



# INSIDE THE NUMBERS

HOW IMMIGRATION SHAPES ASIAN AMERICAN  
AND PACIFIC ISLANDER COMMUNITIES

**JUNE 2019**

Asian Americans Advancing Justice is a national affiliation of five leading organizations advocating for the civil and human rights of Asian Americans and other underserved communities to promote a fair and equitable society for all.

Advancing Justice—AAJC (Washington, DC)  
Advancing Justice—Asian Law Caucus (San Francisco)  
Advancing Justice—Atlanta  
Advancing Justice—Chicago  
Advancing Justice—Los Angeles

This report was produced by the staff of the Demographic Research Project of Asian Americans Advancing Justice—Los Angeles and the immigration advocacy staff of Asian Americans Advancing Justice—AAJC.

Data proofing was provided by Pamela Stephens. Copy editing was provided by Dorothy Taguchi at Linguistic Edge. Data design and layout were provided by GRAPHEK.



### **About RISE**

Research Integration Strategy and Evaluation (RISE) for Boys and Men of Color is an \$8 million field advancement effort that aims to better understand and strategically improve the lives, experiences, and outcomes of boys and men of color in the United States—that concluded in 2018. RISE spanned five fields (education, health, human services and social policy, juvenile and criminal justice, and workforce development) and focuses on four populations (Asian Americans and Pacific Islanders, Blacks, Latinos, and Native Americans). RISE BMOC is a project co-led by Equal Measure, a national nonprofit evaluation and philanthropic services firm, and the University of Southern California (USC), Rossier School of Education, USC Race and Equity Center. Support for this project was provided by generous funding from The Atlantic Philanthropies, The Annie E. Casey Foundation, Marguerite Casey Foundation, The W.K. Kellogg Foundation, and members of the Executives' Alliance to Expand Opportunities for Boys and Men of Color. For more information, visit [www.risebmoc.org](http://www.risebmoc.org).

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## WELCOME

Asian American and Pacific Islander perspectives are critical to ensuring that policy makers and the public have an accurate understanding of immigration issues.

The Asian American and Pacific Islander (AAPI) population is a majority immigrant community. Approximately two-thirds of Asian Americans and one-sixth of Pacific Islanders were born outside of the United States. While ours is a community shaped by immigration, we are often left out of policy discussions and media narratives about immigration.

Asian American and Pacific Islander perspectives are critical to ensuring that policy makers and the public have an accurate understanding of immigration issues. Taking into account AAPI perspectives to illuminate immigration data and policy analysis allows for a better understanding of what is at stake and why we must act to shape immigration policy in ways that are welcoming and supportive of our communities. Furthermore, at a time when immigrant communities are under attack, advocacy must include defending against policies that would harm our communities.

Understanding AAPI immigrant communities also means understanding the considerable social and economic diversity that exists among the ethnic groups that make up our communities.

Understanding AAPI immigrant communities also means understanding the considerable social and economic diversity that exists among the ethnic groups that make up our communities. The needs of the most disadvantaged AAPI immigrants are often overlooked when policy makers base critical decisions on data that only capture the characteristics of our communities as a monolithic whole.

*Inside the Numbers: How Immigration Shapes Asian American and Pacific Islander Communities* is a much-needed resource supporting growing AAPI and immigrants' rights movements with concrete and up-to-date data, background on immigration policy and analysis of current issues, and policy recommendations. This report aims to provide a fuller and richer portrait of how immigration has shaped and continues to shape our communities, and to provide policy analysis and recommendations to aid in our efforts to shape immigration laws and policies. We also hope that this report will serve as a resource for community leaders working on public education efforts and policy campaigns.

We extend our appreciation to RISE for Boys and Men of Color for making this report possible.

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## INTRODUCTION

There are over 12.3 million Asian American and Pacific Islander (AAPI) immigrants in the United States. Immigration has contributed to placing Asian Americans and Pacific Islanders among the fastest-growing racial groups in the U.S. Policy makers and service providers must understand Asian American and Pacific Islander immigrant communities if they are to effectively protect our communities against anti-immigrant policies and advocate for laws and policies that are welcoming of and beneficial to AAPI immigrants.

The Asian American and Pacific Islander population is incredibly diverse. In addition to hailing from many countries and speaking myriad languages, once in the U.S., AAPI immigrants hold every type of immigration status: U.S. citizens, lawful permanent residents, refugees and asylees, individuals with Deferred Action for Childhood Arrivals (DACA) and Temporary Protected Status (TPS), holders of all types of temporary visas, and undocumented individuals. In addition, while many Pacific Islanders are U.S. citizens and indigenous, the Pacific Islander population also includes U.S. nationals, Compact of Free Association migrants, as well as immigrants. For Pacific Islanders, navigating the U.S. immigration system is reflective of and deeply impacted by the unique histories and current realities of U.S. imperialism, colonialism, and occupation of their home islands.

In the first part of this report, we provide disaggregated data on discrete Asian American and Pacific Islander ethnic groups where available. Given the considerable social and economic diversity among AAPI immigrants, data aggregated by racial group often mask the needs of the most vulnerable in our communities. Providing these data makes AAPI needs easier to understand and address.

The second part of the report details immigration pathways to build greater understanding of how AAPIs utilize the immigration system to come to the U.S., obtain lawful permanent resident status, and become U.S. citizens. While there are numerous ways to immigrate to the U.S., navigating the immigration system can be difficult and even perilous. And for many, there is no viable pathway to legally immigrate or adjust status to gain lawful residence.

The third part of the report delves into the fractures in our immigration system, some built up over time and some newly created or exacerbated by the current administration. The issues covered include lengthy visa backlogs in both family and employment-based immigration; rollbacks of programs that thousands of immigrants have come to depend on such as DACA and TPS; the Muslim and refugee bans, a series of executive orders that have impacted millions and blocked the admission of individuals from a number of Muslim-majority countries as well as refugees fleeing persecution in their home countries; intensified immigration enforcement resulting in greater numbers being arrested, detained, and deported; and attacks on long-time lawful permanent residents and even naturalized U.S. citizens. With each of these issues, in addition to providing data and policy analysis to support greater understanding, we also offer our recommendations for change, which are compiled in the conclusion to the report.

Given the breadth of information included in this report, it draws on numerous sources. Much of the data comes from the U.S. Census Bureau, including the American Community Survey, and Survey of Business Owners. Other sources include the Department of Homeland Security (including U.S. Citizenship and Immigration Services, U.S. Immigration and Customs Enforcement, and U.S. Customs and Border Protection), the U.S. Department of State, the U.S. Justice Department, the U.S. Department of Labor, the Center for Migration Studies, the Migration Policy Institute, the Pew Research Center, and the Syracuse University Transactional Records Access Clearinghouse, plus nonprofit and nongovernmental organizations, and various media sources.

This report provides disaggregated data on discrete Asian American and Pacific Islander ethnic groups where available.

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## EXECUTIVE SUMMARY

Over 12 million Asian American immigrants and 220,000 Pacific Islander immigrants live in the United States. *Inside the Numbers: How Immigration Shapes Asian American and Pacific Islander Communities* provides essential data, background on immigration policy, analysis of current immigration issues, and policy recommendations for community organizations, policy makers, foundations, corporations, and others looking to better understand and serve these diverse and growing communities. Some of the key findings include the following:

**The country's large Asian American and Pacific Islander immigrant population continues to grow.** The Asian American immigrant population grew four times as fast as the total population between 2010 and 2017. The Pacific Islander immigrant population grew 12% in the same time period. The fastest-growing foreign-born populations among Asian American and Pacific Islander (AAPI) ethnic groups are Bangladeshi, Guamanian or Chamorro, and Indian Americans. As AAPI populations grow and become more diverse, it is increasingly important that service providers and policy makers work to address their changing needs.

**Asian American and Pacific Islander immigrants face challenges that limit their access to opportunities and critical services.** Nearly 5 million Asian American immigrants in the United States are limited English proficient. Disaggregated data is important to show disparities between ethnic groups and to dispel the model minority myth. Among Asian American immigrant groups, Southeast Asians have among the lowest educational attainment rates. A majority of Burmese, Nepalese, Hmong, and Bangladeshi American immigrants and 46% of Pacific Islander immigrants are low-income.

**Asian American and Pacific Islander immigrants make great contributions to the economy, but some continue to struggle.** Nearly three-quarters of Asian American businesses are immigrant owned, numbering over 1.1 million businesses in the country. There are over 600,000 Asian American and 12,000 Pacific Islander immigrant workers in the restaurant industry, representing the top industry for both racial groups. Approximately four in five Asian American low-wage workers are immigrants. Pacific Islander immigrants had the second highest unemployment rate of all racial groups, and Hmong, Burmese, Nepalese, Cambodian, Laotian, Bangladeshi, and Pakistani Americans all had unemployment rates higher than the national average.

**While the majority of Asian Americans and Pacific Islanders immigrate to the U.S. through family sponsorship, AAPIs utilize all immigration pathways.** Changes to immigration policy after 1965 resulted in the rapid growth of AAPI immigrant communities in the U.S. In fiscal year 2017, over 1.1 million immigrants obtained lawful permanent resident (LPR) status in the U.S., and approximately 38% were from Asia and the Pacific Islands. In addition to family-based immigration, AAPIs immigrate to the U.S. through employment-based immigration, diversity visas, and humanitarian relief.

**The immigration system is not working for AAPI communities.** U.S. Citizenship and Immigration Services (USCIS) is processing family preference visa applications filed as long as 23 years ago for the family members of U.S. citizens from Asia. Over 1.5 million individuals from Asia are stuck in the backlogs awaiting family visas. USCIS currently is processing applications in some of the employment-based immigration visa categories that were filed about a decade ago. Furthermore, an estimated 1.7 million Asian immigrants in the U.S. are undocumented.

**Family unity is the foundation of America's immigration system, and we should celebrate our nation's diverse immigrant heritage by expanding opportunities for families to thrive together.** Rather than advancing reforms to address the visa backlogs, however, the administration has proposed to end the family-based immigration system as we know it by eliminating many of the family preference categories and slashing the number of green cards available each year. In addition, the administration is working to expand the public charge rule to deny admission and adjustment of status to individuals it deems reliant on government assistance as their primary means of support. Vital health, nutrition, and housing benefits, along with a range of factors, would be taken into consideration, meaning that lower-income, older, disabled, and limited-English proficient individuals would likely be denied green cards.

**The government has created programs to protect Dreamers and Temporary Protected Status (TPS) recipients, members of our families and communities who call America home, and we should preserve these protections.** The termination of Deferred Action for Childhood Arrivals (DACA) and TPS has upended the lives of nearly 700,000 young immigrants who had come forward to apply for work authorization and protection from deportation, and destroyed the stability of 300,000–400,000 people who built lives in the U.S. after their home countries, including Nepal, Syria, and Yemen, were torn apart by conflict or natural disaster.

**We must maintain an immigration system that is true to our American values, that protects immigrants from discrimination based on religious animus, and that extends humanitarian relief to individuals fleeing persecution, regardless of religion or country of origin.** One of the first acts of the Trump administration was to issue an executive order banning the entry of nationals from a number of majority-Muslim countries and suspending refugee admissions. The impact of the executive orders affecting Muslim and refugee communities has been profound: between 2016 and 2018, visas issued to people from most of the affected countries decreased dramatically, falling by as much as 90.8%. The ceiling on refugee admissions was slashed by more than half from 2017 to 2018, and only about half of the 45,000 refugees allowed were actually admitted in 2018. The ceiling for 2019 has been decreased further to just 30,000.

**Rather than spending tax dollars on the criminalization and mass incarceration of immigrants and ripping families apart, our country should invest in the well-being of our communities, including immigrant integration and supporting immigrants in becoming U.S. citizens.** Curtailing the due process rights of immigrants demonstrates cruelty and disregard for civil and human rights, and strikes fear into immigrant communities. Heightened enforcement has impacted Southeast Asian Americans and other long-time residents and refugees. Since 2015, U.S. Immigration and Customs Enforcement has arrested nearly 15,000 immigrants from Asia. As of June 2018, nearly 5,000 Asian immigrants, including asylum seekers, were in detention. From 2017 to 2018, the Cambodian American refugee community suffered a 279% increase in deportations.

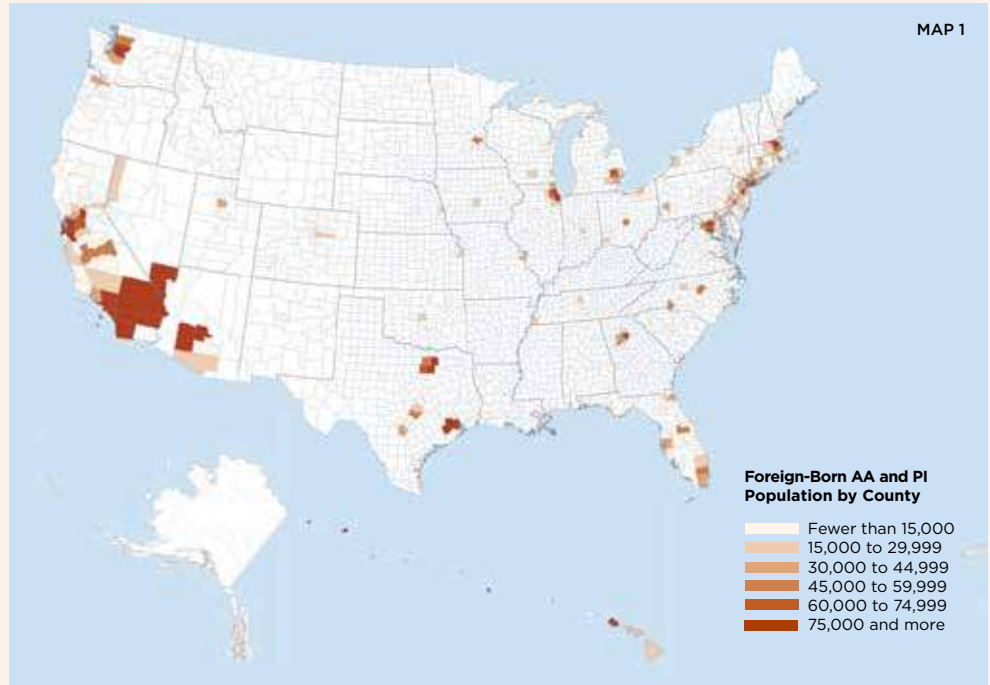
With immigrant communities under attack on all sides, the need for reform to our immigration system is more critical than ever. **We will continue to fight to protect immigrant communities and advocate for immigration reform, including supporting the passage of legislation to support family unity, protect Dreamers and TPS recipients, and repeal the Muslim Ban and ensure that immigration law does not discriminate based on religion.**

PART I

# WHO WE

# ARE NOW

DEMOGRAPHIC DATA ON ASIAN AMERICAN AND PACIFIC ISLANDER IMMIGRANT COMMUNITY IN THE UNITED STATES



AIAN: American Indian and Alaska Native

Pacific Islander: Native Hawaiian and Pacific Islanders are referred to as Pacific Islander (PI) in this report.

