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# HINDU AMERICAN IMMIGRATION REFORM PRIORITIES FOR THE TRUMP ADMINISTRATION

*Samir Kalra\**  
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## ABSTRACT

As the new Trump-Pence Administration prepares to take office in January, it must work immediately towards developing a robust policy agenda to address the most pressing domestic and international issues facing our country. Paramount among these is the urgent need to reform our immigration system in a manner that is humane and practical, and that simultaneously supports our economic and national security interests.

This includes protecting our borders and providing a reasonable pathway to citizenship for undocumented immigrants, as well as enforcing current immigration laws.

Reforming our family and employment based visa systems is also of great importance. The current family-based visa system is severely outdated and inefficient, resulting in staggering backlogs leading to the separation of countless families, while the employment immigration process needs to be streamlined in order to fill skill shortages, and support job creation and innovation to continue the vitality of the American economy.

Permanent reauthorization of the Special Immigrant Non-Minister provision in the Religious Worker Visa Program should also be a priority, as it is the primary avenue by which to bring foreign religious workers to the U.S., and has been utilized by many faith-based communities. Similarly, the asylum

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The Hindu American Foundation (HAF) is an advocacy organization for the Hindu American community. 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 focuses on human and civil rights, public policy, media, academia, and interfaith relations. Through its advocacy efforts, HAF seeks to cultivate leaders and empower future generations of Hindu Americans.

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.

and refugee application process 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.

Although the run-up to the elections witnessed a heavy dose of campaign rhetoric surrounding immigration, there are many in both political parties that want to move forward and adopt sensible and compassionate immigration reform. Consequently, this new administration has an opportunity to make comprehensive immigration reform a priority and to enact bipartisan legislation that will garner the support of a diverse cross-section of the American people.

## INTRODUCTION

As the new Trump-Pence administration prepares to take office in January, it must work immediately towards developing a robust policy agenda to address the most pressing domestic and international issues facing our country. Paramount among these is the urgent need to reform our immigration system in a manner that is humane and practical, and that simultaneously supports our economic and national security interests.

While border security and undocumented immigration have dominated the recent immigration debate, those topics will not be the focus of this article. Instead, it will delve into other less frequently discussed immigration issues that are of particular interest to the burgeoning Hindu American community.

Hindu Americans, estimated at 2.3 million, represent diverse ethnic backgrounds, including but not limited to individuals of Indian, Pakistani, Bangladeshi, Malaysian, Indonesian, Afghani, Nepalese, Bhutanese, Sri Lankan, Fijian, Caribbean, African, and European descent. The majority of Hindus, however are of Indian ethnic origin and are primarily 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 moved to the United States in large numbers.

Many Hindus have come to the U.S. as students or in search of better economic opportunities, while others have arrived based on family members who sponsored their immigration. Some, to a lesser extent, have arrived in this country after facing religious persecution in their country of origin, such as Afghanistan and Bhutan. Consequently, immigration is an issue of great

concern to the Hindu American community and will continue to be so in the near future.

Accordingly, the following seeks to present a Hindu American perspective on immigration reform, which is currently absent from the national debate. While we support policies that protect our borders and provide a reasonable pathway to citizenship, we focus on those specific immigration priorities that are of greatest concern to the Hindu American community and those that we hope the Trump administration will consider when formulating its immigration agenda.

## I. FAMILY UNIFICATION

Family unification is a core aspect of our nation's immigration policy and family-based immigration constitutes two-thirds of all legal immigration to the country.<sup>1</sup> Similar to many other communities, Hindu Americans have relied heavily on the family-based visa system to bring their loved ones to the U.S. and keep their families united. The family unit, including both immediate and extended relatives, is a cornerstone of Hindu and Indian society. Family members provide social, spiritual, emotional, and financial support to one another, and they help Hindu immigrants integrate into American society.

Unfortunately, the current family-based visa system is severely outdated and inefficient, resulting in the separation of countless families. It is therefore necessary to implement meaningful reforms in order to streamline and improve the family immigration process.

