



Hindu American Foundation Immigration Reform Priorities 2018

The Hindu American Foundation (HAF) is a non-profit advocacy organization for the Hindu American community. Founded in 2003, HAF's work impacts a range of issues -- from the portrayal of Hinduism in K-12 textbooks to civil and human rights to addressing contemporary problems, such as environmental protection and inter-religious conflict, by applying Hindu philosophy.

The Foundation educates the public about Hinduism, speaks out about issues affecting Hindus worldwide, and builds bridges with institutions and individuals whose work aligns with HAF's objectives. HAF three areas of focus are education, policy, and community. Through its advocacy efforts, HAF promotes dignity, mutual respect, and pluralism in order to ensure the well-being of Hindus and for all people and the planet to thrive.

The Hindu American Foundation is not affiliated with any religious or political organizations or entities. HAF seeks to serve Hindu Americans across all sampradayas (Hindu religious traditions) regardless of race, color, national origin, citizenship, caste, gender, sexual orientation, age and/or disability.

Background

Hindu Americans, estimated at slightly over 3 million, represent diverse ethnic backgrounds, including but not limited to individuals of Indian, Pakistani, Bangladeshi, Malaysian, Indonesian, Afghani, Nepali, Bhutanese, Sri Lankan, Fijian, Caribbean, and European descent. The majority of Hindus, however are of Indian ethnic origin and are largely an immigrant community. It was only after the lifting of the Asian Exclusion Act of 1924 in 1943 and the abolishment of quotas for immigrants based on national origin in 1965 that Hindus came to the United States in increasing numbers.

Most Hindus have come to the U.S. as students or family members in search of unification and better economic opportunities. And there are others who have arrived in this country after facing religious persecution in their country of origin, such as Afghanistan, Bangladesh, Pakistan, Sri Lanka, and Bhutan. In the last few years, for example, more than 90,000 mostly Hindu Bhutanese have been resettled across the country after being forcibly evicted from Bhutan in the 1990s and living in refugee camps in Nepal for nearly 20 years. There are also those who are undocumented.

Immigration is thus an issue of great concern to the Hindu American community and will continue to be so into the near future. In addition, the history and the very ethos of this nation are built upon immigration -- America is great because it is a nation of immigrants. The Foundation, therefore, firmly believes in the importance of immigration reform that is humane, practical, and in the nation's best interests.

This brief puts forth general policy recommendations that should be adopted in any comprehensive immigration reform bill or as part of individual bills or proposals that are enacted into law. While comprehensive immigration reform should be the ultimate goal, we believe that it is still important to support individual measures to address various aspects of our immigration system. Moreover, a

comprehensive immigration reform bill may not address all of the concerns of the Hindu American community.

Accordingly, the following seeks to present a Hindu American perspective on immigration reform, with a particular focus on those specific immigration priorities that are of paramount importance to the Hindu American community.

DACA/Dreamers

According to the US Citizenship and Immigration Services (USCIS), there were approximately 800,000 undocumented individuals living in the U.S., who were provided legal protections from deportation under the Deferred Action for Childhood Arrivals (DACA) program after they were brought to the US by their parents as children. Currently, USCIS estimates that there are 689,800 people who had DACA status as of September 4, 2017, including thousands of Indian, South Asian, and diaspora Hindus. Approximately 70,000 of those that were registered under DACA had their renewals rejected or didn't renew, while 40,000 became lawful permanent residents.¹

After the Trump Administration announced plans to end the program, which was created by executive order under the Obama Administration in 2012, it's been at the center of current immigration reform negotiations in Congress. A temporary Supreme Court decision on February 26, 2018 has ensured that the program will stay in effect until at least October 2018.²

The Foundation believes that any attempt to terminate the program would be unnecessarily punitive, as it would penalize individuals that came here as children through no fault of their own, and have grown up, studied, and worked here. A congressionally mandated pathway to legal status and eventual citizenship for previously undocumented children, who were extensively vetted when registered under the DACA program, is the only long term solution.

