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REFUGEE, ASYLUM, AND INTERNATIONAL OPERATIONS DIRECTORATE (RAIO)



U.S. Citizenship and Immigration Services

RAIO DIRECTORATE – OFFICER TRAINING

RAIO Combined Training Program

FIRM RESETTLEMENT (Asylum bar 2-) TRAINING MODULE

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firm resettlement ~~具体定義~~ P. 10
 (in Asylum)

3 requirement for firm resettlement P. 11 - P. 18

① enter into a third country

② offer or receipt

③ permanent status (not temporary)

P. 13 work or school long time → firm resettled

P. 15 business Visa → X firm resettled

P. 16 enter into a 3rd country a necessary consequence of flight → X firm resettled

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P. 19 working, employment, hold property, travel docs, education, public relief, naturalization in 3rd country → firm resettled

→ P. 21 (这两条~~具体~~の定義 (2 exceptions))

Throughout this training module, you will come across references to adjudication-specific supplemental information located at the end of the module, as well as links to documents that contain adjudication-specific, detailed information. You are responsible for knowing the information in the referenced material that pertains to the adjudications you will be performing.

For easy reference, supplements for international and refugee adjudications are in pink and supplements for asylum adjudications are in yellow.

You may also encounter references to the legacy Refugee Affairs Division (RAD) and the legacy International Operations Division (IO). RAD has been renamed the International and Refugee Affairs Division (IRAD) and has assumed much of the workload of IO, which is no longer operating as a separate RAIO division.

1 INTRODUCTION

An applicant is barred from asylum and refugee resettlement to the United States if the applicant was firmly resettled in a third country.¹ The definitions of firm resettlement for asylum and refugee resettlement are similar, but differ in several ways. This module provides an historical overview of the firm resettlement provision, the statutory and regulatory authority for the bars, the elements of and exceptions to the firm resettlement bars, the burden of proof, and the BIA's four-step framework for analyzing firm resettlement in *Matter of A-G-G-*.²

2 HISTORICAL OVERVIEW

Firm resettlement as a bar to protection has its origins in the 1946 Constitution of the International Refugee Organization which excluded from the refugee definition individuals who had acquired a new nationality or who had become "firmly established" in another country. Later, the bar is found in two clauses of the 1951 United Nations Convention relating to the Status of Refugees. The Refugee Convention states that the Convention ceases to apply to an individual who "has acquired a new nationality, and enjoys the protection of the country of his new nationality."³ The Convention also excludes from protection an individual "who is recognized by the competent authorities of the country in which he has taken residence as having the rights and obligations which are attached to the possession of the nationality of that country."⁴

¹ Refugee: INA § 207(c)(1); 8 C.F.R. § 207.1(b); Asylum: INA § 208(b)(2)(A); 8 C.F.R. 208.13(c), 208.15.

² *Matter of A-G-G-*, 25 I. & N. Dec. 486 (BIA 2011).

³ United Nations Convention Relating to the Status of Refugees, art. 1C(3), adopted July 28, 1951, 189 U.N.T.S. 150 (entered into force April 22, 1954).

⁴ United Nations Convention Relating to the Status of Refugees, art. 1E.

3.2 Regulatory Definitions

Both the refugee and asylum definitions of firm resettlement in the regulations require entry into a third country (i.e., a country other than the United States and the applicant's country of nationality or last habitual residence, if stateless). A refugee applicant, however, must have entered the country *as a consequence of flight* for the bar to apply. The asylum firm resettlement bar does not have this requirement.

