

**Statement of Senator Patrick Leahy**  
**Hearing on the “The Plight of Iraqi Refugees”**

**Judiciary Committee**

**January 16, 2007**

Today the Committee focuses its attention on the current refugee crisis caused by the deteriorating situation in Iraq. Our hearing comes at a time when momentum for bipartisan reform to address this crisis has never been stronger, and it continues to grow. I thank our witnesses for being here, two of whom are appearing at considerable personal risk. In a moment, I will turn this hearing over to Senator Kennedy, who will chair the Immigration Subcommittee when the Committee organizes. First, I would like to make a few observations.

Among the estimated 1.8 million Iraqis who have fled their country are hundreds of thousands of destitute refugees who escaped to neighboring countries with little more than they could carry. Many have been denied refugee status and even forced back into Iraq.

I am particularly concerned that we have not made provisions or created the legal authority necessary in this country to secure those Iraqis who have aided American efforts there. We should not repeat the tragic and immoral mistake from the Vietnam era and leave friends without a refuge and subject to violent reprisals.

I am also concerned about Iraq’s scholars. Many have been killed or been targeted for assassination. Others have gone into hiding. Iraq’s best hope is its younger generation, and if they are unable to continue their academic studies, their ability to contribute to Iraq’s future will be severely damaged.

Secretary Sauerbrey, I would like to meet with you soon to discuss ways that we can assist those who have aided our forces in Iraq. I also want to discuss with you the special plight of Iraqi scholars along with ways we can help them resettle outside Iraq where they can safely continue their academic research and instruction.

I would hope that today's hearing also highlights all that still needs to be done to help other asylum seekers and refugees. I believe congressional action is overdue to prevent further injustice resulting from the "material support bar" to refugee admissions. This is an issue that is fundamental to America's role as a leading protector of fundamental human rights. These guiding principles and our national security are not mutually exclusive.

Hundreds of people already in the United States are being denied asylum and now face being returned to persecution. Thousands more who had previously been granted asylum are now being denied legal resident status. And several hundred previously admitted refugees and asylees are now being denied reunification with their loved ones. This is perverse. It should also be an embarrassment to us as stewards of the principles of a country that has been known throughout our history as a safe haven for refugees.

I am heartened that the editorial boards of our nation's leading newspapers have spoken out strongly in recognizing the injustice the current law is causing. In addition, conservative religious activists have recently joined our efforts. **I welcome them to the issue and ask that a copy of a January 11 letter to me and Senator Specter from a broad range of organizations—which includes Human Rights Watch and Human Rights First as well as the Hudson Institute and the Southern Baptist Convention—be included in the record.** Changing the material support bar to make it consistent with our nation's commitment to human rights is something that should unite us across ideological and party lines. It is time to bring our laws back in line with our values.

The "material support" bar is causing unnecessary and unintended hardships. Let me give an example: During the war in Liberia rebels came to a woman's home, shot and killed her father, raped and abducted her, and forced her to perform household tasks like laundry and cooking. She eventually escaped and made her way to a refugee camp, where she sought admission to the United States. But the tasks she performed for the rebels – like doing laundry – were considered to be "material support" and her case was placed on indefinite hold.

Some have argued that there is no need to amend the law because the Administration has the authority to waive the law in extreme cases. But in the four years since these bars were expanded, and after months of bureaucratic wrangling, the Administration has used its waiver authority only under pressure, and exceedingly sparingly.

The waiver process is cumbersome – requiring the agreement of three different agencies that rarely agree: the Department of State, Department of Justice, and Department of Defense. It is also limited. And the waiver authority, although available, has never been used in cases of coercion, like the case of the Liberian woman, that cry out for relief. This is not right.

The Administration has been abysmally slow to recognize the hardship this law has created. Last Congress when I proposed an amendment to create a sensible reworking of the law, the Administration opposed it with misrepresentations and overstatements rather than engaging in accurate and meaningful debate. Only when the pressure has become too great to resist has the Administration acted. But they have acted in such a way as to exclude any input from the Congress. On January 12, 2007, with no prior consultation whatsoever with my office, nor, I believe with Senator Kennedy's office, and at a hurried briefing for congressional staff, the Administration announced its unilateral solution: a solution that in my view falls short of what is needed. This is no way for President Bush to maintain his recently stated commitment to bipartisan cooperation. We need legislative action arrived at through meaningful give and take—not more unilateral promises from the Administration for vague and open-ended solutions.

Regrettably, the Administration's latest proposal contains no provision for duress cases. Although representatives have assured us that procedures will be put in place to evaluate duress claims with respect to "tier III" undesignated groups, there is no provision for the victim who is forced into providing even the most minimal assistance to a group designated a "tier I" or "tier II" terrorist group. In my judgment, this remains insufficient and we should enact clear statutory guidance.

The Administration's proposal also contains no process for individuals to apply for a waiver, nor is there any timeline for waiver determinations to be made. The proposal also strips asylum seekers of the ability to go to court to review a revocation of a waiver or any other administrative decision regarding the waiver. The Administration's proposal also requires "concurrence" between the Departments of Justice, Homeland Security, and State before any determination can be made that a tier III group be granted a waiver. I am concerned that this will merely serve to perpetuate the Administration's glacial pace and nonaction.

To its credit, however, recently the Administration is beginning to think differently about this issue. On January 12, 2007, Secretary Chertoff issued a press release stating his intention to use his authority to exempt eight groups from the reach of the "material support" bar. Secretary Chertoff also stated that the Department would consider the applications of individuals for exemption from the material support bar, and called on Congress to enact legislation to augment these efforts. I welcome this development from the Department of Homeland Security, and I

hope the Secretary's statement signals a sincere desire to work with Congress to enact the necessary changes to the existing law.

There are Senators on both sides of the aisle who care about this issue, ranging from myself and Senator Kennedy to Senators Coleman and Brownback. We need to fix this problem in a manner that provides predictability, defines reasonable time periods, and ensures fairness. We do not want half measures. If we work together, I am confident we can craft a solution that will put an end to the unintended consequences of the current law without compromising our national security.