

## **A conversation with Becca Heller, March 15, 2018**

### **Participants**

- Becca Heller – Director, International Refugee Assistance Project
- Nicole Ross – Research Analyst, Open Philanthropy Project
- Alexander Berger – Managing Director, Open Philanthropy Project

**Note:** These notes were compiled by the Open Philanthropy Project and give an overview of the major points made by Ms. Heller.

### **Summary**

The Open Philanthropy Project spoke with Becca Heller of IRAP as part of an update on our 2016 grant (<https://www.openphilanthropy.org/focus/us-policy/immigration-policy/international-refugee-assistance-project-general-support>). Conversation topics included IRAP's legal assistance, litigation, and policy work, as well as its budget and fundraising.

### **Legal assistance**

Within the period of Open Philanthropy's grant (May 2016 to present), IRAP has provided legal assistance to 12,174 people within the grant period, including directly resettling 1,060 refugees. IRAP has helped resettle people to 16 different countries. (In the past, the majority of IRAP's cases have been resettled to the US.)

IRAP wins about 85% of cases that it completes.

### **Case identification and selection**

IRAP currently receives cases through three main pipelines:

1. Its field offices in Jordan and Lebanon
2. Referrals from other NGOs
3. Its email hotlines

#### *Jordan and Lebanon field offices*

IRAP's field offices in Jordan and Lebanon maintain relationships with refugees, community leaders, and other NGOs in the region. IRAP has reciprocal referring relationships with a number of NGOs, especially organizations that provide social services that IRAP does not. For example, the Center for Victims of Torture (CVT) in Oman refers refugees who need help leaving Jordan to IRAP, and IRAP refers some of its clients who need psychosocial support to CVT.

#### *Other NGOs*

IRAP receives case referrals from many NGOs outside Jordan and Lebanon (e.g. Human Rights Watch). The UN also refers cases to IRAP.

NGOs have also started referring litigation to IRAP. For example, the Refugee Council USA (RCUSA), the coalition of major refugee resettlement agencies in the US, has started to bring some larger cases to IRAP.

### *Email hotlines*

IRAP has two email hotlines:

1. A general case referral hotline. Cases from this hotline are screened by a group of about 55 intake volunteers.
2. A hotline for people detained at airports, which now gets a few hits a month.

## **Special Immigrant Visa (SIV) program**

The SIV program offers visas to Iraqis and Afghans who have worked with the US military. IRAP provides SIV candidates with legal representation and helps them register with the UN (which is a prerequisite for receiving aid and for avoiding deportation from, e.g., Jordan and Lebanon).

Recent SIV legislation secured entry for roughly 20,250 Afghans through the SIV program (20,250 is an estimate based on the number of primary applicant visas issued multiplied by 2.7, the average number of nuclear family members visa recipients bring along). Potential Afghan SIV recipients continue to be added to the pipeline.

### **SIV legislation**

IRAP supported SIV legislation by engaging with Congressional offices and providing relevant information on the program to Congressional aides.

### *Congressional Budget Office (CBO) score*

The CBO score for the SIV bill was initially very high because the CBO's calculations assumed a "worst-case" scenario of 6 family members per case. IRAP argued that the CBO should use 2.7 family members (the State Department's estimate of the average number per SIV case) instead and ended up getting the CBO score changed.

### **SIV mandamus suit**

In 2015, IRAP won a mandamus suit on behalf of 15 clients, arguing that an unreasonable delay in the SIV process was causing harm. As of 2014, SIV applications must be processed within nine months; this requirement helps provide an objective legal benchmark for what qualifies as "unreasonable" delay. Demonstrating that delay is causing harm is typically straightforward, since the embassy has to find that a person's life is at risk for them to enter the SIV process.

Since admittance to the SIV program requires a letter of recommendation from a US service member, people in the pipeline typically have at least one veteran willing to advocate for them. IRAP also helped get Congress to mandate a formal appeals

process which requires that SIV applicants be provided the full reason for their rejection (to the extent that this does not undermine national security).

## **Litigation**

### ***Darweesh v. Trump***

President Trump's first executive order on immigration (EO1) was issued on January 27. IRAP was the first group to propose sending lawyers to airports. IRAP got an emergency injunction saying that people could not be detained or deported pursuant to the executive order. There were 2,100 people being detained at airports for the purpose of deportation who were released because IRAP won that suit.

