

Vulnerable Refugees at Risk:
The Pitts Legislative Fix: What it Does and Why It Is Needed

(1) What is the problem?

Thousands of innocent refugees and asylum seekers are being turned away by the United States because of unintended consequences of language in the Patriot Act that bars admission to the United States anyone who provided any “material support” to any armed group – even if the group is supported by the United States, and even if the refugee was forced at gunpoint to provide the support.

(2) Who is being hurt by these bars?

- Burmese refugees and asylum seekers fleeing a brutal and repressive regime.
- Montagnards and Hmong who supported U.S. troops during the Vietnam War.
- Cubans who joined anti-Castro movements at the behest of the United States.
- Liberians, Sierra Leoneans, Somalis, and Sudanese forced at the threat of death to provide money, food, or shelter to armed rebel groups.
- Columbians terrorized by the FARC.

(3) How would the Pitts legislation solve this problem?

Legislation would solve this problem with two simple and narrowly targeted fixes to the law: *First*, the legislation would prevent groups that have supported the United States or that the United States itself supports – such as the Burmese pro-democracy movements, anti-Castro movements, and groups of Hmong and Montagnards that supported the U.S. during the Vietnam War -- from inadvertently being labeled “terrorist organizations.” *Second*, the legislation would protect victims of terrorism who were forced under threat of death or serious bodily injury into providing goods or services to armed rebels from being defined as “material supporters” of terrorism.

(4) Will this amendment result in terrorists being admitted to this country?

No. The legislation does not affect the many other security and terrorism-related bars on entry which will continue to apply. Anyone who has ever engaged in terrorist activities, espoused terrorism, incited terrorism, received military training from a designated terrorist organization, solicited others to join a designated terrorist organization, associated with, joined or represented a designated terrorist organization, or provided any sort of material support – no matter how minimum – to a terrorist organization will continue to be barred entry to the United States.

(5) What is the effect of the change to the definition of “terrorist organization” in the Pitts bill?

The Pitts bill leaves in place the applicable bars on any “designated” terrorist organization. Currently, there are over a hundred designated terrorist organizations,

including Hamas, al Qaeda, the ETA, and FARC. All of their members and supporters will continue to be barred.

The Pitts bill simply changes the *additional* catch-all definition of terrorist organization -- by adding the criteria that the group must threaten the security of the United States or U.S. nationals. This amendment will ensure that groups that the U.S. supports and that support the U.S. – such as anti-Castro movements in Cuba, ethnic resistance movements in Burma, and Montagnards and Hmong who supported U.S. troops during the Vietnam War – are not inadvertently labeled “terrorist organizations” under the overbroad definition in current law.

(6) What about terrorist organizations that do not directly threaten the United States? Will their members and supporters continue to be barred?

The requirement that the group threaten the national security of the United States or U.S. citizens is the same criteria already required for any of the so-called “Tier I” designated terrorist groups – and is defined to include any group that threatens the national defense, foreign relations, or economic interests of the United States. This has been interpreted to encompass any group that threatens either the United States directly or one of its allies. For example, Hamas, FARC, and the Real IRA have all been determined to meet this criterion – even though none of these groups have ever been linked to a direct attack on the United States.

(6) Doesn't the administration already have the authority to waive the application of the law?

The administration has the authority to waive the application of the law but the authority is limited. It can waive in “material supporters,” but not “members” of the groups that inadvertently fall within the overbroad definition of “terrorist organization.”

It could, for example, waive in persons who independently provided food or shelter to U.S. troops in Vietnam or Afghanistan, but could not waive in those who fought alongside U.S. troops in those same conflicts.

Moreover, the waiver has proven difficult to implement. To date, the administration has utilized the waiver just once: for a subset of Burmese refugees in one camp - the Tham Hin camp - in Burma.

(7) What about that recent waiver for the Burmese in the Tham Hin Camp? Why wasn't that sufficient?

In May, the administration agreed to waive in some portion of the 9,300 Burmese refugees awaiting resettlement in the Tham Hin camp in Thailand. These are refugees that the United States had agreed to resettle almost a year ago. But the processing of their cases was delayed because almost everyone in the camp either supported (often in the form of payment of taxes) or participated in the Karen National Union (KNU), a pro-

democracy movement that has acted as a de facto government along the Thai-Burmese border.

The waiver, however, is limited. It only protects the “material supporters” of the KNU, and not the “members” or so-called “combatants” associated with the KNU - including anyone who acted in self-defense against attacks by the incredibly repressive military regime currently running Burma. Spouses and children of members are also barred.

Current estimates suggest that, even with the waiver, about 20 percent of those who meet the refugee definition and have come forward for resettlement will continue to be denied.

Most importantly, the waiver does not provide any relief for any of the other Burmese refugees in Thailand or Malaysia. And it fails to protect any of the other Cuban, Colombian, Hmong, Montagnard, Liberian, Sudanese, Somalian, and Sierra Leonean refugees being hurt by this bar.

(8) What will happen if this problem is not fixed?