According to a 2016 Congressional Research Service report, there are 4.5 million people approved as qualified immigrants, but waiting for visas due to numerical limitations of available visas, leading to long wait times for family members of legal permanent residents and citizens.<sup>2</sup> These backlogs and long wait times for family-based visas need to be significantly reduced. Moreover, the cap on the total number of available family preference immigrant visas should be eliminated, while simultaneously increasing the family-based country limits from seven to ten percent of total admissions.

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<sup>1</sup> WILLIAM A. KANDEL, CONG. RESEARCH SERV., U.S. FAMILY-BASED IMMIGRATION POLICY (2016), <https://fas.org/sgp/crs/homsec/R43145.pdf>.

<sup>2</sup> *Id.*

Family unification also requires that spouses and children of citizens or lawful permanent residents are not separated for long periods of time. This includes reducing wait times for spouses of citizens (or other immediate relatives) and allowing the spouses/children of lawful permanent residents to immigrate immediately and be reclassified as immediate relatives. Similarly, the long wait time for a nonimmigrant fiance K-1 visa should be reduced, 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.

Additionally, it is important to remove the age cap for adult married children of U.S. citizens eligible for family-based immigration, and protect the current sibling category, which allows U.S. citizens to petition for their brothers and sisters to immigrate to this country. And finally, the expansion of the V nonimmigrant visa program enabling families with approved petitions to live and work in the U.S. while waiting for their green card would be a positive step to unite families.

While increasing caps for family-based immigrant visas may result in greater upfront costs, these costs would be outweighed by the long-term benefits for our economy. For instance, family members of immigrants who are already qualified, but forced to wait due to yearly caps, would be able to join the labor force more quickly in the U.S. and expand the consumer base of the economy. Moreover, these family members would provide assistance in starting and running businesses, and providing financial support to immigrants.<sup>3</sup>

According to the American Immigration Council, “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.”<sup>4</sup>

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<sup>3</sup> THE WHITE HOUSE, MODERNIZING & STREAMLINING OUR LEGAL IMMIGRATION SYS. FOR THE 21ST CENTURY (July 2015), [https://www.whitehouse.gov/sites/default/files/docs/final\\_visa\\_modernization\\_report1.pdf](https://www.whitehouse.gov/sites/default/files/docs/final_visa_modernization_report1.pdf).

<sup>4</sup> AM. IMMIGRATION COUNCIL, THE ADVANTAGES OF FAMILY-BASED IMMIGRATION (2013), [https://www.americanimmigrationcouncil.org/sites/default/files/research/fact\\_sheet\\_on\\_family\\_immigration\\_0.pdf](https://www.americanimmigrationcouncil.org/sites/default/files/research/fact_sheet_on_family_immigration_0.pdf).

The Council also notes that families of immigrants promote investment in U.S. human capital and that a family-friendly immigration policy would help encourage high-skilled immigrants to come to the U.S.<sup>5</sup>

Additionally, costs of reducing wait times and backlogs for family visas can be defrayed in part by continuing to digitize and utilize technology systems to streamline our mostly paper based application and adjudication process, thereby making operations more efficient and reducing government waste.<sup>6</sup>

## II. EMPLOYMENT BASED IMMIGRATION

Along with family preference immigrant visas, the employment-based visas are a mainstay of our immigration system. Starting in the 1960s, high-skilled workers from several countries, particularly India, began immigrating to the U.S. in sizeable numbers. These immigrants have contributed extensively to the American economy, and have founded a number of companies in Silicon Valley and other parts of the country.

According to the National Foundation for American Policy (NFAP), “Immigrants have started more than half (44 of 87) of America’s startup companies valued at \$1 billion dollars or more and are key members of management or product development teams in over 70 percent (62 of 87) of these companies.”<sup>7</sup> In addition, these companies founded by immigrants are worth an estimated \$168 billion and have generated approximately 760 U.S. jobs per company.<sup>8</sup>

Similarly, in 2013, the Center for Strategic and International Studies (CSIS) found that 33 percent of all engineering and technology companies founded by immigrants since 2006 were by immigrants from India, which is the equivalent of 25 percent of all companies started in the country.<sup>9</sup> CSIS further noted that Indian founded companies “support more than 250,000 jobs

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<sup>5</sup> *Id.*

<sup>6</sup> THE WHITE HOUSE, *supra* note 3.

