

Statement of
The Honorable Patrick Leahy

United States Senator
Vermont
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Opening Statement
Hearing on Refugee Admissions
Subcommittee on Immigration, Border Security and Citizenship
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Mr. Chairman, thank you for holding this hearing and I thank the witnesses for being here.

I know you have several topics to cover but I want to take a minute to explain why I believe legislation is necessary to prevent further injustice resulting from the "material support" bar to refugee admissions.

After 9/11, our laws were modified in the interest of protecting national security. No one wants terrorists or their supporters to come here as refugees. But the Congress cast the net so widely that we are now denying asylum to legitimate refugees.

There are two serious problems with the law:

First, it does not make an exception for persons forced to provide "material support" under severe coercion or duress. As a result, the very facts that make up an individual refugee's claim - that he or she was terrorized by armed groups - become the same facts that are used to deny asylum.

Let me give an example: During the war in Liberia rebels came to a woman's home, shot and killed her father, raped and abducted her, and forced her to perform household tasks like laundry and cooking. She eventually escaped and made her way to a refugee camp, where she sought

admission to the U.S. But the tasks she performed for the rebels - like doing laundry - were considered to be "material support" and her case was placed on indefinite hold.

Hundreds of other victims of persecution - who pose no threat to the United States - have been turned away for similar reasons. This is perverse. It is an embarrassment for a country that has been known throughout our history as a safe haven for refugees.

The second problem is the catch-all definition of "terrorist organization". It is defined as a group of two or more persons, whether organized or not, who bear arms against the ruling government. That is so broad as to include those who fought alongside the U.S. like the Montagnards in Vietnam and members of the Northern Alliance in Afghanistan.

This harsh, illogical and unintended consequence is now widely recognized - the question is how best to fix it.

Some have argued that there is no need to amend the law because the Administration has the authority to waive the law in extreme cases. But in the four years since these bars were expanded, and after eight months of bureaucratic wrangling, the Administration has used its waiver authority only once - to protect a subset of Burmese refugees living in Thailand.

The waiver process is cumbersome - requiring the agreement of three different agencies that rarely agree: the Department of State, Department of Justice, and Department of Defense. It is also limited. While these agencies can waive in the supporters of groups that fall in the overbroad definition of "terrorist organization," the waiver does not apply to members of those groups.

And the waiver authority, although available, has never been used in cases of coercion, like the case of the Liberian woman, that cry out for relief.

Despite this, the Justice Department, according to their written testimony, apparently believes the status quo is fine. It isn't. It is unworkable, it is unfair, and it is not making us safer. The fact that they feel that way is why we need to fix the law.

It is time for Congress to act. Congressman Joseph Pitts has introduced legislation in the House that should guide our work in the Senate. His legislation includes two simple fixes: (1) an exemption for those, like the Liberian woman, who are coerced into providing support for terrorists; and (2) assurance that groups who support U.S. troops or are engaged in legitimate resistance movements are not inadvertently defined as "terrorist organizations."

Any supporter or member of one of the more than 100 designated terrorist groups will still be barred from entry into this country. The changes proposed by Congressman Pitts - changes we should all support - only amend the additional, catch-all definition of terrorist organization, leaving intact the bars for anyone associated with a designated terrorist group.

The legislation also leaves untouched the many other security and terrorism-related bars on entry. 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 limited - to a terrorist organization, will continue to be barred entry to the United States.

The legislation will make us safer by ensuring that supporters of the United States, and those we support, are not inadvertently labeled terrorists. We cannot effectively combat terrorism if we cannot distinguish between our friends and enemies.

It is time to bring our laws back in line with our values.

Thank you Mr. Chairman, and I hope we can work together to pass legislation like that proposed by Congressman Pitts.