Each fiscal year, Congress allocates a certain number of slots, broken down by region, for refugees to be admitted into the United States for the fiscal year. For the past several years, the United States has allocated 65,000 to 70,000 slots for refugees.

If the refugees’ feet are not on U.S. soil by the end of the fiscal year, September 30, their slots will disappear. The best estimate suggests that without some sort of fix the United States will admit 10,000 to 15,000 fewer refugees than expected this year. Absent a solution, this shortfall will continue year after year. Many of these refugees will be left stranded – without any other viable options for resettlement.

THE STORIES: REFUGEES TURNED AWAY BECAUSE OF THE OVERBROAD BARS ON ADMISSION

Below are examples of refugees who have been denied admission to the United States because of the overbroad bars on admission:

Case 1: Liberian refugee forced to be a sexual slave by rebel groups

During the war in Liberia, LURD rebels came to Mrs. J's home, shot and killed her father in front of her and then raped her repeatedly. The rebels then abducted Mrs. J, held her hostage, and forced her to perform a variety of household tasks, such as cooking and laundry. After several weeks in captivity, Mrs. J escaped and made her way to a refugee camp, where she currently remains.

The tasks Mrs. J performed for the rebels (i.e. doing laundry) were considered "material support" and the case was placed on hold.

Case 2: Sierra Leonean mother and daughter fleeing sexual violence by Sierra Leone rebel groups

Mrs. D's house was attacked by rebels. She and her daughter were repeatedly struck with machetes, raped, and held captive in their own home for days. The daughter has scars from the machete wounds.

Mrs. D's resettlement was placed on hold for material support concerns, on the grounds that the family had provided housing to the rebels.

Case 3: Sudanese held hostage by the Sudanese People's Liberation Army

Sudanese man, Mr. R, was taken prisoner by the Sudanese People's Liberation Army (SPLA), beaten, and enslaved. He escaped after a month, but was soon arrested, beaten and held for several days by government forces who accused him of being a member of the SPLA. When he was released he attempted to find his family, who had fled to Khartoum after his wife had been raped by government security forces when Mr. R was in jail. Mr. R was again arrested by government forces but escaped during a firefight. His entire family fled the country because both sides in the civil war were looking for him.

Mr. R was turned away from the U.S. because he had transported weapons for the SPLA when he was held enslaved by them – an activity considered “material support” of a terrorist organization.

Case 4: Somali woman who paid ransom for her son's release

Ms. Z, a Somali was at home when she and her family were attacked by United Somali Congress (USC) members. They shot and killed Ms. Z's husband and daughter, looted

the house of valuables, and took her son away in a car. Three months later, Ms. Z secured her son's release by paying the USC members \$2,000 in cash. One week after her son was released, the attackers returned to her house, beat her and her son, raped her, and told them to leave their house. Ms. Z and her son fled the country, but were turned away from the U.S.

Ms. Z's case was put on hold because the valuables taken by the USC and the ransom paid to secure Ms. Z's release are considered "material support" to terrorism.

Case 5 – Montagnard man who supported U.S. troops

In 1975, Mr. M, a Montagnard man, joined FULRO, an organization that supported U.S. troops in the Vietnam War. He was arrested after only a few months and was detained for two years. After his release, he began working for FULRO again, delivering messages for them, while farming his own land in the meantime. He was arrested several times. When FULRO ceased to exist in 1992 he took up work as a logger in the forest. In 1996, Mr. M received correspondence from the United States requesting that he take up his old job collecting information regarding villagers that were opposed to the Vietnamese authorities. The man did as requested, but after several more arrests he fled to Cambodia.

Mr. M. was turned away from the United States because of his membership in FULRO – defined as a terrorist organization in immigration law, even though it has never been officially designated a terrorist organization by the State Department and even though it supported and was supported by the United States during the Vietnam War.

Case 6 – Burmese in the Tham Hin Camp who continue to be barred despite the waiver

- Mr. K studied at a college in India. After his return, he became a teacher. In 1960, the Burmese government took over the school system. The man, unhappy with the Burmese government's handling of the schools, relocated to a Karen National Union (KNU)-controlled area in 1974. That same year, he joined the KNU and underwent military training. Although he was technically a KNU soldier, he was only in the auxiliary army and continued to work as an English teacher. He was never involved in any battles. When the Burmese military invaded the KNU-controlled area in 1997, he fled to Thailand with the rest of his village. He is not eligible for the waiver because of his 20-year membership in the KNU.
- Mr. P was a member of the KNU's army and served as a private. He never saw any active combat, but stepped on a landmine while on routine patrol in 1982. His right foot was amputated, and he was transferred and made a cook. He continued to serve as a cook until he fled Burma in 1997. He has a wife and four children. He is not eligible for the waiver because of his membership in the KNU.

- Mr. C joined the KNU in 1983 at the age of 15. He was a guard for a KNU military base, but never engaged in combat. He never carried a weapon and only performed office work as a soldier. He is not eligible for the waiver because he is deemed a member of the KNU.