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Appendix II

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Review of United States Law

INTRODUCTION

The first restrictions on immigration into the United States did not appear until Congress passed the Act of March 3, 1875, ch. 141, 18 Stat. 477, which prohibited entry into the United States of prostitutes and convicts. In 1882 Congress acted to restrict Chinese immigration, Act of May 6, 1882, ch. 126, 22 Stat. 58, and in subsequent years Congress imposed further qualitative limits on immigration and a head tax on each immigrant. *See* Act of Aug. 3, 1882, ch. 551, 26 Stat. 1084; Act of March 3, 1903, ch. 1012, 32 Stat. 1213; Act of Feb. 20, 1907, ch. 1134, 34 Stat. 898. These restrictions were codified in the Immigration Act of 1917, ch. 29, 39 Stat. 874.

From 1924 until 1952 immigration was regulated by the Immigration Act of 1924, ch. 190, 43 Stat. 153, which continued the national origins quota system introduced by an Act of May 19, 1921, ch. 8, 42 Stat. 5. The annual number of entrants from any particular country was limited to a percentage of the foreign-born persons of that nationality living in the United States as determined by the 1920 census. *See generally* E. HARPER, IMMIGRATION LAWS OF THE UNITED STATES 1-21 (1975).

DISPLACED PERSONS ACT OF 1948 (ch. 647, 62 Stat. 1009)

In 1948, Congress amended the Immigration Act of 1924 to admit persons displaced in Europe as a result of World War II. Section 3 of the 1948 Act limited the total number of admissions to 202,000. All persons were required to meet the conditions imposed by the 1924 Act and to be unable to return home because of persecution or fear of persecution on account of race, religion, or political opinion. Priority was determined by provisions of the 1924 Act giving preference to persons in designated professions as well as those who fought against the World War II enemies of the United States. The 1948 Act adopted a scheme which offset the number of persons admitted under the 1948 Act against the number of ordinary immigrants admitted under the quota provisions of the 1924 Act.

In 1950, the Displaced Persons Act was amended to allow an additional 139,000 refugees to enter the country. Act of June 16, 1950, § 4, ch. 262, 64 Stat. 219. The 1948 Act was amended again in 1951, to extend the program through December 1951. Act of June 28, 1951, ch. 167, 65 Stat. 96.

IMMIGRATION AND NATIONALITY ACT (INA) (Pub. L. No. 414, ch. 477, 66 Stat. 163 (1952))

Section 212(d)(5) granted the attorney general discretion to "parole into the United States temporarily under such conditions as he may prescribe for emergent reasons or for reasons deemed strictly in the public interest any alien applying for admission to the United States. . . ." The first large-scale use of the parole authority was in 1956, when 32,000 Hungarian refugees were paroled into the U.S. *See* Table, Parole Programs Authorized, *infra*.

The 1952 Act also authorized the attorney general, under section 243(h), to withhold deportation of an alien to any country "in which in his opinion the alien would be subject to physical persecution."

REFUGEE RELIEF ACT OF 1953 (Pub. L. No. 243, ch. 336, 67 Stat. 400)

Section 3 of the Act permitted the admission of 205,000 refugees over a 3 1/2-year period, expiring in December 1956. The Act admitted refugees as nonquota immigrants. Refugees were defined as persons in a non-Communist area who were unable to return home because of persecution, fear of persecution, natural calamity, or military operations. The statute also reached escapees (those who fled from the USSR or one of its satellites) and German expellees (refugees who fled from the USSR or one of its satellites to West Germany). The largest groups provided for by the Refugee Relief Act were escapees from Communist countries (90,000) and Italian refugees (60,000). Dutch, Greek, Far Eastern, and Arab refugees were also included. After the Hungarian revolution in October 1956, 38,000 refugees came to the United States. Of that total, 6,130 were admitted under Refugee Relief Act visas. *See* Schmidt, *Development of United States Refugee Policy*, INS REPORTER, Fall 1979, at 1.

ACT OF SEPTEMBER 11, 1957
(Pub. L. No. 85-316, 71 Stat. 639)

When the Refugee Relief Act expired in 1956, 18,656 special visas authorized by the statute remained unused. Section 15 of the so-called "Refugee-Escapee Act" authorized use of these visas by German expellees, Dutch refugees, and anyone who had fled Communist or Middle Eastern countries.

