
Spring 2010

A Sanctuary for Those Who Serve: United States Iraqi Special Immigrant Visa Programs

Marianne Twu

Follow this and additional works at: <https://scholarship.law.unc.edu/ncilj>

Recommended Citation

Marianne Twu, *A Sanctuary for Those Who Serve: United States Iraqi Special Immigrant Visa Programs*, 35 N.C. J. INT'L L. 723 (2009).

Available at: <https://scholarship.law.unc.edu/ncilj/vol35/iss3/5>

This Comments is brought to you for free and open access by Carolina Law Scholarship Repository. It has been accepted for inclusion in North Carolina Journal of International Law by an authorized editor of Carolina Law Scholarship Repository. For more information, please contact law_repository@unc.edu.

A Sanctuary for Those Who Serve: United States Iraqi Special Immigrant Visa Programs

Cover Page Footnote

International Law; Commercial Law; Law

A Sanctuary for Those Who Serve: United States Iraqi Special Immigrant Visa Programs†

| | | |
|------|--|-----|
| I. | Introduction | 724 |
| II. | State of Iraqi Refugees | 726 |
| | A. Population of Iraqi Refugees..... | 726 |
| | B. Conditions of Iraqi Refugees | 728 |
| | C. Status of Iraqi Interpreters/Translators | 729 |
| III. | Iraqi Immigrant Programs in Host Countries | 730 |
| | A. Britain..... | 732 |
| | B. Australia..... | 735 |
| | C. Denmark..... | 735 |
| IV. | Special Immigrant Visa Programs in the United States | 736 |
| | A. Section 1059 Program for Iraqi Interpreters/Translators | 737 |
| | B. Section 1244 Special Immigration Visa Program for U.S.-Employed Iraqis | 743 |
| | C. Refugee Benefits under Special Immigration Visa Programs | 747 |
| V. | Ongoing Obstacles with Special Immigration Visa Programs..... | 748 |
| | A. Lack of Visas | 748 |
| | B. Inefficiency of Visa Processing | 749 |
| | C. Invalidation of Iraqi Passports | 750 |
| VI. | Recommendations for Action..... | 754 |
| | A. Clarify Definitions in Special Immigration Visa Statutory Provisions | 754 |
| | B. Assess Resettlement Benefit Policies | 755 |
| | C. Expedite the Issuing of Iraqi G-Series Passports | 757 |
| | D. Continue Providing Bilateral Assistance to Major Host Countries..... | 758 |
| VII. | Conclusion | 758 |

“I don’t know if it’s fair to say, ‘You work at an embassy of a foreign country, so that country has to evacuate you,’” he said. “Do the Australians have a plan? Do the Romanians? The Turks? The British?” He added, “If I worked at the Hungarian

Embassy in Washington, would the Hungarians evacuate me from the United States?"

When I mentioned these remarks to Othman, he asked, "Would the Americans behead an American working at the Hungarian Embassy in Washington?"¹

I. Introduction

The breakout of the Second Gulf War in 2003 incited violence, suffering, and the uprooting of millions of Iraqi nationals.² More than four million Iraqis fled their homes to other areas of the country as well as neighboring countries.³ Among these displaced persons were those who worked for U.S. or other foreign military forces providing valuable Arabic interpretation and translation services.⁴ Their language skills had been utilized at Iraqi checkpoints, training centers, and administrative offices, as well as on the battlegrounds; these workers were consequently considered valuable and crucial assets to their U.S. employers.⁵ For these individuals, the decision to work using their language skills comes at a cost, as they are viewed by their own countrymen as traitors

†This Comment was awarded the William T. Joyner Award for Excellence in Journal Writing as the best student piece of 2009-2010.

¹ George Packer, *Betrayed: The Iraqis Who Trusted America the Most*, NEW YORKER, Mar. 26, 2007, at 52 (commenting on the shattered hope that the U.S. government would provide a way out of Iraq for those Iraqi citizens who had risked their lives to work for American forces). Othman, an Iraqi who worked as a translator in Baghdad, had hoped that the U.S. would help him flee Iraq when it became too dangerous for him to remain. At the time of his interview, he was still in Baghdad, living in secrecy and fear of being discovered. *Id.*

² See INT'L RESCUE COMM., FIVE YEARS LATER, A HIDDEN CRISIS: REPORT OF THE IRC COMMISSION ON IRAQI REFUGEES, at i (2008), available at http://www.ircuk.org/fileadmin/user_upload/Reports/iraqi_report.pdf (The report is based on the International Rescue Committee's Commission on Iraqi Refugees' February 2008 visit to the Middle East. It draws from meetings with Syrian President Bashar al-Assad; senior officials from the governments of Syria, Jordan, Iraq, and the United States; U.N. representatives; and refugees in Jordan and Syria.). *Id.*

³ See *id.*

⁴ See Paul Thompson, Current Development, *Development in International Area: Iraqi Translators Face Difficulties Gaining Asylum in the United States*, 22 GEO. IMMIGR. L.J. 141, 141, 144 (2007).

⁵ See *id.*

and face persecution, even after ending their employment.⁶ As a result, Iraqi interpreters and translators, along with their families, must either suffer a dangerous existence in Iraq or flee to surrounding countries, where the threat of persecution may still remain even after they leave.⁷ Thus, the only true relief for these Iraqis is permanent resettlement outside of Iraq and its neighboring countries.⁸ The plight of Iraqi interpreters and translators, while only one aspect of the greater Iraqi refugee situation, is significant because it raises the question of whether countries with a military presence in Iraq owe a special duty to protect, and even aid in resettling those Iraqi nationals who risked their lives to offer their services as interpreters and translators.

Various policies have been adopted by a number of nations, including the United States, to address the unfortunate situation of Iraqi interpreters still living in Iraq under threat of persecution. The United States first responded by enacting Section 1059 of the National Defense Authorization Act for Fiscal Year 2006, which provides a special immigration visa for Afghan and Iraqi interpreters and translators who worked for the U.S. armed forces in Iraq.⁹ The more recently enacted Section 1244 of the National Defense Authorization Act for Fiscal Year 2008 expands the class of beneficiaries to include Iraqi nationals who were employed in any capacity by the U.S. government in Iraq.¹⁰ Together, these two initiatives mark a significant step in U.S. responsiveness to the Iraqi refugee crisis.¹¹ Nevertheless, these and similar programs implemented in other countries still face significant obstacles.¹² Problems with policy specificity, efficiency, and resource allotment threaten the true realization of the goals of these programs.

Before delving into the laws and policies concerning the

⁶ See *id.* at 141-42.

⁷ See *id.* at 141, 144.

⁸ See *id.* at 142-43.

⁹ See National Defense Authorization Act for Fiscal Year 2006, Pub. L. No. 109-163, § 1059, 119 Stat. 3136, 3443-44.

¹⁰ See National Defense Authorization Act for Fiscal Year 2008, Pub. L. No. 110-181, § 1244, 122 Stat. 3, 396-98.

¹¹ See *infra* Part. IV.A-C.

¹² See *infra* Part V.A-C.

resettlement of Iraqi interpreters and translators, it is essential to broadly understand the state of the Iraqi refugee crisis. This comment will examine the geographical distribution of the Iraqi refugee population, as well as the characteristics of Iraqi refugees that set them apart from other groups of refugees. After assessing the issues Iraqi refugees generally face, this Comment will explore the unique issues with which Iraqi interpreters and translators who have worked for the U.S. and other foreign armed forces must deal. For these translators and interpreters, permanent resettlement is often the only option. Some employer countries have implemented immigration and resettlement programs for formerly employed Iraqi nationals. Programs in Britain, Australia, and Denmark serve as case studies of different approaches to addressing the needs of previously employed Iraqis who are seeking resettlement. This Comment will also analyze the existing U.S. special immigration program for Iraqi interpreters and translators, as well as the newer Special Immigrant Visa (SIV) program that was enacted in 2008 through Section 1244 of the National Defense Authorization Act for Fiscal Year 2008.¹³ The information gleaned from these assessments can be used to formulate several recommendations for successful implementation of the Section 1244 SIV program, as well as more general recommendations to facilitate the processing of Iraqi immigration applications.

II. State of Iraqi Refugees

A. Population of Iraqi Refugees

As a result of the ongoing conflict in Iraq and the subsequent breakdown in rule of law since March 2003, many citizens of Iraq have either fled their homes to escape to neighboring countries or remained in Iraq as internally displaced persons.¹⁴ Recent reports by the International Rescue Committee estimate that there are approximately four million displaced Iraqis, with one to two million of those currently living in the countries neighboring Iraq.¹⁵ Among these host countries, Jordan and Syria are

¹³ *Id.*

¹⁴ See INT'L RESCUE COMM., *supra* note 2, at i, 2.

¹⁵ *Id.*

shouldering most of the burden of the Iraqi refugee situation.¹⁶ According to a February 2008 study conducted by the United Nations High Commission for Refugees (UNHCR), out of the estimated two million displaced Iraqis in the neighboring region, as many as 1.5 million are living in Syria and close to 500,000 are living in Jordan, making displaced Iraqis six and eight percent of the countries' total populations, respectively.¹⁷ The remaining displaced Iraqis live primarily in Lebanon, Egypt, and Turkey.¹⁸

While Iraqi refugees experience some of the same conditions and needs as other refugee groups, there are also distinct characteristics that set apart the Iraqi refugee situation.¹⁹ Other refugee groups often live in camps, and are therefore easily identified and located.²⁰ Iraqi refugees, on the other hand, are scattered among homes across cities; hidden not only to the eyes of the world, but even to those living in the neighborhood.²¹ Perhaps exacerbated by the difficulty of locating them, host countries, international governments, and relief organizations often do not provide aid to Iraqi refugees.²² Contrast this with camp-based refugee groups who receive basic services from international sources and can benefit from aid groups that mobilize support and resources.²³ The lack of a camp base also creates problems with data gathering.²⁴ It is difficult to compile an accurate estimate of the number of Iraqi refugees because they are scattered and hidden.²⁵ Even if there were a mobilized effort to compile this information, it would be nearly impossible for authorities to contact the refugees that they do locate.²⁶ Without the camp-based system that is characteristic of many other refugee groups, authorities can neither gather the data necessary to inform

¹⁶ *Id.* at 6.