Because IRAP tracks its clients, it became aware that Hamid Darweesh, an Iraqi SIV recipient, did not arrive at JFK when he was scheduled to. IRAP made inquiries and learned that he had been detained along with a number of other people. IRAP would not have been able to file a lawsuit if it had not become aware of this, and Ms. Heller thinks it is unlikely that another group would have become aware of the situation and brought a lawsuit in time to prevent deportations.

### ***IRAP v. Trump***

IRAP was the plaintiff in *IRAP v. Trump*, a broad lawsuit that ruled that the second executive order on immigration (EO2) was unconstitutional.

EO2 was released a few weeks before it was scheduled to go into effect (on March 16). IRAP amended its lawsuit against EO1 to apply to EO2 and got an injunction against it the day before it was set to go into effect. The American Civil Liberties Union (ACLU) and the National Immigration Law Center (NILC) litigated the case. IRAP served as the organizational plaintiff and provided most of the individual plaintiffs for the case.

Because an injunction against EO2 was won, about 65,000 visa recipients were able to enter the country in between March 15 (when the injunction was issued) and September 24, when EO3 came out. Ms. Heller thinks the majority of these visa recipients were probably visiting family members; these also included some students and refugees.

In addition to its visa provisions, EO2 called for the entire refugee program to be frozen for a 120-day study of security measures. This would have begun on March 16, meaning the earliest the program could have been unfrozen would have been July 16. That would not have left enough time to process anyone before the end of the fiscal year on September 30th. The lawsuit challenged both the visa and refugee provisions of EO2, but won an injunction only on the visa provisions. A ruling in Hawaii enjoined both the visa and refugee provisions. The government appealed that ruling and the case moved up to the Ninth Circuit.

In the period for which EO2 was enjoined, 21,000 refugees were admitted.

### ***Hamama v. Adducci***

In June 2017, the US government attempted to deport around 1,100 Iraqi non-citizens in Michigan who had outstanding orders of removal (most of which had been issued about 20 years ago). CODE Legal Aid, a small local group, learned about this and contacted IRAP's University of Michigan chapter. IRAP partnered with the ACLU of Michigan to file a class action lawsuit, which successfully got a preliminary injunction staying the deportations on the grounds of changed country conditions (since Iraq has become much more dangerous since those orders of removal were issued).

All of these cases now need to be individually reopened and require individual legal representation. IRAP has been looking for individual lawyers for each of these cases and putting together templates to help them. The plaintiffs have largely been winning those cases (though most of the cases have not moved forward yet).

### ***JFS v. Trump***

On October 24, President Trump made a proclamation which a) suspended admission of refugees from 11 countries requiring security advisory opinions, and b) indefinitely halted the follow-to-join family reunification process for refugees from all countries. Of those 11 countries, nine were Muslim majority; the other two were North Korea and South Sudan (which are countries from which the US admits very few refugees). About 70% of refugees in the pipeline come from those 11 countries.

IRAP was able to bring a similar challenge against this order as against EO2. IRAP partnered with NILC to challenge the 11-country ban portion of the order in addition to the follow-to-join portion. (The ACLU of Washington also filed a challenge to the follow-to-join piece, which affected about 2,300 people.) Two chapters of Jewish Family Services (JFS), a local resettlement organization in Seattle and the South Bay, were named as plaintiffs in addition to individual refugees. HIAS also co-counseled in addition to two law firms.

IRAP brought its suit in the western district of Washington and got the executive order completely enjoined. On December 26, all US refugee support centers and embassies were ordered to resume processing. The government is currently appealing to have the case dismissed as moot on the grounds that it has complied with the injunction by re-implementing all refugee processing.

*JFS v. Trump* was the first time that a judge found jurisdiction to review refugee admission policy. IRAP also provided some of the individual plaintiffs for this case, who were cited extensively in the judge's decision.

### ***Abdi v. Duke***

IRAP and the New York Civil Liberties Union won a class action lawsuit in upstate New York which ruled that asylum-seekers who are detained pending adjudications must be given bond hearings. This affected around 180 people. In many of cases,

bond was being set at a level that detainees were unable to pay. IRAP won a ruling that setting bond too high for detainees to pay is tantamount to not providing a bond hearing.

However, a recent Supreme Court ruling states that detained immigrants are not entitled to bond hearings and may be held indefinitely.

