

HUMAN RIGHTS WATCH

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November 6, 2006

Secretary Michael Chertoff
U.S. Department of Homeland Security
Washington, D.C. 20528

Via Facsimile: (202) 282-8236

Dear Secretary Chertoff:

As I am sure you are aware, Secretary of State Rice recently exercised her authority to exempt a subset of vulnerable Burmese refugees living overseas from overbroad bars on admission so that they can be resettled in the United States. I urge you to extend these same protections to Burmese asylum seekers already in the United States who face possible deportation if you do not act.

Thousands of vulnerable asylum seekers are being turned away from the United States because of immigration laws that label individuals as terrorists simply because they provided some sort of support to an armed resistance group – even if the support was coerced, even if the group has never targeted civilians, and even if the group is organized for the primary purpose of defending the local population against a brutal regime. The law is so broad as to include within the definition of “terrorist organization” groups such as Montagnards and Hmong who fought alongside U.S. troops during the Vietnam War, ethnic resistance movements in Burma defending the local population against one of the world’s most repressive military governments, and Cuban Alzados who fought against Castro in the 1970s at the U.S. government’s behest. Anyone who associates with or provides “material support” to these groups is defined as a terrorist and barred entry into the United States.

Both you, as Secretary of the Department of Homeland Security, and the Secretary of State have the Congressionally granted authority to waive the application of these bars in certain circumstances. Over the last several months, Secretary Rice has exercised this authority twice: to protect certain Karen and Chin victims of the Burmese military. Secretary Rice concluded that both the Karen National Front, Chin National Front and Chin Liberation Army, ethnic resistance groups in Burma, should be exempted from the overbroad definition of terrorist organizations. As a result, Karen living in Thailand and

Chin living in Thailand, Malaysia, or India who had provided support to these groups could be cleared for admission to the United States as refugees.

But Karen or Chin asylum seekers who are already in the United States do not benefit from this waiver, which applies only to those seeking to enter the United States from overseas. Consider, for example, the case of S.K., a Chin woman who fled Burma and eventually made her way to the United States after her fiancé had been killed by the Burmese military junta. Her asylum claim was denied because she previously provided money to the Chin Liberation Army and is therefore considered a supporter of terrorism – even though Secretary Rice concluded that the Chin Liberation Army should not be considered a terrorist organization. Solely because she is applying for asylum from within the United States – rather than from Thailand, Malaysia, or India – she is ineligible for admission and now faces possible deportation.

As Secretary of the Department of the Homeland Security, you are the sole person who can correct this obvious inconsistency and injustice. While the Secretary of State has the authority to issue waivers for those seeking to be admitted into the United States, you have been granted the exclusive authority to issue waivers to those already in the United States who, like S.K., have already been placed in removal proceedings and face possible deportation if you do not act. I urge you to exercise this authority – and to do so quickly – so that Chin and Karen victims of the Burmese military who are applying for asylum from within the United States are given the same protections already extended to those applying for asylum from abroad. I also hope that you will work with Congress to amend the law so that innocent victims are not erroneously labeled terrorists and that resources are freed up to protect against those who actually do pose a credible threat.

Sincerely,

Kenneth Roth
Executive Director