An Update – October 2012

The United States Government announced 28 pledges at the UNHCR Commemorations Ministerial on December 7, 2011. The pledges address five themes ranging from asylum and detention, to vulnerable populations, to refugee resettlement and statelessness. To date, the USG has fulfilled 14 pledges (though these efforts are ongoing, in many instances) and is making progress on the remaining pledges. The U.S. Government is committed to fulfilling its remaining pledges. It is through the full implementation of Member States’ collective pledges that we will reap true benefits, and, as responsible governments, enable UNHCR to better serve its beneficiaries for generations to come.

1) ASYLUM, ADJUDICATION, DETENTION

Interpretation of the Refugee Definition ~ Pledge fulfilled!
The U.S. Government (USG) pledges to provide ongoing, comprehensive training to all Immigration Judges and Members of the Board of Immigration Appeals and their legal staff in refugee law and related legal disciplines, as well as in country of origin analysis and application.

Update: The Board of Immigration Appeals’ (BIA) in-house training schedule for calendar year 2012 includes a host of trainings that fulfill the above pledge. The topics for the trainings include: Personal Circumstances & Asylum Eligibility: When does an alien’s changed personal circumstances constitute a new claim for asylum?; Human Trafficking: Trends & Relief; Particular Social Groups: A Defining Challenge; Emerging Issues in Asylum Law: Religious and Economic Persecution Claims; The Law of Discretion in Immigration Cases; Immigration Law: Federal Court Trends and Updates; Special Topics in Asylum Law: Firm Resettlement & Internal Relocation; and Understanding and Applying The Violence Against Women Act. The trainings are presented live to BIA employees and recorded via digital audio recording and video. The recordings are made available to Immigration Judges nationwide and for anyone who misses the live trainings. The U.S. Department of Justice (DOJ) is also developing a separate training curriculum specifically for the Immigration Judges, who will be provided Religious Persecution Country Conditions Updates.

Bars to Admissibility and Asylum Eligibility
The U.S. Government pledges to:

- Significantly reduce, through the issuance and application of exemptions to exclusion based on national security grounds, cases that are on hold for a review of eligibility for an exemption to exclusion by the end of fiscal year 2012. ~ Pledge fulfilled!

Update: The U.S. Department of Homeland Security (DHS) Secretary Janet Napolitano signed new exercises of the exemption authority that authorize U.S. Citizenship and Immigration Services (USCIS) to exempt individuals on a case-by-case basis for the provision of medical care under certain circumstances. The Secretary also recently signed an exercise of her exemption authority for applicants with existing immigration benefits, such as asylees and refugees in the United States.
The exemption will allow USCIS to release up to an estimated 75 percent of the cases currently on hold and proceed with the adjudications of the underlying benefit applications. The majority of the affected applicants whose cases will be released for adjudication are asylees and refugees with pending applications for legal permanent resident status, or "green cards." Those who are granted the exemption will be able to continue down the path to full U.S. citizenship. In addition, two new group-based exercises of the exemption authority were signed by Secretary Napolitano during the year that authorize USCIS to exempt certain individuals having activities and associations with the Kosovo Liberation Army or who were involved in the 1991 Iraqi uprisings against the Saddam Hussein regime.

- Undertake a review, to be completed by the end of calendar year 2012, to examine current interpretations of the terms under the national security exclusion grounds, for example, the meaning of material support, to better ensure that those in need of protection retain eligibility for it.  
  Update: In progress.

- Work with Congress to eliminate the one-year filing deadline for submission of asylum applications.  
  Update: DHS has engaged in initial outreach to Congressional staff.

**Detention**

The U.S. Government pledges to:

- Continue to provide UNHCR reasonable access to conduct review of detention and parole decision-making for persons of concern to UNHCR, including parole determinations for arriving asylum seekers in expedited removal.  
  ~ Pledge fulfilled!