¹⁷ *Id.* at 2. The population of Syria is 19.315 million and Jordan is 6.053 million for these calculations. *Id.*

¹⁸ *Id.*

¹⁹ *See id.* at 5.

²⁰ *See* INT'L RESCUE COMM., *supra* note 2, at 5.

²¹ *See id.*

²² *See id.*

²³ *See id.*

²⁴ *Id.*

²⁵ *See id.*

²⁶ *See* INT'L RESCUE COMM., *supra* note 2, at 5.

refugees about their available benefits, rights, and resettlement options nor provide accurate data to the international aid community.²⁷

B. Conditions of Iraqi Refugees

This growing population of refugees faces pressing problems, including trauma from continued exposure to warfare and violence; unavailability of basic health care; fear of enrolling their children in schools; laws against Iraqis working in neighboring countries; minimal financial resources; and lack of legal status.²⁸ Unquestionably, large populations of Iraqi refugees place increasing strains on host countries, especially Syria and Jordan.²⁹ Both the Syrian and Jordanian governments have estimated that the total annual cost of accommodating Iraqi refugees within their borders is \$1 billion.³⁰ In February 2008, the Jordanian Minister of Planning and International Cooperation increased this estimate to \$2.2 billion, including the cost for Iraqi education and healthcare.³¹ At that time, Jordan's education system was accommodating 24,000 Iraqi students, which forced schools to adopt a double-shift schedule in order to address the overcrowding.³² Syrian President Bashar al-Assad has expressed concern over the need to build new schools and clinics because of the influx of Iraqi refugees, and has also stated that the international community, especially the United States, is not doing enough to relieve Syria's burden of hosting refugees.³³

Another burden host countries incur is the decision of whether to grant legal status to this influx of Iraqis.³⁴ Unlike camp-based refugees who are given legal status, Iraqi refugees living in host countries such as Syria, Jordan, Egypt, and Lebanon have an

²⁷ *See id.*

²⁸ *Id.* at 3-4.

²⁹ *Id.* at 6.

³⁰ *Id.*

³¹ *Id.*

³² *Jordan: Schools Creaking Under Burden of 24,000 Iraqi Students*, ¶ 1, IRIN NEWS, Feb. 13, 2008, <http://www.irinnews.org/Report.aspx?ReportId=76717>.

³³ *See* INT'L RESCUE COMM., *supra* note 2, at 7.

³⁴ *See id.* at 4.

uncertain legal status.³⁵ These countries do not formally recognize the refugee status of the Iraqis living within their borders; thus, although UNHCR issues identity papers for some Iraqis living in Syria, Jordan, and Lebanon, these documents do not necessarily protect them from being arrested and deported.³⁶

C. Status of Iraqi Interpreters/Translators

Since the Second Gulf War, Iraqi interpreters and translators have played an essential role in the U.S. military and reconstruction campaigns in Iraq.³⁷ Such dependence on their services, however, has made them a target of Iraqi militia, who see them as “enemy” forces.³⁸ Accused of being traitors to their country, Iraqi interpreters and translators suffer from “death threats, intimidation campaigns, kidnappings, and murder, not only at the hands of insurgents, but also from neighbors, classmates, and friends.”³⁹ Even after their services have ended, translators and interpreters, along with their families, continue to face violence, threats, and persecution.⁴⁰ In 2005, approximately forty percent of the deaths reported by private contractors to the U.S. Labor Department were Iraqi translators.⁴¹ Presented with such violence and danger in their home country, the only available option for many Iraqi interpreters and translators is permanent resettlement.⁴² The plight of Iraqi interpreters and translators employed by foreign armed forces is only one aspect of the larger Iraqi refugee crisis. The extreme violence toward these workers triggers moral concerns and suggests that their employers should be required to fulfill special obligations to protect their safety.⁴³ Ryan Crocker, the American ambassador to Iraq, stated the need for the United States to “reward Iraqis working for the United

³⁵ *See id.*

³⁶ *Id.*

³⁷ *See* Thompson, *supra* note 4, at 141.

³⁸ *See id.*

³⁹ *Id.* at 141-42.

⁴⁰ *Id.*

⁴¹ *Id.* at 142.

⁴² *See id.*

⁴³ *See* Thompson, *supra* note 4, at 143-44.

States for their sacrifice, loyalty and dedication”⁴⁴
 Similarly, the late Senator Edward Kennedy recognized a “special obligation to keep faith with the Iraqis who have bravely worked for us, and often paid a terrible price for it by providing them with safe refuge in the United States.”⁴⁵

III. Iraqi Immigrant Programs in Host Countries

Between October, 2005, and September, 2006, the United States admitted two hundred and two Iraqis as refugees, most of them from the years under Saddam. Last year, the Bush Administration increased the allotment to five hundred. By the end of 2006, there were almost two million Iraqis living as refugees outside their country – most of them in Syria and Jordan. American policy held that these Iraqis were not refugees, that they would go back to their country as soon as it was stabilized. The U.S. Embassies in Damascus and Amman continued to turn down almost all visa applications from Iraqis. So the fastest-growing refugee crisis in the world remained hidden, receiving little attention other than in a few reports from organizations like Human Rights Watch and Refugees International.⁴⁶

International actors need to come together to address the growing Iraqi refugee crisis. While the UNHCR is providing direct aid (health care to refugee families and educational opportunities for Iraqi children) these efforts reach only a small portion of those Iraqi refugees in Syria, Jordan, and neighboring countries.⁴⁷ Other countries, specifically the United States and European countries, must step in and utilize their resources to

⁴⁴ *Id.* (citing Cable from Ryan C. Crocker, U.S. Ambassador to Iraq, to Condoleezza Rice, Sec’y of State, *Iraqi Refugee Processing: Can We Speed It Up?* (Sept. 7, 2007), available at <http://www.rcusa.org/uploads/pdfs/Crocker%20Cable%202,%209-07.pdf>).

⁴⁵ *The Plight of Iraqi Refugees: Hearing Before the S. Comm. on the Judiciary*, 109th Cong. 4 (2007) (statement of Hon. Edward M. Kennedy), available at http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=110_senate_hearings&docid=f:33563.pdf; see also *id.* at 144.

⁴⁶ See Packer, *supra* note 1, at 69-70.

⁴⁷ See INT’L RESCUE COMM., *supra* note 2, at 7. In 2007, UNHCR provided health care to 210,000 families. *Id.* Through a partnership with the World Food Program, UNHCR made a goal to provide food aid for up to 360,000 families by the end of 2008. *Id.*

respond to the needs of these Iraqi refugees.

One way in which the international community is playing a role in remedying the Iraqi refugee crisis is through the resettlement of Iraqi refugees, especially those Iraqis who were employed by their foreign armed forces. Countries that enlisted the services of Iraqis have taken various commendable steps to provide these individuals and their families aid and protection within their own borders as a form of gratitude for their faithful service.⁴⁸ Jordan and Syria, two countries immediately neighboring Iraq, are also the most common sanctuaries for Iraqis fleeing from persecution and dangerous threats.⁴⁹ For these countries, acceptance of Iraqi refugees is more of a response to an inevitable reality than an assumption of a moral duty, as is the case in other host countries. Generally, European countries “are indifferent toward the Iraqi refugee crisis, indicating that those who invaded Iraq (the United States and the United Kingdom) are largely responsible and thus must address the consequences.”⁵⁰ A February 2008 survey conducted by the European Council on Refugees and Exiles revealed that “Europe’s response to the crisis of displaced Iraqis has been hugely inadequate with European governments failing to fairly share the responsibility for Iraqi refugees with one another and with other countries around the world.”⁵¹ Nevertheless, special immigration and resettlement programs, albeit with stringent eligibility requirements and policies, do exist in EU countries and elsewhere.⁵²

Immigration and resettlement programs face numerous challenges ranging from determining fair eligibility requirements and policies to generating the necessary funding to dealing with public sentiment.⁵³ Comparing existing programs in various host countries across Europe and Australia sheds light on common

⁴⁸ See *id.* (“The Kennedy legislation expands the categories of Iraqis who will have priority for admission to the United States as refugees.”).

⁴⁹ See *id.* at 2.

⁵⁰ *Id.* at 11.

⁵¹ EUROPEAN COUNCIL ON REFUGEES AND EXILES, FIVE YEARS ON EUROPE IS STILL IGNORING ITS RESPONSIBILITIES TOWARDS IRAQI REFUGEES 1 (2008), http://www.ecre.org/files/ECRE_Survey_Iraq_2008.pdf (follow “ECRE 2008 Iraq Survey” hyperlink) [hereinafter ECRE REPORT].

⁵² See *id.* at 2.

⁵³ See *infra* Part III.A-C.

issues that plague these kinds of immigration programs. For the United States, the successes as well as problems of Iraqi programs globally offer guidance for improving existing and creating new U.S. special immigration programs that target those who served U.S. forces in Iraq. This section discusses the treatment of Iraqi interpreters in three countries: Britain, Australia, and Denmark. These three countries were selected because they highlight potential problems that may befall similar programs in the United States. Looking at the causes of such problems is an attempt to prevent the same from happening in similar U.S. programs.

