

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
SOUTHERN DIVISION**

INTERNATIONAL REFUGEE
ASSISTANCE PROJECT, et al.,

Plaintiffs,

v.

DONALD TRUMP, et al.,

Defendants.

Civil Action No.: 8:17-CV-00361-TDC

**SECOND DECLARATION OF REBECCA
HELLER, DIRECTOR OF IRAP, IN
SUPPORT OF PLAINTIFFS' MOTION
FOR PRELIMINARY INJUNCTION**

SECOND DECLARATION OF REBECCA HELLER

I, Rebecca Heller, upon my personal knowledge, hereby submit this declaration pursuant to 28 U.S.C. §1746 and declare as follows:

1. I am the Director and co-founder of the International Refugee Assistance Project (“IRAP”), a project of the Urban Justice Center, Inc., a Plaintiff in the above-captioned case. I have been with IRAP since August 2008.

2. As IRAP’s Director, I oversee all of IRAP’s operations and activities, including programming and development. I am in constant, regular communication with my staff who provide legal representation to vulnerable individuals and consult with pro bono attorneys and law students working on IRAP cases. I also represent a number of refugee and visa cases myself, consult with numerous attorneys working on related cases, monitor field conditions on the ground in the Middle East/North Africa Region, liaise with the U.S. government and the United Nations around refugee and visa processing issues, and coordinate partnerships with numerous NGOs working with and advocating for refugees and immigrants in the U.S. and abroad.

Throughout my eight and a half years working on Middle East refugee issues, I have overseen, consulted on and/or represented thousands of cases.

3. I also teach a seminar on refugee law and practice at Yale Law School.

4. Founded in 2008, IRAP's mission is to provide and facilitate free legal services for vulnerable populations around the world, including refugees, who seek to escape persecution and find safety in the United States and other Western countries. IRAP has a staff of over 25 individuals based in offices in New York, Lebanon, and Jordan. IRAP works with 29 law school chapters and over 75 firms to provide pro bono assistance to persecuted individuals around the world. IRAP relies on the volunteer and pro bono assistance to meet the needs of its client base.

5. IRAP lawyers provide legal assistance to refugees and other immigrants to the United States throughout the resettlement process. IRAP also assists many individuals (including refugees, asylees, Lawful Permanent Residents and U.S. Citizens) inside the United States who need assistance filing family reunification petitions for family members overseas. IRAP has provided legal counseling and assistance to nearly 20,000 individuals.

6. Since its inception, IRAP has helped to resettle over 3,200 individuals from 55 countries of origin, with the majority resettled to the United States.

7. IRAP's client base includes refugees from Iraq, Afghanistan, Egypt, Eritrea, Ethiopia, Iran, Jordan, Kuwait, Libya, Pakistan, Palestine, Somalia, Sudan, Syria, Turkey, and Yemen. Of IRAP's current 599 open cases, 402 families are from one of the six countries targeted in the new Executive Order or are refugees from other countries and therefore potentially affected by the Executive Order. The overwhelming majority of IRAP's clients, including clients abroad and those within the United States, identify as Muslim.

8. Implementation of the Executive Order has frustrated and will continue to frustrate IRAP's mission and imposes a significant burden on its work. By drastically reducing the number of resettlement slots available for this fiscal year and freezing the resettlement process for at least 120 days, the Executive Order will force IRAP to invest significant time and energy exploring alternative routes to safety for its clients (many of whom are in imminent and life-threatening danger) and educating its network of over 2,000 pro bono attorneys and law students about those alternate routes. IRAP attorneys must also counsel their own clients about the changes in law as well as pursue other resettlement options for them, even though many were already being processed in the U.S. Refugee Admissions Program ("USRAP"). The first Executive Order has already wasted significant resources (typically hundreds of hours of legal representation over the course of many years navigating USRAP), forcing IRAP and our clients to make the Hobson's choice between starting the process over with another country, attempting to shelter in place in spite of life-threatening circumstances, or undertaking dangerous journeys to reach safety across other borders. Because the new Executive Order mirrors the first in terms of its effect on IRAP's refugee and immigrant clients, it too places IRAP and its clients at imminent risk of irreparable harm.¹

9. Following the signing of the first Executive Order, on January 27, 2017 at 4:42 P.M. EST, two IRAP clients, Mr. Hameed Khalid Darweesh and Mr. Haider Sameer Abdulkhaleq Alshawi, were detained at John F. Kennedy Airport ("JFK") despite having valid entry documents. As a result, IRAP attorneys were present at JFK from 2 am to 6:30 pm on

¹ Since I do not anticipate any material difference in the effect of the new Executive Order Section 6(b)'s reduction by more than half of the refugee resettlement allotment for fiscal year 2017, which follows verbatim the first Executive Order's Section 5(d), I incorporate by reference my declaration submitted in support of Plaintiffs' Motion for a Preliminary Injunction Against Section 5(d). *See* Declaration of Rebecca Heller, Dkt. No. 64-1 (J.R. 26-35).

