

“PROTECTING THE PERSECUTED:
THE SUCCESSES AND CHALLENGES OF SAFEGUARDING REFUGEES,
INTERNALLY DISPLACED PERSONS, AND STATELESS PERSONS”

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TO
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Mr. Chairmen, and distinguished members of the Tom Lantos Human Rights Commission, thank you for scheduling this hearing to commemorate the 60th anniversary of the United Nations Convention Relating to the Status of Refugees and the 50th anniversary of the Convention on the Reduction of Statelessness. These two landmark documents give expression to some of the highest ideals of the human race – to help and protect others in their time of need. It is an honor to be with you today to discuss these two Conventions and the challenges that continue to confront us as we work to protect, assist, and find solutions for some of the world’s most disenfranchised people.

This Human Rights Commission is named in honor of Congressman Tom Lantos, who himself sought and received refuge from Nazi brutalities during World War II. I believe that Congressman Lantos would have been proud that this Commission is holding this hearing today to salute the ongoing international commitments contained in the Convention on Refugees and the Conventions on Statelessness, and the role of the U.S. Government in those important efforts.

1951 Refugee Convention

The practice of granting asylum to people fleeing persecution is one of the earliest hallmarks of civilization. The granting of refuge to persons in danger is not merely a modern concept. It is not strictly a Western notion. It is not a responsibility limited only to wealthy States, nor is it an act we undertake only when convenient to us. The 1951 Refugee Convention and the 1967 Protocol Relating to the Status of Refugees are affirmations of the highest values and deepest instincts of human societies. Granting asylum to persons fleeing persecution is an act of conscience that reflects well on us all.

During the past six decades, tens of millions of individuals throughout the world have been forced to flee their countries in an often desperate search for protection from persecution and conflict. The 1951 Refugee Convention and the 1967 Protocol are the cornerstone for international protection by defining the term “refugee,” listing the rights of refugees, and making clear that States have responsibilities toward refugees, most notably an obligation not to forcibly

return refugees to their home countries where they have reason to fear persecution. Some 147 countries have ratified the 1951 Convention or the 1967 Protocol. The United Nations High Commissioner for Refugees (UNHCR) has aptly described itself as the “guardian” of international refugee protection fostered by these historic agreements.

Mr. Chairmen, I cannot overstate how influential the international Refugee Convention and the Protocol have been in our own country. On November, 1, 1968, the United States formally acceded to the 1967 Protocol, which updated the 1951 Convention while preserving the refugee rights contained in the Convention’s main provisions. Last year we celebrated the 30th anniversary of our country’s seminal 1980 Refugee Act, which codified into U.S. domestic law important components of the Convention and the Protocol. The 1980 Refugee Act established an effective system of implementing our obligations under the Protocol through a statutory framework, including a definition of “refugee” and an impartial and standardized system of asylum to ensure compliance with our *non-refoulement* obligation. The Refugee Act also established a fair and generous system for refugee admissions to the United States for purposes of permanent resettlement.

The practical impact is enormous. The United States has formally granted asylum to about a half-million people since enactment of the Refugee Act, and nearly 3 million refugees have been resettled in the United States since 1975. Our country welcomes more refugees for resettlement than all other resettlement countries combined, including resettling 56,424 refugees in FY 2011. Thousands of local communities and individuals around the nation have opened their homes and their hearts to these new refugee arrivals, enabling them to establish new lives in freedom and relative safety. These achievements are a testament to the generosity of the American people and are a tangible example that the idealistic aspirations that infused the Convention and the Protocol are implemented in good faith by our nation. Thanks to consistent and bipartisan support from Congress, including from Members of this Human Rights Commission, the State Department’s Bureau of Population, Refugees, and Migration (PRM) has provided nearly \$8 billion to support protection and assistance programs for refugees and other populations of concern over the past five years. Our country consistently has ranked as the largest financial contributor to UNHCR.

Perhaps less visibly but no less importantly, the State Department aggressively engages in humanitarian diplomacy to encourage other governments to fulfill their obligations under international refugee law. The United States has been a strong leader in working to strengthen the international refugee system in a manner that promotes security, reconciliation, and durable solutions for affected populations. While it is true that our collective efforts are not always as successful as we would like – adequate protection and assistance for refugees is an ongoing challenge – there can be no doubt that countless numbers of people throughout the world owe their survival to the refugee rights and State obligations articulated in the Convention and the Protocol.

As we commemorate the impressive humanitarian achievements under the Refugee Convention during the past six decades, this is also an appropriate moment to discuss the protection challenges and gaps that we confront moving forward. I would like to briefly mention a number of these issues and to point out how they relate to the Convention and the Protocol.

One enormous challenge in today's world is that not only refugees but tens of millions of non-refugees need international protection and assistance, thereby highlighting the limitations of the Refugee Convention and the Protocol. Conflict, persecution, and crises have continued around the world and taken new forms. Fewer than a million refugees existed when the 1951 Refugee Convention was drafted. Currently some 15 million persons are refugees. An additional 27 million persons worldwide are internally displaced by conflict or oppression, but do not fall under the mandate of the Convention and the Protocol. International migration has increased dramatically in recent decades, leading to serious concerns about human trafficking, humane and orderly migration management, and adequate protection for vulnerable migrants far beyond the concerns that existed 60 years ago. We will continue to work hard to improve international protection for the world's non-refugees, including internally displaced persons (IDPs) and other victims of conflict, as well as international migrants who are vulnerable to trafficking and abuse.