A. Britain

The current settlement scheme set up by the Ministry of Defense, known as the Gateway scheme, is intended to help resettle Iraqi interpreters who have provided service to the British forces in Iraq.⁵⁴ Despite its initial promise, the program did not resettle many immigrants. In fact, it had rejected 200 out of 600 Iraqi interpreter applicants by December 2007.⁵⁵ Though the program holds itself out as a resettlement program, it offers applicants *either* a chance to apply for asylum in Britain or a one-time financial payment.⁵⁶ The program set a quota of 500 Iraqis, but that cap included any dependants applying under the petitioner.⁵⁷ The scheme also contains a twelve-month continuous employment requirement, which creates a difficult burden of proof for the petitioner.⁵⁸ In 2007, it was estimated that those applicants who were fortunate enough to qualify may not have been able to enter Britain until the summer of 2009.⁵⁹

A recent case brought by two former Iraqi interpreters for the British forces reveals the tension between these immigrants seeking protection and the British government's struggle to create strictly tailored resettlement programs. A group of Iraqi

⁵⁴ See Deborah Haynes & Michael Evans, *Iraqi Interpreters Seeking Asylum in Britain Will Be Refused Entry Until 2009*, TIMES ONLINE, Dec. 13, 2007, <http://www.timesonline.co.uk/tol/news/world/iraq/article3042949.ece>.

⁵⁵ See *id.*

⁵⁶ See *id.*

⁵⁷ See *id.*

⁵⁸ See *id.*

⁵⁹ See *id.*

interpreters, staff, and laborers who endured persecution while working for British forces challenged the government's refusal to grant them sanctuary within its borders.⁶⁰ The group of plaintiffs had hoped that the U.K. government's resettlement and compensation scheme would help them to establish new lives in Britain; instead, they encountered "harsh rules which have betrayed Iraqis" who had faithfully served Britain.⁶¹ The law firm Leigh Day & Co. represented the two former Iraqi interpreters and a laundry assistant who had worked for a British contractor, arguing before the High Court that because the resettlement scheme's intent was to protect Iraqis who had worked for the British government, the rigid criteria violated a duty of care.⁶² Richard Stein, human rights partner at solicitors Leigh Day & Co., representing the Iraqis stated:

[t]his is a classic example of the Government seeking to put to bed a political problem without any due consideration for the human story which caused the problem. The Scheme is arbitrary, disingenuous and patently unfair. It should be quashed and replaced with a scheme which takes true account of the debt owed to these men and their families.⁶³

More specific claims were that the twelve-month minimum service requirement, the work restrictions to specified organizations, and the "application of the Scheme only to employment after 1 January 2005 [were] irrational, unfair, and disproportionate."⁶⁴

Lawyers for the Ministry of Defense argued that the

⁶⁰ Robert Verkaik, 'Betrayed' Iraqi Staff in Test Case over UK's Refusal to Offer Asylum, INDEPENDENT, Apr. 14, 2008, <http://www.independent.co.uk/news/uk/home-news/betrayed-iraqi-staff-in-test-case-over-uks-refusal-to-offer-asylum-808629.html>.

⁶¹ *Id.*

⁶² See Deborah Haynes, *No Softening of Asylum Rules for the Iraqis Who Risked Their Lives*, TIMES ONLINE, Sept. 11, 2008, <http://www.timesonline.co.uk/tol/news/politics/article4727580.ece>.

⁶³ Leigh Day & Co., *Former UK Employees in Iraq Take Government to Court for Refusing to Assist Them* ¶ 4 (Sept. 9, 2008), <http://www.leighday.co.uk/news/news-archive/former-uk-employees-in-iraq-take-government-to>.

⁶⁴ Leigh Day & Co., *Skeleton Legal Argument AA Etc. v. FCO and MoD*, <http://www.leighday.co.uk> (search for "Skeleton legal argument") (last visited Apr. 1, 2010).

limitations and rigid criteria were necessary to prevent the scheme from becoming too burdensome or costly, a necessary concern because the government had employed more than 20,000 Iraqis since 2003.⁶⁵ In a decision handed down on September 10, 2008, the Judge ruled in favor of the Government, supporting the denial of asylum to the Iraqi interpreters.⁶⁶ Leigh Day & Co. plans to investigate any further options for the Iraqis, however, stating that the decision had "killed this legal challenge dead."⁶⁷ In the aftermath, the Ministry of Defense remained confident that the program, which offers Iraqi employees a choice between a chance of resettlement or a financial package, has appropriate eligibility requirements.⁶⁸ The British Government has expressed its intention to review the scheme again, but is not promising any changes to the program's guidelines.⁶⁹

By September 2008, the British Government had given homes to approximately seventy-three Iraqis.⁷⁰ Nevertheless, the location and condition of these government-provided homes raised additional concerns. The first group of Iraqis who were granted resettlement in Britain lived in high tower blocks in a Glasgow neighborhood with high incidences of poverty and violence.⁷¹ Politicians and government leaders are rallying to protest the treatment of these Iraqis, most of whom had risked their lives to serve the British forces in Iraq.⁷² Sir Menzies Campbell, former leader of the Liberal Democrats expressed:

[Britain's] moral obligation to these people extends beyond putting them in poor housing with inadequate financial support. They and their families risked their lives daily to help to further the interests of Britain in Iraq . . . I have no doubt whatsoever that we owe these families much more

⁶⁵ See Haynes, *supra* note 62.

⁶⁶ See *id.*

⁶⁷ *Id.* ¶ 11.

⁶⁸ See *id.*

⁶⁹ See *id.*

⁷⁰ *Id.*

⁷¹ See Michael Evans & Sam Coates, *Britain Shamed As Iraqi Interpreters Are Resettled in Squalid Tower Blocks*, TIMES ONLINE, June 13, 2008, <http://www.timesonline.co.uk/tol/news/uk/article4124673.ece>.

⁷² See *id.*

than we seem to be giving them.⁷³

B. Australia

In April 2008, the Australian government announced that it would accept an allotment of 100 Iraqis who had worked with Australian troops as interpreters and support staff along with their families, totaling approximately 400 individuals.⁷⁴ Since their arrival, the Iraqi immigrants have expressed dissatisfaction with the government's resettlement efforts in housing, job hunting, and financial support—essentially, the reality of resettlement in Australia fell far short of their expectations.⁷⁵ The Australian government continues to assert that these Iraqi immigrants were properly processed under the resettlement laws and received all of the entitlements available under those laws.⁷⁶ The Australian Immigration Department expressed confidence that its immigration officials in Iraq clearly communicate what is offered to Iraqi immigrants under the Australian resettlement program and do not falsely represent the benefits entitled to refugees.⁷⁷ Some Iraqis admitted that certain expectations regarding benefits and services came from the Australian troops with whom they had worked, but others state that they were “misled during interviews in Iraq, with officials implying that rents would take only 20% of their welfare payments until they could secure jobs.”⁷⁸ Despite continued insistence that what was provided to the Iraqi immigrants adheres to legal guidelines, many Iraqis are considering returning to Iraq, according to one Iraqi interpreter, “if the Government would pay the fares.”⁷⁹

C. Denmark

From 2006 to 2007, Denmark significantly increased its

⁷³ *Id.* ¶ 9.

⁷⁴ Simon Mann, *Resettled Iraqis Left Feeling Dumped*, THE AGE (Melbourne, Austl.), Aug. 5, 2008, ¶ 8, available at <http://www.theage.com.au/national/resettled-iraqis-left-feeling-dumped-20080804-3pyu.html?page=3>.

⁷⁵ *See id.*

⁷⁶ *See generally id.* (discussing dissatisfaction within Iraqi refugee community regarding resettlement).

⁷⁷ *See id.*

⁷⁸ *Id.* ¶ 18.

⁷⁹ *Id.* ¶ 20.

resettlement quota from just one Iraqi refugee acceptance to ten Iraqis, along with the initiation of a new resettlement program for Iraqi interpreters who had worked for the Danish armed forces in Iraq.⁸⁰ When this resettlement program was implemented in the summer of 2007, the Danish government granted asylum to 100 Iraqi interpreters and family members, whose lives “were deemed to be in danger in Iraq as a result of their work with the Danish military.”⁸¹ By January 2008, 367 out of 376 cases had been processed and accepted, deeming the program a success.⁸² Since then, however, at least eighty of the 370 total individuals who arrived in Denmark have returned to Iraq. The first group returned in August 2008 while a second group was already preparing to return.⁸³ The primary reason for the decision to return to Iraq was an inability to find work in Denmark despite previous jobs as engineers and doctors.⁸⁴ These decisions were made after refugee counseling (a service provided by the Danish government) and serious consideration of returning to dangers that caused them to flee the country in the first place.⁸⁵ Under Denmark’s repatriation laws, Iraqi interpreters who return to Iraq are entitled to financial support.⁸⁶ The Danish government pays for their “personal effects” up to DKK 27,400 per adult and DKK 8,770 per child, in addition to a one-year sickness benefit coverage of DKK 5,500 per person.⁸⁷ For those who wish to start businesses back in their home country, the government will also provide DKK 12,000.⁸⁸

IV. Special Immigrant Visa Programs in the United States

Having conducted an analysis of current Iraqi immigration policies in these three countries, relevant lessons and precautions can be applied to U.S. policy. Currently, the United States

⁸⁰ See ECRE REPORT, *supra* note 51, at 3.

⁸¹ Julian Isherwood, *Iraqi Interpreters Going Home*, POLITIKEN.DK, Sept. 2, 2008, ¶ 4, <http://politiken.dk/newsinenglish/article561479.ece>.

⁸² See ECRE REPORT, *supra* note 51, at 3.

