

Statement of

The Honorable Russ Feingold

United States Senator
Wisconsin
May 19, 2010

Senate Judiciary Committee Hearing on
"Renewing America's Commitment to the Refugee Convention:
The Refugee Protection Act of 2010"

Wednesday, May 19, 2010

Statement of U.S. Senator Russell D. Feingold

Thank you, Mr. Chairman, for proposing a bill that reinforces America's historic role as a place of sanctuary and protection for those fleeing persecution. I am proud to support the Refugee Protection Act of 2010, and I urge the Committee to support it.

This bill makes a number of much-needed and overdue changes to our refugee and asylum system. Under existing law, legitimate asylum applicants are unable to receive the protection of the U.S. if they fail to file their asylum application within one year of arrival. This sort of rigid, arbitrary deadline has resulted in thousands of meritorious asylum cases being denied. It has also forced immigration judges to spend countless hours assessing this threshold question, rather than focusing on the more essential question: Is this person fleeing political, religious, racial, or other persecution? It troubles me to think that we may have denied thousands of legitimate asylum seekers refuge in the U.S. merely because they did not speak English, did not know how to apply for asylum, or were unable to find counsel to give them advice about how to stay in the U.S..

One young Eritrean woman was forced into military service in Eritrea, where she was tortured for her religious beliefs. She managed to escape and applied for asylum four months after she arrived in the United States, but her asylum claim was rejected because she did not have a passport that showed a date of entry. During her immigration trial, she submitted numerous affidavits and other evidence to show that she had been in the U.S. for less than a year, but the judge found that she had not definitively proven that she had filed her application on time. He told her that she fit the definition of a bona fide refugee, but he still issued an order of removal. She eventually managed to stay that order and was able to remain in the United States, but this story demonstrates the problem with existing law, which this bill will correct.

This bill also addresses a number of unintended consequences of the USA PATRIOT Act, which I have been working for years to address. Hmong refugees and asylees, many of whom are residents in Wisconsin, were unfairly characterized as providing "material support" for terrorism because the Hmong assisted the United States during the Vietnam war. The Hmong were finally granted a waiver in 2007, but there are many other groups and individuals that have been swept

up in the overbroad definitions that currently exist in the Immigration and Nationality Act. This bill takes a step in the right direction by further narrowing the terrorism definitions to exclude coerced action (that is, action under duress) and by repealing a provision that made spouses and children inadmissible for the actions of their parent. These changes will ensure that refugees and asylum seekers are not unfairly denied protection from persecution, while also ensuring that those with real ties to terrorist organizations will continue to be denied entry to the U.S..

The Refugee Protection Act also significantly enhances detention conditions and provides for prompt and adequate medical treatment for detainees, which is long overdue. The number of immigrants detained in the U.S. every year is at an all time high, and over the last several years, we have heard several extremely appalling stories of deaths in immigration custody and failure to provide adequate medical treatment to individuals with obvious medical needs. More than 80 people have died in immigration detention over the last five years, nearly half of them under forty years old. This is unacceptable and is something we must change immediately.

I am also pleased that the Refugee Protection Act makes a number of changes to strengthen due process rights for asylum seekers and to improve access to counsel. I have long thought that we should be doing more to ensure that immigrants in detention have access to counsel, or at a minimum, some tools to be able to better represent themselves.

The changes proposed by the Refugee Protection Act strengthen our historic commitment to refugees and help ensure that the U.S. will always remain a safe haven for refugees and asylum seekers who have a credible fear of persecution in their home countries. I hope the Committee will act quickly to pass this landmark legislation.

Thank you.