<u>Refugee</u>	<u>Asylum</u>
<p>8 C.F.R. § 207.1(b) Firmly Resettled</p> <p>A refugee is considered to be "firmly resettled" if he/she has been offered resident status, citizenship, or some other type of permanent resettlement by a country other than the United States and has travelled to and entered that country as a consequence of his/her flight from persecution. Any applicant who has become firmly resettled in a foreign country is not eligible for refugee status under this chapter.</p>	<p>8 C.F.R. § 208.15 Definition of Firm Resettlement</p> <p>An alien is considered to be firmly resettled if, <u>prior to arrival in the United States, he or she entered into another country with, or while in that country received, an offer of permanent resident status, citizenship, or some other type of permanent resettlement.</u></p>

~~Example~~

Applicant, a citizen of Country X, enters Country Z for business and Country Z offers her permanent residency. For asylum purposes, Applicant is firmly resettled in Country Z if she entered into and received an offer of permanent residency there after becoming a refugee. For refugee purposes, she is not firmly resettled if she did not enter Country Z as a consequence of her flight from persecution from Country X. In this example, she entered Country Z for business purposes only.

Both definitions of firm resettlement require that the status offered or received must be permanent, not temporary.

3.3 Case Law

Throughout its history, the firm resettlement bar has had many variations. Courts have applied it as a mandatory bar, as a discretionary bar, and as a bar to refugee resettlement only. Courts have also applied this bar prior to and after the issuance of the current regulations. Not surprisingly, courts have applied several different, and at times conflicting, approaches for determining if an individual had been firmly resettled. In

May 2011, the BIA addressed these differences in a precedent decision called *Matter of A-G-G-*.⁸ In this decision, the BIA announced a new four-step framework for deciding firm resettlement cases that first focuses exclusively on the existence of an offer.⁹ For this reason, you should not rely on case law issued prior to May 2011 that conflicts with the holding in *Matter of A-G-G-* and does not follow the BIA's new approach.

This BIA's new four-step framework is described in the Analysis section, below. In brief, the steps are as follows:

1. The officer bears the burden of presenting prima facie evidence of an offer of firm resettlement, relying on direct or, if direct is not available, indirect evidence.
2. If there is prima facie evidence, the applicant must be given the opportunity to rebut such evidence.
3. The officer must weigh the totality of the evidence and make a determination whether the evidence of an offer of firm resettlement has been rebutted.
4. If the officer finds the applicant was firmly resettled, the burden shifts to the applicant to establish an exception applies.

4

THREE REQUIREMENTS OF FIRM RESETTLEMENT

As shown in comparison chart below, the asylum and refugee firm resettlement bars below have three common elements and one main difference. Both require entry into a third country, an offer or receipt of a status, and the status must be permanent (not temporary). The main difference is that the bar only applies to a refugee applicant if the entry into the third country was a consequence of flight from persecution.

In contrast, for an asylum applicant, the entry into the third country does not have to be as a consequence of flight from persecution. In the asylum context, the firm resettlement bar applies when, after becoming a refugee and prior to arriving in the United States, the applicant entered a third country with, or while in that country received, an offer of permanent resettlement.

<u>Refugee</u>	<u>Asylum</u>
1. Entry into a Third Country as a Consequence of Flight	1. Entry into a Third Country Prior to Arriving in the United States , (but

⁸ *Matter of A-G-G-*, 25 I&N Dec. 486 (BIA 2011).

⁹ *A-G-G-*, 25 I&N Dec. at 501.

2. Offer or Receipt of 3. Permanent Status or Citizenship in Third Country	only after events have occurred that would make the applicant a refugee) 2. Offer or Receipt of 3. Permanent Status or Citizenship in Third Country
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4.1 Entry into a Third Country

(1)

The first requirement of both firm resettlement bars is that the applicants must have entered the third country. An offer or receipt of a permanent status alone, without a physical entry into the third country while that status is available, would not meet the first element of the firm resettlement bar.¹⁰

For the firm resettlement bar to apply, refugee applicants must have entered the third country as a consequence of flight.¹¹ When interviewing a refugee applicant, you should ask the refugee applicant why he or she entered the third country.

For asylum applicants, the bar applies if the applicant became a refugee and either entered the third country with the offer, or if after entry to the third country the refugee received the offer, any time prior to their arrival in the United States.¹² If you are interviewing an asylum applicant, there is no requirement under the firm resettlement bar that the applicant have entered the third country as a consequence of his or her flight from persecution.¹³ The reason for entry into the third country is relevant, however, in determining whether the “no significant ties” exception applies. See Exceptions, below.

