

MEMORANDUM

To: NAPABA Policy Staff
From: Immigration Committee
Date: December 23, 2015
Re: Resolution Supporting Refugee Resettlement

I. Purpose

To request the board's approval of a resolution supporting the refugee resettlement program and other efforts to support refugees in the United States.

II. Background

The admission of refugees to the United States and their resettlement here are authorized by the Immigration and Nationality Act ("INA"), as amended by the Refugee Act of 1980.¹ Under the INA, a refugee is a person who is outside his or her country and who is unable or unwilling to return because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion.² In special circumstances, a refugee also may be a person who is within his or her country and who is persecuted or has a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion.³

Many Asian immigrants came and still come to the United States as refugees due to volatile conditions, war or strife in their countries of origin. Between 1975 and 2006, the United States admitted 1,306,355 East Asians as refugees to the United States, more than half of the total 2,671,012 refugee population. In more recent years, large numbers of refugees have come

¹ Immigration and Nationality Act, 8 U.S.C. §§ 1101 *et seq.* The Refugee Act is P.L. 96-212, Mar. 17, 1980. The U.S. is also a signatory to the United Nation's 1967 Protocol relating to the Status of Refugees ("Protocol"), the international treaty on refugees, the United States has obligations to assist refugees under international law. Protocol relating to the Status of Refugees, Jan. 31, 1967, 606 U.N.T.S. 267. The Refugee Act of 1980 codified into law the provisions of the Protocol.

² INA [NEED CITE]

³ CITE

from Burma and Bhutan. For example, in FY2014 alone, 32% of admitted refugees came from Burma and Bhutan, combined.⁴

a. Refugee Admissions Process

The refugee resettlement program is one of the most difficult way to enter the United States, routinely taking individuals several years to be processed. Refugees are processed and admitted to the United States from abroad in a process administered by the Department of State and U.S. Citizenship and Immigration Services, which is part of the Department of Homeland Security. All refugees undergo thorough and rigorous security screenings prior to arriving in the United States, including but not limited to multiple biographic and identity investigations; FBI biometric checks; in-depth, in-person interviews by Department of Homeland Security officers; medical screenings; investigations by the National Counterterrorism Center, and other checks by U.S. domestic and international intelligence agencies. In addition, other measures such as mandatory supervisory review of all decisions, random case assignment, and forensic document testing are in place to maintain the security of the refugee resettlement program.⁵

The federal government has three priority categories of individuals for refugee admissions to the U.S. These priority designations are separate from the question if a person meets the refugee definition.

- Priority 1: “refugees for whom resettlement seems to be the appropriate durable solution, who are referred to the U.S. refugee program by [United Nations High Commissioner for Refugees (“UNHCR”)], a U.S. embassy, or a designated [non-governmental organization (“NGO”)]. Such persons often have compelling

⁴ U.S. Dep’t of State, “Proposed Refugee Admissions for Fiscal Year 2016”, at 64 (Table III), available at: <http://www.state.gov/j/prm/releases/docsforcongress/247770.htm>.

⁵ See e.g., White House, “Screening Process for Refugee Entry into the United States,” available at: <https://www.whitehouse.gov/blog/2015/11/20/infographic-screening-process-refugee-entry-united-states>; U.S. Committee for Refugees and Immigrants, “Security Process of Refugees Admitted to the United States: A Detailed, Rigorous Process,” available at: <http://www.rcusa.org/uploads/pdfs/Refugee%20resettlement%20-%20step%20by%20step%20USCRI.pdf>.

protection needs, and may be in danger of attack or of being returned to the country they fled. All nationalities are eligible for this priority.”⁶

- Priority 2: “covers groups of special humanitarian concern to the United States. It includes specific groups that may be defined by their nationalities, clans, ethnicities, or other characteristics.”⁷
- Priority 3: “covers family reunification cases. Since FY2004, qualifying family members have been the spouses, unmarried children under age 21, and parents of persons who were admitted to the United States as refugees or granted asylum.”⁸

Under federal law, the annual number of refugee admissions to the United States and the allocation of these numbers by region of the world are set by the President after consultation with Congress.⁹ Since FY2004, the annual ceiling on refugee admissions has fluctuated between 70,000 and 80,000.¹⁰ And in some years the actual admissions fell far short of the ceiling. For example, in FY2011, only 56,424 refugees were admitted out of the 80,000 admissions allocated.¹¹

For FY2016, the proposed ceiling is 85,000, with the following regional allocations¹²:

- Africa: 25,000
- East Asia: 13,000
- Europe & Central Asia: 4,000
- Latin America & Caribbean: 3,000
- Near East & South Asia: 34,000
- Unallocated: 6,000

b. Attacks on the Refugee Resettlement Program and Refugees Generally

Over the years, concerns have been raised about our immigration humanitarian programs (i.e., refugee and asylum processes), particularly concerns about national security and fraud.¹³ In

⁶ Andorra Bruno, Congressional Research Service, “Refugee Admissions and Resettlement Policy,” (Feb. 18, 2015), at 5.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.* at 1.

