NIU professors: Gov’s role on refugees limited

Panel talks legal, political factors at play in Rauner’s call to suspend Syrian resettlement

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DEKALB — Despite his announcement last week to “temporarily suspend accepting new Syrian refugees,” Gov. Bruce Rauner has no constitutional authority to prohibit their resettlement in Illinois, a panel of Northern Illinois University College of Law professors said during a panel discussion Tuesday.

But the panelists also said Rauner could exert control over state agencies that work with the federal government to resettle these refugees. It’s unclear how much of a roadblock that creates, one professor said.

“My impression is [the federal government] relies on the states for help, and if the state doesn’t want to help, that’s a problem,” said Robert L. Jones. “This creates a vacuum if they refuse to offer that up voluntarily. You need to find a way around the services the state gives with the transition.”

Once the U.S. government grants refugees entry into the U.S. — regardless of their origin — there is nothing states can do to prevent them from moving or accessing benefits like welfare and in-state tuition, Jones said.

Doing so would infringe on the federal government’s role in foreign affairs and violate equal protection under the law, he added.

“In terms of pre-emption, once the government allows someone into the country, the individual states have to treat them the same as those who are lawfully here,” Jones said, before adding that discriminating between citizens and non-citizens is subject to “strict scrutiny” by the courts.

Associate professor Anita Ortiz Maddali held open the possibility that Congress could amend the Refugee Act of 1980 — which codifies how the federal government admits and resettles refugees — if pressured.

“I think that is the most concerning area,” Maddali said. “That’s something that could be changed.”

Jones, Maddali and Marc D. Falkoff, the acting associate dean of the college, spoke Tuesday as part of an event hosted by the American Constitution Society held on the DeKalb campus.

Maddali noted that NIU law students have previously volunteered with nonprofits like World Relief DuPage in Aurora that help refugees transition into life in this country.

The U.S. is set to admit at least 10,000 refugees from Syria during the current federal government fiscal year which started Oct. 1 and ends next Sept. 30.

But political scrutiny and criticism of allowing these refugees to enter the U.S. were heightened after it was reported that one of the suspects in the Nov. 13 terror attacks in Paris had entered the European Union as a Syrian refugee.

Rauner in his Nov. 16 statement said Illinois will “temporarily suspend accepting new Syrian refugees and consider all of our legal options.”

At least 30 other governors, mostly Republican, have expressed similar sentiments.

The panel of NIU professors were critical of the notion that admitting Syrian refugees into the U.S. would be a security risk.

“There’s all sorts of ways for someone who isn’t on the government’s radar to get here,” Jones said. “They don’t have to pose as a Syrian refugee.”

Falkoff, who has represented detainees at Guantanamo Bay, added that there are undeniable political undertones to the declarations from Rauner and other state governors.

“It’s not a coincidence that this attack on Syrian refugees fits right into this narrative of executive overreach with respect to immigration matters that the right wing has accused … President Obama of having exhibited,” Falkoff said. “You can’t deny — these governors might be arguing in good faith — you can’t deny the obvious political dimension of what’s going on.”

Maddali highlighted the strict scrutiny refugees undergo by both U.S. and U.N. agencies, and said that even if an individual meets the U.S. criteria for refugee status they can still be turned away if their background checks show criminal or terrorist activity.

The U.S. has announced it will admit 80,000 refugees in total during this fiscal year; although Maddali said this limit is not always reached. She noted that in 2003, the Bush administration set the limit at 50,000 refugees, but only admitted 25,000.