<sup>7</sup> STUART ANDERSON, NAT’L FOUND. FOR AM. POLICY, IMMIGRANTS AND BILLION DOLLAR STARTUPS (2016), <http://nfap.com/wp-content/uploads/2016/03/Immigrants-and-Billion-Dollar-Startups.NFAP-Policy-Brief.March-2016.pdf>.

<sup>8</sup> *Id.*

<sup>9</sup> Amb. Karl F. Inderfurth & Scott Miller, *Immigration Reform’s ‘Path to Prosperity,’* CENTER FOR STRATEGIC & INTERNATIONAL STUDIES U.S.- INDIA INSIGHT, April 2013, at 2, [https://csisprod.s3.amazonaws.com/s3fspublic/legacy\\_files/files/publication/130424\\_WadhvaniChair\\_USIndiaInsight.pdf](https://csisprod.s3.amazonaws.com/s3fspublic/legacy_files/files/publication/130424_WadhvaniChair_USIndiaInsight.pdf).

for locals in the United States. In addition, Indian companies have invested more than \$4.9 billion and employ more than 27,000 Americans.”<sup>10</sup>

Thus, employment visas have supported job creation, innovation, and the continued vitality of the American economy.

Similar to the family-based system, however, substantial reforms are necessary to streamline the employment immigration process and remove bureaucratic obstacles. Consequently, the new administration should push legislative measures to expand the employment based visa system and eliminate country caps for employment visas. In particular, there should be an emphasis on expanding visa programs for high-skilled workers and foreign-born science, technology, engineering, and mathematics (STEM) graduates from American universities.

Contrary to the negative rhetoric about the H1-B high-skilled visa program by officials from both political parties, unemployment in the technology industry is extremely low and according to industry analysts, there is a shortage of high-skilled workers.<sup>11</sup> Placing increased regulations on employers utilizing the H1-B program, as previously indicated by President-elect Trump’s immigration team,<sup>12</sup> would thus be a mistake and result in a negative impact on the information technology (IT) industry.

Consequently, the administration should support initiatives to raise caps for the available number of H1-B visas for high-skilled workers from 85,000 (includes 20,000 for foreign high-skilled workers with a U.S. Master’s degree or higher) to 110,000, reduce employer restrictions, and provide work authorizations for spouses and children of H1-B workers. Similarly, spouses and children of employment visa applicants and STEM graduates with doctoral degrees should be exempted from the employment visa caps. These steps would help create more American jobs and further spur the economy.

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<sup>10</sup> *Id.*

<sup>11</sup> Adams B. Nager & Robert D. Atkinson, info. tech. & innovation found., *Debunking the Top Ten Arguments Against High-Skilled Immigration* (2015), <http://www2.itif.org/2015-debunking-myths-high-skilled.pdf>.

<sup>12</sup> Maria Mejia-Opaciuch & Carlton Fields, *What Will U.S. Business Immigration Look Like Under a Trump Administration?* JDSUPRA (Nov.21,2016), <http://www.jdsupra.com/legalnews/what-will-u-s-business-immigration-look-89093>.

### III. RELIGIOUS WORKER VISA PROGRAM

The Special Immigrant Non-Minister provision in the Religious Worker Visa Program, which was enacted by Congress in 1990, is the primary avenue by which many faith communities, including Hindus, bring foreign religious workers to the U.S. This provision, as implemented by the United States Citizenship and Immigration Services (USCIS), is capped at 5,000 visas annually.<sup>13</sup>

The program, as currently written, contains a “sunset” provision requiring reauthorization every three years. It is set to expire on December 9, 2016, as provided in Division C of Public Law No. 114-223, the Continuing Appropriations Act, 2017,<sup>14</sup> unless once again approved by Congress. It has historically received widespread bipartisan support and has been reauthorized by Congress numerous times.

A current bi-partisan bill in the Senate, S.1339, would remove the “sunset” provision on the Special Immigrant Non-Minister provision of the Religious Worker Visa Program, and make the program permanent.<sup>15</sup>

Permanent reauthorization of the Special Immigration Non-Minister Religious Worker Visa Program will not only alleviate the concerns of diverse faith communities, who rely heavily on this 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 or change the eligibility requirements, and it is supported by a wide diversity of religious groups, including Hindu, Christian, Jewish, Muslim, and Sikh organizations.