January 28, 2017 attempting to secure their lawful release. Furthermore, together with co-counsel, IRAP filed a habeas petition on behalf of those two clients, together with a motion for class certification (*Darweesh et al. v. Trump et al.*, No. 1:17-cv-480 (E.D.N.Y. filed Jan. 28, 2017)). That litigation is ongoing. These actions are not in the scope of normal IRAP legal assistance, as previous IRAP clients were allowed to enter at U.S. Ports of Entry after receiving final approval to travel.

10. Both the first and the new Executive Order have also diverted IRAP resources as IRAP has become the focal point organization for volunteer attorneys all across the country who have gone to airports to attempt to secure the release of individuals detained pursuant to the first Executive Order. In addition to being the first organization to put out a call to volunteer attorneys, IRAP created and maintains a unique hotline email address (airport@refugeerights.org) to advise attorneys and affected individuals. Since the creation of this email address on January 28, 2017, IRAP has received and responded to nearly 800 email messages. IRAP has also developed templates and informational materials for attorneys, affected family members in the United States, and individuals overseas who have been denied travel pursuant to the Order. These actions are not in the normal scope of IRAP's work. I anticipate that this work will continue for IRAP under the new Executive Order as the need will continue to exist.

11. As a result of this Executive Order, our attorneys anticipate that their current caseload will take much longer to be resolved which has resulted in their limited capacity to take on the full representation of new clients. Thus, they now are providing limited representation in certain new cases, which prior to the Executive Order would have received full representation,

given the likely exorbitant delays in USRAP processing. This both diverts resources and frustrates our core mission.

12. Furthermore, because of the drastic decrease in refugee admissions and freeze in refugee processing, IRAP has significantly limited ability to open new law school chapters or begin new relationships with law firms to place cases for direct representation. We also are unable to place new cases with existing chapters or law firms because there is no movement on any refugee cases. We risk losing hundreds of volunteers, and relationships with numerous law firms, because we are unable to provide them with a way to partner with us on cases.

13. Our law firm partners also provide financial support with us. If we no longer have cases to place at law firms, and thus have to decrease our number of law firm partners, it will significantly cut into the corporate funding we receive.

14. In 2016, IRAP had been designated as a Priority 1 non-governmental organization (NGO) with the ability to make referrals of vulnerable refugees to USRAP. This authorization will now not be of any benefit to our clients if the USRAP is frozen or individuals from particular countries are ineligible.

15. As less than 1% of refugees are referred to countries for resettlement by the United Nations High Commissioner for Refugees (UNHCR), IRAP has significantly limited ability to draft referrals for our clients currently in USRAP to be sent to other safe countries because of the limited resettlement slots worldwide.

16. As a result of the Executive Order, IRAP's Resettlement Deployment Scheme with UNHCR, which allows IRAP resettlement experts since early 2016 to be deployed to UNHCR for assisting with their resettlement operations, may be terminated due to the drastic

decrease in resettlement slots available in the US and worldwide. This would lead to the termination of three IRAP staff as well as a revenue loss of approximately \$260,000.

17. IRAP provides safe housing for clients whose lives are in immediate danger while they await the outcomes of USRAP. Clients in urgent situations who face additional four-month delays on their applications (at a minimum) will require significant funding expenditures to ensure continued safe housing.

18. The new Executive Order will continue the significant backlog in the USRAP that resulted from the first Executive Order, delaying the processing of many of IRAP's clients' cases. This delay will force IRAP to exhaust more of its resources, as the average lifespan of a case now grows significantly. IRAP has a legal department composed of staff attorneys who advise and provide consultation to its network of pro bono legal volunteers on their casework. Because of delays in processing, IRAP's attorneys must spend significantly more time on each case, providing guidance about alternative routes to safety and possible exemptions. In addition to IRAP's staff attorneys' existing and ongoing responsibilities, they must now also draft and review additional submissions to State and to the Department of Homeland Security ("DHS"), such as waiver requests for admission to the United States for their clients, which will be reviewed by a case-by-case basis under the new Executive Order. Further, IRAP's field staff must largely give up their work on refugee case processing and focus primarily on ensuring the local safety of refugees who thought their lives would be saved for resettlement, and who are now caught in life-threatening limbo.