ACT OF JULY 25, 1958
(Pub. L. No. 85-559, 72 Stat. 419)

This statute authorized Hungarian refugees who had been paroled to adjust their status to that of lawful permanent resident after two years' presence in the United States.

ACT OF SEPTEMBER 2, 1958
(Pub. L. No. 86-892, 72 Stat. 1712)

Section 1 of this legislation made 1,500 special nonquota immigrant visas available to victims of volcanic eruptions and earthquakes in the Azores, and 3,000 visas to displaced Indonesians of Dutch descent.

FAIR SHARE REFUGEE ACT
(Pub. L. No. 86-648, 74 Stat. 504 (1960))

The Act established a temporary program for the parole of refugees under the mandate of the UNHCR. The program was therefore limited primarily to Western Europeans, and lasted through July 1, 1962. The total number of refugees admitted was limited to one-quarter of the total number resettled by other countries, and approximately 20,000 were eventually paroled. *See* 2 C. GORDON & H. ROSENFELD, *IMMIGRATION LAW AND PROCEDURE* § 2.27(h) (1980). The statute also permitted adjustment of status after two years' residence.

MIGRATION AND REFUGEE ASSISTANCE ACT OF 1962
(Pub. L. No. 87-510, 76 Stat. 121)

The statute separated from foreign aid legislation and consolidated in a

single statute existing and new authorizations to conduct and appropriate funds for U.S. refugee assistance programs. The Act also authorized, for an indefinite period, appropriations of funds for refugees fleeing to the United States from any country in the Western Hemisphere. The statute has been the basis for funding resettlement projects for over 400,000 Cubans paroled between 1961 and 1979. *See* Table, Parole Programs Authorized, *infra*.

**IMMIGRATION AND NATIONALITY ACT
AMENDMENTS OF 1965
(Pub. L. No. 89-236, 79 Stat. 911)**

The national origins system was abolished by these amendments and replaced by numerical limits on immigrants from each hemisphere. Refugees could be admitted as conditional entrants under section 203(a)(7). Refugees were defined as persons who fled a Communist-dominated nation, or a country in the Middle East, because of persecution or fear of persecution on account of race, religion, or political opinion. Victims of a "catastrophic natural calamity" could also be admitted as conditional entrants, but this provision was never invoked. The statute allowed conditional entrants to adjust their status after two years' residence in the United States.

The conditional entry provisions were originally available only to natives of the Eastern Hemisphere. After the enactment of legislation in 1976 and 1978, however, conditional entry was available to 17,400 refugees per year, regardless of the hemisphere of origin. Act of October 20, 1976, Pub. L. No. 94-571, 90 Stat. 2703; Act of October 5, 1978, Pub. L. No. 95-412, 92 Stat. 907.

Subsection 11(f) of the 1965 amendments revised the language of the withholding of deportation provision, section 243(h), of the INA. The phrase "physical persecution" was replaced by "persecution on account of race, religion, or political opinion." This change brought the U.S. statute closer to the international standard even before the United States formally adopted the Protocol relating to the Status of Refugees.

**ACT OF NOVEMBER 2, 1966
(Pub. L. No. 89-732, 80 Stat. 1161)**

Special legislation authorized adjustment of status for the Cuban refugees after two years' residence. Cuban refugees who arrived after January 1, 1959 were eligible.

**INDOCHINA MIGRATION AND REFUGEE ASSISTANCE
ACT OF 1975
(Pub. L. No. 94-23, 89 Stat. 87)**

As the Migration and Refugee Assistance Act of 1962 effectively applied only to Cuban refugees, new authorizing legislation for resettlement programs was needed when refugees from Cambodia and Vietnam began to arrive in the United States. Between April 1975 and October 1979, 290,075 Indochinese were admitted under the parole authority. The 1975 Act established the Indochinese Refugee Assistance Program (IRAP). As in the case of the Cuban refugees, the IRAP was based on the concept of 100% reimbursement to the states for expenses incurred in resettling refugees.

**INDOCHINA REFUGEE CHILDREN ASSISTANCE ACT OF 1976
(Pub. L. No. 94-405, 90 Stat. 1225)**

Unlike the 1962 Migration and Refugee Assistance Act, the IRAP originally made no provision for educational assistance. The 1976 Act was enacted to assist school districts in absorbing the expense of new Indochinese refugee pupils. The statute provided fixed amounts of money for each refugee pupil.

