

# ARAB AMERICAN INSTITUTE BIGOTRY: COUNTERING XENOPHOBIA

## Background

Since 9/11, anti-Arab and anti-Muslim bigotry have remained a consistent phenomenon. But the 2016 election cycle brought a fresh wave of bigotry towards immigrants in the United States that we are still fighting. Since the election of President Donald Trump, we have been focusing on urgent measures to safeguard against the aggressive policies that discriminate against immigrants.

Many of the concerning immigration proposals are reflective of a fear-mongering and xenophobic approach to policy making disguised in a cloak of “national security interests.” When immigration policy is used as a tool to discriminate against immigrants based on their national origin, ethnicity, or religion, it is at odds with American values. The enforcement of immigration laws must be performed humanely, and must uphold due process and the equal protection of the law.

The United States has a proud tradition of welcoming refugees. In some of the worst humanitarian crises, the United States has opened its doors to some of the world’s most vulnerable populations. In Fiscal Year 2015, the United States admitted 69,933 refugees to be resettled. Unfortunately, the number of refugees resettled in the United States for Fiscal Year 2018 are set to drop, with a proposed ceiling of 45,000.<sup>1</sup>

From the revocation of temporary protected status (TPS) for thousands of at-risk immigrants, to the uncertain future of DACA, the adoption of highly discriminatory practices like Visa Lifecycle Vetting, and the near elimination of programs such as diversity and family unification visas, there are many opportunities for communities to push back on xenophobic policies in support of a compassionate approach to immigration policy, rhetoric, and enforcement that are in line with American ideals.

## The Problem

### *Anti-Refugee Backlash*

Following the tragic terrorist attacks in Paris, France and San Bernardino, California, many public officials, including 2016 presidential candidates, exploited the climate of fear and uncertainty, and several members of Congress introduced legislation that would, in effect, end the United States’ proud tradition of opening our doors to refugees. This included governors from a majority of the states who, despite not having legal authority to do so, said their states would prohibit the resettlement of refugees.

Despite the robust vetting process for refugees entering the United States, some legislation introduced in the aftermath of the Paris attacks implied the current process is inadequate. One such bill was H.R.4038, the American Security Against Foreign Enemies (SAFE) Act. This bill, introduced by Rep. Michael McCaul (R, TX-10) and Rep. Richard Hudson (R, NC-8), would effectively halt the admittance of refugees to the United States.

According to one of the SAFE Act’s sponsors, Rep. McCaul, Syrian and Iraqi refugees should be viewed as national security liabilities because, he argued, they could take advantage of the United States refugee admissions program, thereby creating a “federally funded jihadi pipeline.” This harmful rhetoric conflates a dire humanitarian crisis with a national security concern.

Although H.R.4038 successfully passed through the House, it failed to get through the Senate. A similar bill, H.R.158, the Visa Waiver Program and Terrorist Travel Prevention Act, saw a bit more success.

H.R.158, introduced by Rep. Candice Miller (R, MI-10), enacted discriminatory changes to the country's Visa Waiver Program. It stated that individuals who are dual-nationals of, or who have recently traveled to Iraq, Syria, Iran, or Sudan, may not travel to the United States through the VWP. Due to the reciprocal nature of the Visa Waiver Program, these restrictions invite the possibility for partner nations to institute similar restrictions on Americans seeking to travel abroad. This legislation passed the House and was later adopted as part of a must-pass omnibus-spending package approved at the end of 2015. Although President Obama signed the bill into law, the administration implemented new rules that provided exceptions for people who have visited Iran, Iraq, Syria, and Sudan for business, government, humanitarian, or journalistic reasons, ultimately undermining the power of H.R.158.

The Asylum Reform and Border Protection Act (H.R. 391) is another iteration of xenophobia with real impact on children and persons seeking safety. The resolution, introduced by Rep. Jason Chaffetz, raises the expedited removal screening standard to an unduly high level in direct contradiction to our international human rights obligations to provide a safe haven to those whom are subject to persecution; subjects asylum seekers who have passed the credible fear screening process to indefinite detention; and denies asylum to large numbers of refugees not based on the merits of their refugee status, but based on transient stays in countries where they have no permanent legal status.

These discriminatory changes have been used by the Trump Administration to justify the blanket discrimination and state-sanctioned bigotry they have advanced in multiple Executive Orders seeking to limit immigration and refugee resettlement. In addition to suspending the entry of individuals from seven Arab and Muslim-majority countries, the order indefinitely suspended the entry of Syrian refugees to the United States, suspended the resettlement of refugees for 120 days, and lowered the number of refugees to be admitted to the United States in 2017 from 110,000 to 50,000. The Supreme Court ultimately allowed enforcement of the temporary refugee ban<sup>2</sup>, and will hear arguments on the travel ban in April 2018.

### *Immigration Protections*

In September of 2017, President Trump moved to end the Deferred Action for Childhood Arrivals (DACA) program which protected young undocumented immigrants who came to the United States as children from deportation, within six months. The President's original March 5<sup>th</sup> 2018 deadline for the end of DACA has been blocked by federal courts. Thus far, Congress has failed to create a bi-partisan bill to address this issue. As the future of this program is uncertain, many DACA recipients whose permits are about to expire are reluctant to come forward for renewal because they fear future deportation.