Border Security/Enforcement

Border security and the enforcement of immigration laws are important components of our immigration system and necessary to the sovereignty of our nation. Policies that strengthen our northern and southern borders, enhance our safety, and enforce the rule of law, however, should also be efficient, cost-effective, and humane.

As some border security experts have recommended, the greater use of smart technologies, such as surveillance cameras and high-tech laser systems would be far more effective, less expensive, and not as inflammatory as current proposals focused almost entirely on the creation of a 2,026-mile physical border wall.³

¹ Robertson, Lori, "DACA Population Numbers," January 12, 2018, FactCheck.org, <https://www.factcheck.org/2018/01/daca-population-numbers/>

² Gomez, Alan, "What the Supreme Court ruling means for DACA and almost 700,000 undocumented immigrants," (February 26, 2018), USA Today, <https://www.usatoday.com/story/news/politics/2018/02/26/what-supreme-court-ruling-means-daca-and-almost-700-000-undocumented-immigrants/372704002/>.

³ Balido, Nelson, "Merit-based migration and border security are key to fixing immigration crisis, February 13, 2018, The Hill, <http://thehill.com/opinion/immigration/373646-merit-based-migration-and-border-security-are-key-to-fixing-immigration>

Moreover, current immigration laws should be enforced by better monitoring of undocumented residents, including those who have overstayed their visas, which accounts for 40% of all undocumented residents.⁴

At the same time, it is critical that U.S. Customs and Border agents and officials respect the sanctity of places of worship, including temples, and other sensitive locations such as schools and hospitals, when conducting enforcement operations. Raids at these locations should be carried out only under exigent circumstances or when prior approval has been obtained.⁵

Family Unification

The family unit, including both immediate and extended relatives, is a cornerstone of Hindu and American society. Family members provide social, spiritual, emotional, and financial support to one another, and help new immigrants integrate into American society. According to the American Immigration Council, for instance, extended immigrant families "ease the economic assimilation of new immigrants and promote investment in U.S. human capital as well as the formation of businesses."⁶

The Council specifically notes that, "ethnic communities and families operate as sources of critical resources for newcomers, including opportunities for employment, access to credit, and different kinds of support. In other words, when newcomers arrive on a family-based visa, they have resources readily available to help them navigate the system and become employed or start their own businesses."⁷

As a result, Hindu Americans have relied heavily on the family-based visa system to bring their loved ones to the U.S. and keep their families together.

Overall, family-based immigration accounts for approximately two-thirds of legal immigration to the country.⁸ Unfortunately, the current family-based visa system is severely outdated and inefficient, resulting in the separation of countless families. There is a significant backlog of family-visa petitions pending with USCIS, long wait times, and a shortage of available visas, leaving many families separated for protracted periods of time. As of November 1, 2017, for example, there were 3.95 million people that were approved to immigrate to the US on family based petitions, but unable to join their family members in the US due to a shortage of available visas.⁹

While Hindu Americans have been intimately affected by this broken system, many other communities have similarly been impacted. It is therefore necessary to implement meaningful reforms in order to streamline and improve the family immigration process.

In addition to existing inadequacies, current legislative proposals may further weaken the family-based immigration system by seeking to limit family visas to only spouses and minor children. This would

⁴ <http://thehill.com/opinion/immigration/373646-merit-based-migration-and-border-security-are-key-to-fixing-immigration>

⁵ These conditions were recommended in amendments to S. 744, the comprehensive immigration bill from 2013, <https://www.congress.gov/bill/113th-congress/senate-bill/744/amendments>.

⁶ "The Advantages of Family Based Immigration," March 14, 2013, American Immigration Council, <https://www.americanimmigrationcouncil.org/research/advantages-family-based-immigration>.

⁷ *Id.*

⁸ Kandel, William, "U.S. Family-Based Immigration Policy," February 9, 2018, Congressional Research Service, <https://fas.org/sgp/crs/homesecc/R43145.pdf>.

