

February 26, 2008

Mr. Sam Witten  
Acting Assistant Secretary of State  
Bureau of Population, Refugees, and Migration  
U.S. Department of State  
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**Via fax: 202-647-8162**

Dear Mr. Witten,

In light of the upcoming UNHCR March Standing Committee meeting, the members of Refugee Council USA would like to bring to your attention several issues of concern which we will be raising at the meetings. We have focused our attention on the several proposed UNHCR Conclusions as well as key points pertaining to regional protection issues. At our upcoming meeting with your staff, we hope to explore further some key points related to the UNHCR standing committee documentation that has recently been circulated. We also hope that you and your colleagues may take some of these issues into consideration in your upcoming discussions with UNHCR and in some of your bilateral meetings with various governments.

#### **Conclusions on the Protection of Persons with Disabilities and Older Persons**

We strongly support UNHCR's proposal for a 2008 Ex Com Conclusion on the protection of persons with disabilities. Recent research highlights significant protection gaps for refugees with disabilities. These include difficulties with identification, particularly for those with mental disabilities; difficulties accessing services in both camp and urban settings; a lack of specialized health services and psycho-social programs. Refugees with disabilities may have limited or no access to vocational and skills training programs and employment opportunities. They are often excluded from participation in community life and do not have equal access to durable solutions. The research also indicates that discrimination, neglect, harassment, sexual abuse and physical assault are protection risks encountered by disabled persons in a variety of refugee settings. An Ex Com Conclusion would help to clarify needs of the disabled and identify the protection gaps. It could also provide an operational framework for addressing the needs of the disabled through improved policies and practices and more effective utilization of existing tools such as the age, gender, and diversity mainstreaming strategy. We hope the U.S. government will lend its support to the proposed Conclusion.

We also urge your support of a Conclusion that will address the protection of older persons whose needs may differ from the disabled but are no less extreme or urgent. The Conclusion process offers an opportunity to identify protection gaps for this cohort

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Bishops/Migration & Refugee  
Services  
U.S. Committee for Refugees  
and Immigrants  
Women's Commission for  
Refugee Women & Children  
World Relief

and measures to address them, either as a stand-alone Conclusion or formulated as a joint Conclusion with the protection of persons with disabilities.

### **Conclusion on Rescue at Sea**

RCUSA applauds UNHCR's recent leadership on the issue of protection for those migrants injured or traumatized while migrating, including those rescued at sea. It has become increasingly clear that migrants, regardless of status, too often become victims of violence or trauma while crossing by sea or in desolate border areas – starved, raped, injected with drugs. While it is essential to distinguish those who have raised claims to asylum, the need for a protection protocol for all who cross dangerous borders is critical – including medical attention for those injured or traumatized during the voyage, best interest determinations for unaccompanied or separated children, and humanitarian assistance for those in need. We urge you to support efforts to commence such activities as gaps analysis and best practice exchange that will lead to development of an Ex Com Conclusion which sets forth humanitarian standards for post rescue/post-arrival response.

### **Conclusion on Asylum Procedures**

RCUSA members strongly support the adoption of this proposed thematic conclusion on asylum procedures. While border control measures are a central concern of all governments, it is equally critical that adequate asylum procedures are in place to ensure that such measures are not applied in an indiscriminate or disproportionate manner, and that they do not lead to refugees being returned to countries where their life would be at risk. While refugees and asylum seekers account for only a small proportion of the global movement of people, they frequently travel alongside migrants. Many of these movements take place without the requisite documentation, use unauthorized border crossing points, or involve smugglers. In some cases, this manner of movement is the only escape route open to those fleeing war or persecution. By recognizing that refugee and migration issues intersect at a number of key points and addressing existing protection gaps, RCUSA strongly believes that a conclusion that would reconcile the task of refugee protection with that of border control and migration management would create a more coherent, comprehensive and integrated approach.

### **Conclusion on Self-Reliance and Livelihoods**

We also seek our government's support for a Conclusion on self-reliance and livelihoods in 2008 or 2009. The humanitarian community must move beyond encouraging vocational training and income generation projects toward a comprehensive framework that recognizes self-reliance as a vital protection tool and that helps advance refugees' basic rights to work, practice professions, own property and to move about freely in their countries of asylum. Effective livelihoods programs that build self-reliance can also help reduce dependence on humanitarian assistance and allow those limited resources to be focused on better protecting the most vulnerable.