⁸³ See Isherwood, *supra* note 81.

⁸⁴ See *id.*

⁸⁵ See *id.*

⁸⁶ *Id.*

⁸⁷ *Id.* ¶ 7.

⁸⁸ *Id.* ¶ 8.

provides two programs that make immigrant visas available to Iraqi interpreters and translators who worked for the U.S. armed forces.⁸⁹ The first program was enacted under Section 1059 of the National Defense Authorization Act for Fiscal Year 2006 to target Iraqi and Afghan nationals who worked as interpreters and translators exclusively.⁹⁰ Since its enactment, the program has both met and fallen short of some of its legislative goals, thus motivating the need for evaluation and policy improvements.⁹¹ A second program, created under Section 1244 of the National Defense Authorization Act for Fiscal Year 2008, is a very recent program that has yet to fully develop administrative guidelines for successful implementation.⁹² Along with this ambitious and recent Iraqi special immigrant program is a relatively new policy providing resettlement benefits for Iraqi immigrants arriving under these two immigrant programs.⁹³ With such policies on the forefront of U.S. immigration policy, and with such potential to impact great change, it is essential to understand the legislative goals of such programs, to learn from similar programs in other countries, and to learn from existing policies in the United States.

A. Section 1059 Program for Iraqi Interpreters/Translators

The Immigrant Nationality Act of 1996 established aspects of the current U.S. immigration system of immigrant and non-immigrant visas.⁹⁴ The Act established two categories of immigrant visas based upon either family relationships or employment.⁹⁵ A third method of obtaining an immigrant visa is through the diversity lottery where, after “identification of high-admission and low-admission regions and high-admission and low-admission states,”⁹⁶ the visas are distributed to petitioners from states and regions that had low admission rates in the

⁸⁹ See National Defense Authorization Act for Fiscal Year 2006, Pub. L. No. 109-163, § 1059, 119 Stat. 3136, 3443-44; National Defense Authorization Act for Fiscal Year 2008, Pub. L. No. 110-181, § 1244, 122 Stat. 3, 396-98.

⁹⁰ See National Defense Authorization Act § 1059.

⁹¹ See *infra* Part IV.A.

⁹² See National Defense Authorization Act § 1244.

⁹³ See *infra* Part IV.B.

⁹⁴ See Immigration and Nationality Act § 201(a), 8 U.S.C. § 1151(a)(2007).

⁹⁵ See *id.*

⁹⁶ Immigration and Nationality Act § 203(c)(1)(B).

previous five fiscal years.⁹⁷ An annual minimum, or “worldwide level,” of 140,000 employment-based visas are distributed across five different preference categories.⁹⁸ Employment Fourth Preference (E4) comprises the SIV and makes up 7.1% of the annual limit.⁹⁹ Among the various classes of individuals that fall under this special immigrant category are certain religious workers, juvenile court dependents, and employees that have served in specific capacities in various countries.¹⁰⁰ Congress can establish new classes of people who are entitled to special immigrant status under the E4 category depending upon humanitarian or other interests of the United States.¹⁰¹ Congress, through the National Defense Authorization Act for Fiscal Year 2006, authorized special immigration status for interpreters and translators of Iraqi and Afghan nationality who served under the U.S. Armed Forces and/or the Chief of Mission (COM).¹⁰² By creating this program under the Act, Congress was able to provide a path for U.S.-employed Afghans and Iraqis to come into the country without formally having to amend existing Immigrant Nationality Act provisions.¹⁰³ Under this program, Iraqi and Afghan nationals can self-petition for a SIV as long as they:

- Worked directly as interpreters or translators with the U.S. Armed Forces or the COM for a period of at least twelve

⁹⁷ Immigration and Nationality Act § 203(c)(1)(A).

⁹⁸ Immigration and Nationality Act §§ 201(d), 203(b).

⁹⁹ Immigration and Nationality Act § 203(b)(4) (“[For] Certain Special immigrants—Visas shall be made available, in a number not to exceed 7.1 percent of such worldwide level, to qualified special immigrants described in section 101(a)(27) (other than those described in subparagraph (a) or (B) thereof), of which not more than 5,000 may be made available in any fiscal year to special immigrants described in subclause (II) or (III) of section 101(a)(27)(C)(ii), 21 and not more than 100 may be made available in any fiscal year to special immigrants, excluding spouses and children, who are described in section 101(a)(27)(M).”).

¹⁰⁰ See 8 U.S.C. § 1101(a)(27) (providing special immigrant status for, among others, broadcasters in the United States employed by the International Broadcasting Bureaus, employees of the Chief of Mission in Hong Kong, certain former employees of the Panama Canal Company or Canal Zone Government).

¹⁰¹ Immigration and Nationality Act § 203(b)(4).

¹⁰² See National Defense Authorization Act for Fiscal Year 2006, Pub. L. No. 109-163, § 1059, 119 Stat. 3136, 3443-44.

¹⁰³ See MIDDLE E. REGIONAL OFF., U.S. DEPT. OF STATE, STATUS OF IRAQI SPECIAL IMMIGRANT VISA PROGRAMS 3 (2008), available at <http://oig.state.gov/documents/organization/109298.pdf> [hereinafter STATUS REPORT].

months, or in case of death of an interpreter or translator, are an immediate family member;

- Obtained favorable written recommendations from a general or flag officer in the chain of command or from the COM;
- Clear a background check and screening as determined by a general or flag officer in the chain of command or from the COM; and
- Are otherwise eligible to receive an immigrant visa and admission to the United States for permanent residence, except that the grounds for inadmissibility relating to 'public charge' shall not apply.¹⁰⁴

The 2006 Act originally limited the program to a distribution of 50 SIVs annually to eligible petitioners.¹⁰⁵ Congress amended this SIV program the next year, expanding the program to an allotment of 500 SIVs available annually through fiscal years 2007 and 2008.¹⁰⁶ In June 2008, President Bush amended the program yet again, extending the process of SIV petitions that had already been sent to the National Visa Center through September 30, 2008.¹⁰⁷ As a result, any petition that was already received by the National Visa Center prior to September 30 would still count toward the expanded 500 visa limit.¹⁰⁸ As of October 1, 2008, any petitions seeking special immigrant status under this program are subject to the original cap of 50.¹⁰⁹

Congress's intent in enacting this program was "to reward and protect those men and women who put themselves and their families at great personal risk by assisting the U.S. government in Iraq and Afghanistan as interpreters and translators."¹¹⁰ Nevertheless, implementation problems arose, primarily as a result of the cap increase in 2007.¹¹¹ In the first year of the program, petitions quickly reached the cap of 50 and due to the smaller

¹⁰⁴ *Id.*

¹⁰⁵ *See id.*

¹⁰⁶ *See id.*

¹⁰⁷ *See id.*

¹⁰⁸ *See id.*

¹⁰⁹ *See id.*

¹¹⁰ *Id.* at 10; *see also* National Defense Authorization Act for Fiscal Year 2006, Pub. L. No. 109-163, § 1059, 119 Stat. 3136, 3443-44.

¹¹¹ *See* STATUS REPORT, *supra* note 103.

caseload at the time, consular agents at U.S. embassies in the region were able to scrutinize each petition carefully to ensure that only those who truly met the requirements received visas.¹¹² When the cap was increased from 50 to 500, the caseload for each officer more than doubled, presenting new challenges to meet processing timelines.¹¹³ In addition to the higher volume of petitions, the officers were also under increased pressure to expedite the adjudication process, which commonly resulted in less thorough screening procedures.¹¹⁴ A subsequent case file analysis revealed that the average number of days needed to process Iraqi SIV petitions was eight days for review by USCIS, forty days at the National Visa Center, and twenty days at the consular offices.¹¹⁵ This procedure, lasting a combined total of nine weeks, is significantly quicker than the four to six months required for processing immigrant visa applications for immediate relatives of U.S. citizens.¹¹⁶

Case file review also revealed that a number of SIVs were allocated to individuals who did not fall into the legislative scope of the program.¹¹⁷ The root of this problem lay in the lack of specificity in the statutory language “interpreter and translator.”¹¹⁸ The review by the Office of Inspector General revealed that “a significant number of approved applicant petitions—more than 25 percent—did not meet the program’s criteria of working as an interpreter or translator.”¹¹⁹ Specifically, examinations found that out of 177 active files at the U.S. Embassy in Amman, 46 cases involved petitioners who worked as medical doctors, engineers, pharmacists, and caterers among other positions.¹²⁰ Some petitioners did participate in some interpretation and translation work, but only as a side duty to another line of work.¹²¹ This is a

¹¹² *See id.* at 7.

¹¹³ *See id.*

¹¹⁴ *See id.* at 10.

¹¹⁵ *See id.*

¹¹⁶ *See id.*

¹¹⁷ *See* STATUS REPORT, *supra* note 103, at 10.

¹¹⁸ *See id.*

¹¹⁹ *Id.* at 8.

¹²⁰ *See id.*

¹²¹ *See id.*

real cause for concern especially considering that the legislative scope applies to only 500 individuals whose primary work is translation and interpretation and, as of October 1, 2008, applied to only 50.¹²² The program does require a “favorable written recommendation from a general or flag officer in the chain of command of the U.S. Armed Forces unit that was supported by the alien,”¹²³ a requirement intended to ensure that only those who actually worked as an interpreter and translator would benefit. This recommendation requirement is essential to the petitioner’s application in that it establishes “faithful and valuable service” to the United States.¹²⁴ Nevertheless, many of the recommendation letters from these supervisors were so similar in language and format, suggesting that they may have been “nonspecific *pro forma* documents endorsing petition submissions from military subordinates in the general or flag officer’s chain of command.”¹²⁵ Nonspecific documents are worrisome for two main reasons: First, the supervisors are not taking seriously their recommendation duties, which in fact do have great weight in the petitioning process; and second, Iraqi petitioners who may not satisfy the eligibility requirements are obtaining SIVs.¹²⁶

Despite these problems, the written recommendation remains an essential part of this program and “is central to establishing petition and SIV entitlement.”¹²⁷ The recommendation screening is critical because once a petition, along with a recommendation, is approved by the USCIS, it is *prima facie* evidence of the

¹²² See *id.*

¹²³ National Defense Authorization Act for Fiscal Year 2006, Pub. L. No. 109-163, § 1059, 119 Stat. 3136, 3443-44.

