

Statement of

# The Honorable Richard J. Durbin

United States Senator  
Illinois  
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Chairman, Subcommittee on Human Rights and the Law  
"The 'Material Support' Bar: Denying Refuge to the Persecuted?"  
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This hearing of the Subcommittee on Human Rights and the Law will come to order.

Good afternoon and welcome to this hearing, which is entitled, "The 'Material Support' Bar: Denying Refuge to the Persecuted."

After opening remarks, I will recognize Senator Coburn, the Subcommittee's Ranking Member, for an opening statement. Then we will turn to our witnesses.

First, a word about the origins of this hearing. Earlier this year, the Human Rights Subcommittee held a hearing on child soldiers. At that hearing, Senator Coburn and I were surprised to learn that, under our immigration laws, the Department of Homeland Security has branded some former child soldiers as terrorists and prevented them from obtaining asylum in the United States.

Senator Coburn immediately suggested that we hold a hearing to explore this issue further. I want to thank him for requesting this hearing and commend him for recognizing the importance of this issue.

At the outset, I also want to commend Judiciary Committee Chairman Pat Leahy for his leadership on this issue. Senator Leahy recognized this problem long before the rest of us and he continues the fight to fix the problems with the material support bar.

As is our practice in the Human Rights Subcommittee, I would like to begin this hearing with a brief video that provides some background on the "material support" bar. This video tells the story of one refugee who has been affected by the bar. I want to thank UNHCR for providing this video footage and for allowing us to use it at today's hearing.

[SHOW VIDEO]

At the base of the Statue of Liberty, Emma Lazarus' famous verse says, "I lift my lamp beside the golden door." For decades, the golden door to the United States has been open to refugees seeking safe haven from ethnic, religious, and political persecution. Our nation receives more refugees than any other. The American people's generosity has made the United States a symbol of freedom and liberty around the world and has given hundreds of thousands of refugees the chance form a new life.

In the aftermath of the 9/11 terrorist attacks, security is an imperative. We must carefully scrutinize everyone seeking to enter our country, including refugees, to make sure that a wolf in sheep's clothing does not slip through. But, at the same time, we must ensure that the golden door remains open to those who are fleeing oppression in their homelands to make a better life in America.

Unfortunately, the so-called "material support" bar has prevented many victims of human rights violations and terrorism from obtaining refugee or asylum status. Under current law, the government denies asylum and refugee claims from anyone who has provided what the law terms quote "material support" to quote "terrorist organizations."

These terms are defined very broadly and the Department of Homeland Security has applied them in a manner that sweeps in conduct that no reasonable person would consider material support or terrorism. As a result, the golden door has slammed shut for thousands of refugees and asylum seekers.

Paw Wah, whose story we heard in the video, is a good example. Paw Wah's application for resettlement into the United States was denied. In 2006, Secretary of State Rice granted a waiver for the residents of Tham Hin camp. Paw Wah has now lived in the camp for 13 years and she has a 5-month old baby. She is being permitted to reapply for resettlement in the United States, but her parents will not be able to join her. Her father is ineligible for a waiver because he fought against the Burmese dictatorship.

The material support bar also blocks refugees who have provided support to terrorist organizations or armed rebel groups under duress, including:

? R.K., a captured Sri Lankan fisherman forced to pay ransom to his terrorist kidnappers.

? Helene, a Sierra Leonean woman who was gang raped and burned by Revolutionary United Front members and forced to wash clothes and cook meals for the RUF.

? Jennifer, a 13-year-old Ugandan girl who was abducted by the Lord's Resistance Army and forced to serve as the "wife" of an LRA leader.

? And Mariana, a nurse from Colombia who will testify at today's hearing. Mariana's asylum claim was denied by DHS because she was kidnapped by the Revolutionary Armed Forces of Colombia, also known as FARC, and forced at gunpoint to provide care to FARC guerillas.

In addition, Laotian Hmong, Vietnamese Montagnard, and Afghan members of the Northern Alliance who fought alongside U.S. soldiers and against their own governments have been affected by the material support bar because of the assistance they gave U.S. forces and their own armies.

It is not the role of this Subcommittee to assign blame. The fates of thousands of innocent refugees are too important. Instead of pointing fingers it is my hope we can join hands to ensure that fundamental human rights are protected and the rule of law is upheld.

There is no question that efforts are underway to address the problems created by the material support bar. The Administration has taken some positive steps by exercising its waiver authority in some cases. Congress has also taken some positive steps. Language negotiated by Senator Kyl and Senator Leahy that would exclude some from the material support bar was included in the Foreign Operations Appropriations bill that the Senate recently passed. We will have an opportunity to discuss these measures today.

But there is also no question that many legitimate refugees are still unjustly labeled terrorist supporters by the material support bar. As I have said before, this Subcommittee focuses on legislation, not lamentation, and today we will discuss what more the Administration and Congress should do to ensure that victims of persecution and terrorism are not denied safe haven in our country.