19. The Executive Order puts IRAP's refugee and immigrant clients in grave danger, because the longer it takes for their cases to be decided, the longer they are in life-threatening environments. All of IRAP's clients are in limbo and irreparably harmed because their cases

have been indefinitely stalled. Many are at imminent risk of persecution and death where they currently reside, and many others now face indefinite separation from family members already in the United States.

20. Many of IRAP's clients have been referred to the US for resettlement by the UN refugee agency, the United Nations High Commissioner for Refugees ("UNHCR"). UNHCR only refers the most vulnerable refugees for resettlement, such as unaccompanied minors, women-at-risk, and individuals with urgent medical or protection concerns. Less than 1% of refugees worldwide are referred for resettlement by UNHCR. If UNHCR refers an individual to USRAP, they are likely extremely vulnerable and have strong, pre-vetted refugee claims. Further, once UNHCR refers a refugee to USRAP, it precludes them from referring the refugee to another country until the USRAP process is completed.

21. IRAP works with some of the most vulnerable individuals in the world, including U.S.-affiliated refugees, LGBTI refugees, women who have survived trafficking, sexual and gender-based violence, and children with emergency medical needs. We estimate that approximately 700 IRAP clients are now trapped in the limbo of a halted U.S. Refugee Admissions Program as a result of the first Executive Order. The cases will continue in their frozen state under the new Executive Order and their prospects of coming to the U.S. any time soon have evaporated.

22. Furthermore, while the revised Executive Order takes off Iraq from the list of barred countries, Iraqis are still part of the suspension of USRAP processing. Over 50,000 U.S.-affiliated Iraqis are negatively impacted by this new Executive Order, including interpreters for the U.S. Army and for U.S. media organizations, NGO workers, fixers, engineers, and

physicians. These are Iraqis who supported the U.S. mission in Iraq and are now being targeted by militias and terrorist groups as a result.

23. Although the revised Executive Order allows for waivers in certain cases, these waivers will not be available to the vast majority of our clients. DHS interviews are currently only taking place in Vienna and Nauru. Based on my understanding of the refugee process and the language of the Executive Order, waivers will not be available for refugees who have not had DHS interviews. Therefore, hundreds of our clients (and thousands of refugees in the USRAP pipeline) throughout the Middle East and North Africa region (not to mention anyone who is not in Vienna or Nauru) will be ineligible for a waiver regardless of circumstances.

24. While we have been told by some government officials that a waiver process will exist, we have yet to receive any details about how to refer cases, how long waivers will take, or how many waivers are available. We have been told that waivers will only be considered on an individual basis and the Executive Order requires the designation of new personnel to review the waivers.

25. It is also my understanding based on my knowledge of refugee processing that at the end of the 120-day period, even if the refugee program reopens, under the terms of the Executive Order there will be a new security process that most of our clients must go through. In the past, security clearances typically take anywhere from one to five years. Thus, even *if* the refugee process goes back online following the Executive Order, under the terms of the order our clients are likely to be delayed for several additional years (even those already post-approval).

26. Both the first Executive Order and the new Executive Order that will replace it marginalize IRAP's Muslim clients and subject them to suspicion, scrutiny, and social isolation on account of their religious beliefs and national origin. Clients who are already inside the U.S.

are afraid and fear they are not welcome. Some have been subjected to harassment by law enforcement agencies allegedly conducting “new” security checks. Others have been detained at airports, or rejected from flights multiple times even though they are presenting valid visas. Our clients in USRAP and our Special Immigrant Visa programs are seeking resettlement of the U.S. as a safe haven but now feel threatened by the only safe option available to them.

27. Many of IRAP’s clients, including those living in the United States are fearful of asserting their legal rights through participation in lawsuits or otherwise. In addition to fears around possible retaliation from the government or private parties given the current anti-refugee and anti-Muslim climate in the United States, they face multiple barriers to doing so, including language barriers and unfamiliarity with American law and customs, including many customs we take for granted. For example, many of our clients have difficulty completing forms that seem basic and simple to Americans; a form that has a line for “address line two,” for example, confuses our clients, who do not understand why the form is asking for a second address. Moreover, a significant number of our clients have suffered extreme trauma, often at the hands of government officials; this trauma has predictable and understandable consequences,

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often including a desire to avoid calling attention to themselves, particularly from government officials, both in the United States and in their home countries. Many also feel shame or stigma associated with what has happened to them in their home countries, and avoid situations where they may have to talk about it, such as through participation in a lawsuit.

I declare under penalty of perjury and under the laws of the United States that the foregoing is true and correct. Executed at in Los Angeles, California, on March 10, 2017.

A handwritten signature in black ink, appearing to read "Rebecca Heller", with a long horizontal flourish extending to the right.

Rebecca Heller