¹²⁴ While the language “faithful and valuable service” was not in the original Act for FY 2006, later amendments did utilize this language in describing the requirement for valid petitioners. See 9 U.S. DEP’T OF STATE FOREIGN AFF. MANUAL 42.32(d)(10), at N2.1(3) (establishing the criteria that a petitioner filing for special immigrant status under the § 1059 program “[m]ust have provided faithful and valuable service to the United States Armed Forces or the COM, which is documented in a favorable written recommendation from a general or flag officer in the chain of command of the United States Armed Forces unit that was supported by the alien, or if the applicant claims status based on work under COM authority, a favorable written recommendation from the COM.”).

¹²⁵ STATUS REPORT, *supra* note 103, at 8.

¹²⁶ See *id.*

¹²⁷ *Id.* at 10.

petitioner's entitlement to SIV status, unless new facts arise during the visa interview which were not available to the USCIS officers during adjudication of the petition.¹²⁸ Once an approved petition reaches the interview stage, consular officers "'look behind' petitions only when facts unknown to petition adjudicators surface."¹²⁹ Thus, any defect in the petitioning process leading up to USCIS approval carries through the remainder of the process to the granting of SIV status.¹³⁰ These vague recommendations from officers of lesser authority and knowledge about the specific petitioner are such defects that, once gone undetected, are not reviewed again, and ultimately determine whether a petitioner is given or refused a visa.¹³¹ Petitioners who did indeed work as an interpreter or translator and have a strong case for SIV status under the program may have a decreased chance if a scrutinizing officer discovers the questionably vague written recommendation.¹³² On the other hand, an officer with a less discriminating eye may overlook a nonspecific written recommendation and approve a petitioner who did not in fact work primarily as an interpreter and thus should not move further in the process to obtain SIV status.¹³³ At the same time, eligible petitioners who do fall within the legislative intent of the program may be denied an SIV simply because a written recommendation was poorly written or failed to tailor its content to that particular petitioner.¹³⁴

Beyond the cases of non-interpreters and non-translators and questionable written recommendations, additional adjudicated cases seemed to fall outside the scope of the legislative intent of

¹²⁸ See 9 U.S. DEP'T OF STATE FOREIGN AFF. MANUAL 42.32(D)(10), at N6 ("The approval of a petition under INA § 204 is considered to establish prima facie entitlement to status, and the qualifications of the alien beneficiary are presumed to exist. Unless [the consular officer has] specific, substantial evidence of either misrepresentation in the petition process or facts unknown to the [Department of Homeland Security] at the time of approval, [the consular officer] generally would have no reason to return the petition to [Department of Homeland Security].").

¹²⁹ STATUS REPORT, *supra* note 103, at 10.

¹³⁰ See *id.*

¹³¹ See *id.*

¹³² See *id.*

¹³³ See *id.*

¹³⁴ See *id.*

the program.¹³⁵ Notable concerns are petitioners who applied under this program but could benefit from another category of immigrant visa individually or derivatively. For instance, this would include nationals who have dual nationalities or legally reside in another country, or even individuals who can apply as parents or spouses of U.S. citizens or resettled refugees.¹³⁶ Additionally, there were cases where spouses and unmarried children of Iraqi translators/interpreters received separate SIV visas, though they could have come in as dependants, thereby freeing the SIV slot for other applicants.¹³⁷ Finally, the OIG team observed that some cases involved SIV interpreter/translator visa recipients who expressed an intention to establish legal permanent residence in the United States and then to return to Iraq to their families and previous jobs.¹³⁸ These recipients seem to fall outside of the class of individuals the program was created to protect, namely those that need protection and resettlement in the United States due to their work in Iraq for U.S. forces.¹³⁹

While efficient processing of these visas is essential to the success of these special immigrant programs, it is also important to ensure that the recipients of these SIVs are indeed those that the program intended to benefit. The SIV program under Section 1059 must recalibrate to its legislative intent and ensure that only truly qualified applicants receive the SIV allotments. A more targeted program requires clearer requirements for written recommendations and assurance that recommendations are carefully reviewed during USCIS processing so that potential defects do not persist through later stages of the process as long as the *prima facie* evidence of visa qualification exists.

B. Section 1244 Special Immigration Visa Program for U.S.-Employed Iraqis

In 2008, Congress created a new SIV program in Section 1244 of the National Defense Authorization Act for Fiscal Year 2008.¹⁴⁰

¹³⁵ *See id.*

¹³⁶ *See* STATUS REPORT, *supra* note 103, at 10.

¹³⁷ *See id.*

¹³⁸ *See id.* at 11.

¹³⁹ *See id.*

¹⁴⁰ *See* National Defense Authorization Act for Fiscal Year 2008, Pub. L. No. 110-

This second program, while unrelated to the Section 1059 SIV program for Afghan and Iraqi interpreters, was created to address some of the issues that the first SIV program was intended to remedy.¹⁴¹ The Section 1244 program provides a cushion for the number of visas issued, while the Section 1059 program is transitioning back to its cap of fifty allotments.¹⁴² Applicants under the Section 1059 interpreter/translator program whose petitions were approved may convert those petitions to a petition under the 1244 program without having to satisfy any additional qualifications, subject to certain exceptions.¹⁴³ This is true for approved petitioners of Afghan nationality even though the Section 1244 program was not originally applicable to Afghan nationals.¹⁴⁴ Specifically, the Section 1244 SIV program, also referred to as the Kennedy Bill, authorizes 5,000 SIVs to self-petitioning Iraqi nationals who:

- Worked with or on behalf of the U.S. government for a period of at least twelve months on or after March 20, 2003;
- Provided faithful and valuable service to the U.S. government documented by a positive recommendation from the employee's senior supervisor;
- Clear a background check and screening as determined by the Secretary of Homeland Security;
- Have experienced or are experiencing an ongoing serious threat as a result of U.S. government employment;
- Obtain COM approval; and
- Are otherwise eligible to receive an immigrant visa and admission to the United States for permanent residence,

181, § 1244, 122 Stat. 3, 396-98.

¹⁴¹ See STATUS REPORT, *supra* note 103, at 1.

¹⁴² See OFFICE OF REFUGEE RESETTLEMENT, U.S. DEP'T OF HEALTH AND HUMAN SERVICES, STATE LETTER #08-04, CONSOLIDATED APPROPRIATIONS ACT, 2008 (2008).

¹⁴³ See 9 U.S. DEP'T OF STATE FOREIGN AFF. MANUAL 42.32(d)(10), at N7 (stating the conditions in which an approved petition under the § 1059 program can be converted to an approved petition under the § 1244 program).

¹⁴⁴ See 9 U.S. DEP'T OF STATE FOREIGN AFF. MANUAL 42.32(d)(11) (stating that "Section 602(b) of Division F, Title VI, of the Omnibus Appropriations Act, 2009, Public Law 111-8, authorizes SQ1 for Afghan nationals who have been employed by or on behalf of the U.S. Government in Afghanistan on or after October 7, 2001, for a period of not less than one year" and thus revising the original § 1244 program eligibility to include nationals of Afghanistan).

except that the grounds for inadmissibility relating to “public charge” shall not apply.¹⁴⁵

Though Section 1244 and Section 1059 have similar requirements, aspects of the Section 1244 program may help to address the dilemmas of the Section 1059 program. The 1244 program has vastly increased the annual allotment to 5,000 SIVs as compared to the original fifty SIVs granted in 2006, and the temporary 500 SIVs for 2007 and 2008 under the interpreter/translator program.¹⁴⁶ Part of the reason for such an expanded allotment is that the program broadens the scope of qualifying employment activities from interpreting or translating to working in any capacity “on behalf of the United States Government in Iraq.”¹⁴⁷ This expanded scope would indeed relieve the caseload of the Section 1059 program.

Some problems associated with the Section 1059 program remain unresolved by the implementation of Section 1244. For instance, there is disparate treatment of Afghan nationals and Iraqi nationals under the new program. When the Section 1244 program was created, it applied only to Iraqi nationals, however, in new regulations effective since March 2009, Section 1244 now makes available 1,500 SIVs for nationals of Afghanistan.¹⁴⁸ Despite this, there are still significantly more SIVs available for Iraqi nationals as compared to Afghan nationals, such that even with the allotment of SIVs for Afghan nationals under Section 1244, Afghan nationals who worked as translators or in some other capacity for the United States are still limited to 1,500 SIVs under the SIV programs combined.¹⁴⁹ As a result, an Afghan translator petitioning under the Section 1244 program will be in a much broader pool of Afghan nationals as compared to an Iraqi petitioning under similar circumstances.

Another limitation to Section 1244 is that eligible petitioners

¹⁴⁵ National Defense Authorization Act § 1244. The Chief of Mission is generally the ambassador at an embassy, and, thus, here would be the U.S. Ambassador to Iraq. See FOREIGN SERV. INST., U.S. DEP’T. OF STATE, FOREIGN SERVICE ASSIGNMENT NOTEBOOK: WHAT DO I DO NOW? 203 (2006), available at <http://www.state.gov/documents/organization/121908.pdf>.

