

## FACT SHEET

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# Addressing Barriers to the Resettlement of Vulnerable Syrian and Other Refugees

### BACKGROUND

Nearly three years since the onset of violence in Syria, more than 2.4 million Syrians have fled to neighboring countries, many with little hope of returning in the near future. How the United States responds to this refugee crisis will become a defining feature of the U.S. position in the region for the next generation. Although the United States has provided significant humanitarian assistance, it should also launch a meaningful resettlement initiative to help protect Syrian refugees and bolster stability within the region. Lawmakers have called on the administration to step up its efforts to resettle Syrian refugees, and Human Rights First has called for at least 15,000 Syrian refugees to be resettled to the United States each year, depending on the evolving need.

But a major obstacle threatens to impede resettlement for some Syrians: the overly broad inadmissibility provisions under U.S. immigration law. Unless swift action is taken, these laws will exclude from refugee protection anyone who assisted armed opposition groups, including those whose efforts the U.S. government has supported verbally and/or materially, against a regime it has repeatedly condemned. These provisions define any rebellion against any established government as “terrorist activity,” and characterize any group of two or more people that engages in, or has a sub-group that engages in, the use of armed force as a non-designated (also sometimes referred to as Tier III) terrorist organization. In other contexts, these inadmissibility provisions have ensnared refugees with no real connection to terrorism, such as the following:

- A refugee from Burundi was detained for over 20 months when the Department of Homeland Security (DHS) and the immigration judge who would otherwise have granted him asylum took the position that he had provided “material support” to a rebel group because armed rebels robbed him of four dollars and his lunch;
- An Iraqi former interpreter for the U.S. Marine Corps was informed that his past connection to a Kurdish group allied with the United States and opposed to Saddam Hussein made him inadmissible. He was only granted a waiver of inadmissibility after his story was profiled on the front page of *The Washington Post*;

- A woman from Ethiopia who took food to her son when he was arbitrarily detained for political reasons in a jail where prisoners were not adequately fed had her asylum application placed on hold for over three years. The son was involved in the political wing of a group DHS considers to be a Tier III group. But the mother was not, nor had she ever supported the group in any tangible way;
- A man granted asylum from Bangladesh long ago has had his application for permanent residence held up for years solely because he fought for his country’s independence from Pakistan in 1971;
- A widow from Iraq who supported herself and her only daughter by working as a florist was denied resettlement to the United States because members of a group the U.S. had designated as a terrorist organization bought flowers from her shop. DHS deemed this “material support” to the group in question (the Iranian MEK), which, ironically, was under the protection of the U.S. military in Iraq at the time. This woman remains separated from her daughter, who was resettled to the United States years ago expecting that her mother would soon follow.

As is true in virtually all such cases, these refugees were deemed inadmissible based on information they had themselves provided to the U.S. government in their immigration applications.

### SYRIANS AND INADMISSIBILITY GROUNDS

In the Syrian context, these immigration law provisions threaten to automatically exclude from refugee protection the following categories of people, regardless of the circumstances and even if they are recognized to present no threat to the United States:

- Anyone who fought with any armed opposition group in Syria;
- Anyone who provided “material support” to any opposition force or opposition fighter, or solicited funds or members for such a force; and
- Even anyone whose *spouse or parent* is found to have done any of these things.

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Many Syrian refugees currently seeking protection abroad have fled from areas in Syria where opposition forces were present or in control. While not all of these ties would make refugees inadmissible under these U.S. laws, those laws as currently interpreted and applied would exclude, for example:

- A family who, while their residential neighborhood was being bombed by government forces, sheltered a wounded opposition fighter in their home;
- A boy who, after his father was killed, was recruited by opposition forces and, after serving with them for a time, left the conflict to join his mother and younger siblings in a neighboring country;
- The owner of a food stand in a neighborhood under opposition control from whom opposition fighters bought falafel sandwiches.

Refugees like these would be excluded even when they present no risk to the United States and even if the U.S. government has supported the opposition groups they assisted.

The administration has authority to grant exemptions from these laws, authority that was expanded by a bipartisan effort led by Senators Leahy (D-VT) and Kyl (R-AZ) in 2007. Exemptions have been available on a case-by-case basis since 2007 to anyone who provided “material support” to any armed group under duress. Two additional exemptions announced in February 2014 would apply to refugees who gave insignificant assistance to a Tier III group or a member of such a group, or who engaged in limited routine commercial or social transactions with such a group or its members, or provided them with limited humanitarian assistance, or gave them limited assistance under substantial pressure not amounting to duress (e.g. giving money to an opposition group for assistance in reaching the border to seek safety in another country). Both these exemptions are subject to numerous additional conditions. Neither would apply if the refugee had these kinds of incidental contacts with an officially listed or designated terrorist organization like al Nusra Front or with a member of such a group. These exemptions will help many people, but leave others without relief.

## RECOMMENDATIONS

In order to prevent the United States from denying protection to vulnerable refugees who have engaged in no wrongdoing and pose no threat to the United States, DHS, in consultation with the Departments of State and Justice, should build on its efforts to implement its discretionary authority and:

1. **Extend its most recently-announced exemptions for insignificant assistance and limited assistance involving routine commercial transactions and other incidental contacts to cover refugees who had such contacts with listed or designated groups.** These exemptions cover innocent contacts and would specifically exclude any individuals who present a risk to U.S. security. Civilians in conflict zones do not choose the nature of the armed groups that take control of their territory. DHS had made a similar distinction between designated/non-designated groups when it first issued the duress exemption in 2007, and eliminated it a few months later after recognizing that the distinction made no sense in that context.
2. **Allow exemptions to be issued on a case-by-case basis to anyone who voluntarily provided non-violent assistance to a Syrian armed opposition group not designated or listed as a terrorist organization by the U.S. government.** The United States has provided such assistance to various Tier III groups in Syria. Such exemptions would only be available to applicants who have passed all applicable security and background checks, have established that they meet the refugee definition and are not subject to any other bars, and did not knowingly support activities that targeted noncombatants or U.S. interests; such exemptions would remain unavailable by statute to anyone who provided material support to a group that is designated or listed as a terrorist organization by the U.S. government.
3. **Allow exemptions to be granted on a case-by-case basis to former combatants** who otherwise meet the refugee definition and are not subject to any other bars, have passed all applicable security and background checks, establish that they pose no threat to the safety or security of the United States, and (1) were children at the time or (2) did not participate in, or knowingly provide material support to, activities that targeted noncombatants or U.S. interests. This would not apply to anyone who is a member of a designated terrorist organization.