



The American-Arab Anti-Discrimination Committee

Statement for the Record on the

Refugee Program Integrity Restoration Act

before the

U.S. House of Representatives

Judiciary Committee

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**To: Congressman Bob Goodlatte, Chairman of House Judiciary Committee
Congressman John Conyers, Ranking Member**

Introduction

I am writing to you on behalf of the American-Arab Anti-Discrimination Committee (ADC), the country's only national Arab-American organization. ADC has a long history of supporting the human and civil rights of all Americans and opposing racism, discrimination and bigotry in any form. ADC was founded by former U.S. Senator James Abourezk in 1980. Today, ADC is the largest grassroots Arab-American civil rights and civil liberties organization in the United States. ADC is non-profit, non-sectarian, and non-partisan, with members in every State of the United States. ADC routinely works with a broad coalition of national organizations to address immigration, refugee, and humanitarian crisis in the Middle East and Arab region. ADC respectfully takes this opportunity to provide a statement for the record to U.S. House Judiciary Committee on the *Refugee Program Integrity Restoration Act, H.R. 4731*.

Statement

Overreach and Interference with Executive Power

This bill intends to improperly usurp the Executive power over immigration, and undermines the purpose and existence of the refugee program, to save human lives, through measures that effectively shut down the refugee program.

Section 2 of HR 4731 would amend the Immigration and Nationality Act to limit and effectively prohibit the number of refugees allowed to enter the U.S., setting the annual ceiling limit at 60,000 unless affirmative act of Congress. This is seriously troubling for several reasons: 1) the U.S. needs the flexibility to be able to sufficiently respond to refugee crisis and humanitarian needs as they fluctuate and/or an unanticipated armed conflict, war, genocide and/or environmental disaster occurs, and not be confined to a specific number; 2) there is no mechanism in the legislation that would require Congress to act upon the Executive recommendation for an increase in refugee admissions; and 3) where there is not bipartisanship, politics will determine whether or not we can provide a safe haven to refugees fleeing for their lives, rather than capacity and feasibility. Where there is unwillingness or inability to work together, ultimately human lives will be lost and human beings will suffer because of politics.

Section 9 of HR 4731 HR provides that state and local governments can have a veto power over refugee resettlement. Foremost, state and local governments cannot override the Executive power on immigration, refugee, and foreign policy. This bill attempt to legalize and/or legitimize state and local regulations on immigration related areas including refugees are improper, but federal preemption governs and overrules as affirmed by the U.S. Supreme Court *Hines v. Davidowitz*, *Truax v. Raich*, and *Crosby v. Nat'l Foreign Trade Council* among other cases. The



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Executive and federal government agencies tasked with implementation of the Immigration and Nationality Act are best positioned to make ultimate determinations on refugee admission and resettlement, not state or local governments. State and local governments do not have the expertise to make such decisions that ultimately impact immigration and foreign policy.

Our governmental agencies – the U.S. Department of Homeland Security (DHS), the Federal Bureau of Investigations (FBI), the Department of Defense (DOD), and the National Counterterrorism Center (NCTC) have the capacity to properly screen refugees prior to entrance into the United States.¹ The United States has one of the most comprehensive and vigorous in-depth security check processes, if not the top in the world, for screening refugee applications. Contradictory positions are merely opinion unfounded in objective reliable reports.

The United Nations Refugee Agency conducts an extensive vetting process that can take several months to a year with multiple levels of clearances before the U.S. vetting and security checks process even begins. These strict security measures have also been drastically enhanced in the past few years, including but not limited to required biometrics processing and increase information sharing.

The numerous and vast strictly enforced security measures are beyond adequate and efficient to protect the security of the United States.² Upon referral of a refugee application from the U.N. Refugee Agency, the U.S. makes the ultimate determination of whether the U.S. will accept or allow the refugee to enter the U.S. Multiple federal agencies – DOD, DHS, FBI, NCTC, the U.S. Citizenship and Immigration Services agency and the U.S. Department of State are intricately involved in the rigorous review process of each and every refugee application.

DHS conducts several security checks and interviews overseas to make sure refugees meet the legal definition for a refugee – requiring demonstrable proof that were persecuted or feared persecution in their home country. Plus additional strenuous security provisions have been put in place for special screening and vetting of refugees that requires at a minimum 2 year months extensive examination.³

This bill attempts to also authorize discrimination based on immigration status and/or national origin in violation of the Constitution and state anti-discrimination laws. The fact that a state governor, state and local legislature have rejected refugees and/or resettlement of refugees does

¹ See U.S. Refugee Admission Program, <http://www.state.gov/j/prm/ra/admissions/index.htm>.

² Syrian Refugees Eyeing America See Long Waits and Extensive Vetting, WALL STREET JOURNAL, Nov. 9, 2015, http://www.wsj.com/video/syrian-refugees-eyeing-america-see-long-waits-and-extensive-vetting/4F0CA055-6E95-42DA-821F-15873247B4C1.html?mod=WSJ_World_VideoCarousel_1.