4.2 Offer or Receipt

(2)

The offer or receipt of a permanent (not temporary) status, such as permanent residency or citizenship can be a more complex determination. As explained below in the section on Analysis, you should look for direct evidence of an offer or receipt of a status. The most probative form of direct evidence would be objective documentation indicative of the applicant’s ability to stay indefinitely in the third country. You may look to circumstantial (or indirect) evidence, but **only if** direct evidence is not available.¹⁴

¹⁰ 8 C.F.R. §§ 207.1(b); 208.15.

¹¹ 8 C.F.R. § 207.1(b).

¹² 8 C.F.R. § 208.15.

¹³ For additional information, refer to *Elements of Firm Resettlement*, above.

¹⁴ *Matter of A-G-G-*, 25 I. & N. Dec. 486, 502 (BIA 2011).

Example

Applicant credibly testifies to you that he fled persecution from Iraq, his country of citizenship, was granted refugee status by the Danish government and subsequently entered Denmark. Applicant presents you with a permanent residence permit issued to him by the Danish government. The residence permit is direct evidence of an offer of permanent resettlement or some type of permanent resettlement.¹⁵

Example indirect evidence主要是 work或者 school长时间.



Applicant credibly testifies to you that he fled persecution from Iraq, his country of citizenship, and moved to the Netherlands to reunite with his parents and other family members. Applicant has resided in the Netherlands for the past 7 years. He attended school and later worked as a translator there. He arrived in the United States through the assistance of a smuggler who kept his Iraqi passport and all other direct evidence of his status in the Netherlands. In this situation, you may rely on indirect evidence, such as length of stay and employment in determining whether this is evidence indicating an offer.

4.2.1 Acceptance of Offer Not Required

不需要 accept offer.

The existence of an “offer” of some form of permanent resettlement may establish that an applicant was firmly resettled.¹⁶ The regulations do not further require that the applicant actually accept the offer in order for the firm resettlement bar to apply.

4.2.2 Existence of Legal Mechanisms to Obtain Permanent Status

The existence of a legal mechanism to obtain permanent status in the third country may be sufficient evidence to establish an offer of firm resettlement, and is not contingent on whether the applicant applies for the status.¹⁷ You should give an applicant the opportunity to explain why he or she would not qualify for or be granted the permanent status.¹⁸

Example

Applicant credibly testifies that he fled his native Somalia due to persecution, entered South Africa and was granted asylum. The South African government issued him a Certificate of Exemption entitling him to asylum for a two-year period

¹⁵ These are the basic facts of *Ali v. Reno*, 237 F.3d 591, 595 (6th Cir. 2001).

¹⁶ 8 C.F.R. §§ 207.1(b) and 208.15.

¹⁷ *Matter of A-G-G-*, 25 I. & N. Dec. at 502-03, noting that *Matter of Soleimani*, 20 I. & N. Dec. 99 (BIA 1989), would be decided differently under the BIA’s new framework and that the Israel’s Law of Return would be indirect evidence of an offer of firm resettlement and that the applicant in that case would have to show that she would not have been eligible for or granted an offer, or that one of the exceptions applied.

¹⁸ *Matter of A-G-G-*, 25 I. & N. Dec. at 502-03.

4.3 Permanent Status

(3)

X

As the regulations require, the type of status offered or received must be permanent, not temporary.²⁴ The examples given in the regulations include resident status,²⁵ permanent resident status,²⁶ citizenship,²⁷ or some other type of permanent resettlement.²⁸ The BIA has noted in *Matter of A-G-G-* that firm resettlement is “the ability to stay in a country indefinitely.”²⁹

4.3.1 Loss of Permanent Resident Status

An applicant’s loss of the right to return to a country in which he or she was firmly resettled after becoming a refugee does not necessarily remove the firm resettlement bar.³⁰ The applicant’s loss of the right to return, however, may be an indication that the status the applicant had in that country was not a permanent status, as is required by the firm resettlement regulation.