Over 12 million Asian Americans and 220,000 Pacific Islander immigrants live in the United States.<sup>1</sup>

Asian American immigrants comprise 27% of the entire foreign-born population.<sup>2</sup>

MAP 1: U.S. Census Bureau, 2017 American Community Survey 1-Year Estimates, Table B00503.

FIGURE 1: U.S. Census Bureau, 2017 American Community Survey 1-Year Estimates, Table S0201.

Note: Figures for each racial group are for single race people, except for White, which is single race, non-Latino people as well as the NHPi population, which includes multiracial people.

## POPULATION BY RACE & HISPANIC ORIGIN

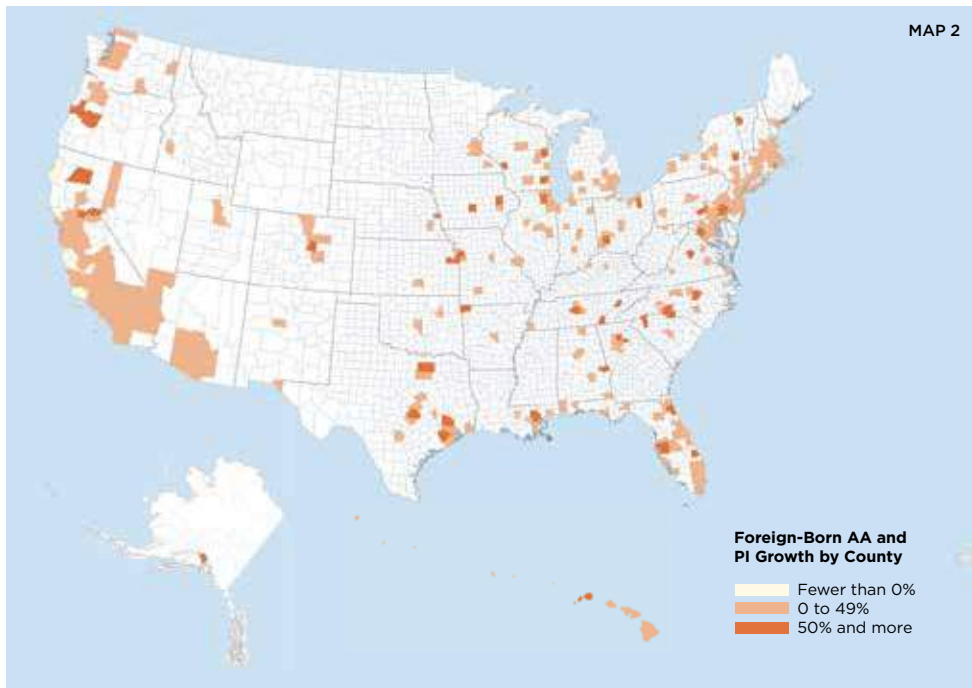
United States 2017 | Ranked by Foreign-Born Population

FIGURE 1

Race and Hispanic Origin	Foreign Born Number	% of Total Foreign Born Population	Total Population Number	% of Total Population
<b>Latino</b>	19,718,222	44%	58,846,134	18%
<b>Asian American</b>	12,089,932	27%	18,215,328	6%
<b>White</b>	7,974,085	18%	197,285,202	61%
<b>Black or African American</b>	4,135,442	9%	41,393,491	13%
<b>Pacific Islander</b>	221,053	0.5%	1,407,096	0.4%
<b>AIAN</b>	175,420	0.4%	2,726,278	1%
<b>Total Population</b>	<b>44,525,855</b>	<b>100%</b>	<b>325,719,178</b>	<b>100%</b>



## ASIAN AMERICAN AND PACIFIC ISLANDER IMMIGRANT GROWTH BY COUNTY, 2010 TO 2017



MAP 2: U.S. Census Bureau, 2010 American Community Survey 1-Year Estimates, Tables B05003D and B05003E; 2017 American Community Survey 1-Year Estimates, Tables B05003D and B05003E.

FIGURE 2: U.S. Census Bureau, 2010 American Community Survey 1-Year Estimates, Table S0201; 2017 American Community Survey 1-Year Estimates, Table S0201.

## FOREIGN-BORN POPULATION GROWTH BY RACE & HISPANIC ORIGIN

United States 2010 to 2017

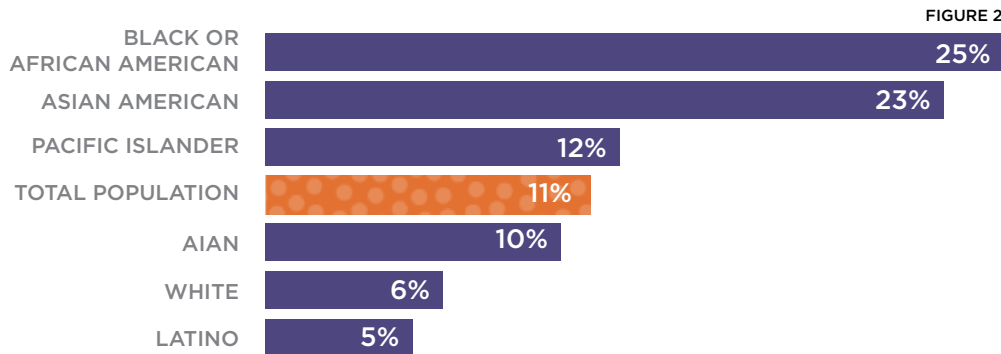


FIGURE 2

Between 2010 and 2017, the nation's overall population grew 5%. During this same time, the Asian American immigrant population grew 23%, over twice as fast as the entire immigrant population (11%) and over four times as fast as the overall population (5%).<sup>3</sup>

The foreign-born Pacific Islander population grew 12% between 2000 and 2017.<sup>4</sup>

The Asian American immigrant population grew **FOUR TIMES** as fast as the overall population between 2010 and 2017.

## ASIAN AMERICAN FOREIGN-BORN POPULATION, GROWTH

Top States, 2010 to 2017 | Ranked by Population

FIGURE 3

California has the largest Asian American (3,665,172) and Pacific Islander (69,339) immigrant populations in the country.



FIGURE 3: U.S. Census Bureau, 2010 American Community Survey 1-Year Estimates, Table S0201; 2017 American Community Survey 1-Year Estimates, Table S0201.

State	Number	% of Asian American Population	Growth
California	3,665,172	34%	17%
New York	1,213,978	27%	18%
Texas	927,716	19%	37%
New Jersey	627,716	31%	23%
Illinois	470,519	26%	16%
Washington	426,737	40%	33%
Florida	410,439	9%	28%
Virginia	375,833	35%	22%
Massachusetts	313,957	27%	31%
Pennsylvania	303,594	34%	22%
Georgia	292,363	27%	32%
Maryland	273,778	30%	17%
Michigan	223,301	32%	28%
Hawai'i	209,293	79%	13%
North Carolina	205,207	25%	41%
Ohio	186,260	35%	30%
Nevada	169,188	28%	28%
Minnesota	168,698	35%	28%
Arizona	157,079	17%	34%
Oregon	119,471	29%	28%
Connecticut	116,781	22%	20%
Colorado	116,751	21%	32%
Indiana	107,907	31%	41%
Wisconsin	98,042	34%	35%
Missouri	89,466	35%	32%
Tennessee	84,760	24%	34%
Kansas	59,310	30%	32%
Oklahoma	58,393	26%	23%
Louisiana	51,354	27%	5%

## NHPI FOREIGN-BORN POPULATION, GROWTH

Top States, 2010 to 2017 | Ranked by Population

FIGURE 4

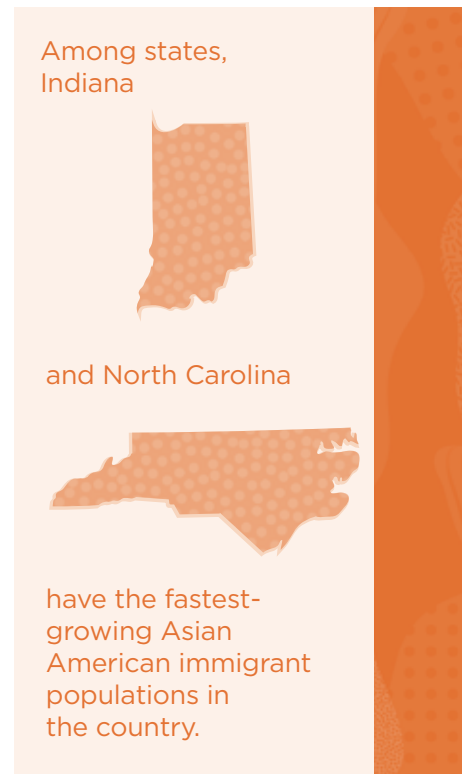
State	Number	% of NHPI Population	Growth
California	69,339	0.7%	9%
Hawai'i	21,575	8%	-13%
Washington	9,569	0.9%	22%

California has the largest Asian American (3,665,172) and Pacific Islander (69,339) immigrant populations in the country. The next-largest Asian American immigrant populations are in New York, Texas, New Jersey, and Illinois.<sup>5</sup>

Among states, Indiana and North Carolina have the fastest-growing Asian American immigrant populations in the country with both populations growing 41% between 2010 and 2017.<sup>6</sup>

The Asian American immigrant populations more than doubled in Forsyth County, Georgia, and Benton County, Arkansas, between 2010 and 2017.<sup>7</sup>

Hawai'i's immigrant population is proportionately most Asian American, making up 79% of all immigrants statewide.<sup>8</sup>



## FOREIGN-BORN POPULATION BY ETHNIC GROUP

United States 2017

FIGURE 5

Ethnic Group	Number
Indian	2,922,710
Chinese (except Taiwanese)	2,915,753
Filipino	1,894,566
Vietnamese	1,215,401
Korean	1,048,802
Pakistani	326,153
Japanese	324,269
Thai	160,670
Cambodian	150,765
Burmese	145,183
Nepalese	144,848

FIGURE 5, CONTINUED

Ethnic Group	Number
Bangladeshi	129,135
Laotian	122,564
Taiwanese	116,211
Hmong	105,103
Indonesian	55,773
Samoa	9,489
Guamanian or Chamorro	5,951
Native Hawaiian*	5,197

FIGURE 4: U.S. Census Bureau, 2010 American Community Survey 1-Year Estimates, Table S0201; 2017 American Community Survey 1-Year Estimates, Table S0201. Note: Data on growth limited to these three states due to data suppression.

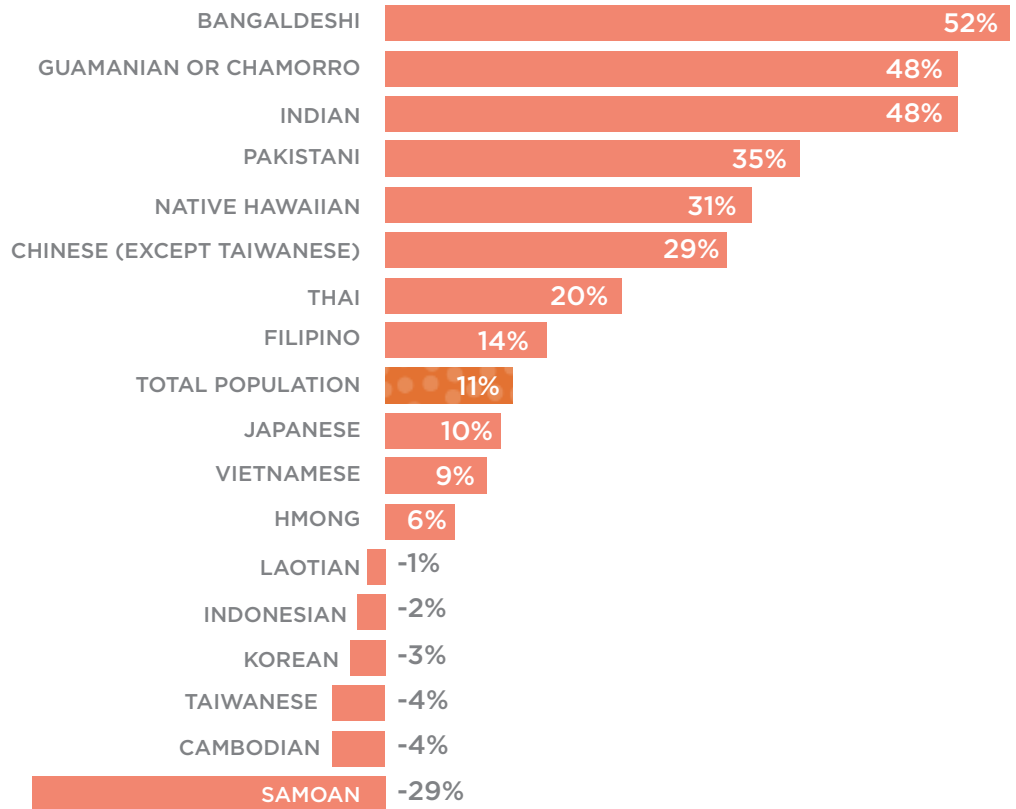
FIGURE 5: U.S. Census Bureau, 2017 American Community Survey 1-Year Estimates, Table S0201.

\*Note: While Native Hawaiians and many Pacific Islanders born in Hawai'i, Guam, or the Commonwealth of the Northern Mariana Islands are U.S. citizens, some Pacific Islanders are foreign-born and, depending on their country of birth, may hold different types of immigration statuses.

## FOREIGN-BORN POPULATION GROWTH BY ETHNIC GROUP

United States 2010 to 2017

FIGURE 6



The country's Asian American and Pacific Islander immigrant populations are becoming more diverse.

FIGURE 6: U.S. Census Bureau, 2010 American Community Survey 1-Year Estimates, Table S0201; 2017 American Community Survey 1-Year Estimates, Table S0201.

Note: Figures for ethnic groups excluded if (1) groups did not meet 2000 Census population threshold for reporting or (2) number less than 100 in 2010.