Alternatively, the program can be extended by adding it to the Department of Homeland Security (DHS) appropriations for Fiscal Year 2017.

This legislative program is particularly critical to the Hindu American community. Hindu Americans have not yet established institutions to train U.S.- born religious workers, and certain types of traditional training are only available in India. These workers teach in religious schools, design and build

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<sup>13</sup> U.S. CITIZENSHIP & IMMIGRATION SERV., SPECIAL IMMIGRANT RELIGIOUS WORKERS (2016), <https://www.uscis.gov/working-united-states/permanent-workers/employment-based-immigration-fourth-preference-eb-4/special-immigrant-religious-workers>.

<sup>14</sup> H.R. Res. 223, 114th Cong. (2016) (enacted).

<sup>15</sup> S.J. Res. 1339, 114th Cong. (2016).

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 under the auspices of this Visa Program.

The permanent reauthorization of the Special Immigrant Non-Minister provision in the Religious Worker Visa Program should thus also be an immigration priority for the new administration, as it is the primary avenue by which to bring foreign religious workers to the U.S., and has been utilized by many faith-based communities. It is also a bi-partisan program supported by both Republicans and Democrats that is relatively non-controversial and would be an easy program to support for the new administration.

#### IV. 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 lives.

The asylum and refugee application process, however, has become unduly cumbersome, inequitable, and inefficient. As a result, many deserving applicants with genuine claims 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 is not isolated, however, but rather reflective of a larger pattern of the USCIS bureaucracy. Evidentiary burdens and other requirements should therefore be modified to remove onerous obstacles from the process.

The new administration should thus 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).<sup>16</sup> 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.<sup>17</sup> These types of claims must be properly vetted to prevent those that seek to manipulate the system from entering the country, without causing undue hardships and obstacles for applicants with legitimate claims.

Furthermore, 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. For instance, the approximately 85,000 Bhutanese refugees (primarily ethnic Nepali Hindus) resettled in the U.S.,<sup>18</sup> have experienced a high incidence of mental health issues and high suicide rates, while also reportedly experiencing difficulty maintaining their cultural and religious traditions.<sup>19</sup> 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.

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<sup>16</sup> S. Res. 744, 113th Cong. (as passed by Senate, June 27, 2013); H.R. 1365, 113th Cong. (2013).

<sup>17</sup> Scott Sonner & Ken Ritter, AP, *Indian Am. Khalistan Supporter Admits Conspiring to Launch Attacks in India*, INDIA WEST, Nov. 30, 2016, [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](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).

<sup>18</sup> DEEPESH DAS SHRESTHA, RESETTLEMENT OF BHUTANESE REFUGEES SURPASSES 100,000 MARK, THE UN REFUGEE AGENCY (NOV.19,2015), <http://www.unhcr.org/en-us/news/latest/2015/11/564d4ed46/resettlement-bhutanese-refugees-surpasses-100000-mark.html>.

<sup>19</sup> ERIKA BERAS, BHUTANESE REFUGEES FACE A HIGH SUICIDE RATE, JOURNALISM CTR. FOR CHILDREN & FAMILIES (January 2014), <http://www.centerforhealthjournalism.org/bhutanese-refugees-face-high-suicide-rate>.

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.

#### CONCLUSION

Although our nation seems more divided than ever and immigration is one of the issues at the core of the divide, there are many in both political parties that want to move forward and adopt sensible and compassionate immigration reform, which is long overdue.

We lost a tremendous opportunity to pass comprehensive immigration reform in 2013, when the bi-partisan S.744 led by the vaunted “Gang of 8,” stalled in the U.S. House of Representatives. Since then, we have failed to make any progress in addressing the most critical aspects of our broken immigration system.

Consequently, it is imperative for all sides to now move beyond the campaign rhetoric of the elections and chart a new course towards comprehensive immigration reform, as we cannot afford to wait any longer. In doing so, however, it would be prudent for the Trump administration and members of Congress to also implement the immigration priorities of the Hindu American community.