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"E PLURIBUS UNUM ~ Out of many, one." That's what makes "us," the USA."

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[10 articles](#)

84

13

1

0

By Ulysses N. Jaen

President Trump's views of immigration law and the world remain distorted or are only seen as political tools to manipulate public discourse. His revised [Executive Order](#) (EO) 2.0, and recently blocked [anti-sanctuary EO](#) are wrong again, technically because the former incorrectly relies on the unrevised 1952 version of the INA, and because its application fails to meet the standard set in [Klinedienst v. Mandel](#), that allowed the Executive to use its waiver power, but only so long as it is

Messaging

latter faces anti-commandeering and anti-coercion doctrines amendment arguments and concerns. Today, NY's Attorney General T. Schneiderman released a joint [report](#) "debunking the Trump Administration's bogus legal and public safety claims against towns that choose to limit their participation in the most aggressive of federal immigration enforcement."

Mr. Trump affirms that he still has the power to restrict place of birth visas, pointing to [a 1952 law](#) that allowed the president the ability to "suspend the entry" of "any class of aliens" that he found detrimental to the interest of the United States. However, Congress restricted this power in 1965, [stating](#) unequivocally that no person could be "discriminated against in the issuance of an immigrant visa because of the person's race, sex, nationality, place of birth or place of residence." The only [exceptions](#) are those provided for by Congress (such as the Cuban Adjustment Act).

Notably, the administration's neglect for subsequent legislation prohibiting discrimination based on National Origin and in-your-face disregard of anti-religion discrimination jurisprudence is legally unsettling. Surely, the administration is familiarized with the need for [updating](#) their legal research and not relying on "old law?" The 4th & 9th Circuit Courts of Appeals have heard strong arguments detailing how the EO violates the establishment clause of the First Amendment as well as anti-discrimination provisions of the Immigration and Nationality Act of 1965 that expressly bans discrimination on the basis of national origin and race when issuing immigrant visas. Prior to 1965, the demographic composition of legal immigrants was artificially manipulated to favor and encourage Anglo-Saxons immigrants and to restrict and discourage all others.

The Immigration and Nationality Act of 1965 [banned](#) all discrimination against immigrants on the basis of national origin, replacing the old prejudicial quota system. President Lyndon B. Johnson signed the Act and [said](#) that "the harsh injustice" of the national-origins quota system had been "abolished."

(A) "Except as specifically provided in paragraph (2) and sections [1101\(a\)\(27\)](#), [1151\(b\)\(2\)\(A\)\(i\)](#), and [1153](#) of this title, no person shall receive any preference or priority or be disadvantaged in the issuance of an immigrant visa because of race, sex, nationality, place of birth, or place of residence."

The administration barely tries to hide its intentions by eliminating provisions whereas refugees in minority religious groups would have been prioritized for acceptance. It is shocking to learn how the administration warns, advises or threatens the judiciary for not acting like dummies living in a vacuum and not going along ignoring all the evidence of its true discriminatory intents. The deletion of the preference for Christians is a weak departure from the Muslim ban promise in an attempt to avoid religious discrimination arguments. "It's based on places where there are substantial evidence that people are sending terrorists into our country," Ex-Mayor Giuliani said, contradicting the facts. Opponents insist in utilizing the totality of the record including culpatory evidence of religious intentions when enacting the ban. [Rudy Giuliani's testimony about being approached to design an explicit Muslim ban](#) will play a role as well as multiple transcripts and documentation. In reality, minority religions are being favored anyhow. From fiscal years 2002 to 2016, the U.S. admitted 399,677 Christian refugees and 279,339 Muslim refugees, meaning that 46% of all refugees who have entered the U.S. during this time have been Christian while 32% have been Muslim. [\[1\]](#) Somehow, we manage to get more Christian refugees out of vastly predominant Muslim countries.

The public policy argument for imposing travel restrictions temporarily is to revise the already vigorous [vetting procedures](#) for refugees now in place in order to safeguard us from immediate danger. One of the problems with this concept is that the countries banned are not the ones who have attacked the USA. News [reports](#) and even an internal Dep't of Homeland Sec.'s [DHS report](#) explained that people from the six countries below have not been involved with any of the major U.S. terrorist attacks

legitimate and bona fide reason for President Trump to have countries in his ban.

