

ISSUE BRIEF

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Refugee Admission Quota: Restoring Authority to Congress

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According to news accounts, President Donald Trump is considering lowering the U.S. refugee quota for fiscal year (FY) 2018 to 40,000 or less.¹ While refugee policy has been an area of significant debate during the past year, the process for determining how many refugees may enter the U.S. through the U.S. Refugee Admissions Program (USRAP) remains entirely in the hands of the executive branch. Congress should reassert its role in refugee policymaking by creating a new ceiling and floor for refugee admissions based on historical levels.

Current Quota-Setting Process Is Insufficient

Every year, the executive branch sets a ceiling on the number of refugees the U.S. will resettle, though it can change the number at any point. The State Department's Bureau of Population, Refugees, and Migration (PRM) recommends the ceiling, and the Presidential Determination released annually contains the official number. The President must sign the Presidential Determination before USRAP can resettle any refugees in a given fiscal year.

The United States traditionally has resettled more refugees through the U.N. High Commission-

er for Refugees (UNHCR) than has any other country.² Over the past decade, the U.S. generally took in about 60,000 to 70,000 refugees each year from around the world. This increased to 85,000 in FY 2016 and was slated to rise to 110,000 in FY 2017. Upon coming into office, however, President Trump issued an executive order temporarily suspending the refugee program pending further review and reducing the admissions level to 50,000 per year. According to media sources, the Trump Administration may reduce that to 40,000 or fewer for FY 2018; 110,000 was significantly above recent historical bounds, and 40,000 is below the historical norm.

Section 207 of the Immigration and Nationality Act gives the President the authority "after appropriate consultation" to "fix a number of refugees to be admitted to the U.S."³ Appropriate consultation is defined as "discussion in person by designated Cabinet-level representatives of the President with members of the Committees on the Judiciary of the Senate and of the House of Representatives."⁴ Given that refugee policy has domestic, security, and foreign policy implications, it makes sense that Congress should have a say. The consultative process, however, appears to have little impact on a President's decision. President Barack Obama was able to increase refugee admission levels by almost 60 percent from FY 2015 to FY 2017 even as Republicans in the House and Senate voiced concerns. Similarly, President Trump was able to cut refugee levels by over 60 percent over congressional objections.

Current law correctly recognizes that the President, with the Intelligence Community and

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Departments of State and Homeland Security at his disposal, should start the discussion based on world events, immigration and security concerns, and foreign policy priorities. But given the wide swings that are allowed and that have occurred under current law, Congress should have a greater say before such swings occur. For example, if the President wishes to take in more refugees in a given year than the U.S. has taken in during the preceding 20 years, congressional approval should be required. Similarly, if the President seeks to drop refugee levels to historical lows, congressional assent should also be required. The President should retain discretion in setting refugee levels within the bounds set by Congress.

Reasserting Congressional Leadership in Refugee Policy

If large changes in refugee admissions are to be made, the people's representatives in Congress should assent to such changes. Congress should reassert its role in refugee policy by:

- **Setting floors and ceilings.** Congress should allow the executive branch to select the number of refugees between a ceiling and a floor based on historical refugee levels. For example, over the past 20 years, the 20th percentile of refugee admissions was 49,837 refugees, and the 80th percentile was 73,983. Other time frames, such as 10 years, 15 years, or 25 years, would also be appropriate, and Congress could base the ceiling and floor on another percentile range, such as the 15th to the 85th or the 25th to the 75th. If the President chose a refugee-admission level outside this band, he would need approval from Congress. Such a process would ensure that Congress is involved in any dramatic changes in refugee levels while giving the President the discretion to adjust refugee admission within reasonable historical levels.

- **Establishing private resettlement pilot programs.** Refugees resettled to Canada through its private resettlement program have better assimilation outcomes and report greater satisfaction with their new lives than those resettled by the government alone. Congress should amend existing refugee law to establish private resettlement pilot programs. Congress should set the number of refugees that it will allow to participate in these programs and include a mechanism to expand the programs. For example, if private resettlement is capped at 5,000 but 10,000 private benefactors want to sponsor a refugee, then an additional 5,000 private refugees should be allowed by taking 5,000 refugee spots from next year's USRAP quota. Another detail to consider is that it is difficult for private sponsors to support a refugee that has significant health issues. The U.S. should design the program to ensure that private sponsors do not shoulder the burden of onerous medical costs.

- **Undertaking long-term studies of refugee performance and well-being.** To determine how best to help resettled refugees become truly self-sufficient and whether the program remains in the best interests of the United States and the refugees, the U.S. should track outcomes for privately sponsored and traditional refugees long after the programs end.

Helping Refugees and Strengthening Checks and Balances

As the U.S. continues to debate the U.S. Refugee Admissions Program, it is clear that a better decision-making balance must be reached. The executive branch should have some discretion in setting refugee admission levels, but the Congress must have a greater voice in the process. Rather than letting refugee levels ricochet from one edge to the other,

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1. Julie Hirschfeld Davis and Miriam Jordan, "White House Weighs Lowering Refugee Quota to Below 50,000," *The New York Times*, September 12, 2017, https://www.nytimes.com/2017/09/12/us/politics/trump-refugee-quota.html?_r=0 (accessed September 13, 2017).
 2. Olivia Enos, David Inserra, and Joshua Meservey, "The U.S. Refugee Admissions Program: A Roadmap for Reform," Heritage Foundation *Background* No. 3212, July 5, 2017, <http://www.heritage.org/immigration/report/the-us-refugee-admissions-program-roadmap-reform>.
 3. U.S. Department of Homeland Security, U.S. Citizen and Immigration Services, "INA: Act 207—Annual Admission of Refugees and Admission of Emergency Situation Refugees," Sec. 207, Codified at 8 U.S.C. 1157, <https://www.uscis.gov/ilink/docView/SLB/HTML/SLB/0-0-0-1/0-0-0-29/0-0-0-1625.html> (accessed September 19, 2017).
 4. Ibid.
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congressional approval should be required for large changes. Returning more authority to Congress is something on which limited-government conservatives and all Members of Congress can agree.

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