¹⁴⁶ STATUS REPORT, *supra* note 103, at 3.

¹⁴⁷ National Defense Authorization Act §1244.

¹⁴⁸ 9 U.S. DEP’T OF STATE FOREIGN AFF. MANUAL 42.32(d)(11), at N2.

¹⁴⁹ See STATUS REPORT, *supra* note 103.

must prove an "ongoing serious threat" as a result of their work with the U.S. government.¹⁵⁰ According to the Foreign Affairs Manual, the existence of an "ongoing serious threat" is determined by the Chief of Mission (COM) and requires that applicants "submit information to demonstrate that they are experiencing an ongoing serious threat, which may include statements from their employer, personal statements, or statements from community leaders."¹⁵¹ This burdens applicants with an additional level of proof and in some cases may prevent them from receiving SIV status. If officers do not have clear standards to determine what constitutes a "serious threat," when it is "ongoing," or at what time it becomes "serious," there is too much room for arbitrariness or non-issuance of the visas. For instance, would verbal abuse constitute a "serious threat" or would an officer require evidence of physical harm? What if the verbal abuse occurred unceasingly over a period of two years while the physical harm occurred over a period of a week? Is either of these circumstances sufficiently "ongoing?"

Overall, the Section 1244 program could significantly remedy the problem of over-inclusiveness that plagued the Section 1059 program. This program, if successfully implemented, would provide another path for Iraqi petitioners who may have otherwise attempted to obtain a visa under the more limited Section 1059 program. As petitions begin to come in under this new program, it could relieve floods of Section 1059 petitioners who are not qualified, thus focusing the Section 1059 program on those applicants who need it most, namely Afghan nationals and Iraqi nationals who, in fact, work as interpreters and translators. In the early years of this fledgling program, the Department of State "will need to identify funding requirements, especially to cover the cost of refugee resettlement benefits to SIV recipients and their families; develop clear guidance on eligibility for adjudicators, and maintain a high level of vigilance due to the high risk of fraud and abuse."¹⁵² Since March 2009, the Department of State has certainly taken steps towards clarifying the Section 1244 program by issuing regulations and addressing some of the concerns over

¹⁵⁰ National Defense Authorization Act §1244.

¹⁵¹ 9 U.S. DEP'T OF STATE FOREIGN AFF. MANUAL 42.32(d)(11), at N5.

¹⁵² STATUS REPORT, *supra* note 103, at 1.

potential Afghani national petitioners.¹⁵³ How these guidelines are implemented will determine the overall success and effect of the program.

C. Refugee Benefits under Special Immigration Visa Programs

Recent legislation has authorized certain benefits from the Office of Refugee Resettlement (ORR) for special immigrants entering under either the Section 1059 or the Section 1244 SIV program. The Consolidated Appropriations Act of 2008 states that "Iraqi and Afghan aliens granted special immigrant status under section 101(a)(27) of the Immigration and Nationality Act shall be eligible for resettlement assistance, entitlement programs, and other benefits available to refugees admitted under section 207 of such Act for a period not to exceed 6 months."¹⁵⁴ Letter #08-04 from the ORR clarified that such benefits are available to Afghan and Iraqi special immigrants under the Section 1059 program and would be effective after December 26, 2007, the date the Consolidated Appropriations Act of 2008 was signed.¹⁵⁵ The available benefits are essentially the same as those given to refugees coming in under the U.S. Refugee Assistance Program.¹⁵⁶

When Section 1244 of the National Defense Authorization Act was enacted on January 28, 2008, it created the Iraqi SIV program, but also provided that those Iraqi special immigrants would be entitled to the same resettlement and entitlement programs "for a period not to exceed eight months."¹⁵⁷ The benefits would be the same as those given to Afghan and Iraqi special immigrants under Section 1059, but with an additional two months of entitlement.

¹⁵³ See 9 U.S. DEP'T OF STATE FOREIGN AFF. MANUAL 42.32(d)(11).

¹⁵⁴ Consolidated Appropriations Act, 2008, Pub. L. No. 110-161, §525, 121 Stat. 1844, 2212 (2007).

¹⁵⁵ See OFFICE OF REFUGEE RESETTLEMENT, *supra* note 142 (regarding the subject of the "Consolidated Appropriations Act, 2008: Time Limited Eligibility for ORR Benefits and Services of Iraqis and Afghans Granted Special Immigration Status under Section 101(a)(27) of the Immigration and Nationality Act (INA)").

¹⁵⁶ See *generally* Benefits and Services, Office of Refugee Resettlement, <http://www.acf.hhs.gov/programs/orr/benefits/index.htm> (listing cash and medical assistance, social services, and health as benefits).

¹⁵⁷ National Defense Authorization Act for Fiscal Year 2008, Pub. L. No. 110-181, § 1244, 122 Stat. 3, 396-98.

Letter #08-06 from the ORR noted that it “superseded” previous ORR Letter #08-04 and that “[t]his State Letter stipulates that all Iraqi Special Immigrants are eligible for eight months of ORR benefits and services from date of entry to the U.S.,” while “ORR State Letter #08-04 remains in effect only as to Afghan Special Immigrants, who remain eligible for six months of benefits.”¹⁵⁸ These recent legislative moves granting resettlement aid are encouraging steps toward providing former Afghan and Iraqi U.S. employees with not only a path into the United States, but also the resources to live there.

V. Ongoing Obstacles with Special Immigration Visa Programs

Despite great strides in providing a path to the United States for former Iraqi employees, the SIV programs must overcome a number of obstacles in order to realize true benefits for the Iraqis displaced within and outside of Iraq. Most significant is the lack of visas resulting from the recently imposed cap by Section 1059 and the still fledgling Section 1244 SIV program. In addition, inefficient visa processing will exacerbate the backlog of even larger caseloads from the new SIV program. Long pending periods for visa petitions may be dire for Iraqis who are under threats of persecution and death. Finally, new Iraqi and U.S. policies that invalidate certain Iraqi passports are barring Iraqis from travel to visa interviews and travel between their host and home country, even with a valid visa. The long queues to apply for and process new passports only hinder the intended goal of the SIV programs—the speedy and safe transport of Iraqi interpreters or translators and their families to the United States.

A. *Lack of Visas*

On October 1, 2008, the 50-case SIV cap under Section 1059 was reinstated.¹⁵⁹ While Congress could approve another temporary expansion of the visa allotment, there is no indication that such legislation is on the horizon. In the meantime, Section 1059 petitions subject to the cap are increasing with even smaller

¹⁵⁸ OFFICE OF REFUGEE RESETTLEMENT, *supra* note 142.

¹⁵⁹ 9 U.S. DEP'T OF STATE FOREIGN AFF. MANUAL 42.32(d)(10), at N3(c) (discussing October 1, 2008 as the deadline for petitions to be converted under Section 1244).

chances of receiving a SIV. Even though these Section 1059 petitions can be converted into Section 1244 petitions, applicants still must wait for processing in the new program, and “because of the expected processing time involved, it is doubtful that embassies will meet the 5,000 case potential in Fiscal Year 2008.”¹⁶⁰ Indeed, in fiscal year 2008, only 705 visas were issued.¹⁶¹ However, by March 2009, not only had processing begun, but 641 visas had been issued to Iraqis since fiscal year 2008 under the Section 1244 program.¹⁶² Additionally, a more recent status update from January 2010 reported that the number of issued visas had increased to 3,028 as of September 2009.¹⁶³ Though the increased movement under Section 1244 is encouraging, processing times vary and there are still many applications waiting to make their way through the system.¹⁶⁴

Also, while Section 1244 may provide additional visas for Iraqi and Afghan nationals who worked for the United States, Afghan nationals must resort to the fifty Section 1059 visas available only to those who worked as “interpreters or translators”¹⁶⁵ or petition for one of the 1,500 visas under the Section 1244 program that are available for any Afghan national who worked for the United States in other capacities.

B. Inefficiency of Visa Processing

An article in *The Guardian* best described the never-ending queues facing Iraqis once they begin the petitioning process as “a succession of queues. They queue outside western embassies for visas, asylum, reunion, waving letters from relatives and university certificates. They queue outside the UNHCR for a

¹⁶⁰ STATUS REPORT, *supra* note 103, at 1.

¹⁶¹ U.S. DEP’T OF STATE, BUREAU OF NEAR E. AFFAIRS, IRAQ STATUS REPORT 12 (2009).

¹⁶² U.S. DEP’T OF STATE, BUREAU OF NEAR E. AFFAIRS, IRAQ STATUS REPORT 9 (2009).

¹⁶³ U.S. DEP’T OF STATE, BUREAU OF NEAR E. AFFAIRS, IRAQ STATUS REPORT 7 (2010).

¹⁶⁴ See HUMAN RIGHTS FIRST, PROMISES TO THE PERSECUTED: THE REFUGEE CRISIS IN IRAQ ACT OF 2008, at 12 (2009) (providing a chart showing the SIV application process and average wait times).

