

Testimony of
Mr. Mark Franken

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Testimony before the Subcommittee on Immigration, Senate Judiciary Committee
on

Refugees: Seeking Solutions to a Global Concern

Presented by

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The Refugee Council USA is a coalition of U.S. non-governmental organizations focused on refugee protection and advocacy affecting the protection and rights of refugees, asylum seekers, displaced persons, victims of trafficking and victims of torture in the United States and across the world and is the principal consultative forum for the national resettlement agencies.

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I am Mark Franken, Executive Director of Migration and Refugee Services (MRS) of the U.S. Conference of Catholic Bishops and Chair of the Refugee Council USA. Today, I am testifying on behalf of the Refugee Council USA, a coalition of 19 refugee and human rights organizations, of which MRS is a member, committed to the protection of refugees around the world, including the pursuit of durable solutions such as resettlement. I would like to thank Senator Chambliss and Senator Kennedy for holding this important hearing today.

Refugee Council USA members represent a broad cross-section of American society, with affiliation to community groups, both faith-based and civic, throughout the country. Our members and the constituencies they represent believe that the resettlement of refugees is an essential tool in the international community's efforts to protect refugees and that refugee resettlement is a critical dimension to addressing protracted refugee situations.

Refugee Council USA focuses on refugee protection, including universal adherence to international standards of refugee rights; the promotion of the right of asylum; international assistance to refugees in need; and the promotion of durable solutions, including resettlement in the United States. The Refugee Council USA serves as the forum for national resettlement and processing agencies to formulate common positions on refugee policy.

Mr. Chairman, I would like to make a few comments today on the current state of the U.S. refugee program. The subcommittee has my written testimony, which draws heavily on the

interim report of the Refugee Council USA on the U.S. refugee admissions program for fiscal years 2004 and 2005. This report highlights the plight of a number of refugee populations around the world that are in perilous and often protracted situations and recommends these groups for resettlement in the United States. With your permission, Mr. Chairman, I would also like to submit a copy of this report for the record.

As we all know, the events of September 11, 2001, changed our nation and how we interact with the international community in significant and lasting ways. The U.S. refugee admissions program faced dramatic disruptions after September 11, 2001, with admission levels dropping from nearly 70,000 refugees in FY 2001 to less than 30,000 each in FY 2002 and FY 2003. This meant that almost 85,000 vulnerable refugees lost the opportunity to resettle in the United States during those two years, a time when there were an estimated 13 million refugees in the world.

During that period, Mr. Chairman, and despite the fact that refugees were already the most heavily screened categories of arrivals to the United States, considerable effort was made to enhance security procedures for screening prospective refugee entrants. Due to extraordinary efforts on the part of the State Department's Bureau of Population, Refugees, and Migration (PRM), the Department of Homeland Security (DHS), the White House, the United Nations High Commissioner for Refugees (UNHCR), and non-governmental organizations, the U.S. refugee program will likely exceed 50,000 admissions in FY 2004, representing more than a 78 percent increase from the previous year. Refugee Council USA is extremely grateful to all involved in turning this situation around and putting the program on track to expand refugee admissions to a level more appropriate to the needs of refugees worldwide.

Specifically, we commend Assistant Secretary Gene Dewey and his staff, particularly Deputy Assistant Secretary Kelly Ryan, and also Undersecretary Eduardo Aguirre and the Department of Homeland Security for their ongoing efforts to guide the program through a difficult period. We look forward to working with them to grow the program to meet the new challenges of refugee protection in the twenty-first century and to ensure that life-saving resettlement opportunities do not go unused next year.

Mr. Chairman, with more than 12 million refugees worldwide in need of protection, the United States can, and must, do better in offering vulnerable men, women, and children the opportunity for safe haven in our nation. We recognize that large numbers of refugees have voluntary repatriated to their country, however, many more thousands remain in precarious situations with no durable solution in sight. With the Cold War behind us and a different world order before us, U.S. refugee policy should be redirected toward refugee populations most in need of protection and humanitarian assistance. The U.S. refugee program, a tool of our foreign policy, should adapt to meet these changing realities.