Examples

- Applicant fled his country of nationality due to persecution. Applicant firmly resettled in Country X, but lost the right to return to Country X because Applicant allowed a travel document to expire or remained outside of the country longer than permitted. Despite the loss of status, Applicant may still be barred by the firm resettlement bar if the totality of evidence shows the applicant had the ability to stay in the country indefinitely.
- ~~business visa~~ ~~never received firm resettlement bar~~ Applicant is a citizen of Country A and entered Country R where she received a residency permit as a derivative of her mother’s business visa. Applicant’s status is based on her mother’s employment in Country R. Applicant leaves Country R, and out of anger, her mother cancels Applicant’s residency permit. This applicant never received permanent residency, the right to remain indefinitely in Country R. Therefore, she is not subject to the firm resettlement bar.

4.3.2 Length of Time Spent in Third Country

The length of time an applicant spends in a third country does not by itself establish firm resettlement. Firm resettlement occurs only after the applicant has been offered some form of enduring lawful status in that country as demonstrated by direct evidence or, if

²⁴ 8 C.F.R. §§ 207.1(b); 208.15.

²⁵ 8 C.F.R. § 207.1(b).

²⁶ 8 C.F.R. § 208.15.

²⁷ 8 C.F.R. §§ 207.1(b); 208.15.

²⁸ 8 C.F.R. §§ 207.1(b); 208.15.

²⁹ *Matter of A-G-G-*, 25 I. & N. Dec. 486, 501 (BIA 2011)(emphasis added).

³⁰ See *Vang v. INS*, 146 F.3d 1114 (9th Cir. 1998).

direct evidence is not available, by circumstantial evidence of an offer of some type of permanent resettlement.

Examples

- Applicant is a citizen of Country A and fled to Country R as a result of persecution. Country R offered Applicant legal permanent resident status. Applicant lived in Country R for one day and then left Country R. She then went to Country S. Even though Applicant only lived in Country R for one day, her short time in Country R does not mean the firm resettlement bar does not apply to her. The pertinent issue is whether Country R offered her the right to stay indefinitely in that country.
- Applicant is a citizen of Country 1 and entered Country 2 illegally where he worked and lived illegally with his family for 30 years, sent his children to public school and rented an apartment. He resided in Country 2 without any legal immigration status, but was never arrested by the authorities for his illegal immigration status or deported from Country 2. Although a 30-year residence in a country is a long length of stay, this does not mean he is firmly resettled in Country 2.³¹ In this example, you must take into consideration that Applicant entered Country 2 illegally and resided there without any immigration status or offer of an immigration status.

Length of stay is also a factor to consider in determining whether the “no significant ties” exception applies to an asylum applicant. Under that exception, an asylum applicant is not firmly resettled if entry into the third country was a necessary consequence of flight, the applicant remained there only as long as needed to arrange onward travel, and the applicant did not establish significant ties there.³²

4.3.3 Minors

To determine whether an individual was firmly resettled when the individual was a minor, you must first determine whether there is any direct evidence of the individual’s status in the third country. If there is no direct evidence, you may consider indirect evidence, including whether the individual’s parents were firmly resettled and whether the individual, as a minor, lived with his or her parents in the country where the parents firmly resettled. If the individual resided with his or her parents, the parents’ firm resettlement would be evidence indicating (or *prima facie* evidence of) the individual’s firm resettlement. If the minor was not in his or her parents’ custody and control, then it would be unreasonable to use evidence of the parents’ firm resettlement to determine the

³¹ As the BIA noted in *Matter of A-G-G-*, only the host country can grant the right to lawfully and permanently reside there; thus, indirect evidence of an offer, such as length of residence, should only be examined when there is no direct evidence. 25 I. & N. Dec. at 501. Permanent resettlement is not a right that can be gained through adverse possession. *Id. citing with approval, Abdille v. Ashcroft*, 242F.3d 477, 487 (3d Cir. 2001).