  Update: DHS provided access to UNHCR to complete its review on the parole process, and has continued to work with UNHCR on parole process improvements. Over the last six months, DHS worked with UNHCR to revise the Immigration and Customs Enforcement (ICE) Form 71-012 “Parole Advisal and Scheduling Notification Form.” On August 17, 2012, ICE Enforcement and Removal Offices (ERO) began using the new form in all of its field offices. Form 71-012 now gives arriving aliens or their representative expanded information on documents they may want ICE to consider as part of its assessment whether to parole the alien from detention.  
  Documents may be submitted concerning:

  1. The arriving alien’s identity;
  2. Whether the arriving alien is likely to appear for all scheduled hearings and enforcement appointments (including for removal from the United States if so ordered); or
  3. Whether the arriving alien does not present a security risk to the United States or a danger to the community.

- Work with UNHCR and other stakeholders on improved detainee release practices, including consideration of a Detainee Release Notification flier that explains to detainees their legal obligations and provides information on issues
such as phone calls, personal property, medical services and community organizations that serve immigrant populations. Review and amend, as necessary, current policies to better ensure that individuals in immigration detention, including asylum seekers, are released from detention in a safe and responsible manner, time, and place. ~ Pledge fulfilled!

**Update:** DHS has issued the 2011 Performance-Based National Detention Standards, which includes improved detainee release practices. Implementation of these new standards has commenced. DHS is also revising the Detainee Detention Facility Handbook to give detainees notice of policies and practices surrounding release from ICE detention facilities. ICE’s revised Performance-Based National Detention Standards also improves conditions of confinement for detainees in various ways, including by improving medical and mental health services, increasing access to legal services, enhancing processes for reporting and responding to complaints, and strengthening protections for vulnerable detainee populations (including women, individuals with mental illness, and victims of abuse). ICE has also issued a new Transfer Directive that prohibits the long-distance transfer within the agency’s detention system of detainees with family members or attorneys in the area or pending immigration proceedings, unless absolutely necessary. In addition, ICE will soon be initiating nationwide deployment of a new Risk Classification Assessment system designed to screen all individuals apprehended or detained by ICE for a number of special vulnerabilities impacting custody and classification determinations, including whether a person is a victim of persecution or torture, sexual abuse or violent crime, or human trafficking.

**Interdiction**
The U.S. Government pledges to implement updated training to U.S. Coast Guard law enforcement personnel participating in migrant interdiction operations by the end of calendar year 2012. This training will focus on identifying manifestations of fear by interdicted migrants.

**Update:** USCIS and U.S. Coast Guard (USCG) HQ staff have created a draft PowerPoint-based training aid and filmed a series of manifestation of fear recognition vignettes in May, which will be incorporated into the training aid. We anticipate distributing this training aid to all USCG cutters and stations engaged in migrant interdiction operations prior to the end of CY2012, and that all personnel will be trained prior to deployment.

**2) VULNERABLE POPULATIONS**

**Children**
The Best Interests of Children
The U.S. Government pledges to:
- Assist UNHCR with the deployment of eight trained and competent staff to conduct Best Interest Determinations (BID) in line with UNHCR guidance, subject to applicable laws and regulations.

**Update:** Six BID officers have been deployed thus far. Additional deployees will be funded this year.
- Facilitate UNHCR’s review of U.S. practices regarding the screening of unaccompanied children at the southwest border during 2012.  
  **Update:** DHS facilitated UNHCR’s feasibility study in Laredo, TX in January 2012, which focused on screening of unaccompanied children (UAC). DHS provided feedback to UNHCR on the draft of its feasibility study report and met with UNHCR in July 2012 to discuss the finished report and observations.

- Update existing guidance on both procedure and substance for the adjudication of asylum claims brought by children. 
  **Update:** In progress.

- Promote the availability of pro bono legal counsel for persons of concern to UNHCR – in particular unaccompanied children and those with diminished mental capacity.  
  **~Pledge fulfilled!~** 
  **Update:** DHS and DOJ are collaborating to facilitate UAC access to counsel by analyzing the placement of children. DOJ oversees programs and initiatives to improve access to legal information and assistance principally through four main initiatives: 1) the Legal Orientation Program (LOP); 2) the Legal Orientation Program for Custodians of Unaccompanied Alien Children (LOPC); 3) the Board of Appeals Pro Bono Project; and 4) the Model Hearing Program (MHP).