Mr. Chairman, my testimony today will focus on several reforms that should be adopted to better equip the United States to identify, rescue, process, and admit refugee populations in need of resettlement protection. Specifically, I will concentrate in three distinct areas--

? The need to increase the ceiling set by the President each year for the number of refugees allowed into the United States to better reflect the actual need for resettlement;

? The need to make structural improvements in the U.S. refugee program to more efficiently and

effectively identify and process vulnerable refugees; and
? The need for the Administration and Congress to increase funding for the U.S. program in order to meet the challenges before us.

In addition, I would like to make a few comments regarding two ongoing refugee crises during the past year in which the U.S. response, in our view, has been inadequate--the crisis in Haiti and the ongoing suffering in the Darfur region of Sudan.

Annual Presidential Determination for Fiscal Year 2005

As you know, Mr. Chairman, each year the President is authorized by statute to determine the number of refugees, which will be allowed for admission into the United States for the next fiscal year. In the last two years, the Administration has set a level of 70,000 refugees, with only 50,000 allocated to particular regions of the world. We anticipate that the Administration will announce the annual determination for FY 2005 in the near future.

In a report to Congress in August 2001, the State Department indicated that, in light of the large population of refugees in need of resettlement, the Administration was committed to growing the refugee admissions program incrementally and achieving an annual admissions level of 90,000 refugees in FY 2005. Though the terrorist attacks of 2001 interrupted these plans, the State Department has demonstrated in FY 2004 that admission levels can be increased significantly. If the same rate of growth of admissions occurs from FY 2004 to FY 2005 as will occur this year, nearly 90,000 refugees would be admitted in FY 2005. With the worldwide population of refugees in need of durable solutions far exceeding resettlement opportunities, we believe that the United States should commit to achieving its earlier goal of 90,000 admissions in FY 2005.

Mr. Chairman, the Refugee Council USA's interim report provides a detailed list of refugee groups far exceeding the 90,000 limit that should be considered for resettlement. We ask you and members of the subcommittee to support a determination of 90,000 admissions for FY 2005.

Systemic Changes to Enhance and Expand the U.S. Admissions Program

As I mentioned, Mr. Chairman, a new world order trying to preserve and sustain refugee protection requires the United States to reach out to refugees in "hot spots" across the globe, such as Africa, Latin America, South and Southeast Asia, and portions of Europe. To serve the refugees in these areas of need, more tools are required to build the capacity of the admissions program to identify, process, and resettle refugees from various parts of the world.

Refugee Council USA has developed a series of recommendations to help build the capacity needed to meet these new challenges, which are detailed in our interim report.

Mr. Chairman, many of these recommendations have already been endorsed by Congress and enacted into law. The FY 2004 Consolidated Appropriations bill called for several reforms to the refugee admissions program, including the following:

? Using private voluntary organizations in the identification, referral, and processing of refugees for admission to the United States;

- ? Prioritizing female head-of-households, unaccompanied children, long-stayers, and urban refugees outside of traditional camp settlements for resettlement; and
- ? Making the P-3 family reunification category available to all nationalities.

Mr. Chairman, we urge you and your colleagues on the subcommittee to press the Administration to implement these recommendations immediately. Without building the capacity to identify and resettle refugees in need, we are concerned that the admission of refugees into the program will remain at the low levels of the past two years.

For purposes of today's hearing, I would like to further highlight a few of our recommendations.

Enhancing Referral Capacity

In recent years, the State Department has relied heavily on the United Nations High Commissioner for Refugees to refer vulnerable refugees to the U.S. admissions program for resettlement. As noted in the recent report titled, UNHCR Projected Global Resettlement Needs 2005, the UNHCR faces many constraints in providing adequate resettlement referrals for refugees in need of protection. Additional avenues for referrals must be created so that more vulnerable populations and individuals have access to the U.S. program.