Among Asian American ethnic groups, Indian and Chinese Americans are the largest immigrant population in the country with over 2.9 million each. They are followed in size by Filipino, Vietnamese, and Korean American immigrant populations.<sup>9</sup>

Bangladeshi Americans are the fastest-growing Asian American immigrant population, while Guamanian or Chamorro Americans are the fastest growing among Pacific Islander immigrants.<sup>10</sup>

Among Pacific Islander immigrants, Samoan Americans are the largest ethnic group with nearly 9,500 immigrants.<sup>11</sup>

The Japanese and Thai American immigrant populations are proportionately more female than other ethnic groups, making up two-thirds of their respective immigrant populations.<sup>12</sup>

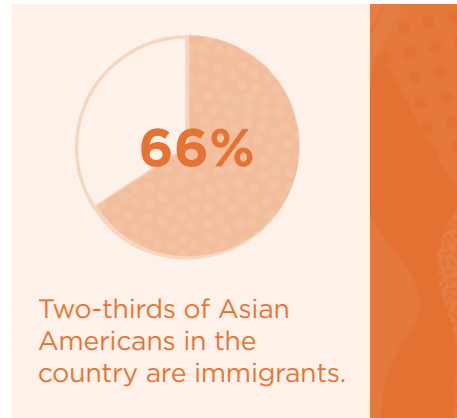
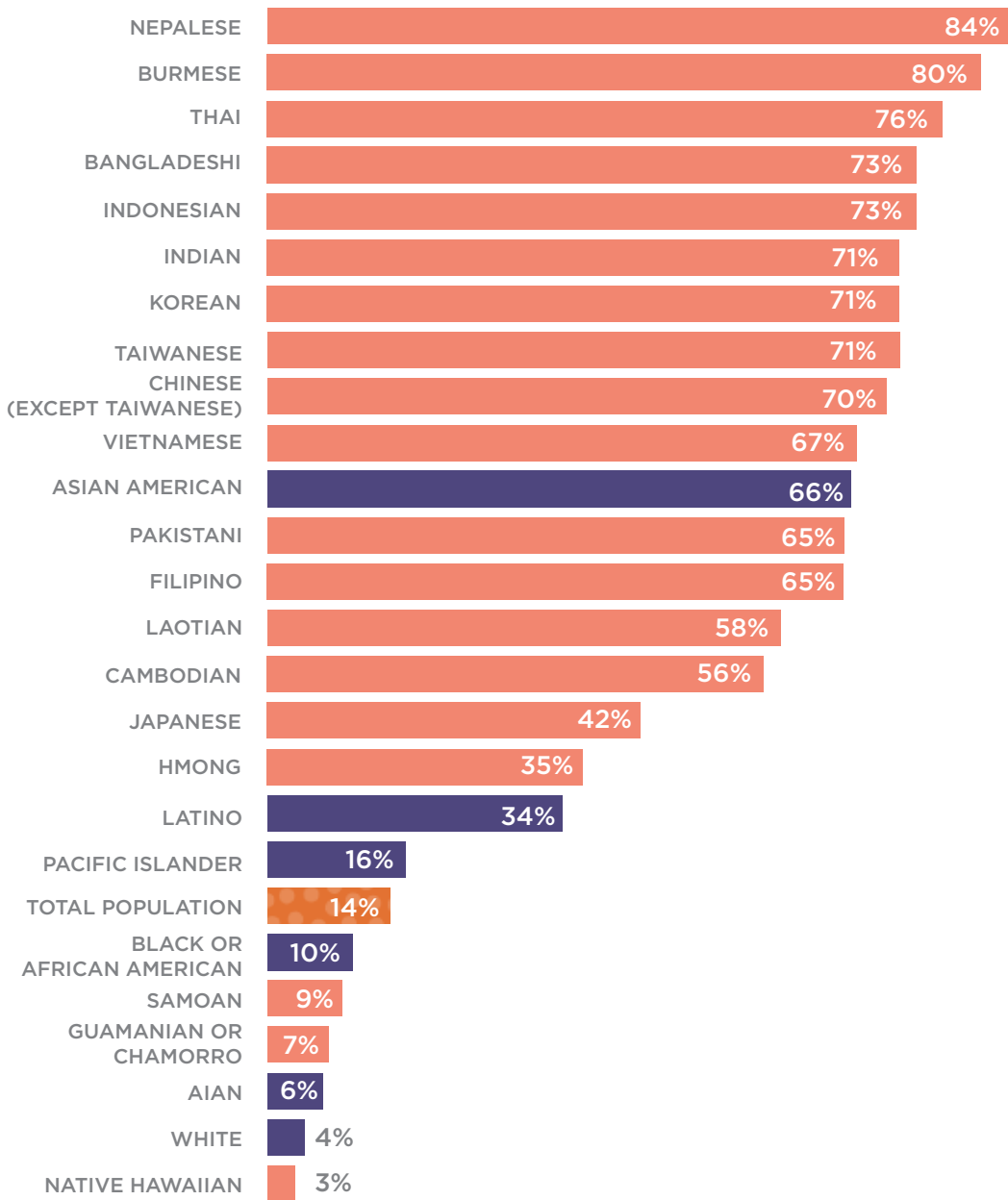
Approximately a quarter of Burmese American immigrants are youth under the age of 18, while under a quarter of Japanese American immigrants are seniors.<sup>13</sup>



## FOREIGN-BORN

By Race, Hispanic Origin, and Ethnic Group, United States 2017

FIGURE 7



Two-thirds of Asian Americans in the country are immigrants.



Approximately 16% of Pacific Islanders are foreign-born.

FIGURE 7: Census Bureau, 2017 American Community Survey 1-Year Estimates, Table S0201.

Among Asian American ethnic groups, Nepalese (84%) and Burmese Americans (80%) are proportionately most immigrant. Japanese and Hmong Americans are the only two Asian American ethnic groups with majority native-born populations.<sup>14</sup>

Among youth, Asian Americans are more likely than all racial group to be foreign-born; approximately 21% are immigrants. Burmese (62%) and Nepalese American youth (57%) are most likely among ethnic groups to be foreign-born.<sup>15</sup>

Among Asian American ethnic groups, Nepalese (90%), Burmese (88%), and Bangladeshi American (61%) immigrants are most likely to have entered the country in 2000 or later, a rate higher than all racial groups.<sup>16</sup>

## NATURALIZATION RATES

By Race and Hispanic Origin, United States 2012–2016

FIGURE 8

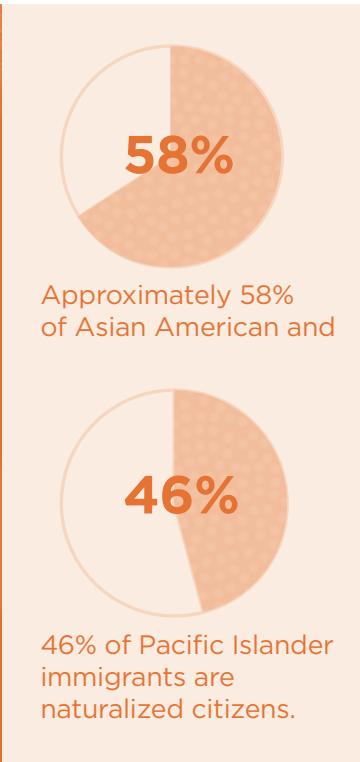
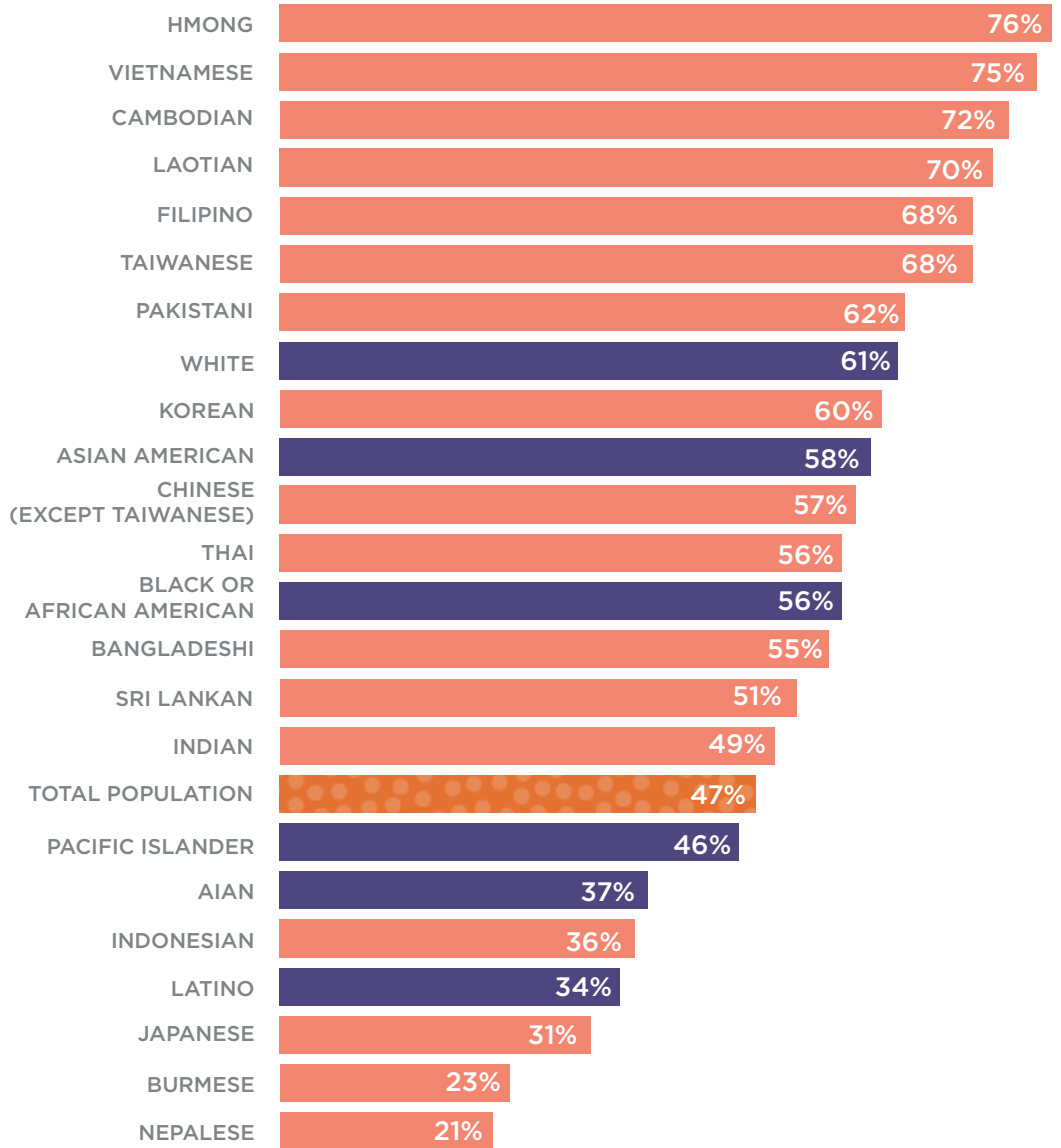


FIGURE 8: Census Bureau, 2012-2016 American Community Survey 5-Year Estimates, Public Use Microdata Sample.



Approximately 58% of Asian American and 46% of Pacific Islander immigrants are naturalized citizens.<sup>17</sup>

Among Asian American ethnic groups, Hmong (76%), Vietnamese (75%), and Cambodian American immigrants (72%) have the highest rates of naturalization while Nepalese (21%) and Burmese Americans (23%) have the lowest naturalization rates.<sup>18</sup>

Nearly 425,000 Asian Americans in the country obtained legal permanent resident status during fiscal year (FY) 2017.<sup>19</sup>

Of the nearly 10.7 million undocumented immigrants in the U.S., almost 1.7 million are Asian Americans. Nearly 630,000 undocumented Asian Americans are from India.<sup>20</sup>

## IMMIGRANT BUSINESSES

By Race and Hispanic Origin, 2012 | Ranked by Number of Businesses

FIGURE 9

Race and Hispanic Origin	Foreign-Born Business Owners (Number)	% of All Business Owners by Race Who Are Foreign-Born	Businesses with Paid Employees
<b>Asian American</b>	1,119,216	74.2%	373,522
<b>White</b>	1,071,775	5.9%	290,568
<b>Latino</b>	827,353	52.7%	142,535
<b>Black or African American</b>	187,941	19.5%	22,201
<b>AIAN</b>	8,630	4.6%	1,271
<b>Pacific Islander*</b>	6,844	19.1%	1,452
<b>Total</b>	<b>3,208,085</b>	<b>14.4%</b>	<b>832,084</b>

There are over 1.1 million Asian American immigrant-owned businesses in the U.S., nearly three times as many as the 389,000 businesses owned by native-born Asian Americans.<sup>21</sup>

Foreign-born Asian Americans are proportionately more likely to be business owners compared to other racial groups. Asian American immigrant-owned businesses make up nearly three-quarters of all Asian American businesses in the nation.<sup>22</sup>

Over a third of all immigrant-owned businesses in the country are owned by Asian Americans.<sup>23</sup>

Among Asian American immigrant-owned businesses, most are represented in the professional, scientific, and technical services (15%); retail trade (12%); real estate and rental and leasing (11%); health care and social assistance (10%); and accommodation and food services (10%) sectors.<sup>24</sup>

FIGURE 9: U.S. Census Bureau, 2012 Survey of Business Owners, Table SB1200CSCBO11.

Note: Some business owners did not report a race. Businesses with multiple owners of different races are counted more than once based on the race of each owner.

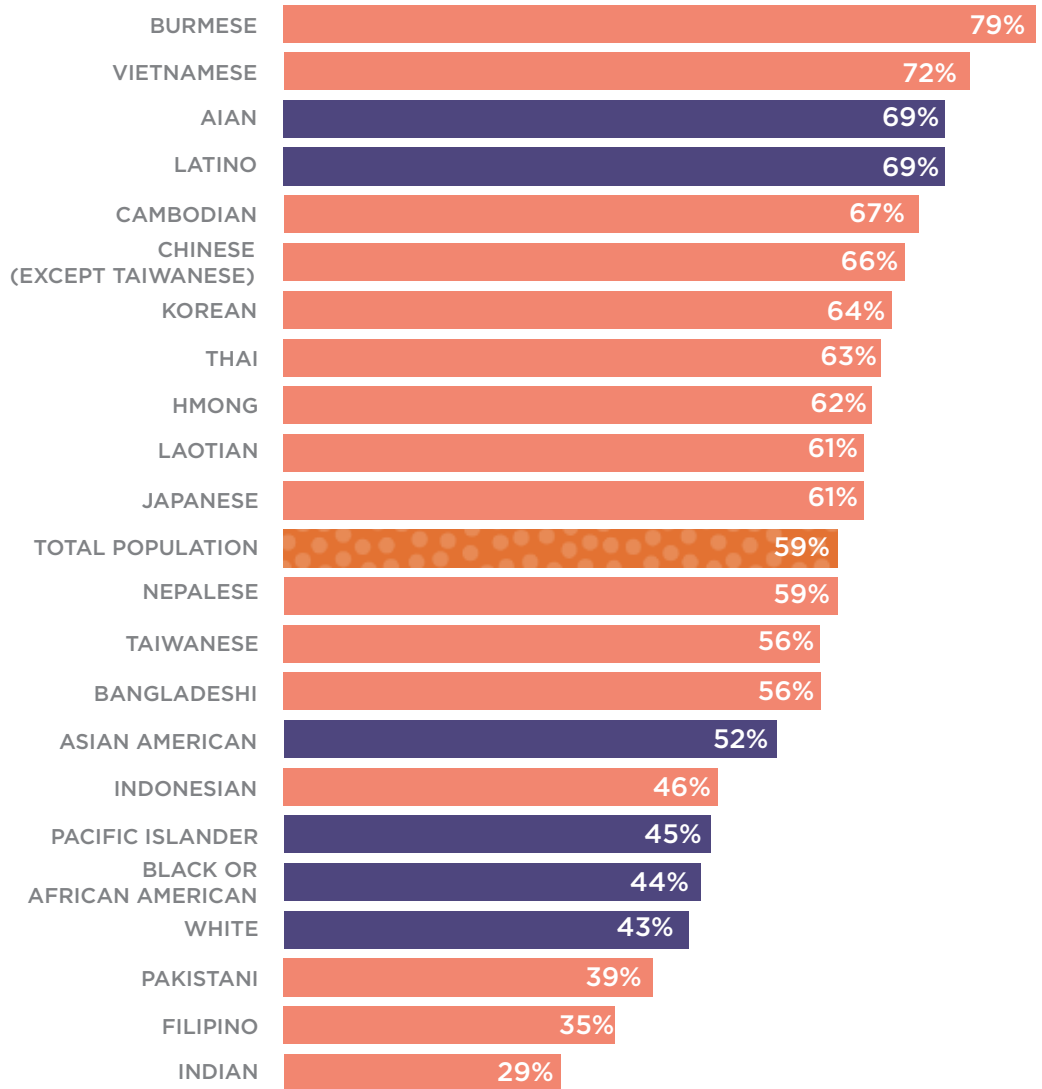
\*For business data, Pacific Islander count is for the alone population. Figures do not sum to total.

