



## Statement of the National Immigration Law Center

Committee on the Judiciary's Subcommittee on Immigration and Citizenship

### Hearing on The Current State of the U.S. Refugee Program

Thursday, February 27, 2020 - 02:00pm

Dear Members of the House Judiciary Subcommittee on Immigration and Citizenship,

The National Immigration Law Center (NILC) is pleased to submit this statement to the U.S. House Subcommittee on Immigration and Citizenship of the Committee on the Judiciary for the February 27, 2020 hearing titled "The Current State of the U.S. Refugee Program."

Established in 1979, NILC is an organization long dedicated to protecting and advancing the rights and opportunities of low-income immigrants and their families. We believe that all people should have the opportunity to achieve their full human potential – regardless of their race, gender, immigration, and/or economic status. Over the past 40 years, NILC has won landmark legal decisions protecting fundamental human and civil rights and advocated for policies that reinforce our nation's values of equality and justice for all. This includes our legal challenges to numerous iterations of the Muslim Ban and refugee ban. Three examples of that are *International Refugee Assistance Project v. Trump*, challenging the indefinite ban on most or all nationals from Iran, Libya, Somalia, Syria, and Yemen, as well North Koreans and certain Venezuelan government officials; *Pars Equality Center, et al. v Pompeo, et al.*, challenging the unlawful implementation of the Muslim Ban's waiver provision that has served as window dressing to an otherwise unlawful ban; and *Jewish Family Service v. Trump*. In the *Jewish Family Service v. Trump* case, NILC recently secured a settlement whereby the U.S. government must expedite the resettlement applications of over 300 refugees who were impacted by the refugee ban.

Furthermore, we engage in policy analysis and advocacy, strategic communications, and provide technical assistance to partner organizations across the country. We most recently worked with members of this Committee to mark up and pass out of committee the National Origin-Based Antidiscrimination for Nonimmigrants Act or the NO BAN Act (H.R. 2214), which would, among other things, immediately repeal all versions of the Muslim Ban, including one that specifically targets refugees for "extreme vetting", and the asylum ban that targets asylum seekers arriving at the border. We have also supported the GRACE Act (H.R. 2146), which would, among other things, raise the annual refugee admissions to a minimum of 95,000.

We thank the Committee for conducting this hearing to assess the current state of the U.S. Refugee Program, and we encourage the committee, in its capacity to conduct oversight, to act swiftly to improve the U.S. Refugee Program, which has been decimated under this administration, and to better serve those it seeks to protect.

## **The U.S. Refugee Program Is Currently at Its Most Vulnerable**

### *Muslim and Refugee Bans:*

Since the first version of the Muslim Ban and refugee ban was issued on January 27, 2017, via [Executive Order 13769](#), the Trump Administration has issued numerous iterations of this discriminatory ban, targeting individuals from Muslim-majority countries in order to prevent their ability to enter or return to the U.S. and access the U.S. immigration process in a fair way. The U.S. Refugee Admissions Program (USRAP) was also suspended for 120 days under this executive order, and refugees from Syria were banned from the U.S. indefinitely. This ban was replaced with subsequent iterations of a ban, including [Executive Order 13780](#), [Presidential Proclamation 9645](#), [Executive Order 13815](#), and just last month, [Presidential Proclamation 9983](#). Upon the expiration of the suspension of refugee resettlement, the Trump administration issued guidelines limiting refugee resettlement for 90 days from 11 countries that are primarily Muslim-majority, and indefinitely halted the follow-to-join program, whereby refugee families would otherwise be reunited. The assault against refugees and USRAP did not stop there, however, as another executive order was issued, [Executive Order 13815](#), which subjected refugees to “extreme vetting” as a backdoor channel for effectuating a refugee ban.

The driving force behind the first version of the Muslim and refugee ban, as well as subsequent iterations, [Executive Order 13780](#), [Presidential Proclamation 9645](#), [Executive Order 13815](#), and [Presidential Proclamation 9983](#), has been to fulfill fear-mongering [political campaign promises](#) to effectuate a ban on Muslims—including refugees—from entering the U.S.

While there have been cosmetic changes to subsequent versions of the bans – such as adding non-Muslim-majority countries in a superficial attempt to conceal the ban’s primary motivation — each iteration is clearly driven by anti-Muslim animus. This includes the targeting of refugees, given the increasingly high number of refugees from Muslim-majority countries in the years preceding the Trump administration, as well as African immigrants. While the number of refugees from around the world and of all faiths has plummeted under this administration, Muslim refugees have been disproportionately affected, with the [admission of Muslim refugees dwindling by 90% between FY 2016 to FY 2019](#). As a result, targeting refugees has been used as a clear proxy for banning Muslims.