The LOP is currently operating at 26 sites (24 of which are ICE detention facilities), serving over 64,000 individuals per year. The purpose of this program is to assist detained respondents in making better informed decisions earlier in removal proceedings, and to improve access to basic legal services for indigent aliens. The LOPC provides legal orientation presentations to the adult care givers (custodians) of unaccompanied children in EOIR removal proceedings. Currently operating at 14 sites, the purpose of the program is to inform the children’s custodians of their responsibilities in ensuring the child's appearance at all immigration proceedings, as well as protecting the child from mistreatment, exploitation, and trafficking. The BIA Pro Bono Project was created to increase pro bono representation for individuals with cases on appeal. Since its start, the Project has succeeded in securing pro bono counsel for over 700 aliens around the country - primarily those in DHS custody. The MHP is an educational program developed to improve the quality of advocacy before the court, as well as increase levels of pro bono representation. Since June of 2001, well over 50 Model Hearing training sessions have been held in immigration courts across the country. Additional information on these four programs is available upon request.

In addition to these programs, DOJ has pro bono liaison judges designated for each court location. The objective of the Pro Bono Liaison Judge is to meet with local pro bono groups and stakeholders to discuss ideas and facilitate efforts to increase the level and quality of pro bono representation before the court. DOJ works with the pro bono liaison judges to provide additional technical assistance and help coordinate their efforts with other agency programs and initiatives.
Cultural Orientation Curriculum for Youth ~ Pledge fulfilled!
The U.S. Government pledges to provide cultural orientation to unaccompanied refugee minors who are preparing to travel to the United States and to encourage the continued use of similar curriculum after arrival in the United States.

Update: The U.S. Government has implemented provision of overseas cultural orientation for unaccompanied refugee minors, utilizing a curriculum that addresses the specific needs of these individuals. Once these minors are resettled to the United States, a similar curriculum is utilized for additional cultural orientation training. The U.S. Government also provides cultural orientation for refugee youth ages 8–18 traveling with parents or other adult family members.

Education in Emergencies ~ Pledge fulfilled!
The U.S. Government pledges to increase its support to international efforts relating to equitable access to education for youth in crisis and conflict environments and its involvement in shaping the agenda on education of youth in emergencies, particularly through ongoing Women, Peace and Security efforts.

Update: The U.S. has included a commitment on the pledge in the U.S. National Action Plan on Women, Peace and Security; the White House report states the following:

In the narrative: “Education can also mitigate the effects of conflict and provide the basis for long term economic growth and stability. Out of 70 million primary school-aged children not in school, nearly 40 million live in countries affected by armed conflict. It is therefore critical to restore education sites, services and system-wide capacity for children and youth, particularly girls, in conflict-affected or insecure environments. We are working to increase equitable access to education in crisis and conflict environments for 15 million learners, including those with disabilities, by 2015. Conflict Prevention: The United States Government will promote women’s roles in conflict prevention, improve conflict early-warning and response systems through the integration of gender perspectives, and invest in women and girls’ health, education, and economic opportunity to create conditions for stable societies and lasting peace.”

In the Framework:
Outcome 4.2: Women and girls participate in economic recovery, and have increased access to health care and education services. Promote access to primary, secondary and vocational education for children and youth in countries affected by violence or conflict, with special incentives for the attendance and retention of girls, taking into account related special protection needs.

Outcome 5.1: Gender and protection issues are explicitly and systematically integrated and evaluated as part of responses to crisis and disaster. Promote access to education in emergencies consistent with international guidelines and best practices.

Women
Services for Victims of Sexual and Gender Based Violence
The U.S. Government pledges to provide refugee service providers and mainstream social service programs in the United States with additional training relating to sexual and gender based violence, including violence that amounts to a form of torture, as well as information on services available to survivors of torture.
Update: The Department of Health, Office of Refugee Resettlement (ORR) is in the process of exploring partnerships with groups working to address SGBV.

Microenterprise Development Opportunities ~ Pledge fulfilled!
The U.S. Government pledges to provide refugee women in the United States with training opportunities on how to establish and manage businesses including, home-based childcare services.

