

# backgrounder

## Refugees: Unintended Victims of the War on Terror

### The Issue: Material Support

The USA PATRIOT Act of 2001 and the REAL ID Act of 2005 were intended to protect Americans from terrorists and those who support terrorist organizations. Unfortunately, the way the U.S. government has enforced these two laws have had unintended consequences for vulnerable migrants. Many deserving refugees and asylum seekers have been barred from finding a safe haven in America. Many former refugees and asylees already living here have been unable to become legal permanent residents and to bring their families to join them in the United States. We know that “millions of refugees are in desperate need of our Christian charity and support,”<sup>1</sup> yet these laws directly hinder our nation’s ability to provide for them and welcome them into our communities.

The issue is “material support,” which is very broadly defined in the laws to include *any* financial, physical or material assistance of *any* armed resistance against a country’s government. Consider some of the circumstances included:

- any small amount given, even if given many years ago, and even if the support was coerced
- ransom paid to kidnappers
- household chores done for rebels threatening sexual violence
- support to groups resisting governments that are enemies of the United States
- support to a resistance group that has U.S. government support.

For example, Hmong refugees from Vietnam are currently barred from U.S. resettlement because they supported armed resistance against their government, even though the United States supported that resistance. Cubans are kept from resettlement if they supported armed resistance against Castro, even though the U.S. government considers his regime to be a U.S. enemy.

Because of the unintended consequences of the material support provisions, thousands of deserving refugees continue to languish in uncertainty in refugee camps and urban ghettos around the world, hundreds of asylum seekers face indefinite delays in receiving protection, and hundreds of refugees and asylees are denied integration into our society and reunification with their families as green card applications and family unity requests are put on hold. These consequences contrast starkly with the commitment of LIRS’s supporting church bodies to “a generous policy of welcome for refugees....including fairness in visa regulations and in admitting and protecting refugees.”<sup>2</sup>

These unjust and unintended consequences so contradict U.S. foreign policy and our nation’s spirit of welcome for those who stand for freedom that even experts outside the refugee and migration field are seeking a change in our laws. Professor Margaret

### Victims of Interpretation

*Following are examples of some of the people being affected by overreaching security laws:*

A businessman in Bogotá learned that his father, a medical doctor, had been kidnapped by the leftist guerilla group FARC, which demanded a ransom of 50 million pesos. After raising the money and securing his father’s release, the man and his family began to receive death threats. They fled to Costa Rica, and then to Spain, where they applied for resettlement. The family was not admitted to the United States because payment of money under duress is considered “material support.”

A Christian woman who is a member of the Chin ethnic minority sought asylum in the United States to escape persecution in Burma. Although an immigration judge determined that she had a well-founded fear of persecution, he held that she was ineligible for asylum. Because she had donated funds and provided a few items such as binoculars to the Chin National Front—a group opposed to Burma’s brutal military government—the judge said she had provided “material support” to a “terrorist organization.”

<sup>1</sup> The Lutheran Church—Missouri Synod, “Resolution to Support Refugee/Immigrant/Asylee Resettlement.” June 2006, <http://www.lcms.org/?9989>.

<sup>2</sup> Evangelical Lutheran Church of America, “A Message on Immigration,” 1998, <http://www.elca.org/socialstatements/immigration>.

Stock of the U.S. Military Academy at West Point says that the material support provisions represent “one of the stranger and more embarrassing legal conundrums arising out of recent efforts...to tighten...laws relating to terrorism.”

The Bush administration must be commended for issuing waivers that have allowed certain refugee populations to escape the unjust consequences of our security laws. Unfortunately, processing under these waivers has so far left 20 percent of these populations still without protection. Further, no waivers have yet been applied to asylum seekers or to refugees and asylees in the United States applying to be joined by relatives or applying to become legal permanent residents. Waivers are only a partial solution; a legislative fix is clearly required.

## **LIRS Refugee Protection Principles**

LIRS supports government policy and action and community support that is consistent with the following principles:

- Protect refugees from terror and persecution.
- Safeguard refugees’ human rights and dignity at all stages of flight and integration.
- Secure durable solutions for refugees within five years of their flight through safe, dignified return home; safe haven in a country of first asylum; or resettlement in a third country.
- Integrate resettled refugees and asylees into welcoming communities, providing them with an expeditious path to permanence and family unity.

The current material support bar undermines those refugee protection principles:

- It closes the door to protection, rights, durable solutions and integration.
- It leaves deserving refugees in camps and urban ghettos in frequent danger and with limited rights.
- It indefinitely delays the cases of deserving asylum seekers, including those languishing in immigration detention.
- It prevents refugees and asylees who have already been admitted to the United States from advancing to the more permanent status of legal permanent residency and from gaining permission for their family members to join them in the United States.

## **Congress’ Proposals and Actions**

H.R. 5918, a bill introduced by U.S. Rep. Joseph Pitts (R-PA16) in July 2006, would help support LIRS’s principles. The bill would

- define “terrorist organization” to exclude those organizations supported by the United States; and
- define “material support” to exclude support that was coerced.

Rep. Pitts’ bipartisan legislation would prevent many innocent refugees and asylum seekers from being treated as a threat to our country. Individuals who are members of groups supported by the U.S. government would be allowed entry to the United States. Those who pose a real danger to the security of the nation, such as those who are members of terrorist organizations designated by the U.S. Department of State, would not be admitted.

## **Call to Action**

Please see the LIRS website for the latest action alert regarding material support. By protecting refugees, we sustain America’s long-term humanitarian commitment *and* our national security. We continue to provide a safe haven for those fleeing terror. We continue to stand against oppressors and with those who were oppressed. We continue to draw new strength and courage from refugees who find new hope and new life in America. We welcome those who have been oppressed for their ethnicity, gender or race or for standing up for themselves, their families or their religious or political convictions. They strengthen the backbone and the conscience of America.