A second challenge is the ongoing need to ensure adherence to the 1951 Refugee Convention and the 1967 Protocol by States Parties, and to encourage greater accession. Some 147 nations are parties to one or both documents. Non-States Parties include India, Pakistan, Iraq, Libya, Saudi Arabia, Kuwait, Burma, Thailand, Vietnam, Laos, Indonesia, Bangladesh, and Uzbekistan, among others. Several non-States Parties historically have produced or hosted significant refugee flows, making recognition and adherence to principles of international protection crucial in these cases. The United States will continue to support efforts to encourage additional accessions.

In some cases States Parties to the Refugee Convention and Protocol do not always fulfill their legal obligations. For example, Cambodian authorities two years ago forcibly returned ethnic Uighur asylum seekers to China despite strong protestations by the U.S. Government that they accord them the benefit of a credible process for determining refugee status and the risk of torture. Last week the government of Sudan in Khartoum deported some 300 Eritrean asylum seekers without giving them the benefit of a process for seeking protection from forced return or *refoulement*. Similarly, numerous States Parties have failed to develop fair and systematic refugee status determination procedures and do not grant refugees the full rights to which they are entitled under the Convention and the Protocol, including freedom of movement, right of association, and the right to work. Vigilance is necessary to identify undue restrictions on refugee rights. The State Department will continue to engage in the sustained humanitarian diplomacy needed to improve respect for principles of refugee protection.

A third challenge is the need to maintain a strong international system of shared responsibility. The preamble of the 1951 Convention explicitly acknowledges that a single nation cannot shoulder the needs of the world's refugees alone. Asylum countries providing refuge to huge refugee populations, such as Pakistan, Iran, Syria, Kenya and Chad, need to be confident that if they keep their borders open, the international community will step forward to share responsibility by contributing to assistance efforts and seeking durable solutions for the refugee population. Despite budget constraints, the United States and other wealthy nations must sustain efforts to adequately fund international humanitarian protection and assistance programs, knowing that such sharing of responsibilities is the linchpin of the international system of refugee protection. At the same time, we are reaching out to governments that have financial resources to contribute to refugee assistance and protection efforts but historically have not done

so. Some of these non-traditional donor countries stepped forward with helpful contributions to support international humanitarian efforts in the recent Libya crisis. We will continue to encourage their participation in other emergencies to strengthen the international system of humanitarian response.

A fourth challenge relates to the need to find durable solutions for refugees and displaced populations. Although the Refugee Convention and the Protocol do not explicitly use the term “durable solutions,” the historical record makes clear that a fundamental assumption underpinning the Refugee Convention is that refugee status should be temporary until individuals are able to settle safely and return to normal lives. In today’s world, however, some eight million refugees have languished in protracted refugee situations for a decade or more. The Department of State recently formulated a strategy to strengthen the U.S. Government’s efforts to resolve selected protracted refugee situations. It is focused on a few key situations where enhanced engagement could increase political will and help create movement toward durable solutions. While pursuing these efforts abroad, we will continue our own country’s refugee admissions program, which remains one of our most visible and effective tools to enhance refugee protection and provide a durable solution of permanent resettlement in the United States for carefully screened refugee applicants unable to return home safely or resettle in their own regions.

A fifth challenge is the realization that some segments within any refugee population are particularly vulnerable and special attention is needed to ensure that they enjoy the rights and protection envisaged in the Refugee Convention and the Protocol. Repeated experience during the past 60 years has made painfully clear that women and girls remain vulnerable to gender-based violence, sexual exploitation and abuse, and discrimination even after reaching a country of asylum. Elderly and disabled persons often struggle to receive or retain possession of the material emergency assistance to which they are entitled. Lesbian, gay, bisexual, and transgender individuals often face abuse or persecution even after fleeing their countries. Migrants who may begin their journeys as economic migrants often fall prey to vicious smugglers, traffickers, and criminal groups while in transit due to their lack of legal immigration status, but this status should not render them any less deserving of protection from human rights violations. The realization that particular segments of the refugee population encounter special protection needs is one of the greatest advances made by the international humanitarian community in the six decades since the adoption of the 1951 Convention. Yet providing the necessary protection in an effective manner is one of the most difficult challenges. The Department of State is a strong proponent of UNHCR’s efforts to make humanitarian staff aware of particularly vulnerable sub-groups and to develop protection practices tailored to their needs. In addition, we are giving prominent attention to modern dynamics such as urbanization, climate change, and mixed migration flows that make protection efforts more complex.

As a world leader on these issues, we should acknowledge a sixth challenge: We should strive to practice at home what we preach abroad. So, for example, we have sought to ease the burdens faced by newly arriving refugees in the United States by expanding our assistance to them in their first weeks after arrival. We are engaged with the Department of Homeland Security (DHS) regarding the foreign policy implications of migration-related issues such as domestic detention practices. Some of these issues go beyond the scope of the Convention, but they all are

matters that PRM works on assiduously with other U.S. Government agencies, and we remain open to constructive recommendations for improvements.