Since the Supreme Court’s decision on June 26, 2018, allowing a permanent version of a Muslim ban -- [Presidential Proclamation 9645](#) (Muslim Ban 3.0) – to remain in effect, most nationals from the impacted countries remain indefinitely banned from entering the United States. As a result of the Supreme Court’s ruling, American families have been kept apart and denied the

opportunity to celebrate family milestones, mourn together at funerals, receive life-saving medical treatment, or pursue educational or professional opportunities. The administration has since used the Supreme Court ruling to justify additional bans, relying on what it believes to be its limitless authority under the Immigration and Nationality Act (INA) to abuse its executive powers in order to effectively rewrite our nation's immigration laws.

#### *Refugee Ceilings and Resettlement Numbers Have Been Decimated:*

Refugees have been intensely targeted by the anti-immigrant agenda of the current administration. The annual refugee ceilings determined by the President each year deciding the maximum number of refugees that may be granted admission to the U.S. have plummeted year after year under the Trump administration. In FY2018, it was slashed from 110,000 in the prior year to 45,000, the lowest cap since 1980. Barely half that number of refugees were resettled in FY2018, and in FY2019, the annual ceiling was lowered even further to 30,000. The [FY2020 refugee ceiling](#) was set at 18,000—the lowest in history since the beginning of the U.S. refugee admissions program.

The [justification](#) provided for the decrease in numbers was, according to FY2020's Proposed Refugee Admissions report, "the urgent need to address the border security and humanitarian crisis caused by the massive surge of aliens seeking protection at the U.S. southern border." To address the increased need for more asylum officers within U.S. Citizenship and Immigration Services (USCIS) of the Department of Homeland Security (DHS), the administration's solution is to further harm the refugee resettlement program by taking refugee officers away from processing refugee applications and have them adjudicate asylum applications instead.

Considering the fact that the historically low number of refugees settled in 2018—where the admission goal was 45,000—resulted in only 22,491 refugees being resettled, we anticipate that resettlement numbers in 2020 will be even more dismal.

#### **Legislation Such as the NO BAN Act, the GRACE Act and Other Options Provide Effective Vehicles to Restore the Refugee Program**

The NO BAN Act would be a useful vehicle to restore and improve the U.S. refugee program. Among other things, it would change the INA standard for all presidents, limiting executive authority to prevent any president from issuing future overly broad bans like the Muslim and refugee bans. Instead of relying on the current vague standard, any future ban would have to be, among other things, temporary, based on specific and credible facts, and connected to specific acts. It would have to meet a compelling government interest and use the least restrictive means possible to do so. It would also impose stricter requirements before any future ban could be issued, as well as reporting requirements to Congress to create an oversight mechanism once any future ban is in place. The NO BAN Act would also ensure that, if any future ban is imposed, Congress can hold the executive branch accountable by receiving regular briefings on the status, harm, and other impacts of a ban.

The NO BAN Act would also broaden the INA’s nondiscrimination clause to specifically prohibit religion-based discrimination against any immigrant or nonimmigrant visa applicant. This would help ensure that future presidents would not be allowed to issue orders based so clearly on anti-Muslim bias or any other religion-based animus and that every visa applicant would receive individual consideration. Finally, the bill would also immediately repeal prior versions of the Muslim and refugee bans, including one that specifically targets refugees for “extreme vetting”, and the asylum ban that targets asylum seekers arriving at the border. The NO BAN Act is a much-needed step forward for redressing the devastating harms this administration has inflicted on Muslims, Africans, refugees, asylum seekers and other communities.

Other legislative vehicles for combatting attacks on Muslims and refugees include supporting the GRACE Act (H.R. 2146), which would, among other things, raise the annual refugee admissions to a minimum of 95,000 and begin the arduous process of restoring the vital U.S. Refugee Program.

## **Conclusion**

NILC thanks this committee for continuing to shine a light on the degradation of the U.S. Refugee Program, by holding an oversight hearing on the Muslim Bans, bringing the NO BAN Act up for mark-up and a committee vote, now ripe for a floor vote, and by holding hearings such as today’s, in conducting oversight over the U.S. Refugee Program.

We look to you as our members of Congress to redress the harms these bans have imposed on countless families and individuals around the world as well as their family members here in the U.S., many of whom are U.S. citizens, by passing legislation such as the NO BAN Act and GRACE At.

NILC further encourages you to speak up against programs or policies that stigmatize, stereotype or smear refugees and to support programs—such as the U.S. Refugee Program—which can provide a safe haven to those most in need of it. Additionally, we urge you to exercise the power of the purse, defunding any programs administered by the executive branch that degrade the refugee program, and to reinvest instead in refugee resettlement to facilitate the transitions of those granted refugee status in the U.S. and their ability to achieve their maximum potential.

Lastly, preserving congressional intent by way of conducting oversight and passing legislation to ensure fairness, dignity, and respect in the administration of our immigration and refugee laws and conventions is essential for striving for the United States to restore and maintain a globally-respected role as place of hope, safety and freedom. America is at its best when we treat all people, no matter where they come from, with dignity and respect. It is critical that we continue to fight against discriminatory policies like the Muslim and refugee bans.

Sincerely,  
Avidah Moussavian, Legislative Director  
National Immigration Law Center