### **Implementation of the Conclusions on Women and Children at Risk**

The most recent Ex Com Conclusions on Women and Children at Risk (2006 and 2007 respectively) provide a good framework for improving the protection and well-being of displaced women and children. We urge the U.S. to continue to hold UNHCR accountable for its role in monitoring and implementation of these Conclusions. The institutionalization and effective utilization of the Age, Gender, and Diversity Mainstreaming tool is key in this regard, and we hope our government will encourage UNHCR to move forward with a full evaluation of AGDM implementation next year. Regarding children at risk, the Best Interest Determination process is central to the protection and care

of unaccompanied and separated children. UNHCR should request the resources it needs to fully implement the new guidelines with appropriately trained professionals, and we look to the member states to ensure that UNHCR receives those resources, consistent with the new Conclusion. To this end, we thank the U.S. government for its efforts and request its continued leadership in the year ahead. We also encourage UNHCR to work more closely with NGO partners who have expertise on these issues, particularly in the sharing of promising practices at the field level and collaboration in development of training and evaluation tools.

### **Statelessness**

RCUSA appreciates UNHCR's increased emphasis on statelessness and recognizes the progress that has been achieved toward regularization for Biharis in Bangladesh and for certain stateless groups in Nepal and Sri Lanka. Further, we welcome UNHCR's attempts to better understand statelessness in Central Asia and Burma, and to activate legal assistance networks in the Balkans. We urge PRM to support the continued work of UNHCR's Statelessness Unit to engage member states in finding effective and expeditious solutions to this problem. RCUSA remains concerned by the staggering numbers of people across the globe that struggle to obtain legal status, many of whom are children. Often, a lack of will on the part of governments to adhere to international conventions on statelessness to which they are party leaves stateless individuals unprotected and vulnerable to discriminatory practices, despite the actions taken by human rights lawyers and advocates to regularize their status. These individuals should not be left without recourse to access their fundamental human rights. RCUSA therefore requests that PRM collaborate with UNHCR to: step up its activities to monitor and assess statelessness; push states to adhere to their international commitments; engage states in developing policies that remove barriers to regularization; ensure registration of births; and promote ratification of conventions on statelessness to extend protection mechanisms to stateless populations. Further, RCUSA asks that PRM support the use of third country resettlement by UNHCR as a legitimate tool to resolve situations of protracted statelessness.

### **Africa**

***Sudan:*** As the conflict in Darfur continues, regional effects are felt more and more widely. Most recently, in mid-February 2008, thousands of Darfuri refugees crossed the border into Chad, and tens of thousands of Chadian refugees fled into Cameroon. Protection for the internally displaced and for refugees in Sudan and Chad remains difficult. Humanitarian agencies, including the UNHCR, have repeatedly had to interrupt operations for hundreds of thousands who are entirely dependent upon their assistance. The deployment of a full contingent of peacekeepers in both countries remains stalled. The international community must continue its strong diplomatic efforts in the region, including support for proactive steps toward better protection of the displaced.

***South Africa:*** Refugees from Zimbabwe continue to arrive in South Africa, and we are concerned about South Africa's willingness and ability to offer them protection. The asylum system in South Africa can make it difficult for refugees to seek protection, and the recent police raid on a refugee sanctuary in Johannesburg indicates a growing resistance on the part of South Africa to assist those in need of protection. The asylum system in South Africa must remain meaningful in order to protect the ongoing influx of Zimbabwean refugees.

***DRC:*** Violence against internally displaced women and girls in the Democratic Republic of Congo (DRC) is pervasive. There must be support, particularly through the UNHCR's programs in the region,

for placing high priority on programs to educate communities about violence against women and how to decrease such incidents.

***Somalia:*** Somalia continues to be an area of concern with 750,000 internally displaced people—more than double the number from last year. Communities of Somali refugees remain in precarious situations in the immediate region, including Kenya, Djibouti and Yemen. Those displaced by the conflict in the Ogaden region add to the numbers needing protection. Kenya has both detained and denied entry to many Somali refugees, and thousands have endangered their lives during sea crossings to Yemen. The UNHCR has appealed to the international community for over \$17 million for 2008; the international community should contribute appropriately.