⁹ *Id.*

effectively prevent US citizens and lawful permanent residents from petitioning for their siblings, adult children, and parents to immigrate to this country. This will have far-reaching consequences for Hindu Americans and many other communities, which have frequently utilized family preference categories to bring family members to the U.S. Consequently, we oppose any proposals or legislation that would impose such limitations on our family-based immigration system.

We believe that the following recommendations are necessary to strengthen and unite families:

- Protect all of the current family preference categories beyond just spouses and minor children, allowing U.S. citizens and lawful permanent residents to continue petitioning for their siblings, adult children (married and unmarried), and parents to immigrate to the country.
- Reduce the current family visa backlogs and long wait time for family-based visas, and recapture unused visas.
- Ensure that spouses and children of citizens or lawful permanent residents are not separated for long periods of time. Specifically, reduce wait times for spouse of citizens and allow the spouses and children of lawful permanent residents to immigrate immediately and be reclassified as immediate relatives.
- Reduce the long wait time for a nonimmigrant fiance K-1 visa, allowing a U.S. citizen to bring his/her foreign fiance(e) to the U.S. as soon as possible in order to marry him/her.
- Increase family-based country limits from seven to fifteen percent of total admissions.
- Ensure that the V visa remains in place, enabling families with approved petitions to work and live in the U.S. while waiting for their green card.

Employment Based Immigration

Along with family-preference immigrant visas, employment visas constitute another pillar of our immigration system. Starting in the 1960s, high-skilled workers from several countries began immigrating to the U.S. in sizeable numbers. Many of these immigrants are from India and are primarily of Hindu heritage. In the 1990s, for instance, an estimated 30,000 Hindus immigrated to the U.S. each year, while approximately 70,000 Hindus were admitted in 2012 alone, according to a Pew Forum study.¹⁰

Similar to the family-based system, however, substantial reforms are necessary to streamline the employment immigration process and remove bureaucratic obstacles. In particular, arbitrary and discriminatory limitations on the number of green cards allocated to immigrants based on their country of origin have created immense backlogs of green card applicants on H1B visas.

Immigrants, along with their spouses and children, from countries such as India have been disproportionately impacted by these discriminatory rules. Only 7% of all employment-based green cards are available to Indian immigrants, despite them accounting for 70% of H1B visas.¹¹

¹⁰ "More Hindus Migrating to U.S. than Ever: Study," May 18, 2013, The Economic Times, <http://m.economictimes.com/news/nri/visa-and-immigration/more-hindus-migrating-to-the-us-than-everstudy/articleshow/20111086.cms>.

¹¹ "Yoder and Gabbard's Bipartisan Push Stops Proposal to Deport H-1B Visa Holders Seeking Permanent Residency," January 9, 2018, <https://yoder.house.gov/media-center/press-releases/yoder-and-gabbard-s-bipartisan-push-stops-proposal-to-deport-h-1b-visa>.

These immigrants are engineers, doctors, nurses, and educators, and have spurred innovation and made tremendous contributions to the American economy and the broader society.¹²

- \$220 billion in contributions to the US GDP in the past 10 years
- \$72 billion paid in taxes in the past 10 years
- \$50 billion in investments such as stocks and 401k plans
- \$45 billion invested in real estate
- 44% of startups had at least one immigrant co-founder
- 24% of patents awarded to high skilled immigrants

In addition, the National Foundation for American Policy (NFAP) asserts that companies founded by immigrants are worth an estimated \$168 billion and have generated thousands of U.S. jobs.¹³ Thus, employment visas have supported job creation, innovation, and the continued vitality of the American economy. They have also helped fill a shortage of high-skilled workers in the information technology sector.

Despite these benefits, due to the current per country numerical limitations for employment-based immigrants:¹⁴

- 300,000+ applicants must wait for 25 years or more to obtain a green card
- 40,000 children on H4 dependent visas are at risk of “aging-out” and losing their legal status
- 150,000 children who are US born citizens may have to leave the only country they know
- The US is at risk of losing high skilled immigrants or attracting new talented workers

Moreover, an estimated 500,000 to 750,000 Indian H-1B visa holders were at risk of being deported, after the Administration announced plans in early 2018 to deny extensions of H-1B visas to green card applicants. Although the Administration eventually reversed course and USCIS clarified that it would allow H-1B visa holders to continue to apply for visa extensions while awaiting their green cards, it exposed the uncertainty surrounding the program and the risk of uprooting US citizen children.