**ACT OF OCTOBER 28, 1977
(Pub. L. No. 95-145, 91 Stat. 1223)**

This bill authorized Indochinese refugees who had been paroled into the United States to adjust their status to that of lawful permanent resident after two years of residence in the country. The statute was the first of three bills extending the IRAP's expiration date. *See also* Pub. L. No. 95-549, 92 Stat. 2065 (1978); Pub. L. No. 96-110, 93 Stat. 843 (1979).

**ACT OF OCTOBER 5, 1978
(Pub. L. No. 95-412, 92 Stat. 907)**

This statute allowed all refugees paroled into the United States before September 30, 1980 to adjust their status after two years residence in the country.

REFUGEE ACT OF 1980
(Pub. L. No. 96-212, 94 Stat. 102)

The parole authority of the attorney general was severely restricted by section 203(f) of the 1980 Act, which amended section 212(d)(5) of the INA to prohibit the parole of any refugee into the United States absent "compelling reasons in the public interest with respect to that particular alien." In its place, the Act adopted a procedure which provides, in section 207(a), for the admission annually through fiscal year 1982 of 50,000 refugees, and of an additional number of refugees determined by the president at the beginning of each fiscal year and after consultation with Congress. After fiscal year 1982, the number of yearly admissions is determined entirely by the consultative process. Section 207(b) gives the president authority, also after consultation with Congress, to admit additional aliens in response to unforeseen emergency refugee situations.

Section 201 of the Act amended INA section 101(a) to define a refugee, in conformity with the 1951 Refugee Convention, as any person outside his or her country of origin "who is unable or unwilling to return to, and is unable or unwilling to avail himself or herself of the protection of, that country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion." An additional provision extended refugee status "in special circumstances" to persons experiencing or fearing such persecution within their country of nationality.

Section 208 was added by the 1980 Act to the INA to permit the attorney general to grant asylum to aliens within the definition of refugee in section 101 who are either in the United States or at the border. The procedure for consideration of asylum applications is to be established by regulations promulgated by the attorney general. The spouse and children of aliens admitted either as refugees under section 207 or granted asylum under section 208 may also be admitted by the attorney general.

Section 243(h) of the INA was amended to require, not merely permit, the attorney general to withhold deportation of an alien to a country if he determines "that such alien's life or freedom would be threatened in such country on account of race, religion, nationality, membership in a particular social group, or political opinion." Excluded are aliens who participated in the persecution of others, who have been convicted of a serious crime, who committed a serious nonpolitical crime outside the United States prior to arrival, or who represent a danger to the security of the United States.

Aliens admitted as refugees or granted asylum are entitled under section 209 to adjust their status to that of permanent resident after only one year's physical presence in the United States. In the case of persons granted

asylum, however, section 209(b) limited the number of adjustments in any one year to 5,000.

The Act also provided for the appointment by the president, subject to the consent of the Senate, of a Coordinator for Refugee Affairs to oversee and develop U.S. refugee policy. An Office of Refugee Resettlement was established within the Department of Health and Human Services to supervise the distribution of federal funds to states and private agencies aiding the resettlement of refugees. The Act provided federal reimbursement of states and private agencies for all cash assistance or medical assistance to refugees in the first three years after their arrival. The Act abolished the separate Cuban and Indochinese programs previously existing, making all refugees eligible for the same kinds of assistance.

PAROLE PROGRAMS AUTHORIZED*

I. Cubans and South Americans

1961-79	Cubans	419,153
1978	Cuban prisoners	12,000
1975	Chileans	1,600
1976	Chileans, Uruguayans, & Bolivians	800
1978	Argentinians, Brazilians, Peruvians, Paraguayans, & Uruguayans	2,000
	TOTAL	435,553

II. Soviets and Eastern Europeans

A. Soviets:	1963	224
	1970	4,500
	1971	200
	1973-74	3,500
	1977	9,000
B. Soviets & E. Europeans:	1978	12,000
	1979	32,500
	TOTAL	61,924

*Source: Schmidt, *Development of United States Refugee Policy*, INS REPORTER, Fall 1979, at 1-3.

III. Indochinese

April 1975	135,200
May 1976	11,000
August 1977	15,000
January 1978	7,000
June 1978	25,000
December 1978	21,875
April 1979	40,000
October 1979	35,000
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TOTAL	290,075

IV. All Others

1956	European orphans	925
1957	Hungarians	32,000
1962	Hong Kong Chinese	15,000
1970	Czechs	6,500
1972-73	Ugandans	1,750
1978	Lebanese	1,000
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TOTAL		57,175