## **Asia**

***Thailand:*** Our members continue to be concerned about the plight of the estimated 8,000 Lao Hmong in the “Whitewater” camp in Petchabun Province, Thailand. In September 2007, the Lao and Thai governments announced their agreement to return all of the residents of the camp back to Laos by the end of 2008. Our members also remain concerned about the 149 Lao Hmong refugees who are being held in Thailand’s Nong Khai Immigration Detention Center. Every member of this group has been found to be in need of international protection. We encourage the U.S. to work with the governments of Laos and Thailand in order to allow UNHCR to have access to the Lao Hmong in Whitewater and the Nong Khai Immigration Detention Center. We also urge the U.S. to engage in multilateral dialogues to seek a comprehensive solution for these individuals, including resettlement to third countries, for those who are bona fide refugees. In addition, all forced removals of Lao Hmong from Thailand should be halted until a refugee status determination process has been implemented for all of them. Furthermore, no Lao Hmong who are found to not be bona fide refugees should be returned to Laos until their safety in Laos can be assured through the participation of an international monitoring entity.

We call upon the U.S. to continue their efforts to encourage the Royal Thai Government (RTG) to resume its process of registering and recognizing refugees from neighbouring countries.

We would like to applaud the U.S. and UNHCR for their on-going engagement in making resettlement a durable solution available to Burmese refugees living in the nine camps in Thailand. However, we are disappointed by the apparent lack of progress towards the development and implementation of income generating activities projects outside of the camps and access to educational opportunities for Burmese refugees. We call on the U.S. to encourage the RTG and other governments to continue to search for avenues to support this historic step in finding durable solutions for Burmese refugees in Thailand.

Due to the fact that the RTG continues to refuse protection to the thousands of Burmese Shan in Thailand, this group remains highly vulnerable. It is clear that many of the Shan who arrive in Thailand are fleeing the same dislocations, violence, and forced labour as are other refugee groups from Burma. We therefore ask that the U.S. and UNHCR enter into dialogue with the RTG about the need to allow UNHCR to access the Shan and provide them with the necessary protection. In addition, the deportations of Shan back to Burma should be halted until a system is in place to determine the refugee status of the individuals.

***Malaysia:*** We ask that the U.S. work with UNHCR to encourage the government of Malaysia to recognize the rights of refugees in Malaysia. Any groups sanctioned by the Malaysian government to

work with refugees should adhere to international standards of refugee protection. In addition, we request again that the U.S. work with UNHCR to encourage the expansion of resettlement opportunities for refugees in Malaysia.

**Indonesia:** We also draw your attention to the small number of Mandaean and other Iraqis in Indonesia. Given the instability in Iraq, we urge the U.S. to work with UNHCR to reconsider the claims of the Mandaean in Indonesia and to help find durable solutions, including resettlement, for them.

**India:** We continue to be concerned about reports of over 50,000 Burmese Chin refugees in the Indian state of Mizoram who are in need of humanitarian assistance and refugee protection. We urge the U.S. to register concern with UNHCR officials and Indian officials about the welfare and protection needs of this group of Chin. We also encourage the U.S. to encourage the Indian government to allow UNHCR to access the Chin and other asylum seekers in Mizoram.

**China:** Our members also remain concerned about the welfare of the estimated 30,000 North Korean refugees in China. Those North Koreans who are forcibly returned from China are subject to varying degrees of punishment upon return, ranging from imprisonment and forced labour to torture. The U.S. government should encourage the Chinese government to stop the arrest and deportation of North Koreans on Chinese soil and instead adhere to the tenants set forth in the *1951 Convention on the Status of Refugees* and its *1967 Protocol*, China being a signatory to both documents. China should also allow UNHCR access to the North Koreans in China and permit UNHCR to determine their refugee status.

**Nepal:** We are encouraged that plans are underway to begin large scale processing of Bhutanese in Nepal. According to the current resettlement plan, 60,000 out of the 108,000 Bhutanese refugees in Nepal will be resettled in third countries, including the United States. We encourage the U.S. to work quickly with UNHCR to implement information campaigns about resettlement so as to ameliorate any concerted attempts by local groups to thwart the efforts. In addition, we recommend that the U.S. encourages UNHCR to work towards developing a durable solution for all of the Bhutanese refugees in Nepal.