The White House's revised EO bars immigrants from six Middle Eastern countries for 90 days who are without current visas. Excluding Permanent Residents and current visa holders is supposed to address process concerns. Iran, Libya, Somalia, Sudan, Syria, and Yemen are accused of posing a heightened threat of terrorism. Excluding a "special case" that merits exception as current combat zone from original EO is another accommodation made by the administration to appease opponents of the ban based on US troop security.

The urgency of the request stated in the prior EO was notably restrained this time by a ten (10) day period, for rollout implementation and to avoid further chaos. If adopted, 65,000 non-immigrant temporary visas would be affected. 31,258 (2015) regional legal permanent residents and derivatives will now be denied. [Refugee numbers](#) will be reduced from 110,000 to only 50,000 per year with close to 30,000 already admitted in 2017.

Even then, the results of the travel ban should remain statistically insignificant for US immigrant numbers; however, the results on the refugee number cap will be devastating and likely fatal for many victims. Countries targeted in Mr. Trump's EO accounted for only a small portion of total visas issued in 2015, with no country accounting for more than 7% of visas granted in the Middle East, North Africa or Sub Saharan Africa. Interestingly, the country with the largest percentage of visas issued in the region was Iran, which the U.S. designated a state sponsor of terrorism in 1984 during Reagan. Foreign-born terrorism on U.S. soil is a low-probability event that imposes high costs on its victims despite relatively small risks and low costs on Americans as a whole. [2]

Even if national origin travel could be legally excluded, it would still not remedy the issue of terrorism. The administration stubbornly rejects professional advice like the brief [DHS report](#) that explains that "country

activity.” The Homeland Security report found that in the past, 82 foreign-born people in the United States who were “inspired” to participate in terrorist acts came from 26 different countries.

In all, analysts found 82 individuals who were “primarily” born in the U.S. who had either died trying to engage in terrorism or were on charges. Of those, “slightly more than half” were native born citizens, the report found. The top origins countries for foreign individuals who engaged in terrorism in the United States are Pakistan, Somalia, Bangladesh, Cuba, Ethiopia, Iraq and Uzbekistan and they are all, except for Somalia, noticeably absent in the Trump Executive Order.

A controversial, unsubstantiated statement cited by AG Sessions and other officials supporting the revised travel ban alleged that *“more than 300 persons who entered the United States as refugees are currently the subjects of counterterrorism investigations by the Federal Bureau of Investigation.”* — The source of this information is not shared by the administration and [questions](#) of its value and validity inevitably emerged and went unanswered.

Another significant change in the revised ban is that Syrians are not excluded indefinitely. This is a clever legal maneuver to counter argue against national origin discrimination claims under the [US Code](#). A temporary bar may be less discriminatory if applied equally, but this issue has not been clarified by the courts. However, several groups, [including the ACLU](#), have already said they would challenge the new order in court. The current administration seems focused on correcting legal technicalities to enforce its executive orders instead of seeking to correct its course. The revision seeks to reduce the ability of plaintiffs to present a case before the courts, asserting **standing** based on damages received as a result of the EO. As Texas argued when obtaining the injunction against President Obama’s DAPA program, *Massachusetts v. EPA* gave states what is known as “special solicitude” when it comes to standing inquiry. State citizens and residents including all other entities impacted by the EO should be able to fulfill the requirement when represented by their states.

controversies has been interpreted to require a plaintiff to show the following three elements: (1) injury in-fact; (2) causation; and (3) redressability. *Lujan v. Defenders of Wildlife*, 504 U.S. 555 (1992).

In the Washington case over the original EO, other states and colleges and universities joined in, asserting standing as a result of injuries caused by the previous travel ban. Many industries and specializations depend on immigrant contributions. A little known fact is that many university laboratories, massive research projects, and even typical medical care providers rely on immigrants from all over the world. According to the American Association of Medical Colleges, the United States graduates about 18,000 medical students per year, but there are 30,000 residency spots in the country leaving a shortfall of 12,000 residents, who come from abroad and mainly do so at positions and in geographic areas U.S. graduates don't want to go to. These 12,000 doctors invited into the country are not getting residencies in the most rewarding or glamorous fields. [They are in primary care specialties](#) like family medicine, internal medicine, and psychiatry serving American citizens when they need it most.