OVER **74%** of Asian American business owners in the country are immigrants.

## LIMITED ENGLISH PROFICIENCY FOR THE FOREIGN-BORN POPULATION 5 YEARS & OLDER

By Race, Hispanic Origin, and Ethnic Group, 2012–2016

FIGURE 10



Among Asian American immigrants, Burmese (79%), Vietnamese (72%), and Cambodian Americans (67%) are most LEP.

FIGURE 10: U.S. Bureau, 2012–2016 American Community Survey 5-Year Estimates, Public Use Microdata Sample.

A majority (52%) of Asian American immigrants—nearly 5 million individuals—and approximately 45% of foreign-born Pacific Islanders are limited English proficient (LEP) and face some challenges communicating in English that impacts their ability to access critical services.<sup>25</sup>

Approximately 71% of Asian American immigrant seniors are LEP. Additionally, 95% of Hmong, 92% of Cambodian, 90% of Vietnamese, 88% of Laotian, 86% of Nepalese, 85% of Korean, and 84% of Chinese American immigrant seniors are LEP.<sup>26</sup>

The top Asian languages spoken among Asian American immigrants in the country are Chinese, Tagalog, Vietnamese, Korean, and Hindi. (See the appendix for list of languages spoken.)<sup>27</sup>

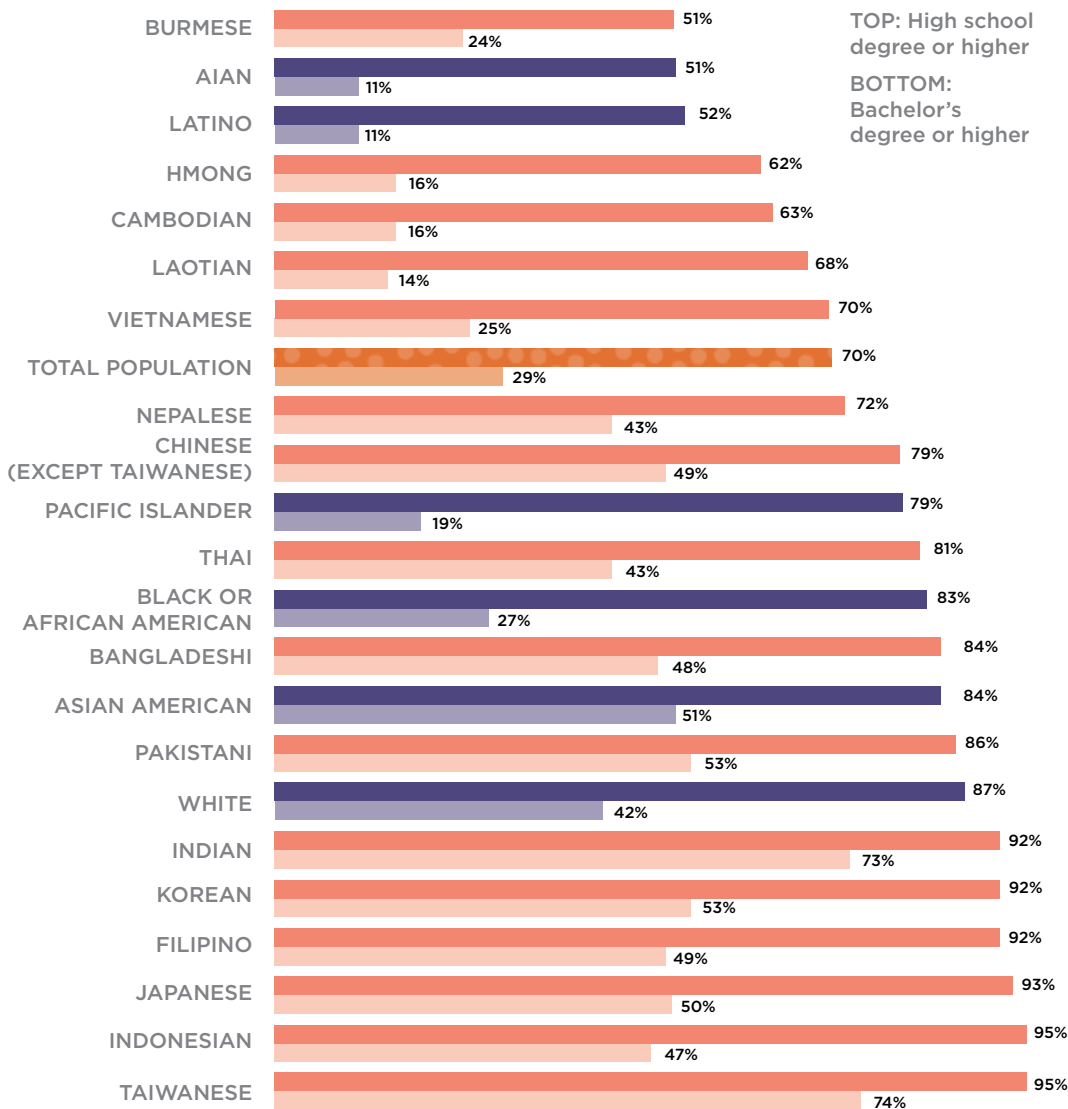
Nearly 88% of Asian American immigrants speak a language other than English at home, a rate second only to Latinos.<sup>28</sup>



## EDUCATIONAL ATTAINMENT FOR THE FOREIGN-BORN POPULATION 25 YEARS & OLDER

By Race, Hispanic Origin, and Ethnic Group, 2012–2016 | Ranked by % Holding a High School Degree or Higher

FIGURE 11



Among Asian American immigrant groups, Burmese, Hmong, Cambodian, and Laotian Americans have the lowest educational attainment rates.

FIGURE 11: U.S. Bureau, 2012–2016 American Community Survey 5-Year Estimates, Public Use Microdata Sample.

Asian American immigrants (51%) are less likely than native-born Asian Americans (57%) to have a college degree or higher.<sup>29</sup>

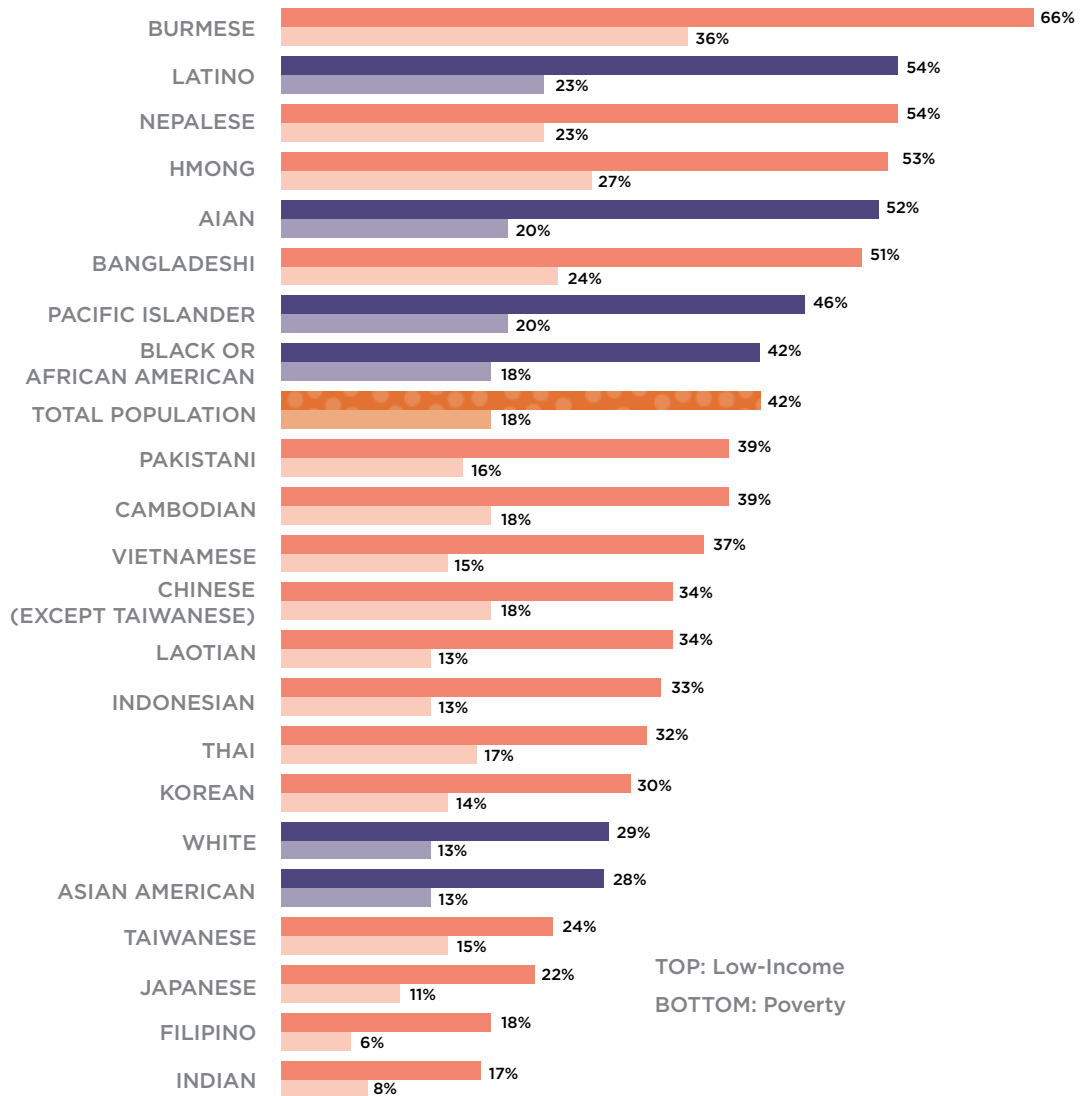
Among Asian American immigrants, Burmese (51%), Hmong (62%), Cambodian (63%), and Laotian Americans (68%) are least likely to hold a high school degree or higher. Laotian (14%), Cambodian (16%), Hmong (16%), and Burmese American immigrants (24%) are also least likely to hold a college degree or higher.<sup>30</sup>

Only 19% of Pacific Islander immigrants hold a college degree or higher compared with the national average (29%).<sup>31</sup>

## POVERTY & LOW-INCOME FOR THE FOREIGN-BORN POPULATION

By Race, Hispanic Origin, and Ethnic Group, 2012–2016 | Ranked by % Low-Income

FIGURE 12



A majority of Burmese (66%), Nepalese (54%), Hmong (53%), and Bangladeshi American immigrants (51%) are low-income. Burmese (36%), Hmong (27%), and Bangladeshi American immigrants (24%) also have among the highest rates of poverty.

FIGURE 12: U.S. Bureau, 2012–2016 American Community Survey 5-Year Estimates, Public Use Microdata Sample.

Note: The low-income are those whose incomes fall below 200% of the federal poverty threshold.

Approximately 28% of Asian American immigrants are low-income, a rate higher than native-born Asian Americans (25%). Pacific Islander immigrants (46%) are more likely than the average immigrant (42%) to be low-income.<sup>32</sup>

Over 1.5 million Asian American immigrant households are housing cost burdened, spending 30% or more of their household income on housing costs.<sup>33</sup>

Nearly 60% of Bangladeshi, 59% of Vietnamese, and 59% of Korean American immigrant renter households are housing cost burdened, and 42% of Korean American immigrant homeowners are housing cost burdened.<sup>34</sup>

## REPRESENTATION OF ASIAN AMERICAN WORKERS AGE 16 & OLDER

By Top 15 Specific Industries | Ranked by Number of Foreign-Born Workers, 2012–2016

FIGURE 13

Industry	Asian American Foreign-Born Workers	% of Asian American Workers Who Are Foreign-Born	% of Asian American Workers within Industry
Restaurants and Other Food Services	604,250	77%	6%
Hospitals	495,859	77%	8%
Computer Systems Design and Related Services	435,137	87%	20%
Colleges, Universities, and Professional Schools, Including Junior Colleges	350,294	74%	9%
Elementary and Secondary Schools	191,950	67%	3%
Nail Salons and Other Personal Care Services	184,813	92%	38%
Grocery Stores	163,175	80%	5%
Banking and Related Activities	147,562	78%	8%
Construction	143,472	74%	2%
Electronic Components and Products	141,002	89%	22%
Traveler Accommodation	126,822	81%	8%
Management, Scientific, and Technical Consulting Services	117,517	76%	8%
Insurance Carriers and Related Activities	116,093	76%	5%
Offices of Physicians	97,202	74%	7%
Skilled Nursing Facilities	94,796	86%	5%

FIGURE 13: U.S. Bureau, 2012–2016 American Community Survey 5-Year Estimates, Public Use Microdata Sample.

There are over 600,000 Asian American and 12,000 Pacific Islander immigrant workers in the restaurant industry. Over 220,000 Asian American immigrants in the industry are considered low-wage workers.<sup>35</sup>

Top industries among Pacific Islander immigrant workers are restaurant and other food services, hospitals, and construction.<sup>36</sup>

There are over 600,000 Asian American and 12,000 Pacific Islander immigrant workers in the restaurant industry.

