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October 30, 2006

Stephen Hadley
Assistant to the President for National Security Affairs
National Security Council
The White House
1600 Pennsylvania Ave., NW
Washington, DC 20500

Dear Mr. Hadley:

We as Refugee Council USA write to express our gratitude for the recent waiver signed by Secretary of State Condoleezza Rice that will allow thousands of Chin refugees in Malaysia, India, and Thailand to be processed for resettlement to the United States this year. The Chin refugees have long been a group of concern to Refugee Council USA. We hope more waivers for other groups of refugees affected by the material support bar, including Montagnards and Hmong who fought with U.S. troops, Cuban refugees, and others will be issued in the immediate future.

As organizations that have expertise in the processing of refugees and communicate closely and regularly with the Department of State and Department of Homeland Security on refugee issues, the Refugee Council USA welcomes waivers as a partial solution to the material support bar. However, the issuance of waivers is not an effective solution. Noted below are some of the reasons that a legislative remedy is the only adequate long-term solution that will allow the U.S. to offer protection to the most vulnerable refugees and asylum seekers and offer a permanent safe haven to those we have already welcomed to this country.

No waiver for membership, military training, or combatants: The law's strict limitations on the use of the waiver authority means waivers will not help all refugees. In the Tham Hin refugee camp alone, there are 80 families who have been separated because some family members fought against the Burmese regime or received military training and thus are not eligible for a waiver. The Department of State has indicated that these families cannot be reunited unless there is a legislative fix to the material support bar.

Time-consuming: It took over seven months of interagency negotiations to issue a waiver for the first group of refugees from the Tham Hin refugee camp and a subsequent three to four month period for other waivers to be issued. No waivers have been issued for non-Burmese refugees. The refugee program cannot operate efficiently and effectively by relying on a process with no defined procedures, goals, or time frames.



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No waivers for duress cases: Some of the most compelling and horrifying stories of persecution are those of refugees who were forced to give material support under duress. To date, none of these refugees have been issued waivers. The waivers that have been issued so far have been limited to groups of refugees from specific locations whose material support to an organization is not considered against our national security interest. However, there are many refugees with compelling cases where material support was given under duress who remain barred from the U.S. In short, waivers have not reached some of the most desperate refugees.

No waiver process for asylum and adjustment cases: There are at least 565 asylum cases and 2,300 adjustment of status cases on hold in the U.S., and that number will only continue to grow. Refugees and asylees who are prevented from adjusting status because of the material support bar are unable to access the benefits available to legal residents and citizens, which include the ability to more quickly reunite with family members. We anticipate the number of refugee and asylee adjustment cases to be placed on hold for material support to grow exponentially in the coming months. This is clearly an unwarranted penalty to impose on law-abiding refugees and asylees who were welcomed to the U.S. and have responsibly moved forward with their lives with permanent residence and eventual citizenship in the U.S. as their goal. Because of the current policy, many refugees and asylees who have complied with all laws are actually (and rightfully) afraid to apply for green cards for fear of being deported as a “terrorist.”

Family reunification indefinitely postponed: It was recently announced that 350 I-730 (family reunification) petitions are now on hold because the petitioner (the refugee or asylee in the U.S.) may have provided material support. The indefinite suspension of the processing of asylum and I-730 cases with material support issues has a very real effect—particularly on spouses and children in dangerous situations abroad who cannot join their relative in the U.S.

In light of urgent refugee protection needs and the U.S. commitment to saving victims of persecution, the waiver process is at best a temporary and partial solution. Due to the limitations on the waiver authority and the bureaucratic obstacles to issuing waivers, the waiver process is not a viable long-term solution to the problem of the material support bar.

For these reasons, we encourage the Administration to support the legislation introduced by Congressman Joseph Pitts as the appropriate solution to the material support problem. We believe that a more precise definition of a “terrorist organization” will help to ensure that those who pose no national security threat and who have actually upheld our commitment to democracy and human rights would not be considered terrorist organizations. The Pitts’ bill also clarifies that refugees and asylum seekers who gave material support under duress would not be barred from the U.S.



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In this past fiscal year, the U.S. resettled approximately 41,200 refugees—despite the fact that the President proposed an admissions level of 70,000. This disparity is, in large part, linked to the material support bar. If the United States continues on this course, it will abdicate its leadership in the realm of refugee protection. Worse, its example will lead other countries to adopt similarly restrictive policies.

We trust that the National Security Council will exercise leadership in removing this serious obstacle to a fair and generous US admissions program and to an asylum program that fulfills our international obligations towards the victimized and oppressed. The Refugee Council remains ready to assist in any way possible to achieve these critical goals.

Sincerely yours,

C. Richard Parkins
Chair, Refugee Council USA

CC: Ambassador Michael Kozak
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