³² For additional information, see *No Significant Ties* Exception, below.

child's situation.³³ Derivatives (children and spouses) of asylees and refugees are not subject to the firm resettlement bar. See the section, *Derivatives of Refugees and Asylees*, below.

4.3.4 Residence Permits

Residence permits are issued by governments on a variety of bases and may not necessarily be an offer of permanent residence or some type of permanent resettlement.

Example Work permit 2年可能造成 firm resettlement

Applicant is a citizen of Country A. He was persecuted on account of his religion in Country A and went to Country B on a work residency stamp in his passport which expired in 3 years. He lived with his brother in a house and worked in Country B for 2 years, and then he went to Country C. Is the work residency stamp an offer of permanent residence or some type of permanent resettlement? Though he lived in Country B for 2 years, had family ties to the country, had work authorization and housing, you must elicit testimony to determine whether the residency permit constitutes an offer of permanent residence, some other type of permanent resettlement, or the right to stay indefinitely in the country.

Here are sample questions:

- Does the document, on its face, indicate Applicant is able to stay in the country indefinitely?³⁴
- Did Applicant ever renew this permit?
- How difficult is it to renew? (or “What did he have to do to renew this permit?”)
- If Applicant lost his job, what would happen?
- How long could Applicant work in the position he had? Is it a physically demanding job? Could he retire and remain in that country?
- What are the conditions of the permit?

³³ *Khoshfahm v. Holder*, 655 F.3d 1147, 1153 (9th Cir. 2011)(imputing a parent’s intent to a child residing with a parent), citing *Saucedo-Arevalo v. Holder*, 636 F.3d 532, 532-33 (9th Cir. 2011)(listing cases); *Vang v. INS*, 146 F.3d 1114 (9th Cir. 1998). In *Vang*, the applicant, who fled Laos with his family when he was 4 years old, came to the United States as a tourist. When he was 19, he applied for asylum in the U.S. To determine whether the applicant was firmly resettled in France when he was a minor, the Court looked to the status of the applicant’s parents when they lived in France. Note that *Vang* was decided prior to *Matter of A-G-G-*, which requires that you first must consider direct evidence and, only if there is no direct evidence, you may consider indirect evidence.

³⁴ If so, this would be direct evidence under *Matter of A-G-G-*, 25 I. & N. Dec. 486, 501 (BIA 2011). If not, you may consider indirect evidence.

- Could his employer terminate this permit?

Caveat: For both refugee and asylum interviews, you must first determine whether after the Applicant became a refugee, the Applicant was potentially firmly resettled. If the potential firm resettlement occurred and ended prior to the events that made the Applicant a refugee, the firm resettlement bar does not apply.

Caveat: For a refugee resettlement interview, you must first determine whether Applicant entered Country B as a consequence of flight. You should ask Applicant the reasons he went to Country B and not automatically assume his sole reason was for work. For an asylum interview, whether Applicant entered Country B as a consequence of flight is not relevant in determining if Applicant meets the definition of firm resettlement; it is relevant in determining if an exception to firm resettlement for asylum is met. In an asylum adjudication, you should consider whether Applicant entered Country B as a consequence of flight; if he remained only as long as necessary to arrange onward travel; and he did not establish significant ties there.³⁵

5 EXCEPTIONS TO FIRM RESETTLEMENT

If an applicant meets an exception to the firm resettlement bar, then the applicant is not barred from refugee or asylum status on this basis. The subsections below compare and contrast the exceptions that are available. There is one exception for refugee applicants and two for asylum applicants.

5.1 Restrictive Conditions

Both exceptions allow an applicant to establish that the conditions in the third country are so restrictive as to deny resettlement, and both definitions have the same factors to consider when determining restrictive conditions.

