



# Statement

## SENATE STRUGGLES FOR A COMPROMISE ON COMPREHENSIVE IMMIGRATION REFORM

April 7, 2006

The Senate compromise that emerged early Thursday and was praised by a bipartisan group of 14 Senators during a news conference fell apart hours later in an atmosphere of distrust and frustration on the Senate floor. What appeared to be a solid opportunity to pass immigration legislation before Senators leave for a two-week recess unraveled due to fear of new amendments that would change the face of the bill, as well as concern among Senate Democrats about what would take place during a conference committee.

At the news conference, Senate Majority Leader Bill Frist (R-Tenn.) joined Minority Leader Harry Reid (D-Nev.) and Senators John McCain (R-Ariz.) and Edward Kennedy (D-Mass.) to propose a compromise draft amendment prepared by Senator Hagel (R-Neb.) and Martinez (R-Fla.) to break the deadlock over Comprehensive Immigration Reform (CIR). HIAS is encouraged that a compromise was crafted that recognizes that undocumented immigrants are part of our society and must be treated based on humanitarian values seen in American traditions. This is in contrast to the House legislation (H.R. 4437), which would treat undocumented individuals as felons.

The legalization aspects of the compromise reflect Jewish traditions that emphasize

protection for the stranger, as seen in the over 36 references to this principle within the *Torah*, including: “When strangers sojourn with you in your land, you shall not do them wrong. The strangers who sojourn with you shall be to you as the natives among you, and you shall love them as yourself; for you were strangers in the land of Egypt” (*Leviticus* 19:33-34).

The compromise is broadly similar to the CIR legislation that was approved by the Senate Judiciary Committee March 27. The primary difference, however, is the treatment of undocumented migrants in the United States. While the Specter bill provided undocumented immigrants with the opportunity to earn legalization of their status, the compromise legislation takes a different approach, based on the length of stay in the United States:

- Individuals who have been in the U.S. for five years or more could pursue lawful permanent residence and citizenship through a six-to-eight-year prospective work requirement, a clean record, learning U.S. civics and English, and the payment of a significant fine and back-taxes.
- Individuals who arrived in the U.S. less than five years ago but before Jan. 7, 2004, would be required to pay significant fines, briefly

leave the United States within three years, and then, if they have a job offer in the United States, re-enter at the port-of-entry as temporary workers. They would ultimately be eligible for permanent residence and citizenship, but would have to stand in queue behind those who had been in the U.S. for more than five years.

- Individuals who arrived in the U.S. less than two years ago would be required to leave the United States. They could apply for temporary work visas, but only if visa numbers are available.

While HIAS is generally pleased with the legalization, family-backlog and family worker aspects of the Hagel-Martinez Compromise, we remain concerned about certain enforcement provisions harming asylum seekers and other vulnerable migrants. Given recent studies that have found asylum adjudications to vary greatly from immigration official to immigration official, we are concerned that asylum seekers who are arbitrarily denied asylum after using false passports would be referred for prosecution and face up to 15 years in prison. This may prevent many from attempting to seek asylum within the United States.

Other provisions of concern relate to indefinite detention and the lifting of stays of removal for asylum seekers and others who are awaiting the outcome of their appeals.

HIAS continues to urge the Senate to include the Lieberman-Brownback Amendment, which would promote alternatives to detention, discourage the use of jails and jail-like facilities for the detention of asylum seekers, and prevent asylum seekers from being at risk of arbitrary treatment, detention and adjudications.

This delicate compromise, which seemed to hold so much promise Thursday morning, began falling apart as the day progressed. A key procedural test vote was held on Friday to prevent the compromise from being diluted by amendments intended to roll back the legalization provisions. That vote to limit amendments failed. This is a strong indicator of the fragility of the proposed compromise. Meanwhile the Senate Democrats refuse to allow a vote on the many the amendments Republicans have filed for fear they would greatly water down the compromise. One compromise would require the Department of Homeland Security to verify that the border “is secure” before allowing the creation of a temporary guest worker program and the legalization of any undocumented immigrants.

If the Senate ultimately passes the Hagel-Martinez compromise, or another piece of CIR legislation, the bill would then go to conference committee where it must be reconciled with the enforcement-only legislation (H.R. 4437) passed by the House of Representatives. Although House Speaker Dennis Hastert (R-Ill.) suggested he and others would be willing to broaden their own bill in conference committee, Representative Tom Tancredo (R-Colo.) insisted that a majority of the House would not agree to any bill including an “amnesty.” Senate Democrats have insisted on knowing whom Majority Leader Bill Frist would appoint to the conference committee before voting on the final passage of the legislation.

HIAS will continue to monitor this fluid situation and advocate for a comprehensive, fair and humane approach to complex issue in the days ahead.