Policies are thus necessary to bring greater certainty and streamline our employment-based immigration system; make it more equitable and fair; prevent the disruption of families; continue spurring innovation and economic investment; and attract high skilled talent in order to allow us to retain our global competitive advantage.

Accordingly, the Foundation supports the following measures:

- Clear the green card backlog for immigrants on H1B visas and their families, and eliminate arbitrary country caps for employment visas based on country of origin (through *H.R. 392, the Fairness for High Skilled Immigrants Act of 2017, or other legislation*).
- Protect the work authorizations for spouses of H1-B workers on H4 dependent visas.
- Provide a pathway to permanent legal status for children on H4 dependent visas who are at risk of becoming adults and “aging-out” before their H1B parents obtain a green card.

¹² The statistics provided here have been obtained from GCReforms.org, an immigration advocacy organization.

¹³ Anderson, Stuart, “Immigrants and Billion Dollar Startups,” NFAP Policy Brief, March 2016, National Foundation for American Policy, <http://nfap.com/wp-content/uploads/2016/03/Immigrants-and-Billion-Dollar-Startups.NFAP-Policy-Brief.March-2016.pdf>.

¹⁴ The statistics provided here have been obtained from GCReforms.org, an immigration advocacy organization.

- Increase the pool of green cards available to foreign-born science, technology, engineering, and mathematics (STEM) graduates who earn degrees at American Universities.
- Exempt spouses and children of employment visa applicants and STEM graduates with doctoral degrees from the employment visa caps.
- Streamline H-1B filing requirements and reduce administrative costs.
- Increase prevailing wage requirements to curtail abuse of the H1B visa program by large staffing companies

Religious Worker Program

Hindu Americans have not yet established institutions to train American born religious workers and certain types of traditional training are only available in India. These workers teach in religious schools, design and build temples, serve as ritual specialists, provide spiritual counsel, and perform numerous other religious functions. Consequently, Hindu temples and institutions in the U.S. routinely bring religious workers from India to serve in a variety of essential roles.

The EB-4 Special Immigrant Non-Minister provision in the Religious Worker Visa Program, which was enacted by Congress in 1990, is the primary avenue by which foreign religious workers to the U.S. can apply for permanent resident status, and has been utilized by many faith-based communities. As a relatively newer community to the U.S., Hindu Americans have been especially dependent on this program to meet their religious and spiritual needs.

The program, which contains a “sunset” provision, requiring reauthorization every three years, lapsed at the end of 2017, but was temporarily extended until March 23, 2018 through H.R. 1892, the *Bipartisan Budget Act of 2018*.¹⁵

Given its critical importance to many faith-based communities and their houses of worship, it is vital that the program is reauthorized by Congress for a longer period of time and that the “sunset” provision is removed, as was proposed in previous legislation. It is a bi-partisan program that has traditionally been supported by both Republicans and Democrats and is relatively non-controversial.

Permanent reauthorization of the Special Immigration Non-Minister Religious Worker Visa Program through legislation will not only alleviate the concerns of diverse faith communities, who rely heavily on this vulnerable program, but also reduce the bureaucratic burden on Congress to constantly reauthorize the program. Moreover, permanent reauthorization of the program would not expand the cap on the number of visas available (5,000) or change the eligibility requirements, and it is supported by a wide diversity of religious groups, including Hindu, Christian, Jewish, Muslim, and Sikh organizations.