First, the State Department should look to non-governmental organizations that work with refugee populations as an avenue for referral. Non-governmental organizations, including Joint Voluntary Agencies (JVAs) and Overseas Processing Entities (OPEs), which prepare cases for review by DHS, are uniquely positioned to provide referrals because of their daily work with refugee populations.

While the State Department has operated small referral programs in Nairobi, Kenya and Accra, Ghana, to train NGO representatives in this area, it has yet to expand the program to other regions. Even as the State Department has taken steps during the last several years to expand its capacity to identify and process refugees for resettlement, not a single JVA/OPE has been developed to assist in these efforts. During this same period, there have been several locations that could have benefited from the presence of a JVA to identify refugees for resettlement.

In addition, U.S. embassies should be given greater authority to identify and refer refugees to the U.S. program. In a recent report to Congress, the State Department indicated its intent to authorize embassy referrals for individual protection cases. We urge that this authority be extended so that embassies may identify and refer groups of refugees as well.

Building Capacity to Identify and Process Refugees

Another area of concern is the ability of the U.S. government itself to identify and process refugees for the U.S. program. Our government, including the Department of Homeland Security, should make more efforts to create a "pipeline" of refugees for resettlement that is continually filled. The State Department must be more proactive in identifying refugee populations for the succeeding years, so that there is at least a three-month pipeline of "travel-ready" refugees. We recommend several additional tools to achieve this goal.

First, we recommend that the State Department and the Department of Homeland Security create "Rapid Response Teams" which would field NGO experts on a regular basis to analyze the resettlement needs of refugee populations and help establish initial processing mechanisms to identify and refer cases for U.S. admissions consideration. These teams would be deployed in areas of extreme need and would work with State Department officials on a regular basis to ensure that NGO efforts, which would supplement the work of UNHCR and PRM, are consistent with accepted standards for assessing the suitability of persons for resettlement.

In addition, we recommend the creation of a Refugee Corps within the Department of Homeland Security, which would be deployed to adjudicate refugee cases on a more consistent basis. We are pleased that the Office of Citizenship and Immigration Services, headed by Eduardo Aguirre, is taking steps to make the Refugee Corps a reality. We are concerned, however, that the Administration plans to pay for the Refugee Corps through immigration user fees. We urge Congress to provide funding for the Refugee Corps through the annual appropriations process. We look forward to working with Mr. Aguirre and his staff on the creation of a Refugee Corps.

Finally, Mr. Chairman, Congress passed legislation in 2001 which requires the Department of Homeland Security to issue Employment Authorization Documents (EADs) to refugees upon their arrival at ports-of-entry into the United States. Currently only 35 EADs are being issued per plane. We ask you to urge DHS to implement this provision of law by issuing EADs to all refugees upon their arrival in the United States.

Expanding Access to the U.S. Refugee Program

To reach the most vulnerable of refugees, the State Department should expand access to the program for certain categories of refugees who currently do not have channels into the U.S. program. In the last several years, the State Department has limited the processing categories available for resettlement, relying primarily on the P-1 category for emergency needs. We recommend an expansion of the P-2 and P-3 categories.

The P-2 category allows for the resettlement of special groups designated to be of interest to the United States. The State Department has shown a willingness to expand the number of P-2 groups, but has not yet significantly done so. In the past year, only two new groups have been designated for processing.

We also recommend expanding the P-3 category, which prioritizes family members for resettlement, to all nationalities. While the State Department has expressed public support for this concept, it has recommended an expansion to only five additional countries for FY 2005. The absence of a "universal" P-3 has the effect of channeling more refugee claims to an overburdened UNHCR and contributes to misrepresentation in the program. Family relationships and reunification should remain a cornerstone of the U.S. refugee program.

Finally, the State Department should place a priority on responding to the needs of special populations of refugees. As a first step, the State Department should identify groups of unaccompanied refugee children for resettlement in the United States. In the past few years, only 62 unaccompanied refugee children have been resettled in the United States. In their recent report to Congress, the State Department conceded that more progress must be made in this area.

