again in deportation or exclusion proceedings before an immigration judge. FY 89 is the first full year for which data are available under EOIR's automated data system.

* FY 93 data include only first 11 months.
** The total includes all nationalities, not just those listed here.
*** Figures for ex-USSR include all former republics. Figures for ex-Yugoslavia include all former republics.

Source: U.S. Department of Justice, Executive Office for Immigration Review (EOIR). Tabulated by the U.S. Committee for Refugees.
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<td>* Bangladesh announces further returns of Burmese refugees (update)</td>
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<td><strong>CAMBODIA/CAMBODIANS</strong></td>
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<td>* Movement Phase of Cambodian Return Ending with a Bang</td>
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<td>* On the Way Home (lead story)</td>
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<td>* Women's Commission report on Cambodian repatriation (report)</td>
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<td>* Repatriation during conflict (book)</td>
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<td>* Thailand Forcibly Returns 573 Cambodians (update)</td>
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<td>* Prominent Hmong leader disappears in Laos (update)</td>
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<td>* Indochinese Refugee Activity (statistics)</td>
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<td><strong>CAMPS (REFUGEE) AND REFUGEE PROCESSING CENTERS</strong></td>
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<td>* Clinton Continues Summary Return of Haitians; U.S. Lawyers Investigate In-Country Processing (lead story)</td>
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<td>* New book analyzes Laotian refugees' experience (book)</td>
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<td>* Hmong Told They Must Choose Resettlement or Repatriation</td>
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<td>* Federal judge orders U.S. to release HIV-positive Haitians from detention (update)</td>
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<td><strong>CANADA</strong></td>
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<td>* Canada Issues Guidelines on Gender-based Persecution</td>
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<td><strong>CENTRAL AMERICA/CENTRAL AMERICANS</strong></td>
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<td>* Guatemalan Refugees Begin Risky Repatriation</td>
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<td>* Temporary Protected Status (TPS): Eligible Groups and Registration Dates (statistics)</td>
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<tr>
<td>* Deferred Enforced Departure extended for Salvadorans who have already applied (update)</td>
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<tr>
<td>* Report on Guatemalan communities (report)</td>
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<td>* Coalition Seeks TPS for Guatemalans</td>
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<td>* Mayan immigrants to United States (book)</td>
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<tr>
<td><strong>CIVIL RIGHTS/COMMUNITY RELATIONS</strong></td>
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<td>* California Bills Seeking To Limit Services to Undocumented Aliens Set Off Heated Immigration Debate (lead story)</td>
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<td>* Conference on race, ethnicity, and nationalism</td>
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<td><strong>CONGRESS</strong></td>
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<td>* U.S. Refugee and Asylum Programs and Policies: A 1992 Chronology (chart)</td>
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<td>* Increased U.S. Assistance to European Refugees May Force Cutbacks Elsewhere</td>
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<td>* Legislation Concerning Bosnia Introduced in the 103rd Congress (chart)</td>
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<td>* Senate Votes To Ban HIV-Positive Refugees and Immigrants</td>
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<tr>
<td>* FY 94 Budget Process Begins on Capitol Hill</td>
<td>3</td>
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<td>* Congressional committees of the 103rd Congress (charts)</td>
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<tr>
<td>* Senate Hearing Reacts to Terrorist Incidents: Calls for Asylum Reform (lead story)</td>
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<tr>
<td>* House reauthorizes funding for domestic refugee resettlement (update)</td>
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<td>* House Hearing Looks at Alien Smuggling, Asylum Reform</td>
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<td>* Tight Federal Budget Challenges Refugee Assistance Funding in FY 94</td>
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<td>* Director of Bureau for Refugee Programs Calls House ERMA Appropriation Inadequate</td>
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<td>* House passes ORR FY 94 appropriation (update)</td>
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<td>* Congressional Recess Delays Final Action on Major Legislation</td>
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<td>* Congress settles on Final FY 94 Budget for MRA and ERMA</td>
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<td>* Asylum Reform Moves Into High Gear (lead story)</td>
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<td>* U.S. Senate passes anti-crime bill (update)</td>
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<td><strong>DETECTION</strong></td>
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<td>* The First HIV Concentration Camp in History</td>
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<td>* Supreme Court Rules That INS May Detain Alien Children Despite Offer of Responsibility To Take Them</td>
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<td>* UNHCR to cut services for Vietnamese asylum seekers held in detention centers in Hong Kong (update)</td>
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<td>* Federal judge orders U.S. to release HIV-positive Haitians from detention (update)</td>
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<td>* Lawsuit challenges conditions in INS detention centers (update)</td>
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<td><strong>HAITI/HAITIANS</strong></td>
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<td>* Clinton Continues Summary Return of Haitians; U.S. Lawyers Investigate In-Country Processing (lead story)</td>
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<tr>
<td>* New INS Asylum Officers Assessed</td>
<td>1</td>
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<tr>
<td>* Government Team Assesses Refugee Processing in Haiti</td>
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<tr>
<td>* Senate Votes To Ban HIV-Positive Refugees and Immigrants</td>
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Supreme Court Hears Haitian Challenge to Floating Berlin Wall” (lead story)  
U.S.-bound Haitian arrested by authorities at airport (update)  
U.S. Supreme Court Finds Summary Return of Interdicted Haitians Permissible (lead story)  
Federal judge orders U.S. to release HIV-positive Haitians from detention (update)  
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LEAD STORY

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