Approximately four in five Asian American low-wage workers are immigrants.<sup>37</sup>



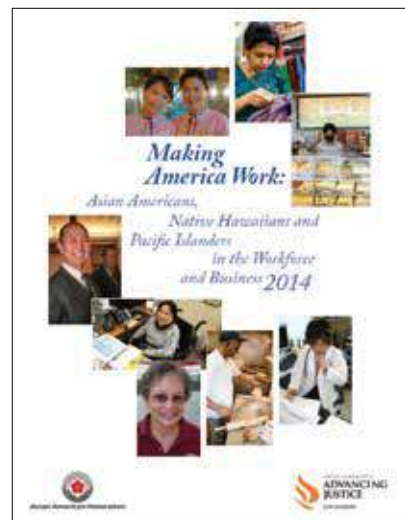
Nearly 60,000 low-wage Vietnamese American immigrant workers work in the nail salon industry. Top industries for low-wage Filipino American immigrant workers include restaurants, hospitals, and nursing care facilities.<sup>38</sup>

Nearly 15% of low-wage Pacific Islander immigrant workers work in the restaurant and other food services industries, followed by construction (4%) and animal slaughtering and processing (4%).<sup>39</sup>

Between 2012 and 2016, there were over 360,000 Asian American immigrants who were unemployed every year.<sup>40</sup>

Pacific Islander immigrants had the second-highest unemployment rate of all racial groups.<sup>41</sup>

Among Asian American immigrants, Hmong (8%), Burmese (8%), Nepalese (8%), Cambodian (7%), Laotian (7%), Pakistani (7%), and Bangladeshi Americans (5%) had unemployment rates above the national average.<sup>42</sup>



For in-depth analysis of Asian Americans, Native Hawaiians and Pacific Islanders in the workforce and business, see the 2014 report *Making America Work* produced by Asian Americans Advancing Justice—Los Angeles and the Asian American Federation: [www.advancingjustice-la.org/demographics](http://www.advancingjustice-la.org/demographics).



## NOTES

- <sup>1</sup> U.S. Census Bureau, 2017 American Community Survey 1-Year Estimates, Table S0201.
- <sup>2</sup> U.S. Census Bureau, 2017 American Community Survey 1-Year Estimates, Table S0201.
- <sup>3</sup> U.S. Census Bureau, 2010 American Community Survey 1-Year Estimates, Table S0201; 2017 American Community Survey 1-Year Estimates, Table S0201.
- <sup>4</sup> U.S. Census Bureau, 2010 American Community Survey 1-Year Estimates, Table S0201; 2017 American Community Survey 1-Year Estimates, Table S0201.
- <sup>5</sup> U.S. Census Bureau, 2017 American Community Survey 1-Year Estimates, Table S0201.
- <sup>6</sup> U.S. Census Bureau, 2017 American Community Survey 1-Year Estimates, Table S0201.
- <sup>7</sup> U.S. Census Bureau, 2010 American Community Survey 1-Year Estimates, Tables C05003D and C05003E; 2017 American Community Survey 1-Year Estimates, Tables B05003D and B05003E.
- <sup>8</sup> U.S. Census Bureau, 2017 American Community Survey 1-Year Estimates, Table S0201.
- <sup>9</sup> U.S. Census Bureau, 2017 American Community Survey 1-Year Estimates, Table S0201.
- <sup>10</sup> U.S. Census Bureau, 2010 American Community Survey 1-Year Estimates, Table S0201; 2017 American Community Survey 1-Year Estimates, Table S0201.
- <sup>11</sup> U.S. Census Bureau, 2017 American Community Survey 1-Year Estimates, Table S0201.
- <sup>12</sup> U.S. Bureau, 2012–2016 American Community Survey 5-Year Estimates, Public Use Microdata Sample.
- <sup>13</sup> U.S. Bureau, 2012–2016 American Community Survey 5-Year Estimates, Public Use Microdata Sample.
- <sup>14</sup> U.S. Census Bureau, 2017 American Community Survey 1-Year Estimates, Table S0201.
- <sup>15</sup> U.S. Census Bureau, 2017 American Community Survey 1-Year Estimates, Table S0201.
- <sup>16</sup> U.S. Bureau, 2012–2016 American Community Survey 5-Year Estimates, Public Use Microdata Sample.
- <sup>17</sup> U.S. Bureau, 2012–2016 American Community Survey 5-Year Estimates, Public Use Microdata Sample.
- <sup>18</sup> U.S. Bureau, 2012–2016 American Community Survey 5-Year Estimates, Public Use Microdata Sample.
- <sup>19</sup> U.S. Department of Homeland Security, *Annual Flow Report: Lawful Permanent Residents August 2018*.
- <sup>20</sup> Center for Migration Studies, *State-Level Unauthorized Population and Eligible-to-Naturalize Estimates, 2017*.
- <sup>21</sup> U.S. Census Bureau, 2012 Survey of Business Owners, Table SB1200CSCBO11.
- <sup>22</sup> U.S. Census Bureau, 2012 Survey of Business Owners, Table SB1200CSCBO11.
- <sup>23</sup> U.S. Census Bureau, 2012 Survey of Business Owners, Table SB1200CSCBO11.
- <sup>24</sup> U.S. Census Bureau, 2012 Survey of Business Owners, Table SB1200CSCBO11.
- <sup>25</sup> U.S. Bureau, 2012–2016 American Community Survey 5-Year Estimates, Public Use Microdata Sample.
- <sup>26</sup> U.S. Bureau, 2012–2016 American Community Survey 5-Year Estimates, Public Use Microdata Sample.
- <sup>27</sup> U.S. Bureau, 2012–2016 American Community Survey 5-Year Estimates, Public Use Microdata Sample.
- <sup>28</sup> U.S. Bureau, 2012–2016 American Community Survey 5-Year Estimates, Public Use Microdata Sample.
- <sup>29</sup> U.S. Bureau, 2012–2016 American Community Survey 5-Year Estimates, Public Use Microdata Sample.
- <sup>30</sup> U.S. Bureau, 2012–2016 American Community Survey 5-Year Estimates, Public Use Microdata Sample.
- <sup>31</sup> U.S. Bureau, 2012–2016 American Community Survey 5-Year Estimates, Public Use Microdata Sample.
- <sup>32</sup> U.S. Bureau, 2012–2016 American Community Survey 5-Year Estimates, Public Use Microdata Sample.
- <sup>33</sup> U.S. Bureau, 2012–2016 American Community Survey 5-Year Estimates, Public Use Microdata Sample.
- <sup>34</sup> U.S. Bureau, 2012–2016 American Community Survey 5-Year Estimates, Public Use Microdata Sample.
- <sup>35</sup> U.S. Bureau, 2012–2016 American Community Survey 5-Year Estimates, Public Use Microdata Sample.
- <sup>36</sup> U.S. Bureau, 2012–2016 American Community Survey 5-Year Estimates, Public Use Microdata Sample.
- <sup>37</sup> U.S. Bureau, 2012–2016 American Community Survey 5-Year Estimates, Public Use Microdata Sample.
- <sup>38</sup> U.S. Bureau, 2012–2016 American Community Survey 5-Year Estimates, Public Use Microdata Sample.
- <sup>39</sup> U.S. Bureau, 2012–2016 American Community Survey 5-Year Estimates, Public Use Microdata Sample.
- <sup>40</sup> U.S. Bureau, 2012–2016 American Community Survey 5-Year Estimates, Public Use Microdata Sample.
- <sup>41</sup> U.S. Bureau, 2012–2016 American Community Survey 5-Year Estimates, Public Use Microdata Sample.
- <sup>42</sup> U.S. Bureau, 2012–2016 American Community Survey 5-Year Estimates, Public Use Microdata Sample.

# HOW WE

# TO GO | HERE

DISCUSSION OF  
IMMIGRATION PATHWAYS

## INTRODUCTION

Asian immigrants have been part of the United States from its early days. Between 1859 and 1924, approximately one million Asians entered the U.S. For many years, however, starting with the Chinese Exclusion Act of 1882 and the National Origins Act of 1924, Asians were largely barred from immigrating to the U.S. Further, U.S. law established in 1790 specified that naturalized citizenship was reserved for White people. These exclusionary laws remained in place until 1952. As a result, and as recounted in the Asian American history classic *Strangers from a Different Shore*, in 1960 there were 877,934 Asians in the U.S., representing “a mere one half of one percent of the country’s population.”<sup>43</sup>

It was not until passage of the Immigration and Nationality Act of 1965 (INA) that the immigration system based on national origin quotas heavily favoring immigration from Northern and Western Europe was abolished, reopening the U.S. to immigration from Asia and other parts of the world.<sup>44</sup> The impact of this landmark piece of legislation and its transformation of the immigration system cannot be overstated. In the 50 years after passage of the INA, between 1965 and 2015, approximately 59 million immigrants arrived in the U.S. As of 2017, the foreign-born population comprised approximately 44.5 million immigrants, who made up 13.7% of the U.S. population. This represents the highest level of foreign-born in the U.S. since 1910 when immigrants made up 14.7% of the population.<sup>45</sup>

The flow of immigrants settling in the U.S. has become increasingly diversified since 1965. While the Latino share of the U.S. population rose from 4% in 1965 to 18% in 2015, the Asian share increased from less than 1% to 6% within the same time frame. Immigration has contributed to the Asian American community becoming the fastest-growing racial group in the U.S., expanding by 78% from 10.2 million in 2000 to 18.2 million in 2017.<sup>46</sup>

The immigration system established by the INA, a preference system based on immigrants’ family relationships and, to a lesser extent, their skills, continues to shape immigration today. Individuals who wish to immigrate to the U.S. can apply for lawful permanent resident (LPR) status, also known as the “green card,” through family, employment, a number of visa programs, and refugee or asylum status. Many are granted LPR status through consular processing outside of the U.S., while others gain LPR status through “adjustment of status” from a nonimmigrant visa while in the U.S. In fiscal year 2017, over 1.1 million immigrants obtained lawful permanent resident status in the U.S. Approximately 38% of these LPRs were from Asia and Pacific Islands.<sup>47</sup>

This section of the report details the main immigration pathways used by Asian Americans and Pacific Islanders: immigration through the sponsorship of family members, immigration based on employment, the diversity visa program, and various forms of humanitarian relief, including refugee and asylum status, petitions under the Violence Against Women Act, and visas for crime victims and victims of trafficking. This section also includes a discussion of Pacific Islanders and the various types of immigration status they hold.

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## FAMILY-BASED IMMIGRATION

The Immigration and Nationality Act of 1965 (INA) established an immigration system that prioritized family-based immigration with a relatively smaller employment-based system.<sup>48</sup> Congress signaled its commitment to promoting family unity by reserving three-fourths of admissions for individuals immigrating through family categories. The family-based system, combined with waves of Asian refugees who would later sponsor relatives, has resulted in tremendous growth of Asian American communities and many other diverse communities in America since 1965.<sup>49</sup>

Under the family-based system, U.S. citizens and lawful permanent residents (LPRs) can sponsor close family members to immigrate to the United States. The U.S. citizen or LPR family member must file the immigration application for their family members; the intending immigrants cannot initiate the application process.

The family-based system is made up of two major categories: immediate relatives of U.S. citizens and family-based preference visas. The immediate relative category includes spouses, parents, and unmarried children under age 21 of U.S. citizens, and is not subject to annual limits. The family preference categories are subject to an annual limit of 226,000 a year.<sup>50</sup> The annual worldwide ceiling for all family-based immigration is 480,000 immigrants a year, but this level can be exceeded since there is no limit to the number of visas for immediate relatives of U.S. citizens.<sup>51</sup>

The family-based system, combined with waves of Asian refugees who would later sponsor relatives, has resulted in tremendous growth of Asian American communities and many other diverse communities in America since 1965.

### Immediate Relatives and Family-Based Visa Preference Categories

FIGURE 14

Immigration Category	Immigration Status of U.S. Family Member	Relationship of Intending Immigrant to U.S. Family Member	Annual Numerical Limit
<b>Immediate Relative of U.S. Citizen</b>	U.S. citizen	Spouse, unmarried minor child,* parent	Unlimited
<b>First Family Preference (F-1)</b>	U.S. citizen	Unmarried adult sons and daughters	23,400
<b>Second A Family Preference (F-2A)</b>	U.S. lawful permanent resident	Spouse, minor child*	87,934
<b>Second B Family Preference (F-2B)</b>	U.S. lawful permanent resident	Unmarried adult sons and daughters	26,266
<b>Third Family Preference (F-3)</b>	U.S. citizen	Married sons and daughters	23,400
<b>Fourth Family Preference (F-4)</b>	U.S. citizen	Brothers and sisters	65,000

FIGURE 14: U.S. Citizenship and Immigration Services website, "Green Card for Immediate Relatives of U.S. Citizen" (July 10, 2017); U.S. State Department, "Visa Bulletin for January 2019."

\*Minor child is defined as being under the age of 21 and unmarried.

The INA also limits each country to an annual maximum of 7% of all family-based grants of lawful permanent residency, known as the per-country ceiling, or "cap." This cap has resulted in long lines or backlogs in many categories and for certain countries, which are addressed in the issue brief on family-based immigration.

Between FY 2016 and FY 2017, the total number of green cards granted to Asian immigrants through the family-based immigration system decreased by 12.8%.

Spouses and children (defined as under 21 years of age) may apply for and receive LPR status along with the applicant. These family members, who are referred to as “derivatives,” count towards both the categorical and per-country caps along with the principal beneficiary of the immigration application. While counting derivatives toward the caps is not clearly required by the INA, this practice is the result of the government’s long-standing interpretation of the law.

Of the 462,299 green cards granted to Asian immigrants in fiscal year (FY) 2016, 180,168 (39%) were given to immediate relatives of U.S. citizens (spouses, parents, and unmarried minor children), and 108,734 (23.5%) were given to family-sponsored waiting list registrants.<sup>52</sup> The latter represents 45.7% of the 238,087 total green cards issued to family-sponsored waiting list registrants worldwide in FY 2016.

Of the 424,743 green cards that were granted to Asian immigrants in FY 2017, 156,133 (36.8%) were given to immediate relatives of U.S. citizens, and 95,788 (22.6%) were given to family-sponsored waiting list registrants.<sup>53</sup> The latter represents 41.2% of the 232,238 total green cards issued to family-sponsored waiting list registrants worldwide in FY 2017.

FY 2017

**424,743 GREEN CARDS GRANTED TO ASIAN IMMIGRANTS**

36.8% TO IMMEDIATE RELATIVES OF U.S. CITIZENS

22.6% TO FAMILY-SPONSORED WAITING LIST REGISTRANTS

40.6% OTHER



Between FY 2016 and FY 2017, the total number of green cards granted to Asian immigrants through the family-based immigration system decreased by 12.8%.