Update: ORR awarded approximately $2.2M to 13 organizations under the “Discretionary Funds for Refugee Childcare Microenterprise Development” Project. These organizations are charged with assisting refugee women to establish licensed child care businesses within their homes. The project focuses on childcare quality of care standards and microenterprise principles. The program offers training and technical assistance as ongoing support for the 13 organizations and the women they serve. In addition, a mainstream social service agency awarded nearly $1M to three refugee resettlement organizations to administer a similar childcare microenterprise program. ORR continues to support a refugee Microenterprise program with 18 grantees at $4 million supporting a host of entrepreneurial endeavors.

Lesbian, Gay, Bisexual, and Transgender (LGBT) ~ Pledges fulfilled!
Electronic Resource Center
The U.S. Government pledges to develop an electronic resource center that catalogues available community resources and identifies supportive communities for LGBT refugees resettled in the United States.

Update: ORR awarded a $250,000 grant to the Heartland Alliance of Chicago to create a training and technical assistance center that supports the resettlement of Lesbian, Gay, Bisexual, and/or Transgender (LGBT) refugees and asylees. Heartland Alliance launched the Rainbow Welcome Initiative, an online resource for disseminating critical resources relevant to both resettlement staff and refugees and asylees. The first-ever online resource center of its kind provides key materials, including a “Know Your Rights” packet, created by Heartland Alliance’s National Immigrant Justice Center. Heartland Alliance will also be translating content into Arabic, French, and Spanish. For more information, visit: www.RainbowWelcome.org. Heartland Alliance provides LGBT trainings and webinars to educate and provide technical assistance and resource to grantees of both the refugee and the Survivors of Torture programs.

Provision of Targeted Services
The U.S. Government pledges to add language to one or more grant announcements that identifies LGBT refugees as a vulnerable population in need of targeted services.

Urban Refugees ~ Pledges fulfilled!
The U.S. Government pledges to:
- Expand U.S. diplomacy and humanitarian programming to protect and assist refugees in urban areas. In conducting humanitarian diplomacy on behalf of urban refugees, the United States will seek to ensure recognition of refugees’ status and legal rights, consistent with obligations and commitments countries have assumed under international human rights and refugee law, and to address practical and administrative obstacles to enjoyment of those rights.
Update: The U.S. Department of State, Bureau of Population, Refugees, and Migration (PRM) Principal Deputy Assistant Secretary traveled jointly with Assistant High Commissioner Lim to Addis Ababa and Kampala in July to examine challenges and progress made to date in responding to refugees in urban areas. PRM briefed NGO partners on this trip in September. PRM has developed a policy brief on refugee protection in urban areas that is now publicly available on its website at: http://www.state.gov/documents/organization/187237.pdf. Additionally, PRM has begun expanding urban programming this year in places such as Kampala and Nairobi.

- Develop practical guidance for programming U.S. humanitarian assistance for refugees in urban areas by the end of 2012. This guidance will draw on best practices in order to maximize program effectiveness.
  Update: PRM has developed a set of questions, drawn from established best practices, for PRM program officers and Refugee Coordinators to use while monitoring partners’ performance in urban areas. PRM has also recently funded an initiative by the Joint IDP Profiling Service (JIPS) and Tufts University to expand the capacity of JIPS to profile urban refugees. As part of this project, JIPS and Tufts will conduct profiling studies in two cities (TBC) and publicly share its data so that PRM and partners can more effectively target interventions in these areas.

- Support enhancement of UNHCR’s institutional capacity to implement its urban refugee policy, including through staff training and other efforts, subject to applicable laws and regulations.
  Update: PRM is currently funding UNHCR’s development of its e-learning program for staff in urban areas.

3) RESETTLEMENT, PROTECTION, INTEGRATION

Protection and Integration
The U.S. Government pledges to:
- Make adjustments to the procedures for determining when an asylum seeker becomes eligible to apply for work authorization while his or her claim is pending, including the process to re-start the “clock” that determines when an asylum seeker becomes eligible to work legally.
  Update: A class action law suit has been filed; the USG is limited in its response.