We recommend that the State Department deploy NGO specialists to conduct best interest determinations for groups of unaccompanied refugee children. We also recommend that special guidelines be developed for the processing of unaccompanied and separated children, including a processing priority designation. In addition, groups such as women at risk, long-stayers, urban refugees, and victims of torture should be given special consideration.

Budget Needs for the U.S. Refugee Program

Sufficient federal funding is essential if this life-saving work is to be accomplished.

We are deeply concerned about FY 2005 funding for refugee resettlement and protection. The President's FY 2005 budget request for refugee programs falls far short of meeting the need. The Administration's request is insufficient to resettle 50,000 refugees, let alone 70,000, while maintaining the current level of overseas assistance. With the crisis in Darfur and the continuing needs for overseas assistance throughout other regions of the world, we are very concerned that the State Department may be forced to make cuts in overseas assistance next year if funding is not increased. Mr. Chairman, overseas refugee assistance and refugee admissions are both critical aspects of international refugee protection. Neither should be funded at the expense of the other. We are working with Congress to seek increases above the President's request.

We are also urging the White House to seek sufficient funds in its FY 2006 budget proposal. In a July 28 letter to the White House, we asked President Bush to seek funding in his FY 2006 budget to expand our nation's ability to aid the millions of refugees overseas and to increase the number of refugees offered protection through resettlement in the United States. To achieve this end, we recommend at least \$982 million for the Migration and Refugee Assistance (MRA) account, at least \$50 million for the Emergency Refugee and Migration Assistance (ERMA) account, and at least \$667 million for the Department of Health and Human Services' Office of Refugee Resettlement (DHHS/ORR), and sufficient funds for other essential refugee related budget items.

Without an increase in federal funding, the Administration will not be able to continue to revive the U.S. refugee program to provide the durable solution of resettlement to more refugees. An MRA total of \$982 million would provide \$324 million for the United States to admit 90,000 refugees in FY 2006. Additionally, this overall MRA funding level would provide \$600 million to enhance our overseas assistance funding to a level that could meet more of the desperate needs. This MRA figure would also allow the other two items within MRA - aid to refugees resettling in Israel, and the administrative costs of the State Department's refugee bureau - to be funded at expected levels.

Increased funding for refugee protection is essential to avoid massive shortfalls in food, medicine and other vital supplies that continue to affect refugees across Africa and elsewhere. It would also support the work of international relief organizations - including those that fund U.S.-based charitable agencies - that are providing humanitarian assistance and protecting refugees from further harm. This funding level for overseas assistance would reverse the effects of inflation and other cuts, and would facilitate the United States' continued leadership in refugee assistance and protection.

ORR's ever-expanding mandate requires at least \$667 million for FY 2006. Of this amount, \$545 million would be available for transitional assistance to refugees, the Match Grant program, social services, ethnic community based organizations, vulnerable populations programs, and community integration projects to provide assistance for up to 100,000 refugees, as well as asylees and Cuban-Haitian entrants. A total of \$667 million for ORR would also allow \$20 million for human trafficking programs and \$30 million for programs under the Torture Victims Relief Act. Additionally, the Homeland Security Act of 2002 required ORR to take on the duty of caring for the more than 7,000 unaccompanied alien children who come into federal custody each year. We understand that ORR's new responsibility for unaccompanied alien children will require at least \$72 million in FY 2006.

In addition to the refugee program functions in the Departments of State and HHS, sufficient funding is needed for the Department of Homeland Security to adjudicate refugee claims and ensure that appropriate security measures are undertaken in the U.S. refugee program. As I mentioned before, among the most important new initiatives that should receive direct funding is the establishment and implementation of a Refugee Corps within the Bureau of Citizenship and Immigration Services. We urge that full funding be available for the Refugee Corps. Also, the DHS Bureau of Customs and Border Protection must be provided with sufficient resources to inspect and admit refugees, as well as to fulfill statutory requirements that Employment Authorization Documents be provided to refugees upon entry, in a manner that does not restrict refugee admissions or unduly increase the per capita costs charged to the State Department's refugee budget.

