

When the law is the obstacle for refugees

By Anna Husarska | July 1, 2006

KUALA LUMPUR, Malaysia

AT FIRST SIGHT, Kuala Lumpur is the Geneva of Southeast Asia, with its elegant Petronas Twin Towers, impeccable lawns, malls, and fast-food chains. It has a touch of zaniness, too. The day I arrived, the newspaper headlines read: "Robbery foiled, but cop loses gun" and "Robber fired twice at cop . . . and missed."

But the experience of Burmese refugees here paints a very different picture. I was confronted with this when an ethnic Chin whom I shall call Sui invited me to the three-room apartment that is home to his own and six other families, all from the same village in Burma. Families get halves or thirds of the rooms; sheets on clotheslines serve as walls. Even the balcony makes a tidy nest for two families. There is one bathroom for 35 occupants.

In Malaysia, the UN refugee agency has an "active caseload of Burmese persons of concern" totaling 11,700. Of these, 7,500 are seeking asylum; the rest already have refugee status. About 70 percent are ethnic Chins who, as Baptists, fled religious persecution in primarily Buddhist Burma. The US State Department has said it would resettle 1,500 in the United States this year. So far, only 181 have been accepted.

As a group, the ethnic Chin qualify for resettlement in the United States, but individual Chins are being tripped up by an unintended consequence of the post-9/11 antiterrorism provision of the Immigration and Nationality Act. The law says, in effect, that those who have given "material support" to terrorists, even under duress, may not be admitted to the United States. Because of their association with the Chin National Army, many of the Chin refugees in Malaysia have the "material support" marker on their files. More than 400 are on hold because they supposedly offered "material support" to "terrorists" or -- worse -- are considered terrorists themselves.

Refugees tell their stories. For example, Tial cooked fish and chicken for a few armed visitors from the jungle who came with her cousin in 1990, 1992, and then in 1994. (Read: She fed terrorists.) Isaiah went with his truck to the town of Mandalay to bring supplies for a store and bought camouflage pattern clothes that are a fashion statement in upper Burma but a bellicose statement in Western Burma. (Read: He supplied uniforms to terrorists.) These so-called associations are considered "material support," so these applicants will probably see their cases put on hold by the Department of Homeland Security.

The situation has been so bad that the UN refugee agency here has stopped referring the Chin for resettlement in the United States. When refugees are put on hold for providing "material support" -- as 1,273 have -- they are unable to have their requests considered by other countries that have less restrictive policies. Norway, Australia, Canada, Denmark, and New Zealand are actively interviewing Chins in Kuala Lumpur; Denmark is ready to take 150 and New Zealand 125. They also take less time for processing -- three months each -- and are less picky. Americans reject 25 percent of the applicants; Scandinavian countries reject only 6 percent.

Indeed, the "material support" limitations to enter to the United States are so restrictive that the Austrian head of United Nations High Commissioner for Refugees in Kuala Lumpur observes only half in jest that he and his staff could fall under the law's provisions since they provide material support to the suspected refugees.

But there is hope. The official website of the US Department of Homeland Security Citizenship

and Immigration Services includes a February 2004 statement on the Chin National Army and Chin National Front: "The State Department does not have information suggesting that the CNF or CNA have been involved in terrorist activities or in abuses against civilians on any large or systematic scale."

Surely, if the State Department says this, it will determine that the "material support" bar should not apply to Burmese ethnic Chins temporarily rotting in Malaysia.

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