Other fields of study experience the same shortfall of interested and competent US professionals. According to [Science and Engineering Indicators](#), which regularly report to Congress, about 50% of our 23,000 post-doctoral scientists in this country are foreign born, most working here on visas. Numerous other [studies](#) indicate the [need](#) for immigrant workers for our economic growth, and sustaining US aging demographics. The National Association of Business Economics (NABE) surveyed 285 economists at America's companies Wells Fargo ([WFC](#)), AT&T ([T](#), [Tech30](#)) and FedEx ([FDX](#)) shortly after President Trump took office.

The economists' response was clear: "They disagree with Trump on immigration, NAFTA and national debt reduction. These business experts favor "relaxed immigration policies" to boost the economy. Nearly half

Trump should make any changes to immigration policy. In a survey of 216 leading business economists don't think the U.S. needs to change on the number of people coming into America." [3]

University presidents and many Americans also believe that immigrant sentiment goes against deeply cherished American values. "The Executive Order... appeared to me a stunning violation of the deepest American values, the values of a nation of immigrants: equality, openness, generosity, courage," says MIT President L. Rafael Reif.

Immigration control measures are not new, but have improved significantly over the years. In 1924, the Johnson-Reed Act passed, limiting yearly immigration from a country to 2 percent of the total number of foreign-born citizens who were already in the United States. This Act effectively favored northern European immigrants who had arrived before the 1890 census and reduced southern Europeans who wanted to follow, after the census, but were not allowed. According to [History Matters](#), The quota Acts of 1921 and 1924 (Johnson Reed Act) imposed a total quota of 165,000. That figure would be distributed as percentages based on nationality recorded in the 1890 census.

It completely banned immigration from Asia, and severely curtailed immigration from Arab and African nations. It also reduced less desirable Southern Europeans like Italian immigrants from 200,000 before 1924 to less than 4000. Alarmingly, the current Attorney General, Jeff Sessions has [praised](#) The 1924 Immigration Act, highlighting the current administration's misdirected restrictionist policy views, on immigration. Many are offended by this overt desire to return to manipulating visas in order to modify racial composition. "Attorney General Sessions was one of the most, if not the most, anti-immigrant senator in the U.S. Senate," Farhana Khera, director of the civil-rights group Muslim Advocates, [told The Atlantic](#). "He has a long record of demonizing non-white immigrants, especially Muslim and Latino immigrants."

increase in the persecution of individuals who are not included in the Priority Enforcement Program or the 287(g) Program. US News reports that "[t]he acting director of Immigration and Customs Enforcement (ICE) Thomas Homan said that arrests by his agency jumped 50% between January 22 of this year and the end of April, up from 1,000 arrests in roughly the same period last year." Many state legislatures are taking the opportunity to enact draconian anti-immigrant laws under the umbrella set by the current political climate. In addition, the Trump administration has continued Obama pressure and has successfully strong-armed from 20 to 12 countries that refused to accept removed detainees from the US. The immigration courts are so severely backlogged that many individuals won't even have their first hearing until the end of President Trump's first four years in office. Many churches, civil rights groups, charitable organizations, universities and local officials are taking a defensive stand against sanctuary city persecutions.

The strategic placement of Trump appointees in charge of our government agencies is the most worrisome part. DHS announced that Julie Kirchner, former executive director of the Federation for American Immigration Reform, a group that supports a crackdown on immigration, and is listed as a hate-crime organization by the SPLC, would become the ombudsman for U.S. Citizenship and Immigration Services. Now, even anti-immigrant sheriff David Clark is also joining DHS. These are some of the things

enforcement policies. The same is true in our other institutions that protect education, housing, the environment and more.

Along the same lines, the revised Executive Order continues anti-immigrant bashing by requiring the government to [compensate](#) occurrences of “honor killings” by immigrants, giving official credence to an inflammatory and misleading version of Islam that is popular among anti-Muslim and anti-immigrant hate groups. The administration created a new program called [VOICE](#) — Victims Of Immigration Crime Engagement. The funding for Voice is being taken from educational and informational assistance for new immigrants to assimilate sooner. This anti-immigrant [rhetoric](#) is having an increasing effect on increased hate crime against immigrants in this country. However, the nature of what is listed as immigrant “crime” and the numbers of “criminals” listed is misleading. “It’s got to be that driving without a license is the overwhelming majority of these,” said John Sandweg, former acting director of ICE from 2013 to 2014. “They’re in states where they can’t drive, and they feel they have to drive to get to work or take their kids to school ... It would be a totally different narrative if 1,900 people went out and committed murders.”