These six challenges are by no means the only ones we face. They are, however, challenges that we are particularly seized with – and that present us with many opportunities – as we strive to implement the letter and spirit of the 1951 Refugee Convention and the 1967 Protocol in our complicated modern world.

1961 Statelessness Convention

In addition to the Refugee Convention, I would also like to make a few points on the Statelessness Convention. This year's 50th anniversary of the UN Convention on the Reduction of Statelessness is an important opportunity to raise awareness about a human rights and humanitarian issue that for too long has not received the international attention it requires. Thank you for including this issue in today's hearing.

Although the Universal Declaration of Human Rights states that all people have the right to a nationality, as many as 12 million persons worldwide are stateless, according to UNHCR estimates. Stateless people live in every region of the world but, deprived of citizenship, they remain largely in the shadows suffering marginalization and neglect. The problem gained international notoriety when the Nazis systematically denationalized German Jews. Examples of stateless populations today include the Roma in Europe, persons of Haitian descent in the Dominican Republic, the Bidoon in Kuwait, Rohingya in Burma, denationalized Kurds in Syria, and many Palestinians.

Deprived of recognition by any State, stateless persons typically lack identity documentation and are unable to officially register births, marriages, or deaths. Without such documentation, they often cannot work legally or travel freely. They cannot vote, open a bank account, or own property. They often lack access to health care and other public services. Their children often are barred from attending school. Statelessness typically deprives people of basic legal protections, often for generations. Trapped in a marginal status on society's edge, stateless persons are particularly vulnerable to abuse and exploitation, gender-based violence, trafficking in persons, and arbitrary arrest and detention.

The United States encourages the international community to prevent and reduce statelessness and to protect stateless persons. The first requirement is that governments, civil society organizations, international organizations, and regional bodies must recognize the problem and its causes. Governments around the world must decide to take meaningful action to address the very solvable problem of statelessness in order to ensure a brighter future for millions of disenfranchised and extremely vulnerable people.

The U.S. Government regards statelessness as a human rights and humanitarian issue that impacts prospects for democratization, economic development, and regional stability. The Department of State engages in diplomacy with foreign governments and civil society organizations in an effort to prevent and resolve statelessness. We go into the field to monitor the difficult conditions and challenges endured by stateless persons. U.S. diplomats around the

world are working to persuade governments to amend discriminatory nationality laws that cause statelessness. We urge governments to identify and provide documentation to stateless persons, protect them from abuse, and ensure they have access to basic services.

Mr. Chairmen, the United States is particularly concerned about the impact of statelessness on women and children. In approximately 30 countries, many women and children are rendered stateless because nationality laws discriminate against females and severely limit their ability to acquire, retain, and transmit citizenship. In many cases, nationality laws permit only a child's father to transmit his citizenship or limit the ability of the mother to do so. In some cases, nationality laws strip women of their citizenship upon marriage to a foreign spouse, or prohibit a woman's foreign spouse from naturalization. Secretary Clinton is leading our efforts to combat discrimination against women in nationality laws and has launched a broad diplomatic initiative to mobilize other governments to repeal these discriminatory laws.

In addition to these diplomatic efforts, the United States provides humanitarian assistance to alleviate the problem of statelessness through our support to key partners, particularly UNHCR. We applaud UNHCR's campaign to promote accession to the 1961 Reduction of Statelessness Convention and the 1954 Convention related to the Status of Stateless Persons. We note the progress made during this year of anniversary commemorations: to date in 2011, Croatia, Nigeria, Panama, and the Philippines have acceded to one or both of the Statelessness Conventions. In August, the parliament of Turkmenistan incorporated the 1954 Convention into domestic law. We will continue to work with UNHCR to ensure these countries and other parties to the Conventions fulfill their obligations.

I am pleased to report that the domestic laws of the United States do not contribute to the problem of statelessness. Our nation grants citizenship through three avenues: birth in the United States; birth abroad to a U.S. parent if statutory requirements are met; and through naturalization. Although the United States has not ratified the 1961 Convention because several provisions conflict with U.S. law, there is absolutely no doubt that we support the objectives and principles of the two Statelessness Conventions and that U.S. law is generally consistent with the objectives of the two Conventions. We believe that other governments should consider accession and implementation as a means to minimize statelessness. Moreover, the Administration has expressed its support for the general direction of the statelessness provisions contained in the Refugee Protection Act of 2011 (S.1202, Sec. 17) introduced by Senator Leahy.

Chairman McGovern and Chairman Wolf, thank you once again for holding this hearing. Thank you to all Members of the Tom Lantos Human Rights Commission for your strong commitment to universal human rights. I want to assure you that the Administration shares your commitment. The State Department feels privileged to play a lead role in our nation's adherence to the objectives of the 1951 Refugee Convention and the 1961 Convention on the Reduction of Statelessness, and to guide the efforts of the United States to promote international adherence to these two landmark achievements of international law.