



International Refugee
Assistance Project

Statement of the International Refugee Assistance Project (IRAP)

Submitted to the Committee on the Judiciary, Subcommittee on Immigration and Citizenship and
Committee on Foreign Affairs, Subcommittee on Oversight and Investigations

Hearing, Oversight of the Trump Administration's Muslim Ban

About the International Refugee Assistance Project

The International Refugee Assistance Project (IRAP) provides comprehensive legal representation to refugees and displaced persons in the U.S. Refugee Admissions Program (USRAP). Since our establishment, IRAP has provided legal assistance to thousands of people seeking legal pathways from conflict zones to safe countries. IRAP provides pro bono legal representation, legal advice, and expert referrals to refugees all over the world.

IRAP's goal is to ensure that available services and legal protections go to those who are most in need. Our clients include religious minorities subject to targeted violence, survivors of sexual and gender-based violence, children with medical emergencies for which local treatment is not available, LGBTI individuals, and interpreters under threat in retaliation for their work with the United States and NATO.

IRAP was also among the first groups to challenge the implementation of the Muslim Ban in 2017.

The Trump Administration's Security Rationale Doesn't Withstand Scrutiny

The Trump Administration has repeatedly cited national security concerns in order to justify the Muslim Ban, but the data do not support this contention. As research from the Cato Institute has shown, not a single person in the United States has been killed in a terrorist attack by nationals from any of the banned countries since 1975. The terrorism risk data and the countries designated for exclusion by the Muslim ban simply have no meaningful connection to each other.

Further, while the "worldwide assessment" upon which the Muslim Ban is supposedly based has never been released to the public, leaks and news reports about its contents suggest that its policy conclusions were inconsistent with the Muslim Ban ultimately produced by the Administration.

The Administration also claims that the Muslim Ban is justified based on the failure of certain foreign governments to provide sufficient information about their nationals seeking admission to the United States. But under already existing law, the burden is on the applicant to prove their eligibility for a visa. In other words, the government already has the power to exclude people who cannot not prove their eligibility without the need for a discriminatory Muslim Ban.



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The Waiver Process is a Sham

In its 5-4 ruling on the Muslim Ban, the Supreme Court credited the Administration with the creation of a “robust” and “reasonable” waiver process that would allow people from the banned countries a pathway into the United States if they met certain criteria. The existence of such a process helped, in the opinion of the court, to legitimize the Administration’s argument that the Muslim Ban is security-based rather than motivated by religious animus.

In the time since that ruling, however, the waiver process has revealed itself to be neither robust nor reasonable. For all intents and purposes, it is a sham. U.S. consular officers have said in sworn testimony that the waiver process is merely “window dressing” to help legitimize the discriminatory ban, and the data back up their statements.

In order to receive a waiver, applicants are required to show that the ban imposes an “undue hardship” on them, that their entry is in the U.S. “national interest,” and that they would not pose a security risk. There is no publicly available guidance about how to meet any of these prongs. In fact, the Administration refuses to even consider the country conditions from which people are fleeing in its analysis of whether the ban imposes an undue hardship.

As a result, only an infinitesimal portion of waiver applicants have been admitted to the U.S. Of the small portion of applicants who receive a waiver, many have only been able to do so in rare cases when sufficient media and political attention can be marshaled to pressure the Administration. The vast majority of ban victims have no meaningful ability to generate such pressure, nor should they need to in order to have access to a fair legal process.

In short, the waiver process is neither robust nor reasonable. It is a wholly obscure maze with secret rules and arbitrary outcomes.

The Muslim Ban Separates Families

According to information from the Department of State, thousands of Americans have been and remain separated from their immediate family members as a result of the ban. Because of the Muslim Ban, more than 1,500 children have been separated from their American parents, and more than 3,400 parents have been separated from their American sons and daughters. Without a robust and functional waiver process, thousands of families are simply stuck in legal limbo without any way of knowing when they’ll see their family members again.

The arbitrary separation of families is a traumatic act and undermines the United States’ commitment to fundamental principles of fairness, equality, and justice.



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For the foregoing reasons, among many more, the International Refugee Assistance Project continues to assert its vigorous opposition to the Muslim Ban and thanks the Committees for their attention on and scrutiny of this unjust policy.