According to a 2014 report highlighted by [Politico](#), the top offenses committed after individuals were released were dangerous drugs (10 percent, though there is no definition of what qualifies as “dangerous”), driving under the influence of liquor (7 percent) and a traffic offense (6 percent), followed by a stolen vehicle (5 percent) and arson (5 percent).

"According to [a study by the American Immigration Council](#), or AIC, a non-partisan Washington, D.C., think tank, U.S. Census data show that only 1.6 percent of immigrant males — both legal and illegally in the country — between the ages of 18 and 39 are incarcerated in U.S. prisons, compared to 3.3 percent of the native-born." The reality is that thousands of immigrants including Muslim Americans are great citizens and pay close to 12 billion in taxes.

They also serve in the armed forces and have given their lives for our nation's values and ideals. Immigrants contribute to the strength of our country. Diversity has always been our nation's pride and strength as expressed in our national motto. President George W. Bush paid **tribute** to this spirit of unity after the Sept. 11 attacks when he said, "There are thousands of Americans who proudly call themselves Americans, and they know what I know — that the Muslim faith is based upon peace and love and compassion."

As marked contrast, another one of the Trump administration's stated goals is to keep refugees away even in so-called "safety zones," resembling war ghettos. The accompanying memo to the EO states that "[w]hile that comprehensive review is ongoing, however, this Nation cannot delay the immediate implementation of additional heightened screening and [vetting protocols and procedures](#) for issuing visas to ensure that we strengthen the safety and security of our country." How the heightened procedures will be implemented is yet to be defined by the agencies. The directive found in the memorandum published in conjunction with the Executive Order seeks to find alternative methods for refugee management.

MEMORANDUM FOR THE SECRETARY OF STATE- THE
ATTORNEY GENERAL- THE SECRETARY OF HOMELAND
SECURITY (c)

“The Secretary of State, in consultation with the Director of the Office of Management and Budget, shall, within 180 days of the date of this memorandum, produce a report estimating how many refugees are being supported in countries of first asylum (near their home countries) for the same long-term cost as supporting refugees in the United States, taking into account the full lifetime cost of Federal, State, and local benefits, and the comparable cost of providing similar benefits elsewhere.”

other countries than to let them come to the United States. So President Trump chooses to ignore the principles and obligations in the [1951 Refugee Convention](#), the [Convention Against Torture](#), the [Universal Declaration of Human Rights](#), etc. Unfortunately, refugee actions are sure to follow after the SOS produces its

In summary, President Trump's revised Executive Order seems to be an effort to legalize an initiative based on flawed reasoning that is keeping us safe. We see the same flawed course of Executive action being taken against sanctuary cities despite sound [legal arguments](#). The average American citizen [disagrees](#) and wants comprehensive immigration reform instead. Excluding people fleeing oppression and violence is not the answer, eliminating or reducing that oppression and violence makes much more sense.

The new Executive Order fails to adjust legally enough to not face furious litigation and the administration's priorities do not reflect our values, nor contribute to alleviate our pressing needs. President Trump asserted in his congressional address that he represents the USA, and not the world. President Trump fails to understand that the USA is the world represented in one immigrant nation. We are an immigrant nation just like his own ancestors and that is what makes us special. Every person has a gift and a purpose if given the opportunities. We all have a history, a present and a future closely intertwined with the rest of the world. Many critics suspect that blaming immigrants is only a tool to keep people distracted and confused while monumentally bigger problems are not being addressed. We hope that the current polarization of society will stop fueling anti-American contempt abroad.

We reportedly have the [lowest unemployment rate](#) and if they seriously want to improve the economy, we are going to need workers. It's time that this government starts focusing on peace and prosperity. Start creating jobs, fixing the failing infrastructure, improving healthcare and education, and doing what you are meant to do, instead of alienating the world with these flawed, and dangerously negative Executive Orders.

[1] <http://www.pewresearch.org/fact-tank/2017/01/30/key-facts-about-refugees-to-the-u-s/>

[2] Mueller and Stewart, "Evaluating Counterterrorism Spending: A Review of the Literature," *Journal of Law, Economics, & Organization*, Vol. 23, No. 2, 2007, pp. 239-40

[3] <http://money.cnn.com/2017/03/06/news/economy/donald-trump-immigration/>

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