<u>Refugee</u>	<u>Asylum</u>
<p>8 C.F.R. § 207.1(b)</p> <p>Applicant must establish that the <i>conditions</i> of his/her residence in that country are <i>so restrictive</i> as to deny resettlement.</p>	<p>8 C.F.R. § 208.15(b)</p> <p>An applicant who establishes:</p> <p>(b) that the <i>conditions</i> of his/her residence in that country were so substantially and consciously <i>restricted by the authority</i> of the</p>

³⁵ See 8 C.F.R. § 208.15(a) and the section *Exceptions to Firm Resettlement*.

	country of refuge that he or she was not in fact resettled.
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Refugee	Asylum
<p>8 C.F.R. § 207.1 (b) lists these restrictive conditions factors:</p> <ul style="list-style-type: none"> • whether permanent or temporary housing is available to the refugee • the nature of employment available to the refugee in the foreign country; • other benefits offered or denied to the refugee by the foreign country which are available to other residents, such as <ul style="list-style-type: none"> ➢ right to property ownership ➢ travel documentation ➢ education ➢ public welfare ➢ citizenship 	<p>8 C.F.R. § 208.15 (b) lists these restrictive conditions factors:</p> <ul style="list-style-type: none"> • the type of housing, whether permanent or temporary made available to the refugee • the types and extent of employment available to the refugee • conditions under which other residents of the country live and, the extent to which the refugee: <ul style="list-style-type: none"> • received permission to hold property • to enjoy other rights and privileges, such as <ul style="list-style-type: none"> ➢ travel documentation that includes a right of entry or reentry ➢ education ➢ public relief ➢ naturalization

The restrictive conditions exception for refugee applicants is somewhat broader than the exception for asylum applicants. For the exception to apply to a refugee applicant, the applicant may show that either government or non-governmental actors in the third country created conditions “so restrictive as to deny resettlement.”³⁶ The asylum

³⁶ 8 C.F.R. § 207.1(b). Unlike the asylum regulation, the refugee firm resettlement regulation does require that the government impose the restrictive conditions.

if Applicant was firmly resettled. However, for an asylum interview, you would not take this into consideration because private actors, not the host government, discriminated against Applicant.

5.2 No Significant Ties

As mentioned above, the second exception applies only to asylum applicants and its requirements are displayed in the box below.

Asylum Only Exception

8 C.F.R. § 208.15(a) - An asylum applicant is not firmly resettled if the applicant establishes that:

- entry into country was a necessary consequence of his/her flight from persecution
- he or she remained only as long as was necessary to arrange onward travel
- he or she did not establish significant ties in that country

In a recent case interpreting this exception, the BIA found that two Chinese asylum applicants failed to show that they only remained in Belize as long as necessary to arrange for onward travel because both traveled in and out of Belize during their stay.³⁹ One applicant returned from Belize to China to marry and the other traveled to the United States on a visitor's visa. Both applicants then voluntarily returned to Belize for a time before applying for asylum in the United States.

6 ANALYSIS

In 2011, the BIA announced a new four-step framework for deciding firm resettlement cases which first focuses exclusively on the existence of an offer.⁴⁰ After reviewing the decisions of the circuit courts, the BIA found that there were two broad methods that the courts had been using to analyze firm resettlement; the "direct offer approach" and the "totality of the circumstances approach." The Board found that both approaches allowed for direct and indirect evidence to be considered. Notably, the BIA declined to give equal weight to direct and indirect evidence under the new framework. The Board noted that indirect evidence included evidence such as a country's residence laws, length of residence in the country, and the applicant's intent to remain there. The Board found that giving this kind of indirect evidence equal weight with direct evidence "was inconsistent with the fact

³⁹ *Matter of D-X- & Y-Z-*, 25 I&N Dec. 664, 667-68 (BIA 2012).

⁴⁰ *Matter of A-G-G-*, 25 I&N Dec. 486, 501 (BIA 2011).

that only the government of the country in question can grant a person the right to lawfully and permanently reside there, and that such a right cannot be gained through adverse possession.”⁴¹

6.1 Four-Step Framework

Step One: Evidence Indicating (or *Prima Facie* Evidence of) an Offer

The officer bears the burden of presenting evidence indicating an offer of firm resettlement. You do this through first securing and producing direct evidence of governmental documents indicating the applicant’s ability to stay in a country indefinitely.