¹⁰ *Id.* at 3 (Table 1).

¹¹ *Id.*

¹² Fn. 4 at 5.

¹³ See e.g., *Asylum Fraud: Abusing America’s Compassion: Hearing Before the H. Comm. on the Judiciary, Subcomm. on Immigration & Border Security*, 114th Cong. 1 (2014) (statement of Jan C. Ting), available at: <http://judiciary.house.gov/cache/files/ce51425e-3e89-4007-a98d-7153ac6f2b4c/jan-c-ting-asylum-fraud-testimony->

2009, Human Rights First reported at the time “over 7,500 cases pending before [DHS] are on indefinite hold based on some actual or perceived issue relating to the immigration law’s ‘terrorism’-related provisions.”¹⁴ Further, the “overwhelming majority” of those cases on hold were family reunification petitions or applications for permanent residence filed by people granted asylum or refugee status several years ago.¹⁵

Since 9/11 generally, and even before, immigrants have been unfairly targeted for suspicion of terrorism or other threats to national security. In 2002, the Department of Homeland Security established the National Security Entry-Exit Registration System (NSEERS) program, requiring male visa-holders over the age of 16 from predominantly Arab and Muslim countries to register with local immigration offices. Around 84,000 Arab and Muslim men registered voluntarily and over 14,000 of them were deported for complying with the program, sending shockwaves through Arab and South Asian communities.¹⁶

In the wake of recent mass tragedies in California and Paris, allegedly committed by individuals with terrorist connections and/or “radicalized” ideologies, there has been a dramatic uptick in proposals aimed to completely halt or significantly slow the resettlement of refugees to

[final.pdf](#); Press Release from Cong. Lamar Smith on the Asylum and Border Protection Act (H.R. 5137) (Jul. 17, 2014), available at: <https://lamarsmith.house.gov/media-center/press-releases/smith-introduces-border-solution-bill>; and Letter from Cong. Bob Goodlatte to General Accounting Office (Feb. 11, 2014), available at: <http://judiciary.house.gov/index.cfm/press-releases?ID=3D5D79FD-6998-476B-B77A-6A45A62FB78D>.

Its worth noting that there has been increasing attention on fraudulent asylum claims from Chinese nationals (the asylum process is similar to but different from the refugee admissions process); see Kirk Semple et al., *Asylum Fraud in Chinatown: An Industry of Lies*, N.Y. Times, Feb. 22, 2014, available at: <http://www.nytimes.com/2014/02/23/nyregion/asylum-fraud-in-chinatown-industry-of-lies.html>.

¹⁴ Human Rights First, “Denial and Delay: The Impact of Immigration Law’s “Terrorism Bars” on Asylum Seekers and Refugees in the United States,” (November 2009), available at <https://www.humanrightsfirst.org/wp-content/uploads/pdf/RPP-DenialandDelay-FULL-111009-web.pdf>. The 7,500 number represents pending refugee and asylum cases.

¹⁵ *Id.*

¹⁶ We have seen a continuation of these harmful government policies that rely on the pretext of national security to unfairly target certain communities of color. For example, advocates have learned that DHS has adopted a de facto policy of flatly denying parole and imposing disproportionately high bond to Bangladeshi asylum seekers fleeing political persecution as members of the opposition Bangladesh National Party (BNP), which DHS claims without credible basis is a Tier III terrorist organization.

the United States, especially refugees from Syria. For example, on November 19, 2015, the House of Representatives passed legislation (H.R. 4038) that would make the admissions process for refugees from Syria and Iraq so burdensome as to effectively shutdown resettlement of those refugees.¹⁷ Debate over Syrian refugees, alleged threats to national security, and immigration mechanisms continue to take place in Congress.

Over thirty state governors indicated they would not allow Syrian refugees to resettle in their states, even though states have no authority to do so.¹⁸ Similarly, some states are barring already-resettled Syrian refugees from accessing certain public benefits.¹⁹ At least one national political candidate has called for a registry of Muslim Americans and the complete halt to any immigration by Muslim individuals to the United States. While some of these measures may not be discriminatory under applicable law, they certainly smack of bias based on national origin, ethnicity and/or religion.

III. Analysis

Globally, the refugee crisis is at an unprecedented level. Around the world, more than 60 million individuals are displaced from their homes. Due to the Syrian crisis alone, more than eight million people are internally displaced and four million are seeking refuge in the region and in Europe. Asian nationals make up a part of the displaced population or other individuals seeking safety. And Asian Pacific Americans have a history of coming to the United States as refugees. It is important during this time of crisis and when future needs arise that our

¹⁷ American Security Against Foreign Enemies Act, H.R. 4038, 114th Cong. (2015), available at: <https://www.congress.gov/bill/114th-congress/house-bill/4038>.

