

## **A conversation with Becca Heller, October 5, 2017**

### **Participants**

- Alexander Berger – Program Officer, US Policy, Open Philanthropy Project
- Becca Heller – Director, International Refugee Assistance Project (IRAP)

**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 Ms. Heller of IRAP as part of an update on our 2016 grant. Conversation topics included: IRAP's litigation work, including its involvement in challenging President Trump's Executive Orders on immigration; its advisory and capacity building roles with other groups; and its recent hiring and fundraising.

### **Executive orders on immigration**

Following President Trump's first Executive Order on immigration on January 27th, IRAP won an injunction that stayed detentions at airports, which resulted in the release of 2,100 people from airports who would otherwise have been deported, according to documents later obtained under the Freedom of Information Act.

The first injunction against the text of the Order itself was won by Washington State, which resulted in stays in most other challenges to the travel ban. That ruling was appealed and upheld by the Ninth Circuit. President Trump then announced that he planned to issue a second Executive Order and would rescind the first. A number of groups, including IRAP, filed challenges to the second Executive Order. IRAP's hearing in Maryland and the hearings in Hawaii and Washington happened around the same time. IRAP won an injunction on the Executive Order's visa provisions; the Hawaii ruling enjoined both the visa and refugee provisions. The Washington judge declined to rule in light of the rulings in Hawaii and Maryland.

IRAP's case moved up to the Fourth Circuit and the Hawaii case moved up to the Ninth Circuit; both Circuit Courts upheld the rulings of the lower courts, and the two cases have now been consolidated for the Supreme Court. Oral arguments were scheduled to happen October 10th; then, President Trump issued the third Executive Order on September 24th.

There is a freeze on refugee resettlement in place until October 24<sup>th</sup>, pursuant to the second Executive Order.

The Supreme Court's June ruling on the second Executive Order left it to district courts to sort out a lot of details (e.g. around what constitutes a "bona fide" relationship).

## **Safe Third Country Agreement lawsuit**

A lawsuit claiming that current US asylum procedures violate the Safe Third Country Agreement between the US and Canada has been filed in Canada. IRAP helped gather and prepare evidence for that case and is advising the Canadian lawyers who are litigating it. Part of the argument is that, in practice, no one can get asylum in the US because of the backlog in the US asylum system so the US is no longer a “safe third country.”

## **Other litigation and advisory work**

### **Private sponsorship referrals**

Thanks in large part to advocacy by the Global Refugee Sponsorship Initiative, in partnership with UNHCR and the Open Society Foundations, there are approximately 40,000 new private sponsorship slots specifically for Syrian refugees around the world.

The UK has 25,000 private sponsorship slots for Syrian refugees and needs referrals. The UN Refugee Agency (UNHCR) is understaffed because of budget cuts and no longer has capacity to process Syrian refugees. UNHCR has created broad de-prioritization (DP) categories of refugees it doesn't have capacity to refer. IRAP can play a role in identifying and processing people to fill the UK's private sponsorship slots. One of IRAP's goals for this year is to be able to refer cases to the UK and other countries directly (rather than through UNHCR).

Identifying potential private sponsorship referrals for Canada is less important because Canada has a backlog of requests by already-resettled refugees to bring in family members.

IRAP is less excited about making referrals to some countries that don't provide social services for refugees.

### **Central American Minors (CAM) program**

During the Obama administration, IRAP won minors in the CAM program the right to counsel on the grounds that their legal claim regarding fleeing gang violence is difficult to articulate without counsel, and 70% of cases were consequently being rejected. The Obama administration paroled in people in the CAM pipeline who failed the entrance interviews; the Trump administration canceled that parole, in addition to the entire CAM program, in August. There were around 9,700 cases in the CAM pipeline when the administration canceled parole. About 3,000 minors who had been granted parole but didn't yet have a travel date now aren't allowed in; the rest of the cases in the pipeline hadn't been decided on yet.

IRAP plans to file litigation and start appealing CAM denials. (IRAP hadn't previously taken on CAM denial appeals, since rejectees were being paroled in.) IRAP plans to appeal 100 of those cases in order to a) secure entrance for those 100 people and b) demonstrate that the entrance interviews are structurally flawed in a way that could potentially then be used to call for policy and/or litigation with a class mechanism

that includes everyone who went through CAM. For appeals that IRAP wins, there is an argument that the person should be grandfathered in, since their case was first adjudicated prior to CAM's phase-out. If IRAP wins more than half of these appeals, it might be able to take this to Congress.

Most potential strategies on CAM will end up involving litigation or policy advocacy. IRAP partners with Kids in Need of Defense (KIND) on its CAM work.

### **Stay of deportation of Iraqi immigrants**

Iraq negotiated its exemption from the second travel ban partially by agreeing to accept deportations from the US. In June, the US attempted to deport around 1,400 Iraqis. IRAP partnered with the ACLU of Michigan to win an injunction staying those deportations on the grounds of changed country conditions — i.e., Iraq had become much more dangerous (e.g. because of ISIS) since these people were first ordered removed. Deportation is stayed until they have an opportunity to file a motion to reopen their cases and assert changed country conditions. That will require individual legal representation, which IRAP is helping to recruit.

### **Pro bono work in Europe**

Many of the law firms that IRAP works with have European offices and want to work with refugees in Europe. IRAP sent staff to meet with European law offices and front-line NGOs in Europe to help build connections between them.

IRAP is exploring two pilot projects in Greece and the UK involving capacity building for local European groups that offer legal assistance to asylum seekers and unaccompanied minors seeking to reunite with their parents.

### **Hiring**

IRAP received dedicated funding to expand its model to other countries and to hire a staff person to lead that work. Kristine Rembach recently accepted a role as Director of Alternative Pathways and will start January 3rd. Ms. Rembach was previously director of the Refugee Legal Aid Program in Cairo, which provides direct legal aid to refugees in Egypt and has a model similar to IRAP's. She's currently consulting for the Swiss Agency for Development and Cooperation.

Mariko Hirose, formerly of the New York Civil Liberties Union, joined IRAP as Litigation Director in July. IRAP has also hired three new staff attorneys to handle the volume of lawsuits it wants to bring; one is a joint staff attorney with NILC.

Adam Bates (formerly of the Cato Institute) has joined IRAP as Policy Counsel.

Sarah Morton started as a new Director of Operations in June, and that is working out very well.

### **Fundraising**

Fundraising is going well, with a lot of new individual donors. IRAP projects it will raise and spend about \$4 million this year.

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