**Burma:** We remain very interested in learning more about UNHCR's response to the IDP crisis in Burma. It is estimated that in 2007 alone, 76,000 people in Burma were forced to leave their homes, and approximately 167 entire villages were uprooted. It is currently approximated that there are at least 500,000 IDPs in Eastern Burma.

We also call on the U.S. to apply further pressure on the Burmese military government to allow humanitarian access to international actors, including UNHCR and NGOs, to the Burmese Eastern border, where the most vulnerable IDPs reside.

### **The Americas**

The refugee assistance funding of the Latin American and Caribbean region is too often under-financed, especially in light of the large number of displaced peoples residing in Colombia and Haiti, and the relative capacity of states of first asylum to provide effective protection and care for the refugee populations. We encourage the United States to set aside sufficient resources to assure adequate humanitarian assistance reaches refugees and IDPs in the region.

### ***Colombia***

The problem of the sub-registration of IDPs by the Colombian government persists. Municipalities receiving high numbers of people fleeing violence too often fail to adequately prepare for expected displacements. The local governments habitually fall short of requisite assistance to help those displaced to integrate into the local communities, nor do they provide proper humanitarian assistance for victims of the conflict. The response to protection needs of the displaced population on the ground is far from sufficient. We recommend that the United States fund UNHCR's efforts to strengthen and improve the functioning of the territorial committees established to assist and register new waves of displaced people. We further recommend that the U.S. raise urgently with the Colombian government the continued use, recruitment and kidnapping of children by armed groups in rural regions and that the U.S. place funds toward International Organizations, NGOs and UN Agencies working to demobilize the estimated 14,000 child soldiers in Colombia.

***Ecuador:*** We remain concerned about the protection and assistance needs of Afro-Colombian refugees, unaccompanied Colombian minors, and women-at-risk in Ecuador. As the U.S. begins to mitigate the damage done by the material support ban, the UNHCR should begin considering durable solutions for Afro-Colombian refugees and women-head of households, who have particular difficulty locally integrating. Homelessness and lack of job opportunities are prevalent among the Afro-Colombian refugee population, regardless of individuals' capacity or professional training, and their local integration prospects remain low even after years of residing as recognized refugees within Ecuadorian society. Colombian women refugees, particularly those who are head-of-households, face gender and nationality-based discrimination, and are often forced into sexually exploitative situations. We urge the U.S. to increase burden-sharing initiatives, focusing on durable solutions for refugees who have fled to Ecuador, as Ecuador does not have the capacity to fully integrate all of the Colombian refugees residing within its borders. PRM should encourage UNHCR's intervention in cases where a Colombian can not integrate before refugees become destitute: homeless, jobless and excluded from the workforce and educational arena. The revitalization of the U.S. Refugee Resettlement Program in Ecuador would allow the UNHCR to be more proactive in its work and to find swifter durable solutions for vulnerable refugees.

***Mexico:*** We encourage the U.S. to engage in discussions with Mexico about the implementation of the Mexico Plan of Action. Compared to many of their counterparts, Mexico has not moved as swiftly in adopting the plan. In addition we would be interested to know what steps Mexico has made to develop an asylum adjudication system. Also, what role is UNHCR playing in Mexico in addressing detention issues, the needs of asylum seekers, and growing levels of xenophobia and discrimination against stateless persons and refugees?

***Panama:*** We encourage the U.S. to address with Panama their confinement of Colombian asylum seekers in the Southern jungle region, on-going detention of this group, and persistent threats of deportation and targeted violence perpetrated against Colombian asylum seekers in Panama City, particularly in the Curundu district. We are also concerned with the overall treatment of Salvadorians in Panama. We encourage the U.S. to work with both the Panamanian government and with UNHCR to find a durable solution for Colombian refugees who are confined to the Darien jungle by Panamanian government authorities. Because of their proximity to armed actors in Colombia and their confinement, isolation and temporary legal status in Panama these refugees lack any hope of local integration and are prime candidates for resettlement.

***Dominican Republic:*** We encourage the U.S. to urge UNHCR to better address the needs of stateless children of Haitian asylum seekers in the Dominican Republic. Children born in the Dominican Republic to Haitian parents usually have no documents and can claim legal protection from no state, disenfranchising this population and leaving them susceptible to exploitation. UNHCR should consider third-country resettlement options for Geneva Convention eligible asylum seekers in the Dominican Republic and reestablish its in-country office in the Dominican Republic to provide daily guidance to the government about ways to improve its compliance with international refugee law.