Strengthening Global Resettlement Capacity ~ Pledges fulfilled!
The U.S. Government pledges to:
- Enhance the delivery of comprehensive durable solutions, notably in protracted refugee situations, by working with Member States, UNHCR and other partners to promote increased opportunities for refugee resettlement, the participation of new resettlement countries, improved integration outcomes for resettled refugees, and the strategic use of resettlement to unlock the other durable solutions of voluntary repatriation and local integration.
Update: This is on-going through leadership in Working Group on Resettlement and Annual Tripartite Consultations on Resettlement fora.

- Undertake a multi-year twinning program with Uruguay and Bulgaria to strengthen global resettlement capacity.
  Update: This is on-going. PRM recently funded NGO participation from Bulgaria and Uruguay in the Australia Working Group on Resettlement, as well as participation of Bulgaria NGO representative in a study tour of U.S. resettlement sites and participating agencies.

4) PARTNERSHIPS, TRAINING, CAPACITY-BUILDING

The U.S. Government pledges to work with UNHCR in fiscal year 2012 to strengthen local partner capacity, particularly in humanitarian emergencies, through facilitating partnerships between international and national actors. ~ Pledge fulfilled!
Update: PRM funded a UNHCR proposal whose goal is to strengthen capacity for national and local NGOs to operate in complex emergency environments and will include the contribution in the third tranche of funding. PRM will be following the implementation of this project closely.

5) STATELESSNESS

Statelessness Among Women and Children ~ Pledges fulfilled!
The U.S. Government pledges to:

- Focus U.S. diplomacy on preventing and resolving statelessness among women and children, including efforts to raise global awareness about discrimination against women in nationality laws and to mobilize governments to repeal nationality laws that discriminate against women.
  Update: The U.S. Department of State continues efforts to promote women’s equal right to nationality through the Women’s Nationality Initiative (WNI) launched by Secretary Clinton in late 2011. American embassies in Benin, Nepal and Qatar, the initial focus countries for the WNI, continue to work to engage government officials, coordinate with multilateral partners, and support civil society groups to promote women’s nationality rights and help address the consequences of statelessness. The Department continues its public diplomacy efforts, which have included highlighting the issue vis-à-vis the July 2012 adoption of the Human Rights Council resolution on “The Right to a Nationality: Women and Children.” (As an example, visit: http://blogs.state.gov/index.php/site/entry/right_to_nationality).

- Promote a child’s right to nationality through multilateral and bilateral engagement, including efforts to promote universal birth registration.
  Update: The United States, along with Slovakia, Botswana, Mexico, Turkey, Iraq, and Colombia, introduced a resolution on “The Right to a Nationality: Women and Children” at the 20th session of the Human Rights Council. The resolution was adopted by consensus and widely supported by countries from diverse geographic regions, with a total of 49 co-sponsors. The United States joined consensus on the “Arbitrary Deprivation of Nationality” resolution at the same session.
Statelessness and Citizenship
The U.S. Government pledges to:

- Actively work with Congress to introduce legislation that provides a mechanism for stateless persons in the United States to obtain permanent residency and eventually citizenship.  
  *Update*: DHS has engaged in initial outreach to staff of members on the Hill.

- Consider the revision of administrative policies to allow the circumstance of stateless persons to inform decision-making regarding their detention, reporting requirements, and opportunity to apply for work authorization.  
  *Update*: During the year, DHS met with UNHCR on statelessness and continues to review whether any policy changes are necessary. In response to UNHCR’s request to tailor reporting requirements for stateless aliens to their individual circumstances and risk, ICE issued new reporting guidance to all ICE ERO Field Office Directors on August 23, 2012. Effectively immediately, ICE ERO Field Offices are authorized to use discretion in establishing reporting requirements of aliens released on an Order of Recognizance or Order of Supervision. The guidance states that each alien’s case and reporting requirements may be reassessed and modified based on the alien’s level of compliance, ICE’s detention enforcement priorities, or changes to the circumstances of the individual case as a matter of discretion. At a minimum, however, aliens released on an Order of Recognizance or Order of Supervision must report at least once per year. This guidance supersedes the Victor X. Cerda memorandum on Orders of Supervision dated November 12, 2004.