A total of 1,503 green cards were granted to immigrants from Pacific Islands in FY 2016. Of these, approximately 58% (875) were given to immediate relatives of U.S. citizens, and approximately 24% (356) were given to family-sponsored waiting list registrants.<sup>54</sup>

A total of 1,367 green cards were granted to immigrants from Pacific Islands in FY 2017. Of these, approximately 53% (725) were given to immediate relatives of U.S. citizens, and approximately 28% (384) were given to family-sponsored waiting list registrants.<sup>55</sup>

FY 2017

**1,367 GREEN CARDS GRANTED TO IMMIGRANTS FROM PACIFIC ISLANDS**

53% TO IMMEDIATE RELATIVES OF U.S. CITIZENS

28% TO FAMILY-SPONSORED WAITING LIST REGISTRANTS

19% (258) OTHER

Between FY 2016 and FY 2017, the total number of green cards granted to Pacific Islander immigrants decreased by 9%. During the same time period, the number of green cards given to Pacific Islander immigrants who are immediate relatives of U.S. citizens decreased by 17.1%, and the number of green cards given to Pacific Islander immigrants arriving through family preference categories increased by 7.9%.

## EMPLOYMENT-BASED IMMIGRATION

The U.S. also has a smaller employment-based immigration system for foreign workers with skills deemed valuable to the U.S. economy. Similar to the family-based immigration system, the employment-based system has both a worldwide cap, 140,000 per fiscal year, and a country cap of 7% per country.<sup>56</sup> The employment-based categories made up roughly 12% of the 1.1 million LPRs admitted in 2017.<sup>57</sup> Like family visas, eligible spouses and minor children of the primary immigrant are counted towards these caps, so the actual number of employment-based immigrants in any given year is less than 140,000.



Since FY 2001, the 7% country cap may be exceeded for an individual country as long as visas are available within the 140,000 worldwide employment-based limit. Once visas are given out to other countries, some Asian countries such as India and China receive more visas until the 140,000 limit is reached. The percentage of employment-based visas issued to nationals of Asian countries has been relatively constant over the past 10 years. Workers from Asia received 61% of employment-based visas in 2017, with India (17%), China (14%), South Korea (8%), and the Philippines (6%) ranking as the top countries.<sup>58</sup>

Employment-based immigrant visas are divided into five categories based on the applicant's skills. These green cards are referred to as employment-based preference categories, or "EB."

The first employment-based preference, referred to as EB-1, is for "Priority Workers" or persons of "extraordinary ability" in the arts, science, education, business, or athletics; outstanding professors and researchers; and multinational managers and executives.<sup>59</sup>

The second employment-based visa category, referred to as EB-2, is for "Professionals Holding Advanced Degrees and Persons of Exceptional Ability." This visa is for members of the professions holding advanced degrees or a baccalaureate degree and at least five years of progressive experience in the profession, and persons of exceptional ability in the arts, science, or business.

The EB-3 category, "Skilled Workers, Professionals, and Unskilled Workers," is for skilled workers with at least two years of training or experience, professionals with college degrees, or "other" workers for unskilled labor that is not temporary or seasonal.

The fourth employment-based category, EB-4, is for "Certain Special Immigrants," religious workers, employees of U.S. foreign service posts, translators, former U.S. government employees, and a range of other classes of noncitizens.

The final employment-based category is EB-5 for "Immigrant Investors," or persons who commit to investing \$500,000 to \$1 million in a job-creating enterprise that employs at least 10 full-time U.S. workers. While the EB-5 visa category has existed for 25 years, it has only recently gained in popularity. Between FY 2005 and FY 2015, the number of EB-5 visas issued increased from 349 to 9,764.<sup>60</sup>

In 2017, 61% of employment-based visas were issued to workers from Asia, with India (17%), China (14%), South Korea (8%), and the Philippines (6%) ranking as the top countries.



The EB-1, EB-2, and EB-3 categories are each allocated 28.6% of the employment-based immigration visas (40,000 per category) available annually. The EB-4 and EB-5 categories are each allocated 7.1% of the employment-based visas (10,000 per category) available annually.

Employers seeking to sponsor immigrants for EB-2 and EB-3 visas must first demonstrate that there is a labor shortage for the position they are seeking to fill. They do this by applying for labor certification from the Department of Labor (DOL), establishing that there are no U.S. workers available, willing, and qualified to fill the position at the prevailing wage. Once the labor certification is approved, the employer submits a petition to U.S. Citizenship and Immigration Services (USCIS) for the foreign worker.

Qualified applicants in the EB-5 category, workers that qualify under the “extraordinary ability” category of EB-1, and certain workers in the fourth visa-preference category may petition for themselves.

**Employment-Based Visa Categories, Visas Issued to Individuals From Asia, and Top Asian Origin Countries**

FY 2017

FIGURE 15

Visa Category	Visas Issued to Individuals from Asia		Top Asian-Origin Countries for Visa Issuance		
	Number	Percent	Country	# of Visas	% of Total Visas Issued
<b>EB-1</b>	23,533	56%	India	13,082	31.0%
			China	6,337	15.0%
			South Korea	1,191	3.0%
<b>EB-2</b>	21,836	55%	South Korea	4,909	12.0%
			India	2,879	7.2%
			China	2,559	6.4%
			Philippines	1,785	4.0%
			Taiwan	1,535	4.0%
			Pakistan	1,185	3.0%
<b>EB-3</b>	25,012	66%	India	6,641	18.0%
			Philippines	6,675	18.0%
			South Korea	4,535	12.0%
			China	2,524	7.0%
<b>EB-4</b>	2,663	27%	India	790	8.0%
			South Korea	499	5.0%
<b>EB-5</b>	8,878	88%	China	7,567	85.0%
			Vietnam	471	5.0%

FIGURE 15: U.S. State Department, “Immigrant Visas Issued and Adjustments of Status Subject to Numerical Limitations Fiscal Year 2017,” *Report of the Visa Office 2017*.

As noted above, while the total number of green cards granted to Asian immigrants through family immigration decreased by 12.8% between FY 2016 and FY 2017, the number of green cards given to employment-based Asian immigrants increased by 3% during the same time period.

In addition, of the 1,503 green cards granted to immigrants from Pacific Islands in FY 2016, approximately 2% (36) were for employment-based visas. Of the 1,367 green cards granted to immigrants from Pacific Islands in FY 2017, approximately 3% (35) were for employment-based visas.<sup>61</sup> Between FY 2016 and FY 2017, the total number of green cards granted to Pacific Islander immigrants decreased by 9%, and the number of employment-based green cards given to Pacific Islander immigrants decreased by 3%.



## DIVERSITY VISA PROGRAM

The Diversity Immigrant Visa Program (DV Program) makes available up to 50,000 immigrant visas per year to individuals who are from countries with historically low rates of immigration to the U.S. Diversity visas account for approximately 5% of immigration to the U.S. in any given year, and no country is allocated more than 7% of available visas.<sup>62</sup> The diversity visa allows a small number of people who do not have family members or employers to sponsor them to immigrate to the U.S. each year.

Under the DV Program, individuals from eligible countries<sup>63</sup> can register for the program online during designated time periods. For the 2018 DV Program, the U.S. State Department received nearly 15 million applications or “entries” during a 34-day application period in 2016. Approximately 116,000 applicants were notified that they were selected to proceed. These individuals chosen in the DV Program “lottery” are required to demonstrate that they have a high school education or two years of qualifying work experience; complete a detailed application; provide extensive documentation, including background checks and a medical exam; and go through an interview at the U.S. consulate.<sup>64</sup>

The DV Program is criticized for being a “lottery,” but the random selection prevents the backlogs that we see in other visa categories. Further, as noted above, once selected for a diversity visa, immigrants must still be vetted and approved for admission to the U.S. Not all individuals who “win” the DV Program “lottery” are approved for green cards.

In FY 2017, nearly 12,500,000 individuals submitted entries for the DV Program and approximately 84,000 applicants were selected. The selected applicants can pursue their cases to visa issuance until all 50,000 visas allocated are used, at which time the program for that year ends.<sup>65</sup>

### Diversity Visa Program: Asian Countries

FY 2017 | Ranked by Country with Highest Number of Applicants Selected in DV Program Lottery

FIGURE 16A

Country	DV Program Applicants	Applicants Selected in DV Program “Lottery”	Visas Issued and Adjustments of Status Granted to Diversity Immigrants
Iran	737,181	4,500	2,106
Nepal	692,137	4,000	3,477
Cambodia	250,815	824	198
Yemen	108,549	694	267
Sri Lanka	51,899	375	160
Syria	32,484	356	128
Iraq	31,132	302	150
Afghanistan	39,672	285	144
Taiwan	30,763	260	160
Jordan	23,949	259	96
Burma*	29,142	213	148

The Diversity Immigrant Visa Program makes available up to 50,000 immigrant visas per year to individuals who are from countries with historically low rates of immigration to the U.S.

FIGURE 16A: U.S. State Department, Bureau of Consular Affairs, “Diversity Visa Program, DV 2016–2018: Number of Entries Received during Each Online Registration Period by Country of Chargeability”; U.S. State Department, Bureau of Consular Affairs, “DV 2017 - Selected Entrants”; U.S. State Department, Bureau of Consular Affairs, “Table VII. Immigrant Number Use for Visa Issuances and Adjustments of Status in the Diversity Immigrant Category, Fiscal Years 2008–2017.”

\*Also known as Myanmar

FIGURE 16A, CONTINUED

For the 2018 DV Program, the U.S. State Department received nearly 15 million applications or “entries” during a 34-day application period in 2016.



FIGURE 16B: U.S. State Department, Bureau of Consular Affairs, “Diversity Visa Program, DV 2016–2018: Number of Entries Received during Each Online Registration Period by Country of Chargeability”; U.S. State Department, Bureau of Consular Affairs, “DV 2017 - Selected Entrants;” U.S. State Department, Bureau of Consular Affairs, “Table VII. Immigrant Number Use for Visa Issuances and Adjustments of Status in the Diversity Immigrant Category, Fiscal Years 2008–2017.”

Country	DV Program Applicants	Applicants Selected in DV Program Lottery	Visas Issued and Adjustments of Status Granted to Diversity Immigrants
Japan	28,098	204	117
Mongolia	14,429	144	97
Israel	14,094	127	34
Indonesia	13,133	115	41
Kuwait	8,436	101	45
United Arab Emirates	11,018	97	31
Thailand	9,706	41	19
Malaysia	7,596	39	30
Hong Kong S.A.R.	6,051	37	18
Qatar	3,252	33	9
Singapore	3,285	20	9
Bhutan	2,008	16	7
Bahrain	1,216	12	1
Oman	915	9	6

**Diversity Visa Program: Pacific Island Countries**

FY 2017 | Ranked by Country with Highest Number of Applicants Selected in DV Program Lottery

FIGURE 16B

Country	DV Program Applicants	Applicants Selected in DV Program Lottery	Visas Issued and Adjustments of Status Granted to Diversity Immigrants
Fiji	5,715	404	214
Tonga	603	42	24
Samoa	95	10	0
Papua New Guinea	164	6	1
Vanuatu	70	5	0
Nauru	120	5	0
Kiribati	79	3	0
Federated States of Micronesia	27	2	0
Tuvalu	9	1	2
Marshall Islands	5	0	0
Palau	38	0	0
Solomon Islands	59	0	0

## HUMANITARIAN RELIEF: REFUGEES AND ASYLEES

The U.S. refugee and asylum programs aim to protect individuals fleeing violence and persecution in their countries of origin. Modern refugee policy has been characterized as “a response to the failures of the Holocaust era,” when the U.S. could have accepted greater numbers of Jewish immigrants. Informed by international law and incorporated into U.S. law with the passage of the Refugee Act of 1980, the definition of a refugee is a “person who is unable or unwilling to return to his or her home country because of a ‘well-founded fear of persecution’ due to race, membership in a particular social group, political opinion, religion, or national origin.” Whereas a refugee seeks status from abroad, an asylee is a foreign national already in the U.S. or at the border who meets this definition.<sup>66</sup>



### TIN LIA

Pa Hu and Tin Lia, father and son, fled ethnic strife in Myanmar, escaping first to Malaysia before gaining refugee status and coming to the United States. They were filled with hope when they arrived in Iowa in 2014. Unfortunately, the assistance they had counted on from refugee resettlement agencies did not materialize. Worse, Pa Hu suffered a stroke shortly after they arrived in the U.S. Tin Lia, who did not speak English and had just started high school, and his father fell through the wide holes of the refugee resettlement system. A nurse connected them with Ethnic Minorities of Burma Advocacy and Resource Center (EMBARC) for support. After graduating from high school last year, Tin Lia now works with EMBARC, providing assistance to other refugees.

Tin Lia and Pa Hu still have family in Myanmar, including family members who have made it to Malaysia. All hope to make it to the United States.

For many years, the U.S. has led the global initiative to accept refugees and asylees by raising quotas during periods of international conflict. Recognizing the Vietnam War’s devastating human impact, Congress passed the Indochina Migration and Refugee Assistance Act in 1975, which allocated funds for Vietnamese and Cambodian refugees to be transported to the U.S. and for social and rehabilitation services for resettled individuals. The Act was amended a year later to include the resettlement of Laotian refugees. The impact was immediate: between 1975 and 1980, approximately 300,000 Southeast Asian refugees entered the U.S. through the attorney general’s parole authority.<sup>67</sup>

Passed during this influx of refugees, the Refugee Act of 1980 created a “uniform and comprehensive policy to proactively address refugee admissions.” In addition to removing the geographic and ideological limits on the definition of refugee established by the INA of 1965, the Act raised the annual refugee admissions ceiling, provided the first statutory basis for asylum, and founded the Office of Refugee Resettlement.<sup>68</sup>

The 21st century has witnessed no shortage of refugee admissions to the U.S. from Asia and the Middle East. Some flows stemmed from old conflicts such as the Vietnam War. In 2004, nearly three decades after the Communist takeover of Laos, the U.S. government allowed 15,282 Laotian Hmong refugees, then living in a Thai refugee camp, to resettle in the country.<sup>69</sup>

Other refugee flows have emerged from more recent humanitarian crises. Rohingya refugees, members of a stateless Muslim minority in Myanmar, began arriving in the U.S. around the turn of the century due to political, religious, and economic persecution. As of June 2017, Burmese refugees represented 23% of the

708,354 total refugees admitted since 2007—the largest ethnic group resettled to the U.S. over that decade. During the same time frame, Bhutanese refugees, most of whom were ethnic Nepalis fleeing discriminatory treatment by their government, were the third-largest resettled group at 13%.<sup>70</sup>

Other countries that have experienced mass refugee exoduses include Iraq, Iran, Afghanistan, and Syria. Since 2011, over 5.6 million Syrians have fled the devastating conditions of an ongoing civil war to nearby countries including Lebanon, Turkey, and Jordan.<sup>71</sup>

### Top Ten Origin Countries of Refugee Arrivals

FY 2017\*

FIGURE 17

Country	Number	Percent
<b>Democratic Republic of Congo</b>	7,305	17.2%
<b>Iraq</b>	6,139	14.5%
<b>Syria</b>	6,065	14.3%
<b>Somalia</b>	5,167	12.2%
<b>Burma<sup>^</sup></b>	3,769	8.9%
<b>Ukraine</b>	2,869	6.8%
<b>Bhutan</b>	2,321	5.5%
<b>Iran</b>	2,136	5.0%
<b>Eritrea</b>	1,140	2.7%
<b>Afghanistan</b>	1,091	2.6%
<b>All other countries, including unknown</b>	4,422	10.4%
<b>Total</b>	<b>42,414</b>	<b>100%</b>

FIGURE 17: Jie Zong and Jeanne Batalova, "Refugees and Asylees in the United States," *Migration Policy Institute* (June 5, 2017).

