

July 21, 2006

The Honorable George W. Bush
The White House
1600 Pennsylvania Avenue NW
Washington, DC 20500

Dear Mr. President,

As leaders of organizations of the American Jewish community committed to our country's national security and our proud history as a safe haven for refugees, we are writing today to urge you to correct a major injustice to the U.S. Refugee and Asylum Programs.

This letter is to urge you to take immediate action to ensure that America's anti-terrorism laws do not have the unintended effect of denying protection to refugees and asylum seekers fleeing some of the most brutal regimes and violent conflicts on earth. This year, although 70,000 refugees have been authorized for admission to the United States, and although Congress has provided funding for 54,000 refugee admissions, fewer than 42,000 refugees will likely be offered protection. This shortfall is attributable in large part to the implementation of the "material support" provisions of the USA Patriot Act and the Real ID Act.

Under these provisions, any individual who has provided what the law terms "material support" to terrorists is barred from entering the United States. Leading organizations in our community were in the forefront of efforts to enact a tough ban on material support for terrorist organizations as well as sanctions against the states that sponsor them. However, the material support provisions, as amended, are ironically being invoked to exclude victims of terrorism, some whose very struggle to be free now makes them inadmissible to the United States. For example:

- Burmese ethnic and religious minority groups who are viciously repressed by the Myanmar regime - generally viewed as one of the most brutal in the world - are not being processed for admission to the United States.
- Hmong refugees from Laos, who were ardent supporters of the American government during the Vietnam War, are now in danger of being denied admission to the United States.
- Colombians who have paid ransom to obtain the release of a kidnapped loved one are considered by the American government to be supporters of terrorism.
- Women from West African countries in turmoil who have been raped, abducted, and forced into servitude by rebel groups have been "deferred" from the U.S. Refugee Program for providing material support to terrorists, including tasks such as doing laundry.

Under the broad definition of the term “terrorism,” support for a group that is associated with armed resistance against *any* regime constitutes material support to terrorism. This is the case even if the group's actions are not terrorist acts by any customary understanding of the term, even if the government it opposes is a major human rights violator, and even if the American government openly supports the goals of the opposition group.

Even refugees and asylum applicants whose actions in support of terrorist groups were forced or coerced are subject to the bar. As implemented, even those under extreme duress do not have any reprieve: Any contribution to a terrorist group - even if it was made at gunpoint or under threat of death - constitutes material support to terrorism. U.S. refugee and asylum adjudicators are not considering the motives, circumstances and beliefs of the refugee.

Shockingly, under today’s laws, Jews who bravely resisted and survived Nazi terror would be excluded from refuge in the United States. Under current policy, the Warsaw ghetto uprising would have been considered “terrorist activity” because it involved the use of weapons against persons or property for reasons other than for “mere personal monetary gain.”

We strongly believe that the Administration and Congress should work together and immediately amend the law to ensure that innocent victims are not branded as "terrorists" and refused safe haven. Although Congress has granted the Administration the discretionary authority to exempt from the material support bar some individuals who are not terrorists, that authority has been used only once, for some Burmese Karen refugees in the Tham Hin refugee camp in Thailand. However, even if this authority were to be exercised more frequently, the law does not allow the U.S. to admit those who actually fought against their oppressors. Until the law is changed, thousands of deserving refugees in the Tham Hin camp - and those living elsewhere under equally precarious circumstances - will still be barred from admission to the United States.

In the meantime, we urge you to direct the Secretary of Homeland Security and the Secretary of State to delegate to refugee and asylum adjudicators the authority to make exceptions to the material support bar where appropriate. These well-trained, front-line decision makers should be instructed to exempt refugees and asylum seekers from the material support bar whenever there is no reasonable basis to believe that they pose a security threat to the United States. Once exempted, these refugees and asylum seekers would still be required to pass security and background checks. It has become clear that the current ad-hoc process in place for making these decisions is far too slow, given the fact that people’s lives are at stake.

This problem has persisted for far too long, and thus far, discussions and negotiations have unfortunately yielded little in the way of results.

The current policy undermines America’s leadership in the realm of refugee protection, and will ultimately undermine the international regime of refugee protection itself. In

addition, U.S. foreign policy interests are ill served when we suggest to oppressive governments and brutal terrorist groups that their victims are considered “terrorists” by the U.S. and are not suitable candidates for refugee status.

Mr. President, you have spoken eloquently about our refugee program and how it reflects our finest humanitarian tradition. The program is also reflective of the core Jewish value of “redeeming the captive” (*Pidyon shvuyim*). To honor this tradition, we urge the Administration to exempt legitimate refugees and asylum applicants from the “material support” bar to admission where the support provided has been coerced under duress, or where it is otherwise clear that the refugees seeking U.S. protection are not supporters of terrorism and are in fact victims of tyranny and oppression.

Sincerely,

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