## **Policy team**

IRAP has three full-time policy staff (excluding Communications, which sits under Policy):

- Betsy Fisher, Policy Director
- Elizabeth Foydel, Deputy Policy Director
- Adam Bates, Policy Counsel

Ms. Fisher and Mr. Bates maintain most of IRAP's relationships domestically, while Ms. Foydel maintains most of IRAP's UN and RCUSA relationships. Mr. Bates handles much of IRAP's Congressional outreach, as well as a lot of coalition building with e.g. veterans' groups and national security groups.

## **Alternative pathways mapping project**

IRAP has been working on mapping all of the available legal pathways into its resettlement countries (excluding work visas), e.g., educational programs and visas, family unification, and humanitarian visas (which allow people to enter a country and apply for asylum). IRAP is not aware of any previous project mapping all of the pathways for resettlement. IRAP's impression is that many resettlement programs are not being filled, either because they are not well-known or because groups that are trying to fill them are having trouble finding people who qualify.

IRAP's current model is to accept cases and then look for paths to resettlement; it might turn out to be more effective to start with the available paths to resettlement and seek out people who are eligible to fill those slots.

After mapping pathways, IRAP plans to build a database that can input a person's information and return resettlement programs they might qualify for. IRAP then plans to do targeted outreach to people who fit program criteria. Ideally, IRAP would also partner with other NGOs, making its database available to them and providing legal aid to help them navigate those processes.

### *Humanitarian Corridors*

IRAP sees its work with Humanitarian Corridors as a "proof-of-concept" for this type of work to identify, fill, and expand particular entry programs. Humanitarian Corridors' original goal was to bring 500 Syrian refugees from Lebanon to Italy. Humanitarian Corridors needed a partner on the ground to identify potential refugees to bring, so it reached out to IRAP, which helped identify and screen refugees. Once the 500-person goal had been reached, IRAP worked with

Humanitarian Corridors to expand the program to 1,000 refugees from Jordan and 1,000 from Lebanon resettled to both France and Italy.

### **Facilitating pro bono work in Europe**

IRAP thinks its model for facilitating pro bono assistance is likely its biggest value-add in Europe. Many organizations have very small litigation departments and can only take a limited number of cases. At the same time, law firms that IRAP partners with have been actively looking for pro bono work in Europe. IRAP thinks there is a major opportunity to leverage pro bono lawyers to dramatically increase the capacity of European frontline organizations to provide legal assistance to their clients. IRAP would provide technical support and temporary staff to help initiate the pro bono relationships.

### **Safe Passage**

IRAP plans to partner with Safe Passage in the UK and Greece. Safe Passage has funding from a number of European funders and IRAP expects to be able to provide various forms of assistance, such as use of its case management system.

### **Budget and fundraising**

IRAP expects to spend between \$4.2 and \$4.5 million this year. So far, it has about \$3.2 million in committed funding. The majority of IRAP's funding is for general operating support (roughly \$250,000 is restricted).

IRAP currently has a reserve of \$5.3 million. If necessary, IRAP would use reserve funding to keep all of its programs going this year but, if it does so, would likely aim to shrink its overall spending going forward.

IRAP would like to hire another litigation person and another staff attorney. There are a number of issues IRAP would like to litigate that it thinks are unlikely to be addressed by other groups.

### **Some uses of Open Philanthropy funding**

Open Philanthropy's grant was designated for general operating support. In practice, IRAP has largely used it to build out its policy shop. Ms. Fisher was previously IRAP's Intake Coordinator; IRAP was able to hire her as Policy Director because Open Philanthropy's grant allowed IRAP to hire someone new for the intake role. IRAP also hired Ms. Foydel and Mr. Bates because of Open Philanthropy funding.

Open Philanthropy funding allowed IRAP to hire Mariko Hirose as Litigation Director, and to hire an attorney in Jordan.

Open Philanthropy's grant also allowed IRAP to offer more competitive salaries, which is part of why IRAP has been able to retain its staff.

## **Declining funder interest**

Funder interest in refugee issues has generally declined from the levels of roughly 2015 through late 2017, likely in part due to reduced coverage of refugee issues in the media. IRAP anticipated this decline to some extent, and it has been able to retain some of the new funders it acquired during that period. Some funders who had been contributing between \$100,000 and \$250,000 a year are not renewing their support this year.

*All Open Philanthropy Project conversations are available at  
<http://www.openphilanthropy.org/research/conversations>*