\*Data for FY 2017 are partial and refer to resettlement between October 1, 2016, and April 30, 2017.

<sup>^</sup>Also known as Myanmar

With regard to asylum, China has been the top country of origin for individuals granted asylum affirmatively or defensively<sup>72</sup> for some time. The number of grants of asylum to individuals from China has been declining in recent years. Individuals from China were the beneficiaries of 26.8% of the affirmative asylum claims (3,912) and 45.8% of the defensive asylum claims (3,975) granted in FY 2014. Two years later, individuals from China were the beneficiaries of 11.5% of the affirmative asylum claims (1,381) and 11.8% of the defensive asylum claims (3,103) granted in FY 2016.<sup>73</sup>

The last few years have witnessed a gradual decline in the combined flow of Asian refugees and asylees.

Asylum claims from individuals from El Salvador, Guatemala, and Honduras increased significantly in FY 2015, and El Salvador topped China in grants of affirmative asylum claims for the first time in FY 2016. Other significant countries of origin for individuals granted asylum in FY 2016 include Egypt (690 affirmative grants, 5.9%), Syria (660 affirmative grants, 5.6%), Iraq (611 affirmative grants, 5.2%), Iran (381 affirmative grants, 3.2%), India (309 defensive grants, 3.8%), and Nepal (265 defensive grants, 3.2%).<sup>74</sup>

The last few years have witnessed a gradual decline in the combined flow of Asian refugees and asylees. While 67,603 individuals obtained green cards in the refugee and asylum categories in FY 2015, about 5,000 fewer refugees and asylees from Asia (62,895) obtained green cards in FY 2016. The numbers declined by more than 10,000 the following year as 52,003 refugees and asylees from Asia obtained green cards in FY 2017.<sup>75</sup> Further discussion of refugee admissions can be found in the issue brief on Muslim and Refugee Bans in this report.



### ABIGAIL SUI

As part of resettlement assistance, each refugee is eligible for a cash grant of \$1,800 and case management support for three months. More support is needed to help refugees establish themselves in the United States. Agencies like Ethnic Minorities of Burma Advocacy and Resource Center (EMBARC) do what they can, but the calls for assistance are unending. Most of the refugees in Des Moines are recent arrivals, and many are still struggling.

Further, last year the local community was shaken as at least 50 refugees received letters from USCIS requesting that they report for interviews. People were scared, and EMBARC mobilized to provide support, including advising refugees not to report for these voluntary interviews and helping them to complete Freedom of Information Act requests to learn more about why they were being investigated.

*Abigail Sui is the Parent Navigator program manager at EMBARC, a refugee service organization in Iowa.*

## HUMANITARIAN RELIEF FOR SURVIVORS OF DOMESTIC VIOLENCE, TRAFFICKING, AND CERTAIN OTHER CRIMES

In addition to the asylum and refugee programs, the U.S. has created three forms of humanitarian relief to enable individuals who have suffered domestic violence, trafficking, or been the victims of crime to obtain legal status and remain in the U.S.

### The Violence Against Women Act

Originally passed in 1994, the Violence Against Women Act (VAWA) represents a legislative commitment to protect survivors of domestic violence, dating violence, sexual assault, and stalking. These forms of violence primarily target women and girls; hence the inclusion of women in the title of the legislation. The legal provisions of VAWA, however, are not limited to women; they apply to everyone.<sup>76</sup>

Under VAWA, an immigrant may be eligible to become an LPR if they are the victim of battery or extreme cruelty committed by a U.S. citizen or LPR spouse or former spouse, a U.S. citizen or LPR parent, or a U.S. citizen son or daughter. Eligible persons may self-petition without their abusive family member's knowledge or consent.<sup>77</sup> This "self-petition" element is critical because victims often acquire their immigration status in the U.S. through their abusers. Enabling victims to petition for LPR status independently can help free them from the abuser's power and control.

In FY 2017, USCIS received a total of 11,326 VAWA petitions. Of these, 10,221 were filed by the spouse of an abusive U.S. citizen or LPR, 473 were filed by the child of an abusive U.S. citizen or LPR, and 632 were filed by the parent of an abusive

There is no question that domestic violence impacts Asian and Pacific Islander immigrant communities.

U.S. citizen son or daughter. Since Section 384 of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996 prohibits the unauthorized disclosure of information regarding VAWA cases, data on how Asian and Pacific Islander immigrants have been using VAWA are not available.<sup>78</sup>

There is no question that domestic violence impacts Asian and Pacific Islander immigrant communities. According to the Asian Pacific Institute on Gender-Based Violence, between 21% and 55% of Asian women in the U.S. have experienced intimate, physical, and/or sexual violence during their lifetime. Further, 23% of the 3,116 trafficking survivors with specified ethnicities who reached out to hotlines operated by Polaris, an anti-trafficking organization, in 2016 were Asian.<sup>79</sup>

Further, in its 2016 biennial report to Congress on the effectiveness of VAWA grant programs, the Office of Violence Against Women (OVW) found that during each 6-month reporting period, on average, VAWA-funded grantees served

<b>4,830</b> victims who identified as Asian	<b>539</b> victims who identified as Native Hawaiian or Other Pacific Islander;	<b>17,812</b> victims who identified as immigrants, refugees, or asylum-seekers; and	<b>17,826</b> victims with limited English proficiency. <sup>80</sup>
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The OVW report covered 15 programs and over 2,000 grantees and technical assistance providers. The programs ranged from criminal justice response, services for victims and families (including legal services), coordinated community response, to education, training, and technical assistance.

## U Visa

The U visa is a nonimmigrant visa for victims of certain crimes (and their immediate family members) who have suffered substantial mental or physical abuse while in the U.S. and who are willing to assist law enforcement in the investigation or prosecution of the crime. The qualifying crimes include most serious violent crimes as well as obstruction of justice and foreign labor contracting.<sup>81</sup> To receive U nonimmigrant status, the petitioner must also submit a certification from a law enforcement agency or officer stating that the petitioner “has been helpful, is being helpful, or is likely to be helpful” in the investigation or prosecution of the criminal activity.<sup>82</sup>

A total of 1,557 U visas were issued in FY 2017. Of that total, 118 (8%) were issued to individuals from Asia, with India receiving 64% of these visas. No U visas were issued to immigrants from Pacific Islands.<sup>83</sup>



## T Visa

Human trafficking, also known as trafficking in persons, is a form of modern-day slavery in which traffickers use force, fraud, or coercion to compel individuals to provide labor or services, including commercial sex. Traffickers often take advantage of vulnerable individuals, including those lacking lawful immigration status.<sup>84</sup>

The T visa allows certain victims of human trafficking and their immediate family members to remain and work temporarily in the U.S., typically if they agree to assist law enforcement by testifying against the perpetrators.

While relatively few T visas are issued, this visa is important to the Asian American community. In 2017, the majority of T visa recipients (246 individuals, 52%) were from Asian countries. The Philippines alone accounted for 40% of the global total of T visas issued in 2017, and India 5%.<sup>85</sup>

In 2017, the majority of T visa recipients (246 individuals, 52%) were from Asian countries. The Philippines alone accounted for 40% of the global total of T visas issued in 2017, and India 5%.

A large portion of the Filipino nationals who received T visas were victims of labor trafficking. According to a United Nations study, Filipino workers are usually trafficked through illegal recruitment in which they pay high fees for the promise of nonexistent jobs or jobs that pay less than those promised. According to a Polaris report, Filipino workers on temporary nonimmigrant visas have the second-highest rates of human trafficking after Mexicans.<sup>86</sup>

The Philippines recently was removed from the list of countries eligible for H-2 visas due to high rates of visa overstays and labor trafficking. The Department of Homeland Security reported that the embassy in the Philippines issues the highest number of derivative visas for spouses and children of people granted trafficking visas.<sup>87</sup> “The Trafficking Victims Protections Act was passed to encourage trafficking victims and survivors to come out of the shadows and report the crimes committed against them,” said Christopher M. Lapinig, a staff attorney in impact litigation at Asian Americans Advancing Justice—Los Angeles, which provides immigration and litigation services to victims of labor trafficking. “The reasons that the Trump administration has offered for removing the Philippines from the H-2B program are troubling. It effectively penalizes Filipino workers for reporting their human trafficking experiences and threatens to deter workers of all nationalities from doing the same. The removal of the Philippines from the H-2B program runs counter to the goals of the Trafficking Victims Protection Act.”

## FOCUS ON PACIFIC ISLANDERS

Immigration is a complex but critical issue for Pacific Islanders. While Native Hawaiians and many Pacific Islanders born in Hawai'i, Guam, or the Commonwealth of the Northern Mariana Islands are U.S. citizens, some Pacific Islanders are foreign-born and, depending on their country of birth, may have different types of immigration status.<sup>88</sup>



### U.S. Citizens

All persons born in Hawai'i and Guam, and persons born in the Commonwealth of the Northern Mariana Islands (CNMI) on or after November 4, 1986, are U.S. citizens by birthright, with all of the rights and privileges that entails, including the right to live and work in the U.S., qualify for public benefits, vote in elections, serve on a jury, become eligible for certain federal government jobs, serve in the U.S. military, and have expanded and expedited ability to sponsor certain family members abroad.<sup>89</sup>

Some residents born in the Northern Mariana Islands before November 4, 1986, are stateless. In 2011, the Obama administration created a parole program for certain immediate relatives of U.S. citizens and certain “stateless” individuals in the CNMI. Parole is a temporary status that offers protection against deportation as well as work authorization. The parole is only valid in the CNMI and does not allow travel and work in other parts of the U.S. The Trump administration recently announced the termination of this program, which will result in people losing status.<sup>90</sup>

### U.S. Nationals

American Samoans are considered U.S. nationals, a category which, despite allowing them to live and work in the country legally, necessitates that they apply for citizenship through the naturalization process like other immigrants in order to achieve full benefits.<sup>91</sup> Although they can serve in the military and qualify for most federal benefits and some state or local benefits, U.S. nationals cannot vote in elections requiring citizenship or obtain jobs requiring citizenship.

## Compact of Free Association Migrants

Citizens of the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau can live and work in the U.S. under a treaty called the Compact of Free Association (COFA). Under this treaty, the freely associated states allowed U.S. military presence in their countries in exchange for a variety of benefits including allowing residents to live and work in the U.S. without applying for citizenship. COFA migrants are neither U.S. citizens nor U.S. nationals; the U.S. considers COFA migrants “nonimmigrants.”<sup>92</sup>

COFA migrants are eligible to serve in the U.S. military. COFA migrants are not eligible for many federal benefits, including Medicaid (although they are eligible to participate in Medicare Part A and receive tax subsidies under the Affordable Care Act), and this lack of access creates hardship for many.<sup>93</sup>

The Migration Policy Institute has noted that about one-third of the population of the Marshall Islands has relocated to the U.S., where they have concentrated in Hawai’i, Guam, and Arkansas.<sup>94</sup>

Like foreign nationals, COFA migrants can become legal permanent residents of the U.S. through the pathways specified by the Immigration and Nationality Act. Compared to their numbers in the U.S., however, only a small number of COFA migrants have become lawful permanent residents. In FY 2017, 13 Palauans and 23 Marshallese received green cards.<sup>95</sup>

## Immigrants from Islands without U.S. Association

Immigrants from islands with no association with the U.S. may immigrate through existing immigration pathways to live and work in the U.S. The most common immigration pathways are through the family-based system and the diversity visa program with some smaller numbers of immigrants coming through the employment-based system and asylum.

### Pacific Islander Immigration Pathways

FIGURE 18

FY 2017

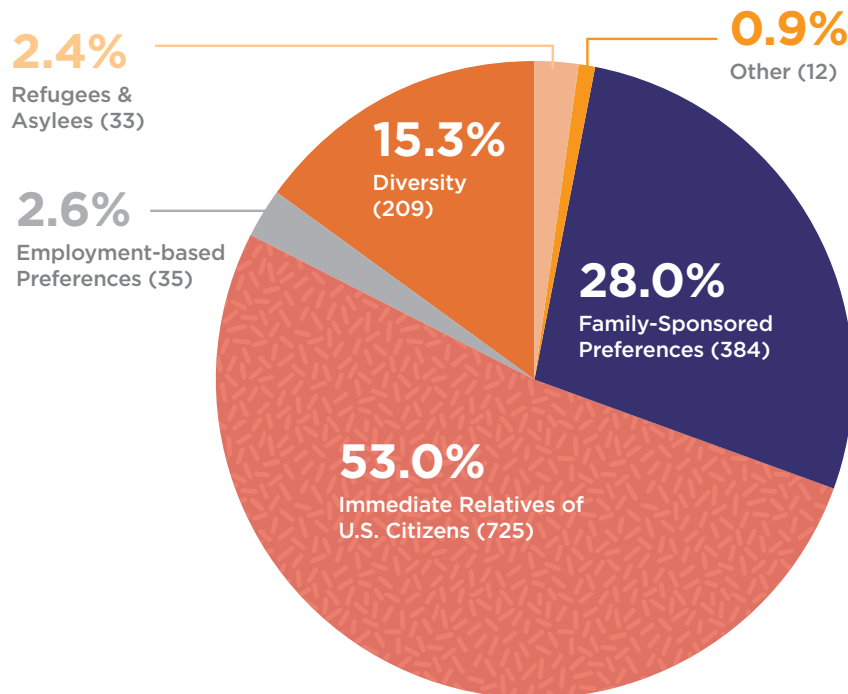


FIGURE 18: Department of Homeland Security, “Table 10. Persons Obtaining Lawful Permanent Resident Status by Broad Class of Admission and Region and Country of Birth: Fiscal Year 2017,” *2017 Yearbook of Immigration Statistics* (October 2, 2018).