Finally, sufficient USAID and other US foreign assistance funding should be requested for services to internally displaced persons, torture victims, trafficking victims, and other victims of conflict, disasters, and oppression worldwide.

The U.S. Response to Refugee Crises in Haiti and Sudan

Mr. Chairman, I would like to make some comments about two humanitarian crises in the world today that involve refugees and asylum-seekers---Haiti and the Darfur region in Sudan.

Earlier this year, Mr. Chairman, we all witnessed the political turmoil in Haiti, in which former president Jean Bertrand Aristide resigned his post and fled into exile. During this period and even now, we have been deeply troubled by U.S. policy toward Haitian asylum-seekers who have fled their nation in search of protection. Our government has pursued a policy of turning back potential bona fide asylum-seekers who have left Haiti by boat without appropriate screening and access to the U.S. asylum system.

In public remarks at the height of the crisis, President Bush declared that all Haitians seeking to leave Haiti by boat would be returned to Haiti. This policy has been pursued systematically, without any formal mechanisms established to screen and process potential asylum-seekers. Such a policy, in our view, is a violation of international law set forth in the 1951 United Nations Convention on Refugees and the 1967 Protocols, to which the United States is a signatory.

Reports from inside Haiti have indicated that those returned by the U.S. Coast Guard to Port-au-Prince have been further harassed and persecuted by political elements there. Haitians deported

by the United States are imprisoned upon their return to Haiti. While the political situation has stabilized, we are deeply concerned that there are many Haitians who remain in peril and who require protection.

It is our view that the United States should reverse its policy on Haitians seeking asylum in the United States. Formal processing mechanisms should be established at a safe and humane location within the region, or, with appropriate safeguards and within secure zones, within Haiti itself. In addition, the United States should designate Haiti for Temporary Protected Status until the political and security situation further stabilizes and democratic institutions are fully restored. And the United States must immediately stop deporting Haitians in the United States.

Mr. Chairman, the humanitarian crisis in the Darfur region of Sudan represents one of the most grave and urgent challenges facing the international community in years. Both the Congress and Secretary of State Powell have determined that "acts of genocide are being committed in Darfur by government-sponsored and supported militia." As you know, more than one million refugees have been uprooted from their homes in Darfur, including 200,000 who have fled into neighboring Chad. Some 50,000 people have lost their lives and hundreds of thousands more are at risk of starvation or illness.

Refugee Council USA commends congressional initiatives to address this ongoing emergency. We are encouraged by efforts, most recently in the Senate's markup of the FY 2005 Foreign Operations appropriations bill, to direct additional funds toward humanitarian assistance. We are pleased to know that Assistant Secretary Dewey will soon tour the region to assess the situation. We urge the Administration to increase their efforts with the government in Khartoum to end the violence and to expedite humanitarian relief assistance to the region. We also urge the Administration to provide resettlement opportunities for emergency cases of Sudanese refugees who remain in danger.

In closing, Mr. Chairman, on behalf of our members, I again applaud Congress and the Administration for the continued diligence in working to restore the United States' proud history of protecting and resettling refugees. With collaborative and collective efforts in the days, months, and years ahead, America will remain a beacon of hope and a safe haven for refugees globally who seek hope in a world of suffering and despair.

Thank you for your consideration of our views.

REFUGEE COUNCIL USA

Members endorsing this testimony

Center for Victims of Torture
Church World Service/Immigration and Refugee Program
Episcopal Migration Ministries
Hebrew Immigrant Aid Society
Hmong National Development
Human Rights First
Immigration and Refugee Services of America/
US Committee for Refugees

International Refugee Research Institute
International Catholic Migration Commission
International Rescue Committee
Jesuit Refugee Service USA
Kurdish Human Rights Watch, Inc.
Lutheran Immigration & Refugee Service
National Alliance of Vietnamese American Service Agencies
Migration & Refugee Service/United States Conference of Catholic Bishops
Southeast Asia Resource Action Center
Women's Commission for Refugee Women & Children
World Relief