

HENRY J. HYDE, ILLINOIS  
CHAIRMAN

TOM LANTOS, CALIFORNIA  
RANKING DEMOCRATIC MEMBER

JAMES A. LEACH, IOWA  
CHRISTOPHER H. SMITH, NEW JERSEY  
DAN BURTON, INDIANA  
ELTON GALLEGLY, CALIFORNIA  
ILEANA ROS-LEHTINEN, FLORIDA  
DANA ROHRBACHER, CALIFORNIA  
EDWARD R. ROYCE, CALIFORNIA  
PETER T. KING, NEW YORK  
STEVEN J. CHABOT, OHIO  
THOMAS G. TANCREDO, COLORADO  
RON PAUL, TEXAS  
DARRELL ISSA, CALIFORNIA  
JEFF FLAKE, ARIZONA  
JO ANN DAVIS, VIRGINIA  
MARK GREEN, WISCONSIN  
JERRY WELLER, ILLINOIS  
MIKE PENCE, INDIANA  
THADDEUS G. MCCOTTER, MICHIGAN  
KATHERINE HARRIS, FLORIDA  
JOE WILSON, SOUTH CAROLINA  
JOHN BOOZMAN, ARKANSAS  
J. GRESHAM BARRETT, SOUTH CAROLINA  
CONNIE MACK, FLORIDA  
JEFF FORTENBERRY, NEBRASKA  
MICHAEL McCALUL, TEXAS  
TED POE, TEXAS

ONE HUNDRED NINTH CONGRESS  
**CONGRESS OF THE UNITED STATES**  
**COMMITTEE ON INTERNATIONAL RELATIONS**  
**HOUSE OF REPRESENTATIVES**  
**WASHINGTON, DC 20515**

TELEPHONE: (202) 225-5021

February 28, 2006

HOWARD L. BERMAN, CALIFORNIA  
GARY L. ACKERMAN, NEW YORK  
ENI F. H. FALEOMAVAEGA, AMERICAN SAMOA  
DONALD M. PAYNE, NEW JERSEY  
SHERRON BROWN, OHIO  
BRAD SHERMAN, CALIFORNIA  
ROBERT WEXLER, FLORIDA  
ELIOT L. ENGEL, NEW YORK  
WILLIAM D. DELAHUNT, MASSACHUSETTS  
GREGORY W. MEEKS, NEW YORK  
BARBARA LEE, CALIFORNIA  
JOSEPH CROWLEY, NEW YORK  
EARL BLUMENAUER, OREGON  
SHELLEY BERKLEY, NEVADA  
GRACE F. NAPOLITANO, CALIFORNIA  
ADAM B. SCHIFF, CALIFORNIA  
DIANE E. WATSON, CALIFORNIA  
ADAM SMITH, WASHINGTON  
BETTY MCCOLLUM, MINNESOTA  
BEN CHANDLER, KENTUCKY  
DENNIS A. CARDOZA, CALIFORNIA  
RUSS CARNAHAN, MISSOURI

ROBERT R. KING  
DEMOCRATIC STAFF DIRECTOR

PETER M. YEO  
DEMOCRATIC DEPUTY STAFF DIRECTOR

DAVID S. ABRAMOWITZ  
DEMOCRATIC CHIEF COUNSEL

THOMAS E. MOONEY  
STAFF DIRECTOR/GENERAL COUNSEL

JONATHAN R. SCHARFEN  
DEPUTY STAFF DIRECTOR

Secretary Michael Chertoff  
U.S. Department of Homeland Security  
Washington, D.C. 20528

Secretary Condoleezza Rice  
U.S. Department of State  
2201 C Street, NW  
Washington, D.C. 20520

Dear Secretary Chertoff and Secretary Rice:

We are writing to express our grave concern that the lives and safety of thousands of refugees may be put at risk due to the current manner of applying certain provisions of the Immigration and Nationality Act. It is our understanding that groups such as Burmese ethnic minorities and Colombians are being denied access to the U.S. resettlement and asylum programs because of concerns that they may have provided "material support to terrorist organizations," new ground for inadmissibility which was enacted as part of the USA Patriot Act.

We understand that a number of classes of individuals who may qualify as refugees under U.S. law are being deemed inadmissible for refugee processing by the U.S. authorities because they may have provided episodic support to groups that are not officially designated by the United States as foreign terrorist organizations. For example, Burmese refugees who may have given food or shelter to ethnic and religious organizations that have sub-groups that oppose the repressive military government of Burma may have been deemed to have given "material support" under the statute. Colombian nationals who may also meet refugee standards may be disqualified on similar grounds because they have been forced to make payments or provide food and shelter to terrorist groups such as the FARC, ELN, and AUC, even though such payments or provisions are provided under extreme duress, including threats of torture or death or as ransom payments to pay for the release of friends or relatives.

Fortunately, Congress has conferred on you substantial flexibility to modify this stringent standard. Section 212(a)(3) of the Immigration and Nationality Act, which includes the new

restriction, also provides that this ground for inadmissibility shall not apply to any material support if you conclude, after consultation with the Secretary of State, in your "sole and unreviewable discretion that this clause shall not apply."<sup>1</sup> However, we understand that the Department has not promulgated any policy, guidance, or regulation to implement this authority.

We urge you to set rules that eliminate the most onerous cases. First, individuals whose support was clearly involuntary should not be barred by this provision. Individuals who have faced extortion through threats of violence or through ransom demands for the release of kidnapped family members, friends or business associates, should not be barred from obtaining refugee status. Likewise, individuals who are subject to force or coercion to provide material support to organizations by, for example, providing in-kind services, should not be subject to the restrictions. Persons who believe they must choose between paying ransom or losing a loved one should not be disqualified from entering the United States. Similarly, persons forced to cook or labor for members of terrorist organizations should not be deemed to provide "material support" for purposes of Section 212. Finally, children who are pressed into terrorist activities surely should not be deemed to have voluntarily provided material support in any way, and should not be subject to those provisions.

Second, individuals who have provided episodic, non-lethal assistance under conditions in which coercion could be inferred should not be subject to this bar. For example, villagers in Burma who have provided occasional or one-time shelter or food to opponents of the SPDC who carry firearms or other weapons should not have the material support provision apply. A decision to do so could render Burmese applicants even more vulnerable by effectively branding them as security risks in the countries hosting them.

I believe that Congress clearly intended the material support bar to apply to individuals who willingly support terrorist organizations seeking to harm U.S. national security interests rather than to preclude the admission of refugees who pose no such harm. Ironically, many of the refugees affected by these provisions are victims – not supporters – of those very same terrorist organizations.

We urge you to address this critical matter through the immediate issuance of guidelines to steer application of the material support provisions along the lines described above. Thank you for your immediate attention to this matter.

Cordially,



TOM LANTOS  
Ranking Democratic Member

---

<sup>1</sup> 212(a)(3)(B)(iv)(VI) of the Immigration and Nationality Act (8 U.S.C. 11812(a)(3)(B)(iv)(VI)).