¹⁶⁵ National Defense Authorization Act for Fiscal Year 2006, Pub. L. No. 109-163, § 1059, 119 Stat. 3136, 3443-44.

document identifying them as refugees and granting them protection from deportations. They queue for everything.”¹⁶⁶ Slow processing time is especially concerning when applicants have demonstrated the Section 1244 requirement that they are in danger or are under “ongoing serious threat[s]” in the countries where they are anxiously awaiting approval. The main cause of inefficiency is a lack of proper resource planning. The increased caseload resulting from the new Section 1244 program requires more workspace in the consular offices, as well as additional staff.¹⁶⁷ However, the funds needed to finance these expansions are not offset by any increase in user fees. Doing so would require Iraqi SIV applicants to pay processing fees, which are typically waived for all categories of special immigrants under current immigration policy.¹⁶⁸

C. *Invalidation of Iraqi Passports*

Recent changes in Iraqi passports also raise very serious concerns for valid travel to and from the country where a visa interview is scheduled, as well as entry into the United States once a petition has been approved. Since the breakout of war in 2003, the Iraqi government has gradually ceased issuance and invalidated many of its previous series of passports.¹⁶⁹ First, due to reports of counterfeiting, the Iraqi government stopped issuing its H-series passports, the passports issued while Saddam Hussein was in power.¹⁷⁰ Fearing similar security breaches with other

¹⁶⁶ Ghaith Abdul-Ahad, *Despairing and Disregarded: The Daily Quest to Get Out of Baghdad*, GUARDIAN, Mar. 21, 2007, ¶ 14, available at <http://www.guardian.co.uk/world/2007/mar/21/iraq-middleeast>.

¹⁶⁷ See STATUS REPORT, *supra* note 103, at 13-14.

¹⁶⁸ See *id.*

¹⁶⁹ See Zoi Constantine, *UAE Iraqis Restricted by Passport Delays*, NATIONAL (Abu Dhabi), Aug. 28, 2008, available at <http://www.thenational.ae/article/20080828/NATIONAL/858811262/1010/rss>.

¹⁷⁰ See *id.*; see also RESEARCH DIRECTORATE, IMMIGRATION AND REFUGEE BD. OF CAN., NO. IRQ102011.E IRAQ: PROCEDURES IN PLACE SINCE MARCH 2003 TO OBTAIN AND TO RENEW A PASSPORT FROM WITHIN THE COUNTRY; VALIDITY AND STATUS OF PRE-2003 PASSPORTS (2006) (describing the various series of Iraqi passports and that the M-, N-, and H-series passports were all issued while Saddam Hussein was in power but in different years. M-series passports were first issued in 1988; N-series passports were issued from 1997 until 2002; and the H-series passports were issued from 2002 until March 2003).

passport series, the M- and N- series passports were also invalidated.¹⁷¹ Even S-series passports, which were issued after the removal of Saddam Hussein, were no longer recognized after January 2007.¹⁷² After these changes, only the newest series of G-passports are valid for travel.¹⁷³ The new G-series biometric passport is electronically readable and, thus, is purported to be a more secure option for countries accepting foreign travelers.¹⁷⁴ Despite invalidation of most former passports, the information regarding the new G-series passports did not reach the consular posts abroad and thus, did not significantly change procedures within Iraq.¹⁷⁵ However, on January 8, 2007, the United States announced that it would recognize only Iraqi G-series passports and that the invalidation of all other passports would be effective immediately.¹⁷⁶ The announcement gave little time for the Iraq government to acquire the machines and training needed to issue new G-series passports for Iraqi citizens.¹⁷⁷

At first, only the office in Baghdad could print and issue the new passports.¹⁷⁸ This posed significant problems for Iraqi nationals who had fled Iraq and were now living in neighboring countries, as they were stranded in the new country without a valid travel document.¹⁷⁹ The ordeal was best reflected in an article reporting on growing problems in obtaining passports:

As the violence has increased so has the desperation behind the thick blast walls that ring the passport office yard. Each day the officials consider applications from a single Baghdad district; each day they issue just 100 forms. Anyone failing to get one has to wait a month until the

¹⁷¹ See Constantine, *supra* note 169.

¹⁷² See *id.*

¹⁷³ See *id.*

¹⁷⁴ See *id.*

¹⁷⁵ See Ahmed Janabi, *Passport Confusion Hits Iraq Expats*, ALJAZEERA.NET, Mar. 20, 2007, <http://english.aljazeera.net/news/middleeast/2007/03/2008525173159185726.html>.

¹⁷⁶ Farah Stockman, *Passport Rule Change in U.S. Keeps Iraqis Out*, BOSTON GLOBE, Feb. 7, 2007, available at http://www.boston.com/news/nation/articles/2007/02/07/passport_rule_change_in_us_keeps_iraqis_out/.

¹⁷⁷ See *id.*

¹⁷⁸ See *Id.*

¹⁷⁹ See *id.*

neighbourhood comes up again. For those who do get a form, it is the start of a surreal obstacle course.¹⁸⁰

As recently as February 2007, Iraqi citizens were told the only way to get the passport was to travel to Baghdad.¹⁸¹ Samir Sumaida'ie, Iraq's ambassador to the United States, remarked that it was "unfair to demand that people go to Baghdad . . . [t]here is the expense, the risk, the security situation. It is difficult for people, so they are left with very hard choices. . . . Many people who want to travel are inconvenienced, or indeed stranded."¹⁸² As a result of these new policies, Iraqis who were traveling on valid visas were turned away at ports of entry because the visas were now invalid passports.¹⁸³ Iraqis who had already been issued SIVs to the United States were unable to enter the country on their invalid passports and were forced to return to Iraq.¹⁸⁴ Iraqis living in Iraq cannot travel to Amman, Jordan for visa interviews as neighboring countries are enforcing stricter rules for Iraqis traveling into their borders.¹⁸⁵ Even if Iraqis are able to apply for a new G-series passport, the process is slow due to lack of printing machines and unfamiliarity with the new technology necessary to create these G-series passports.¹⁸⁶ The application process for the new passport presents further problems as applicants are required to produce certain official documents, some of which are now incomplete, destroyed, or inaccessible due to the looting of government buildings in the aftermath of the war.¹⁸⁷ The result is that Iraqis who have endured long processing times for their SIV now must wait even longer, often under threat of danger.

There has been some flexibility regarding the passport confusion. Originally, the Jordanian embassy set a June 1, 2007 deadline for valid entry by Iraqi nationals holding S-series passports.¹⁸⁸ However, after requests by the Iraqi government to

¹⁸⁰ Abdul-Ahad, *supra* note 166, ¶ 5-6.

¹⁸¹ See Stockman, *supra* note 176.

¹⁸² *Id.* ¶ 6.

¹⁸³ See *id.* at ¶ 1.

¹⁸⁴ See *id.*

¹⁸⁵ See *id.*

¹⁸⁶ See *id.*

¹⁸⁷ See Constantine, *supra* note 169.

¹⁸⁸ See Linda Hindi, *Iraqis Granted Extra 7 Months to Upgrade Passports*, JORDAN TIMES, May 30, 2007, <http://www.jordanembassyus.org/05302007003.htm>.

allow more time to transition to the G-series passport, the Jordanian embassy granted a seven-month extension to Iraqis traveling into Jordan.¹⁸⁹ This extension until the end of 2007 was extremely important for Iraqis who had visa interviews scheduled in Amman. Even an extension of just seven months could expedite the visa approval process for not only S-series passport holders, but also free up the queues of other passport holders needing G-series passports.¹⁹⁰ Even for those not benefitting from Jordan's seven-month extension, there is hope that Iraqi citizens will soon receive valid passports.¹⁹¹ The Iraqi government is in the process of establishing new sites with capable of issuing the passports.¹⁹² A greater quantity of sites in Iraq is as crucial as increasing the number of sites in surrounding countries such as Jordan and Syria where many Iraqi citizens live.¹⁹³

Section 1244 attempts to address the issues regarding these new passport policies. The Foreign Assistance Manual states:

Section 1244(d) . . . provide[s] that the Secretary of State must make a reasonable effort to ensure that aliens who are issued special immigrant visas under section 1244 are provided with the appropriate series Iraqi . . . passport necessary to enter the United States. Posts are reminded of the waiver provisions of 22 CFR § 42.2(g).¹⁹⁴

22 C.F.R. § 42.2 (g) authorizes the Secretary of State, upon instruction from the Department of State, to waive the passport requirement for a foreign national who would belong in a category of immigrants that is not required to present a passport in applying for an immigrant visa "except that the alien is applying for a visa in a country of which the applicant is a national and possession of a passport is required for departure."¹⁹⁵

¹⁸⁹ See *id.*

¹⁹⁰ See *id.*

¹⁹¹ See *id.*

¹⁹² See *id.*

¹⁹³ See, e.g., Radio Free Europe/Radio Liberty, *Iraq: Official Says Refugees to Get New Passports Soon*, <http://www.rferl.org/content/article/1075131.html> (last visited Apr. 1, 2010) (stating that both embassies and the Iraqi government need to develop additional capacities).

¹⁹⁴ 9 U.S. DEP'T OF STATE FOREIGN AFF. MANUAL 42.32(d)(11), at N11.

¹⁹⁵ 22 C.F.R. § 42.2(g) (2009).

The Iraqi passport confusion still presents an obstacle to successful resettlement of Iraqi refugees. As early as August 2008, Iraqis living in the United Arab Emirates were still enduring long waits for the new passports.¹⁹⁶ While the consulate stated that it takes forty-five days to issue G-series passport, some Iraqis waited months before seeing the document.¹⁹⁷

VI. Recommendations for Action

In light of these obstacles, the U.S. government should take steps to facilitate the safe and successful immigration of Iraqi interpreters and translators who wish to resettle in the United States. In order to ensure that the Section 1059 and Section 1244 programs fulfill their legislative goals in truly benefiting the Iraqi nationals who are the most at risk, the U.S. government will need to engage the Iraqi government as well as the international community. Starting from changes in the existing U.S. policies, Congress should more clearly define crucial terms in the legislation enacting both Iraqi SIV programs as well as set out specific guidelines for implementation of the more recent Section 1244 program. Additionally, Congress should carefully review the new policies regarding resettlement benefits for Iraqi SIV beneficiaries, making sure that they are realistic and feasible. The Department of State should make practical estimates of the cost and staff resources needed for delivering resettlement benefits. The Iraqi government must also play a role in expediting the issuing of G-series passports by setting up more processing centers within Iraq and in the surrounding countries. The U.S. government should coordinate its visa processing with Iraqi passport processing to facilitate a smoother overall process for Iraqis petitioning under the U.S. SIV programs. Finally, the United States, along with the rest of the international community, should continue offering aid to countries like Syria and Jordan, which are still struggling to support an influx of displaced Iraqis.