¹⁸ See e.g., <http://www.cnn.com/2015/11/16/world/paris-attacks-syrian-refugees-backlash/>; <http://thinkprogress.org/justice/2015/11/16/3722628/no-state-governors-cant-refuse-to-accept-syrian-refugees/>.

¹⁹ Greg Bluestein, *Feds to Georgia: Do Not Deny Syrian Refugees Food Stamp Benefits*, Atl. Journal Constitution (Nov. 25, 2015), available at: <http://politics.blog.ajc.com/2015/11/25/feds-to-georgia-do-not-deny-syrian-refugees-food-stamp-benefits/>.

community stand in solidarity and encourage America to remain a welcoming nation that opens its doors to all people seeking refuge and peace.

Further, given the anti-Muslim sentiment expressed by many elected officials and others at this time, it makes sense for NAPABA to develop a position on this issue in accordance with its mission. We can help remain vigilant against enacting policies targeting people based on their national origin or religion. Due to the legacy of the internment of Japanese Americans in WWII and the treatment of Arab, Middle Eastern and South Asian after 9/11, the Asian Pacific American community is all too familiar with hasty actions based on discrimination and fear. National security and public safety is important to all Americans but those are not excuses to enacting discriminatory policies or measures that undermine civil and human rights. 00

IV. Recommendation

The Committee recommends that NAPABA support the refugee resettlement program and efforts to expand the resettlement program and/or services for resettled refugees. We also recommend that NAPABA strongly oppose measures that undermine the resettlement program and refugee services by targeting refugees based on national origin, race, ethnicity and/or religion. As a legal organization committed to justice, equity and opportunity, with a history of leadership in the areas of civil and human rights, NAPABA should support a strong refugee resettlement program that works toward safety and security for all people around the globe.



National Asian Pacific American Bar Association

Statement of Support for Refugee Resettlement Programs

Endorsed January 2016

WHEREAS, the National Asian Pacific American Bar Association (NAPABA) is the national association of Asian Pacific American attorneys, judges, law professors, and law students, representing the interests of over 50,000 attorneys and approximately 75 national, state and local Asian Pacific American bar associations; NAPABA members include solo practitioners, large firm lawyers, corporate counsel, legal service and non-profit attorneys, and lawyers serving at all levels of government; and NAPABA is committed to addressing civil rights issues confronting Asian Pacific American communities and people of color;

WHEREAS, the admission of refugees to the United States and their resettlement here are authorized by the Immigration and Nationality Act ("INA"), as amended by the Refugee Act of 1980. Under the INA, a refugee is a person who is outside his or her country and who is unable or unwilling to return because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion. In special circumstances, a refugee also may be a person who is within his or her country and who is persecuted or has a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion;

WHEREAS, as a signatory to the United Nation's 1967 Protocol on the Status of Refugees ("Protocol"), the international treaty on refugees, the United States has obligations to assist refugees under international law which was codified into law by the Refugee Act of 1980;

WHEREAS, many Asian immigrants came and still come to the United States as refugees due to volatile conditions, war, or strife in their countries of origin;

WHEREAS, According to the U.S. State Department's Bureau of Population, Refugees and Migration, between 1975 and 2015, the United States admitted a combined 1,863,809 refugees from East and South Asia and the Near East. This is more than half of the total 3,252,493 refugees admitted to the United States from around the world during the same period;

WHEREAS, Asian refugees to the United States have increased in recent years and now many Burmese and Bhutanese nationals come to the United States as refugees;

WHEREAS, refugees, like other immigrants, enrich our communities and contribute significantly to America; research indicates that refugee men are employed at a higher rate than their native-born peers, and refugee women are employed at rates similar to those of native-born women;

WHEREAS, although protecting national security and public safety are important to all Americans, such interests should not be used to justify policies and practices that discriminate

against refugees, already present in the United States or awaiting resettlement, on the basis of national origin, race, ethnicity, religion, and/or other characteristics, including those under the INA, which would undermine our civil and human rights.

THEREFORE BE IT RESOLVED, that NAPABA:

1. Supports measures and legislation to increase the number of refugees resettled in the United States.
2. Supports initiatives to increase and improve programs and services benefitting refugees in the United States, including extending the formal resettlement period, to promote the full integration and long-term physical, mental, and economic well-being of refugees.
3. Strongly condemns federal, state and/or local measures to restrict refugee resettlement or deny programs and services to refugees already present in the United States, especially any measures based on national origin, race, ethnicity, and/or religion.
4. Authorizes its president, board, and staff to communicate the content of this resolution to its members, affiliate and associate organizations other bar associations, members of Congress, the Administration, the press, and others and to take steps to implement, as they deem necessary.
5. Supports this resolution as a policy priority until it is withdrawn or modified by subsequent resolution.