***U.S. Detention of Asylum Seekers:*** We continue to be concerned about the U.S. detention of asylum seekers who are detained in prison-like facilities upon their arrival at U.S. airports and at the borders. Many are detained for months and sometimes years. These asylum seekers are not given access to custody hearings before immigration judges. Instead, the decision to release or continue to detain them has been given to the detaining authority, the Department of Homeland Security. DHS parole practices vary across the country, and in some areas, asylum seekers are routinely detained for extended periods of time. These detention policies and practices are inconsistent with the UNHCR's detention guidelines, the Refugee Convention and Protocol, and with human rights law prohibitions on arbitrary detention. We continue to strongly urge PRM to work closely with all of the relevant federal partners to make the necessary reforms to its detention policies recommended over two years ago by a bi-partisan governmental commission.

### **Humanitarian Crisis Facing Iraqi Refugees**

We remain deeply concerned about the growing humanitarian disaster facing many Iraqi refugees and IDPs. In terms of the latter, we applaud UNHCR for its efforts to garner five international staff slots for Iraq. We hope this will contribute to the expansion of UNHCR's much needed presence inside Iraq. At the same time, we are concerned about the capacity of UNHCR and its limited number of partners to fully implement the projects outlined under the recently released Consolidated Appeal Process (CAP). We encourage UNHCR to be creative and flexible in working with a much wider variety of local based NGOs, as they are currently the main actors providing assistance to the displaced. We urge the international community and the U.S. in particular to fully fund the CAP so that much needed humanitarian relief resources can be provided.

In terms of refugees in the region, we remain concerned that the savings with which some came are quickly dwindling; thus, the protection needs and vulnerability of many Iraqi refugees are increasing. Food distribution in Syria has been an important way for UNHCR to show refugees that there are benefits from registering. More importantly, food distribution has helped augment the high cost of living in Damascus. As such it has prevented some refugees from having to make risky and unsafe decisions in order to survive. We strongly encourage the WFP appeal to be fully funded so that food distribution can continue. Likewise, the limited direct cash assistance provided by UNHCR to some of the most vulnerable has been extremely successful. UNHCR's appeal must be fully funded in order for this project to not only continue but to also expand.

Resettlement will continue to be the only viable solution for many Iraqi refugees in the region. We strongly urge the U.S. to work closely and cooperatively with the Syrian government in particular in order to ensure the timely processing of refugees to the United States. We also urge the U.S. to quickly implement the Kennedy Legislation. In particular a procedure needs to be developed so that Iraqi refugees who qualify can approach the U.S. Embassy in Damascus to apply for a SIV. There are many

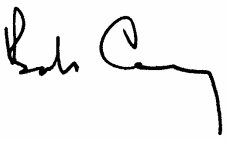
such refugees in Damascus who now qualify but who cannot approach the Embassy for an appointment. We urge those working in the Consulate to reach out to these refugees to set up an appointment with them so that they can enter the building.

Palestinian refugees stranded in Al-Walid, Al-Tanf, and Al-Hol camps on the border with and inside Syria continue to be the most vulnerable refugees from Iraq and who are in need of immediate solutions to their desperate situation. For those Palestinians who managed to enter Syria, several have been recently deported to Al-Tanf, including 40 just last week. Refugees suffering from chronic illnesses, including diabetes and cancer, continue to be forbidden to seek medical treatment. We strongly encourage the U.S. to take the lead in ensuring that these refugees—many of whom are highly educated professionals, stranded in the no man's and in desolate guarded camps without access to cash assistance or the labor market, are provided with immediate voluntary durable solutions, including repatriation, local integration, and resettlement.

We urge the U.S. to continue play a strong leadership role in providing direct assistance, offering bilateral aid to host countries, and facilitating timely resettlement for large numbers of Iraqis who will never be able to return home.

We thank you sincerely for your consideration of these issues during your meetings with UNHCR and in your bi-lateral meetings. As always if you have any questions or concerns, please do not hesitate to contact me or RCUSA Director, Elizabeth Campbell, at the above address.

Sincerely,



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Chair, Refugee Council USA

Cc: Margaret Pollack, Director, PRM/MCE  
Nicole Gaertner, PRM/MCE  
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