Refugees and Asylum

America has a long and hallowed tradition of accepting refugees and asylum seekers from around the world. Those persecuted on account of their religion, race, ethnicity, nationality, or political opinion have availed themselves of the protections of the U.S. and received generous assistance in rebuilding their

¹⁵ Special Immigrant Religious Workers, USCIS, <https://www.uscis.gov/working-united-states/permanent-workers/employment-based-immigration-fourth-preference-eb-4/special-immigrant-religious-workers>.

lives. The asylum and refugee application process, however, has become unduly cumbersome, inequitable, and inefficient. As a result, many deserving applicants have been denied asylum due to an inability to meet overly restrictive requirements.

In many cases, evidentiary support for asylum claims is often difficult to obtain for those under pressure to flee their homes from persecution and violence. A Bangladeshi Hindu, for example, was recently denied asylum and held for several months in a detention center in Southern California after being unable to produce adequate evidence and documentation to support his claim. His case was not isolated, however, but rather reflective of a larger pattern of the U.S. Citizenship and Immigration Services (USCIS) bureaucracy. Evidentiary burdens and other requirements should therefore be modified to remove onerous obstacles from the process.

We also support measures to improve the refugee and asylum process, including adopting some of the recommendations that were included in previous bills, such as the *Border Security, Economic Opportunity, and Immigration Modernization Act of 2013* (S. 744) and the *Refugee Protection Act* (H.R. 1365).¹⁶ Specifically, this would involve eliminating the one year asylum application filing deadline and allow for motions to re-open asylum cases that have been denied, while simultaneously easing restrictions on asylum applications, including evidentiary burdens.

At the same time, some asylum applicants have made false claims of persecution and falsified immigration documents, such as in the recent case of a Sikh immigrant from India, Balwinder Singh. Mr. Singh, who received asylum in the U.S. using a false identity, recently plead guilty to conspiring to plot a terror attack in India.¹⁷ These types of claims must be properly vetted to prevent those that seek to manipulate the system or pose a danger from entering this country, without causing undue hardships and obstacles for applicants with legitimate claims.

Additionally, family reunification barriers for asylees and refugees should be removed, and refugees should be allowed to petition for their spouses and children to join them in the U.S. at any time after they have been admitted.

In addition, the Office of Refugee Resettlement (ORR) should better assess and meet the needs of new refugees admitted to the U.S. Resettled refugees have faced a number of challenges assimilating to their new homes in America. The approximately 90,000 Bhutanese refugees (primarily ethnic Nepali Hindus) resettled in the U.S., for example, have experienced a high incidence of mental health issues and high suicide rates, while also reportedly experiencing difficulty maintaining their cultural and

¹⁶ S.744 - Border Security, Economic Opportunity, and Immigration Modernization Act, Congress.Gov, <https://www.congress.gov/bill/113th-congress/senate-bill/744/text?q=%7B%22search%22%3A%5B%22S.744%22%5D%7D&r=2>; H.R.1365 – Refugee Protection Act, Congress.Gov, <https://www.congress.gov/bill/113th-congress/house-bill/1365/text?q=%7B%22search%22%3A%5B%22H.R.1365%22%5D%7D&r=2>.

¹⁷ Sonner, Scott and Ritter, Ken, AP “Indian American Khalistan Supporter Admits Conspiring to Launch Attacks in India,” November 30, 2016, India West, http://www.indiawest.com/news/global_indian/indian-american-khalistan-supporter-admits-conspiring-to-launch-attacks-in/article_babf122c-b743-11e6-9048-77f078d0002e.html?utm_source=Newsletter++2016+-+November+30&utm_campaign=DNL+November+30%2C+2016&utm_medium=email.

religious traditions.¹⁸ These refugees were initially ethnically cleansed from their homeland in Bhutan and lived in United Nations refugees camps in Nepal, before being resettled to the U.S. starting in 2008.

As a result, ORR should implement changes to the resettlement program in order to better understand the social, cultural, financial, and medical (physical and mental health) challenges facing new refugees, and provide greater resources and assistance to them.

¹⁸ Beras, Erika, “Bhutanese Refugees Face a High Suicide Rate,” January 29, 2014, Center for Health Journalism, USC Annenberg, <http://www.centerforhealthjournalism.org/bhutanese-refugees-face-high-suicide-rate>.