



U.S. Is Arming Syrian Rebels, But Refugees Who've Aided Them Are Considered Terrorists



Syrian refugees sit outside tents provided by the UNHCR at the Quru Gusik refugee camp in the autonomous Kurdish region of northern Iraq, on Aug. 27, 2013. (Safin Hamed/AFP/Getty Images)

by Theodoric Meyer
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Authorized by Congress, the CIA has started sending weapons to Syrian rebels. But under a legal definition of terrorism adopted by the U.S. government after the Sept. 11 attacks, those same rebel groups are considered terrorist organizations.

The designation could prevent some of the more than 2 million refugees who have fled Syria from coming to the United States, even if they haven't actually taken up arms against President Bashar al-Assad's regime.

Groups that appear on the State Department's list of foreign terrorist organizations have long been banned from entering the U.S. But two antiterrorism laws, the Patriot Act and the Real ID Act, also bar members of armed rebel groups that aren't specifically designated as terrorist organizations.

The provisions, sometimes known as terrorism bars, apply to all armed rebel groups — even ones the U.S. is actively supporting.

The bars also deny entry to anyone who has given any kind of "material support" — transportation, shelter, money — to such groups.

The U.S. has accepted only 64 Syrian refugees in the last two years, according to a State Department spokeswoman. But it's unclear how many, if any, Syrians have run afoul of the terrorism bars to date.

Few Syrians have been resettled overall since the conflict began there in 2011. Instead, the United Nations — which refers refugees for resettlement — has focused on aiding the refugees who are still flowing out of Syria into Lebanon, Turkey and other bordering countries.

But the U.N. is preparing to resettle up to 2,000 Syrians in the coming months, said Larry Yungk, senior resettlement officer for the U.N. High Commissioner for Refugees in Washington, and the terrorism bars could be a hurdle to resettling them in the U.S.

"We do foresee that there could be issues with some of these cases," Yungk said.

David Garfield, a Washington lawyer who has represented immigrants caught up by the terrorism bars, was more blunt.

“For Syrians, I think it’s going to be a major problem,” Garfield said. “The thing about this law that’s so bizarre is that it doesn’t matter who you’re trying to overthrow.”

A U.S. Citizenship and Immigration Services spokesman, Christopher Bentley, said in a statement to ProPublica that “any Syrians who do apply for refugee or asylum status could be subject” to the bars.

The Citizenship and Immigration website makes clear just how sweeping the laws are: “Significantly, there is no exception under the law for ‘freedom fighters,’ so most rebel groups would be considered to be engaging in terrorist activity even if fighting against an authoritarian regime.” The website also states that refugees can be barred for “providing food, helping to set up tents, distributing literature, or making a small monetary contribution” to rebel groups.

“Material support” is defined so broadly that immigrants can be turned away for giving members of rebel groups “a bowl of rice or a few dollars,” said Melanie Nezer, senior director for policy and advocacy with the Hebrew Immigrant Aid Society.

More than 3,500 applications from those around the world seeking to come to or remain in the U.S. are currently on hold because of the terrorism bars, according to the government. And that likely doesn’t capture the full effect of the bars. The U.N. often doesn’t try to resettle refugees in the U.S. if officials think they might be turned away because of the terrorism bars.

In 2007, Congress gave the secretary of homeland security more authority to grant exemptions to rebel groups that don’t pose a threat to the U.S. But putting the exemptions in place has proved to be a slow process that often takes years.

A proposed exemption “has to circulate through the whole alphabet soup of agencies in Washington,” said Thomas K. Ragland, a former Justice Department lawyer who has represented immigrants caught up by the terrorism bars.

Exemptions typically must be reviewed by, among others, the Citizenship and Immigration Services, Immigration and Customs Enforcement, and the Department of Homeland Security’s general counsel and Office of Policy. If no objections are raised, exemptions eventually get sent to the secretary of homeland security, who must consult the secretary of state and the attorney general before they’re made official. “It moves at a glacial pace,” Ragland said.

Eighteen groups have received exemptions to date, including seven Burmese groups, three Iraqi groups and two Vietnamese groups. The Department of Homeland Security has also issued several broader exemptions, including for individuals who supported rebel groups “under duress.”

Citizenship and Immigration would not say whether any exemptions for Syrian groups were in the pipeline.

Granting exemptions for certain Syrian groups wouldn’t mean that refugees affiliated with them could automatically enter the U.S. — it would simply remove the legal barrier to letting Syrians who have aided the rebels into the country.

The government reviews the case of each refugee, and it would still have the authority to reject applicants with ties to groups such as the Islamic State in Iraq and Syria, a rebel group with ties to Al Qaeda. (The State Department has already designated the Al Nusra Front, another group with Qaeda ties, as a terrorist organization, preventing anyone affiliated with it from entering the country.)

The government can also exempt individuals from the terrorism bars.

In 2008, the Washington Post ran a front-page story on Saman Kareem Ahmad, a client of Ragland’s who had worked as a translator for the Marines in Iraq but had been turned down when he applied for U.S. permanent residency. The reason: He had served in the militant arm of the Kurdish Democratic Party, which was considered a terrorist group because it had tried to overthrow Saddam Hussein.

Ahmad was granted an individual exemption after the story ran, Ragland said. (Homeland Security later issued a group exemption for refugees affiliated with the Kurdish Democratic Party.) But Ragland said such exemptions are rare.

“They’re really, really the exception to the rule,” Ragland said. Citizenship and Immigration declined to say how many individual exemptions have been granted.

The Department of Homeland Security could issue a general exemption for all Syrians who provided nonviolent support to Syrian rebels, said Anwen Hughes, the deputy director of the refugee protection program at Human Rights First.

“There’s an opportunity right now for DHS to fix this and process an exemption that would resolve it,” she said, “before it becomes a crisis.”

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