³ See Elise Foley, Refugee Screenings Are More Intensive Than Some Politicians Would Have You Think, Huff Post, Nov. 17, 2015, http://www.huffingtonpost.com/entry/refugee-screening-process-syrians_564b55ece4b045bf3df0ece7.



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not demonstrate any concrete fact or reliable evaluation of anything but their decision to cave into sensationalized propaganda aimed to cultivate fear and xenophobia.

Discrimination Based on Religion and Immigration Status

Section 6 of H.R. 4731 impermissibly authorizes the mass surveillance of refugees based solely on the fact that they were admitted to the U.S. as a refugee. Criminal suspicion should not be flagged on refugees based solely on their immigration status, and this is exactly what HR 4731 will do. Surveillance of any group and/or individual without probable cause of criminal activity is unconstitutional. Refugees are not afforded less protection simply because they do not have permanent status in the United States, as the Equal Protection Clause and Due Process clause protected all persons within the United States. Additionally, arbitrary surveillance, misuse and abuse of law enforcement authority, and suppression are the exact persecution many refugees have fled their home country trying to escape. Further, our government is supposed to lead the nation on welcoming immigrants, and respect for diversity. However, when our government endorses discrimination and the criminalization of a group of people based solely on their immigration status, it actually reinforces and supports discrimination by state and local government entities and even private actors. HR 4731 signals to state and local entities that discrimination based on immigration status and national origin is acceptable, signals that unfair treatment of resettled refugees in the U.S. is okay, and perpetuates the xenophobia political rhetoric and hate crime climate.

Section 4 of H.R. 4731 impermissibly authorizes selective discrimination on the basis of religion, by providing that refugees from religious minority groups are given preferential treatment and are prioritized for entry. HR 4731 violates the 1951 U.N. Convention Relating to the Status of Refugees and the 1967 Protocol Relating to the Status of Refugees policy of non-discrimination, non-penalization, and non-refoulement, by favoring religious minorities.⁴ The aforementioned U.N. Convention recognized as customary international law, and the Immigration and Nationality Act § 101(a)(42) demand and reinforce the fundamental principle that refugee status be applied without discrimination. Refugee status is granted and/or extended to provide temporary protection in the U.S. for all persons subjected to persecution or in fear of persecution based on a protected characteristic including religion and national origin. The United States cannot pick and choose based upon a person's race, national origin, or religion whether to grant refugee status. How can we single out and treat people differently who are seeking protection for their very lives for the exact same reason? All refugee lives must be protected and are worth saving, both Muslims and Christians.

Further, refugee eligibility on the basis of persecution because of one's religion is already provided for and identified as a protected characteristic. Refugee status is granted on evaluation

⁴ <http://www.unhcr.org/3b66c2aa10.html>.



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on a case by case basis for persons in the most vulnerable circumstances. This bills enactment could allow denial of a person in the most vulnerable dire circumstances to be reached because persecution not based on religion, but the other 4 protected enumerated grounds (race, national origin, political opinion, and membership in a particular social group). This demonstrates that the underlying intention of this provision and the legislation overall is to allow only for Christian refugees to be granted entrance into the U.S., which is fairly due to Islamophobia and improper correlation of Islam with terrorism.

Contrary to U.S. Obligations to Meet Both Immediate and Long Term Humanitarian Needs

Section 7 of HR 4731 would extend refugees ability to adjust status to legal permanent resident from 1 year to 3 years. This is problematic because the adequate response to the refugee crisis is not only providing the immediate need of shelter and food to refugees, but also understanding of the long term needs of access to health care, education, the labor market, and livelihood. Limits on the ability for refugees to improve their lives in the United States, rather than becoming stagnant and just waiting for their inevitable removal is counterproductive to the responsibility sharing of the United States, and to easing the burden on the front line countries.

Section 13 of HR 4731 attempts to add a legal requirement to the definition of a refugee and refugee eligibility, by requiring that refugees must demonstrate that they would be “singled out” for refugee status. This bill would reverse long-established refugee case law precedent that holds that individuals must only demonstrate a well-founded fear of persecution including future persecution, in violation of international law. Hundreds of thousands of refugees across the world whom have fled their homes in fear of persecution will be unable to meet this high legal burden especially without right to free legal counsel to assist. This would definitely hinder the U.S. ability to adequately respond to nearly 60 million displaced persons across the world.

Conclusion

The *Refugee Program Integrity Restoration Act* would effectively put a stop to the refugee resettlement program. It is troubling that the United States has only accepted 2500 refugees over the last 5 years. HR is contrary to the United States from shared responsibility as part of the international community, as the United Nations High Commissioner for Refugees Filippo Grandi expressed “that the refugee crisis is a global phenomenon and our response needs to be a global effort.”⁵

⁵ Brookings Institute, *From Homs to Hamburg: Refugee Movements from Syria to Europe and Beyond*, Mar. 15, 2016.