Direct evidence may include:

- evidence of refugee status
- a passport
- a travel document

You may next consider indirect evidence, but only if direct evidence is not available. The indirect evidence must have “a sufficient level of clarity and force” to establish that the applicant is able to “permanently reside” in the country.⁴² Indirect evidence may include:

- immigration laws or refugee process of the third country
- length of the individual’s stay
- individual’s intent to settle
- familial ties
- business or property connections
- social and economic ties
- receipt of government benefits
- education opportunities
- possession of rights given to people with an official status (right to work and enter and exit the country)
- access to permanent housing

⁴¹ *Matter of A-G-G-*, 25 I&N Dec. at 501, citing with approval, *Abdille v. Ashcroft*, 242 F.3d 477, 487 (3d Cir. 2001).

⁴² *Matter of A-G-G-*, 25 I. & N. Dec. 486, 502 (BIA 2011).

PRACTICAL EXERCISES

Practical Exercise # 1

- Title: Iraqi Applicant
- Student Materials:

This person is firmly resettled.

After reviewing the facts and interview notes below, determine the following:

- Is the applicant firmly resettled in Australia for purposes of a refugee resettlement adjudication?
- Is the applicant firmly resettled in Australia for purposes of an asylum adjudication?

Applicant credibly testified to the following at his DHS interview: he is a native of Iraq where he worked in the Green Zone as an interpreter for the American Army. He began receiving threatening text messages on his cell phone because he worked for the Americans. His employment ended, and he relocated to another area in Iraq where he worked under the Ministry of Trade. For work related matters, he travelled to Australia and remained there from 10/08 – 2/10. He joined his family in Jordan. He feels personally targeted especially since the word spread in his Iraqi neighborhood that he had travelled to Australia and had been working with U.S. forces, which is considered treason according to certain extremist groups.

Here is an excerpt of the interview notes:

Q: How long in Australia?

A: 10/08 – 2/10

Q: Doing there?

A: Went to Australia on a training course as Ministry of Trade Iraqi Government employee from Nov. 3-28, 2008.

Q: Sought asylum?

A: Yes, I applied when course ended.

Q: Result?

A: Granted permanent residency in Australia on 4/23/2009.

Q: Right to live and work indefinitely in Australia?

A: Yes

Q: Right to apply for Australian citizenship?

A: After 4 years residency in Australia can apply

Q: What was your granted status in Australia called?

A: Protection Visa Class XA

Q: Have you applied for wife and children to immigrate to Australia?

A: Yes

Q: Result?

A: Australian gov't will not provide financial support to bring wife and kids to Australia

Q: Do you have the right to bring them to Australia though?

A: Yes

Q: Why seek resettlement in USA?

A: Because there is financial support to get there, and my father has applied for resettlement to U.S. and has had DHS interview and awaiting response

Practical Exercise # 2

• Title: Iranian Applicant

• Student Materials:

After reviewing the facts below, determine the following:

- Is the applicant firmly resettled in the UAE for purposes of a refugee resettlement adjudication?
- Is the applicant firmly resettled in the UAE for purposes of an asylum adjudication?
- For asylum cases, is there a requirement that the applicant entered the host country as *a consequence of flight* from persecution?
- Is the applicant's work residency permit – an offer of permanent resettlement or some other type of permanent resettlement?

Applicant credibly testified to the following at her DHS interview: She is a native of Iran. Her parents separated, and she moved with her mother to the UAE as a

dependent on her mother's UAE employee residence permit. Applicant lived in UAE as a resident from 2002-2005 where she worked, owns property for which she receives rent, and generally lived without any restrictions. Applicant came to the U.S. on a visa to work with Voice of America, and on the radio as a journalist, she discussed the political situation in Iran. Applicant's mother cancelled Applicant's UAE residence permit.