A. Clarify Definitions in Special Immigration Visa Statutory Provisions

Congress should clarify definitions in the legislation enacting

¹⁹⁶ See Constantine, *supra* note 169.

¹⁹⁷ See *id.*

both SIV special immigration programs for Afghan interpreters and translators and Iraqis in order to ensure that the beneficiaries of such programs fall within the legislative intent of each program. For the Section 1059 program, Congress must address who qualifies as an “interpreter/translator.”¹⁹⁸ For the Section 1244 program, Congress must specify what is necessary to prove an “ongoing serious threat” as well as what constitutes “faithful and valuable service.”¹⁹⁹ As the Section 1059 program continues with the decreased cap of fifty, it becomes even more essential that the beneficiaries of each SIV fulfill the requirements of the program. Strict screening of applications with very clear guidelines of what to look for in an applicant is necessary for proper implementation of the interpreter/translator program in the upcoming years where SIVs are more limited and, thus, more coveted. Officials screening applicants must also consider that even with the implementation of the Section 1244 program, the 1059 program may be the primary path to immigration for Afghan interpreters and translators.²⁰⁰ Thus, officials screening applications for the Section 1059 program should prioritize Afghan nationals over those Iraqi nationals who may qualify for the Section 1244 program.

In processing the applicants to these SIV programs, the United States should properly distinguish national security concerns and inadequacy of the process concerns. While security is of utmost concern in processing immigration applications, “for thousands of Iraqi refugees that raise no security concerns, the problem is not with the security requirements themselves, but rather, the lack of personnel and resources allocated for processing the refugees.”²⁰¹

B. Assess Resettlement Benefit Policies

Congress should conduct careful reviews of policies regarding resettlement benefits under the SIV programs. The policies must

¹⁹⁸ National Defense Authorization Act for Fiscal Year 2006, Pub. L. No. 109-163, § 1059, 119 Stat. 3136, 3443-44.

¹⁹⁹ National Defense Authorization Act for Fiscal Year 2008, Pub. L. No. 110-181, § 1244, 112 Stat. 3, 396-98.

²⁰⁰ See STATUS REPORT, *supra* note 103, at 8 n. 7.

²⁰¹ Kevin Walsh, *Victims of a Growing Crisis: A Call for Reform of the United States Immigration Law and Policy Pertaining to Refugees of the Iraq War*, 53 VILL. L. REV. 421, 454 (2008).

ensure proper and adequate delivery of the benefits once the immigrants arrive in the United States, keeping in mind the challenges of such benefits delivery in other countries. To begin, such an ambitious undertaking calls for increased staffing and resources, which requires more funds.²⁰² More importantly, the Department of State must remain realistic about the costs of providing refugee resettlement benefits to SIV recipients and their families. The funds to provide these benefits will come out of the current refugee account of the Bureau of Population, Refugees, and Migration (PRM), and will certainly have no small effect on its holdings.²⁰³ While it is too early to measure the full monetary impact of offering resettlement benefits to Iraqi SIV recipients, it has been estimated that "the annual cost of refugee benefits payable to holders of SIVs from PRM monies [is] up to \$48 million."²⁰⁴ This estimate assumes a modest caseload of two individuals per case.²⁰⁵ Increasing the total caseload by just one individual per case to a total of three individuals per case (which some believe is a more realistic estimate) would increase the annual resettlement cost to nearly \$75 million.²⁰⁶

It is crucial that the Department of State and other relevant governmental agencies anticipate these costs especially as they are promising the benefits to Iraqis coming through the SIV programs. The U.S. government should prevent any misrepresentation of resettlement benefits to Iraqis prior to arrival, a problem that befell the Iraqi interpreter resettlement programs in Britain, Australia and Denmark.²⁰⁷ Learning from those mistakes, the United States should make it a priority to follow through with their resettlement promises and policy objectives.

Once the United States has committed to resettling its former Iraqi employees, it should commit not only to physically transport the individuals or families, but also to facilitate the transition once the individuals are within the borders. Doing so will prevent the

²⁰² See STATUS REPORT, *supra* note 103, at 14.

²⁰³ *Id.*

²⁰⁴ *Id.* This estimate was given by a senior coordinator on Iraqi refugee issues during a March 2008 congressional hearing on Iraqi refugees and SIVs. *Id.*

²⁰⁵ *Id.*

²⁰⁶ *Id.*

²⁰⁷ See *supra* Part III.A-C.

unfortunate situation where Iraqis, once resettled in the United States, are unable to maintain a standard of living and ultimately risk danger and continued persecution by returning to Iraq.²⁰⁸ Rather than adopting the British policies which force formerly employed Iraqi nationals to choose between resettlement or a financial package,²⁰⁹ the United States should properly respect those Iraqi nationals who served its armed forces by honoring the commitment to bring them and their families into the country and provide basic benefits necessary to maintain a comfortable existence.

C. Expedite the Issuing of Iraqi G-Series Passports

The Iraqi government should create more efficient ways to issue the new G-series Iraqi passports so that those who are in the petitioning process are not put at risk while waiting for valid travel documents. Specifically, the Iraqi government should establish more centers with passport-issuing capabilities in order to relieve the backlogged applications in the Baghdad office. Typically, an Iraqi national applying for a G-series passport outside of Iraq would complete an application distributed from the Baghdad consulate.²¹⁰ The application would then be sent to the ministry of foreign affairs in Baghdad for processing before moving on to the ministry of interior, which is responsible for issuing the passports.²¹¹ Removing the need to send applications back and forth from the host country to Baghdad will significantly expedite the approval process and issuing of the new passports.²¹² Of course, countries with higher percentages of displaced Iraqi refugees such as Syria and Jordan should have greatest priority. Other neighboring countries, however, would also benefit from having passport-processing centers within their borders. Ultimately, these additional passport-processing centers will expedite the issuance of additional G-series passports, freeing up the queues in the Baghdad embassy. Additionally, if Iraqi

²⁰⁸ See *supra* Part III.A-C (describing how Iraqi immigrants were unable to find adequate housing or jobs upon arrival and thus chose to return to Iraq).

²⁰⁹ See *supra* Part III.A.

²¹⁰ See Constantine, *supra* note 169.

²¹¹ See *id.*

²¹² See *id.*

applicants need to resolve issues regarding the processing of their passports, they no longer have to risk their safety by travelling into Baghdad.

D. Continue Providing Bilateral Assistance to Major Host Countries

The United States should continue offering bilateral assistance at least to the major host countries of Jordan, Syria, and Egypt, as well as to other host countries with fewer Iraqi refugees, so that the Iraqi refugee communities in those countries have access to basic necessities and resources.²¹³ The host countries shouldering the greatest populations of displaced Iraqi refugees, whether they have served as interpreters and translators, do not have sufficient economic or social resources to accommodate such an influx of persons. "Burden sharing and mutual accountability should exist among the international community to cope with the growing number of refugees."²¹⁴ Thus the changes in immigration policy as proposed here must go hand in hand with continued assistance to those countries that continue to strain under the burden of providing education, health, and housing opportunities to displaced Iraqis.

VII. Conclusion

Though the recently enacted Section 1244 SIV program faces problems of policy specificity, efficiency, and resource allotment that also plagued similar programs in other countries and even the previously-enacted U.S. Section 1059 SIV program, it has great potential to effectively protect Iraqi nationals who faithfully served the U.S. military forces in Iraq.

When the Section 1244 program acts in concert with Section 1059 program, those Iraqis who formerly worked as interpreters and translators with the United States will realize the true benefit and protection of permanent resettlement in the United States.

To meet these program goals, the United States must first ensure that the statutory language defining the SIV programs is clear and precise, that the necessary resources and funds for providing benefits are available and accounted for, that there is

²¹³ See INT'L RESCUE COMM., *supra* note 2, at 12.

²¹⁴ Walsh, *supra* note 201, at 421.

proper engagement with the Iraqi government to ease G-series passport processing, and that the international community is cooperating and assisting in the relief of the Iraqi refugee crisis. The successful implementation of these SIV programs depends on these urgent policy changes and recommendations.

By enacting the Section 1059 and Section 1244 Iraqi SIV programs, the U.S. government recognizes at least a responsibility to protect those Iraqi nationals who faithfully served U.S. soldiers and U.S. land. Indeed the risk to these Iraqi interpreters' and their families' lives, even after their employment has ended, deserves a significant expression of gratitude. However, the Iraqi refugee crisis extends far beyond this group of Iraqis. While formerly employed Iraqi interpreters and translators suffer, especially due to the nature of their employment, millions of Iraqis still live displaced and fearful lives simply due to their existence as Iraqis. With such a humanitarian crisis at hand, it is the hope that these Iraqi SIV programs become not just the endpoint of U.S. immigration policy goals, but the beginning of more ambitious and globally-impacting immigration policy goals.

I asked him if he felt betrayed by America. "I have this nature—I don't expect a lot from people," Firas said. "Not betrayed, no, not disappointed. I can never blame the Americans alone. It's the Iraqis who destroyed their country, with the help of the Americans, under the American eye." I was about to say that he deserved better, but Firas was lost in thought. "To this moment," he said, "I dream about America."²¹⁵

MARIANNE TWU

²¹⁵ Packer, *supra* note 1, at 73.

