

United States Senate

WASHINGTON, DC 20510

February 28, 2006

The Honorable Michael Chertoff
Secretary
U.S. Department of Homeland Security
Washington, DC 20528

Dear Secretary Chertoff:

We are writing to express our serious concern about the Department's application of the "material support" to "terrorist organizations" ground of inadmissibility, which has resulted in the exclusion of a large number of vulnerable refugees and asylum seekers. We are also concerned that the Department has failed to exercise the waiver authority that Congress provided to ensure that the provision is applied appropriately.

The material support ground of inadmissibility, under section 212(a)(3)(B)(iv)(VI) of the Immigration and Nationality Act, is rightfully intended to bar persons who give aid to terrorists, not to bar legitimate refugees who provided support under threat to their lives, the lives of their families, or to their livelihoods. Refugees in such circumstances have been terrorists' victims, not their allies. The Department has the legal authority to waive this section in order to admit as refugees those who were coerced into providing such aid as found in section 212(d)(3)(B) of the Immigration and Nationality Act.

We are concerned that the Department's implementation of the material support bar is greatly restricting the United States Resettlement Program for Colombian refugees and resulted in the suspension of resettlement referrals of Burmese refugees in Malaysia. It now threatens to impact the resettlement of up to 10,000 Burmese refugees in Thailand. Others affected have included Colombian refugees who were forced to make payments to Colombian guerilla groups under threat of torture or death. According to the United Nations High Commissioner for Refugees, the bar, as currently interpreted, could affect up to tens of thousands of the refugees identified by the Department of State for resettlement to the United States in FY06. This was not the intent of Congress.

The Department's interpretation of the material support bar is also affecting hundreds of asylum-seekers in the United States. We understand that some 500 affirmative asylum applications are on hold at the Department, and an unknown number of cases are being denied protection in immigration court. We are also concerned about the implications of the bar on refugees and asylees who have already been granted a safe haven in the United States and who are seeking to adjust their legal status to become lawful permanent residents or citizens of the United States.

It is our belief that the Department should implement the material support bar in a manner that does not exclude deserving and vulnerable refugees and asylees. We urge the Department not to apply the material support statute to innocent people who are forced to provide support to terrorists or suffer severe retaliation.

Secretary Chertoff
February 28, 2006
Page Two

By revisiting its interpretation and application of the material support bar and by implementing procedures for exempting individuals and groups to whom the bar was not intended to apply, we believe that the Department will be able to ensure that the United States continues to protect Americans from terrorist threats without preventing innocent refugees from receiving protection in the United States.



Edward M. Kennedy

Sincerely,



Joseph I. Lieberman

cc: Secretary Rice, Department of State
Attorney General Gonzales, Department of Justice