Also facing an uncertain future are immigrants protected by Temporary Protected Status (TPS), a humanitarian program whose guiding principle is that the United States should suspend deportations to countries that are war torn, stricken by natural disaster or otherwise unstable. Currently, there are ten countries in the program, including Somalia, Sudan, Syria, and Yemen. As of January of 2018, President Trump has revoked TPS for El Salvadorans, Haitians, Nicaraguans, and Sudanese, an approximate total of 250,000 people.

### *Expanding Jurisdiction of Immigration and Customs Enforcement*

Recently, Immigration and Customs Enforcement (ICE) has become increasingly aggressive in their attempts to detain and deport immigrants living in the country illegally. There have

been several examples of US Customs and Border Protection (CBP) agents boarding trains and buses and detaining individuals without proper documentation, and then turning them in to Immigration and Customs Enforcement. Reports have also surfaced of inhumane conditions at ICE detention centers, citing possible misuse of solitary confinement, mistreatment of detainees, delayed medical care, and problems with facility conditions.

Additionally, ICE has furthered the Visa Lifecycle Vetting program, requiring that every traveler to the United States must fit the criteria of being a “positively contributing member of society,” and must “make contributions to the national interest.” With Visa Lifecycle Vetting, ICE has the capabilities to continuously monitor blogs, public hearings, social media websites and a host of other online sources in order to vet visa applicants based on these broad criteria. Under a vague mandate, ICE will be able to exclude or deport whomever it wants.

Another concerning ICE initiative is the 287(g) program, named for Section 287(g) of the Immigration and Nationality Act (INA). Under Section 287(g), the Department of Homeland Security is authorized to deputize selected state and local law enforcement officers to perform duties of federal immigration agents. 287(g) agreements have resulted in widespread racial profiling and lack uniformity. In some cases, this program has been used as a tool for communities pursuing an anti-immigrant agenda, resulting in a “crackdown” on immigration. Reports have also found that ICE does not provide sufficient oversight or direction for 287(g) arrangements, allowing police to overstep their parameters or fail to comply with stipulations of the agreement. The 287(g) program is yet another example of the expanding jurisdiction of ICE left unchecked.

#### *Welcoming Communities*

Cities across the United States have taken efforts to welcome immigrants and refugees into their communities; these cities are primarily categorized as “sanctuary cities” and “welcoming cities.” While the two sound similar, it’s important to note that each take slightly different approaches in how they welcome immigrants and refugees.

“Welcoming cities” adopt inclusive policies across the public, private, and non-profit sectors to create a more welcoming environment for everyone, including immigrants and refugees. They usually deploy policies and resources that seek to capitalize on its diversity. Such policies may include long-term immigrant integration in a way that speaks to and benefits all members of the community.

“Sanctuary cities” have no official legal definition, but are generally cities that decline to have a role in the enforcement of federal immigration laws. For example, a sanctuary city may refuse to share the immigration status or citizenship of its residents with federal immigration authorities. Sanctuary city policies are intended to protect the Fourth Amendment rights of its residents while advancing public safety by promoting a healthy relationship free of fear between local law enforcement and the community it serves.

In March 2017, Attorney General Jeff Sessions took the first steps in fulfilling President Trump’s campaign promise to “defund sanctuary cities”. A year later, the Department of Justice [sued California](#) regarding state laws which the Administration claims prevent federal immigration officials from deporting immigrants. Similarly, many localities across the country have refused to allow state and local officials, jails, and facilities to be used to execute Trump’s broad assault on immigrant rights. Notably, the Tenth Amendment of the U.S. Constitution stipulates the federal government cannot coerce state and local governments to implement the President’s policies. So far, a federal court has blocked President Trump’s executive order halting certain federal funds for sanctuary cities, deeming it unconstitutional.

While the term “sanctuary city” has become politically charged in recent months, the fact is these cities are home to large and vibrant immigrant communities that allow immigrants to build their lives and community while advancing public safety because they are free to speak without fear.

### **Moving Forward**

- Community members should work with State Attorneys to advocate for legal action against the Executive Orders, and to provide information on individuals directly impacted.
- Members of Congress should denounce discriminatory and inhumane changes to immigration policy that disrupt the tradition of America as a nation of immigrants.
- Urge the Office of Refugee Resettlement to consider the local community atmosphere where refugees will be placed to ensure newly arrived refugees have available resources and a welcoming atmosphere.
- Support an increase in Section 8 housing vouchers provided by HUD, and implement anti-discrimination laws to ensure refugees can use their vouchers to access safe and affordable housing.
- Urge Members of Congress to denounce and oppose legislative efforts like H.R. 391 that will send refugees and children back to the hands of their persecutors. Members of Congress should co-sponsor and support current legislative efforts to welcome and protect all communities such as the Access to Counsel Act, Protect American Families Act, No Religious Registry Act, and Build Bridges Not Walls Act.

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<sup>1</sup> State.gov (April 25, 2018), <https://www.state.gov/documents/organization/274857.pdf>.

<sup>2</sup> *US Supreme Court allows Trump's broad refugee ban* (April 25, 2018), <https://www.aljazeera.com/news/2017/09/supreme-court-trump-broad-refugee-ban-170913002508258.html>.