## NOTES

- <sup>43</sup> Ronald Takaki, *Strangers from a Different Shore: A History of Asian Americans* (Boston: Little, Brown, 1989).
- <sup>44</sup> The 1965 act was not without racist origins. While providing equal country caps to all nations, some members of Congress agreed to support the law because they thought that the family system would favor the existing European populations who would be in a position to sponsor the most relatives. That proved false.
- <sup>45</sup> Takaki, *Strangers from a Different Shore*; Muzaffar Chishti, Faye Hipsman, and Isabel Ball, "Fifty Years On, the 1965 Immigration and Nationality Act Continues to Reshape the United States," *Migration Policy Institute* (October 15, 2015); Pew Research Center, "Modern Immigration Wave Brings 59 Million to U.S." (September 28, 2015); Jason Lange and Yeganeh Torbati, "U.S. Foreign-Born Population Swells to Highest in Over a Century," Reuters (September 13, 2018).
- <sup>46</sup> Takaki, *Strangers from a Different Shore*; Pew Research Center, "Modern Immigration Wave"; U.S. Census Bureau, 2000 Census SF2, Table DP-1.
- <sup>47</sup> Department of Homeland Security, "Table 10. Persons Obtaining Lawful Permanent Resident Status by Broad Class of Admission and Region and Country of Birth: Fiscal Year 2017," *2017 Yearbook of Immigration Statistics* (October 2, 2018).
- <sup>48</sup> Prior to 1965, the national origins system established a quota for immigration limited to 2% of the foreign-born population of each nationality as enumerated in the 1890 Census. This formula was "designed to favor Western and Northern European countries and drastically limit admission of immigrants from Asia, Africa, the Middle East, and Southern and Eastern Europe." Chisti, Hipsman, and Ball, "Fifty Years On."
- <sup>49</sup> Chisti, Hipsman, and Ball, "Fifty Years On."
- <sup>50</sup> If the annual limit is not reached in any preference category, the excess visas flow to another category. If the worldwide limit is not reached, then the excess visas flow to the employment-based categories. Neither of these scenarios has happened in recent years. American Immigration Council, "How the United States Immigration System Works" (August 12, 2016).
- <sup>51</sup> Ruth Ellen Wasem, *U.S. Immigration Policy on Permanent Admissions*, Congressional Research Service (March 13, 2012).
- <sup>52</sup> Department of Homeland Security, "Table 10. Persons Obtaining Lawful Resident Status by Broad Class of Admission and Region and Country of Birth: Fiscal Year 2016." *2016 Yearbook of Immigration Statistics* (December 18, 2017).
- <sup>53</sup> Department of Homeland Security, "Table 10. Persons Obtaining LPR Status: FY 2017."
- <sup>54</sup> Department of Homeland Security, "Table 10. Persons Obtaining LPR Status: FY 2016." Note: DHS data provides totals for a region called Oceania, which includes Pacific Island nations as well as Australia and New Zealand. The numbers reported here are for Oceania minus Australia and New Zealand.
- <sup>55</sup> Department of Homeland Security, "Table 10. Persons Obtaining LPR Status: FY 2017."
- <sup>56</sup> In theory, the cap could be higher than 140,000 because any unused family-based visas under the cap would flow to the employment-based system. However, all family-based visas are used up every year, so in practice this never happens.
- <sup>57</sup> Department of Homeland Security, "Table 10. Persons Obtaining LPR Status: FY 2017."
- <sup>58</sup> See the American Competitiveness in the Twenty-First Century Act of 2000 (P.L. 106–213); U.S. State Department, "Table V (Part 1) Immigrant Visas Issued and Adjustments of Status Subject to Numerical Limitations Fiscal Year 2017," *Report of the Visa Office 2017*.
- <sup>59</sup> This information and the details on the EB visas that follow are from the U.S. State Department website, "Employment-Based Immigrant Visas," and U.S. Citizenship and Immigration Services website, "Permanent Workers."
- <sup>60</sup> Faye Hipsman and Muzaffar Chishti, "Controversial EB-5 Immigrant Investor Program Faces Possibility of Overhaul," *Migration Policy Institute* (May 25, 2016).
- <sup>61</sup> Department of Homeland Security, "Table 10. Persons Obtaining LPR Status: FY 2016"; "Department of Homeland Security, "Table 10. Persons Obtaining LPR Status: FY 2017." Note: DHS data provides totals for a region called Oceania, which includes Pacific Island nations as well as Australia and New Zealand. The numbers reported here are for Oceania minus Australia and New Zealand.
- <sup>62</sup> U.S. State Department website, "Diversity Visa Program—Entry."
- <sup>63</sup> Individuals from the following countries were not eligible to participate in the DV Program in FY 2018: Bangladesh, Brazil, Canada, China (mainland-born, excluding Hong Kong S.A.R., Macau, and Taiwan), Colombia, Dominican Republic, El Salvador, Haiti, India, Jamaica, Mexico, Nigeria, Pakistan, Peru, the Philippines, South Korea, United Kingdom (except Northern Ireland) and its dependent territories, and Vietnam. U.S. State Department, Bureau of Consular Affairs, "DV 2018 — Selected Entrants."
- <sup>64</sup> U.S. State Department, "DV 2018—Selected Entrants"; U.S. State Department website, "Diversity Visa Program—Entry."
- <sup>65</sup> U.S. Department of State, Bureau of Consular Affairs, "DV 2017—Selected Entrants."
- <sup>66</sup> Dara Lind, "How America's Rejection of Jews Fleeing Nazi Germany Haunts Our Refugee Policy Today," *Vox* (January 27, 2017); American Immigration Council, "An Overview of U.S. Refugee Law and Policy" (November 18, 2015); American Immigration Council, "Asylum in the United States" (August 27, 2014).
- <sup>67</sup> Pew Research Center, "Where Refugees to the U.S. Come From" (2017); James A. Elgass, "Federal Funding of United States Refugee Resettlement Before and After the Refugee Act of 1980," *Michigan Journal of International Law* (1982); *A Bill to Amend the Indochina Migration and Refugee Assistance Act of 1975 to Provide for the Inclusion of Refugees from Laos*, Public Law 94-313 (July 21, 1976); U.S. Citizenship and Immigration Services website, "Refugee Timeline."
- <sup>68</sup> USCIS website, "Refugee Timeline."
- <sup>69</sup> Reuters, "15,000 Laotian Hmong Refugees to Be Allowed to Resettle in U.S.," *New York Times* (December 19, 2003).
- <sup>70</sup> The United Nations High Commissioner for Refugees, "UNHCR—Rohingya Emergency" (August 15, 2018); Asian & Pacific Islander American Scholarship Fund, *Invisible Newcomers: Refugees from Burma/Myanmar and Bhutan in the United States* (2014); Jie Zong and Jeanne Batalova, "Refugees and Asylees in the United States," *Migration Policy Institute* (June 5, 2017).
- <sup>71</sup> The United Nations High Commissioner for Refugees, "Syria Emergency" (April 19, 2018).

- <sup>72</sup> While an affirmative asylum seeker submits Form I-589 to USCIS, a defensive asylum seeker has been placed in removal proceedings before an immigration judge. The former appears before a USCIS asylum officer for a nonadversarial interview, and the latter appears before an immigration judge with the Executive Office for Immigration Review for an adversarial, court-like hearing. U.S. Citizenship and Immigration Services website, "Obtaining Asylum in the United States" (October 19, 2015).
- <sup>73</sup> Nadwa Mossad and Ryan Baugh, *Annual Flow Report, Refugees and Asylees: 2016*, Department of Homeland Security (January 2018).
- <sup>74</sup> Mossad and Baugh, *Annual Flow Report, Refugees and Asylees: 2016*.
- <sup>75</sup> Department of Homeland Security, "Table 10. Persons Obtaining Lawful Permanent Resident Status by Broad Class of Admission and Region and Country of Birth: Fiscal Year 2015," *2015 Yearbook of Immigration Statistics* (November 17, 2016); Department of Homeland Security, "Table 10. Persons Obtaining LPR Status: FY2016."
- <sup>76</sup> The National Domestic Violence Hotline, "What Is the Violence Against Women Act?"; U.S. Department of Justice, Office on Violence Against Women, *The 2016 Biennial Report to Congress on the Effectiveness of Grant Programs under the Violence Against Women Act*.
- <sup>77</sup> U.S. Citizenship and Immigration Services website, "Green Card for VAWA Self-Petitioner." Note: Once the self-petition is approved and certain eligibility requirements are met, the VAWA self-petitioner may be eligible to apply to become an LPR. If the abuser is a U.S. citizen, then the self-petitioner is considered an "immediate relative" and can apply for LPR status as soon as the self-petition is approved. However, if the abuser is an LPR, then the self-petitioner must wait until their given priority date becomes "current" to apply. Asian Americans Advancing Justice—Los Angeles website, "VAWA Self-Petitions."
- <sup>78</sup> U.S. Citizenship and Immigration Services, "Number of Form I-360, Petition for Amerasian, Widow(er), or Special Immigrant, by Fiscal Year, Quarter, and Case Status 2018"; U.S. Citizenship and Immigration Services, "Chapter 5—Privacy and Confidentiality in Customer Service," *Policy Manual* (February 12, 2019).
- <sup>79</sup> Asian Pacific Institute on Gender Based Violence, "Statistics on Violence Against API Women."
- <sup>80</sup> U.S. Department of Justice, Office on Violence Against Women, *2016 Biennial Report to Congress*.
- <sup>81</sup> U.S. Citizenship and Immigration Services website, "Victims of Criminal Activity: U Nonimmigrant Status."
- <sup>82</sup> Certification also can be provided by child and adult protective services agencies, the Equal Employment Opportunity Commission, and federal and state Departments of Labor. Department of Homeland Security website, "U and T Visa Law Enforcement Resource Guide."
- <sup>83</sup> U.S. State Department, Bureau of Consular Affairs, "Table XVII (Part I), Nonimmigrant Visas Issued, Fiscal Year 2017," *Report of the Visa Office 2017*.
- <sup>84</sup> U.S. Citizenship and Immigration Services, "Victims of Criminal Activity: U Nonimmigrant Status."
- <sup>85</sup> U.S. State Department, Bureau of Consular Affairs, "Table XVII (Part II) Nonimmigrant Visas Issued Fiscal Year 2017," *Report of the Visa Office 2017*.
- <sup>86</sup> Celia Leones and Donna Caparas, *Trafficking in Human Beings from the Philippines: A Survey of Government Experts and Law Enforcement Case Files*, United Nations Global Programme against Trafficking in Human Beings; The Polaris Project, *Human Trafficking on Temporary Work Visas: A Data Analysis 2015–2017*.
- <sup>87</sup> Department of Homeland Security, "Identification of Foreign Countries Whose Nationals Are Eligible to Participate in the H-2A and H-2B Nonimmigrant Worker Programs," *Federal Register* Vol. 84, No. 13 (January 18, 2019).
- <sup>88</sup> Empowering Pacific Islander Communities and Asian Americans Advancing Justice, *A Community of Contrasts: Native Hawaiians and Pacific Islanders in the United States, 2014*.
- <sup>89</sup> EPIC and Asian Americans Advancing Justice, *A Community of Contrasts: NHPI in the U.S., 2014*; U.S. Citizenship and Immigration Services, "Chapter 2, Becoming a U.S. Citizen," *Policy Manual* Vol. 12, Part A (May 10, 2019).
- <sup>90</sup> U.S. Citizenship and Immigration Services website, "Parole for Immediate Relatives of U.S. Citizens and Certain Stateless Individuals" (January 17, 2017); U.S. Citizenship and Immigration Services, "Termination of the Categorical Parole Programs for Certain Individuals Present in the Commonwealth of the Northern Mariana Islands (CNMI)" (December 27, 2018).
- <sup>91</sup> EPIC and Asian Americans Advancing Justice, *A Community of Contrasts: NHPI in the U.S., 2014*.
- <sup>92</sup> EPIC and Asian Americans Advancing Justice, *A Community of Contrasts: NHPI in the U.S., 2014*.
- <sup>93</sup> EPIC and Asian Americans Advancing Justice, *A Community of Contrasts: NHPI in the U.S., 2014*; Tanya Broder, Avideh Moussavian, and Jonathan Blazer, "Overview of Immigrant Eligibility for Federal Programs," *National Immigration Law Center* (December 2015).
- <sup>94</sup> Michael R. Duke, "Marshall Islanders: Migration Patterns and Health-Care Challenges," *Migration Policy Institute* (May 21, 2014).
- <sup>95</sup> All of the individuals from Palau obtained green cards as immediate relatives of U.S. citizens. No breakdown of immigration categories was provided for immigrants from the Marshall Islands. No information was provided on immigration from Micronesia. U.S. Department of Homeland Security, "Table 10. Persons Obtaining Lawful Permanent Resident Status by Broad Class of Admission and Region and Country of Birth: Fiscal Year 2017," *2017 Yearbook of Immigration Statistics* (October 2, 2018).

# THE CURRENT IMMIGRATION DEBATE

ISSUE BRIEFS

## INTRODUCTION

For many years, discourse around immigration has characterized our current immigration system as “broken” and overdue for reform. Many attempts have been made to address structural issues through legislation, notably the lack of a path to adjustment of status and eventual citizenship for the millions of undocumented immigrants living in the United States. In the absence of legislative reform, segments of the immigrant community have found relief through administrative action, but these measures are by definition temporary and subject to change with each new administration.

The Trump administration has been unrelenting in its attacks on immigrants. One of its first acts was to issue an executive order banning the entry of nationals from a number of majority-Muslim countries and suspending refugee admissions. The administration has terminated Deferred Action for Childhood Arrivals (DACA), a program that has given hundreds of thousands of young immigrants, known as the “Dreamers,” work authorization and protection from deportation, which in turn has provided these young people a measure of security and opened greater opportunities for them and their families. In addition, the administration has terminated Temporary Protected Status (TPS), upending the stability of hundreds of thousands who have built lives in the U.S. after their home countries were torn apart by conflict or natural disaster. The end of this program will force TPS holders to return to countries still in turmoil.

Further, the Trump administration has shown cruelty and disregard for civil and human rights with increased arrests, detention, and deportation of immigrants, and curtailing the due process rights of immigrants at the southern border. While the impact of heightened enforcement has fallen most heavily on Central Americans seeking asylum in the U.S., Asian Americans, particularly Southeast Asian Americans and other long-time residents and refugees, also have been greatly impacted.

The administration’s attacks on immigrants have extended even to naturalized U.S. citizens. Greater numbers of applicants for U.S. citizenship have found themselves caught in lengthening processing backlogs, and the administration has unleashed a denaturalization task force to reevaluate the status of hundreds of thousands of naturalized U.S. citizens.

The issue briefs that follow provide background and context for each of these topics, explore the current state of affairs, including the impact on immigrant communities, and offer recommendations for policy changes to reform—and not further undermine and destroy—our immigration system.

- 
- Family Immigration
  - Immigrant Workers
  - Undocumented Immigrants
  - Rescission of DACA and TPS
  - Muslim and Refugee Bans
  - Immigration Enforcement: Arrests, Detention, and Deportation
  - Naturalization
-



## ISSUE BRIEF: FAMILY IMMIGRATION

Family unity is a valued tradition and the foundation of America's immigration system, adding to the nation's economy and strengthening families and communities. When family members sponsor their relatives to immigrate, they provide support to their family members to adjust and settle into their lives in the United States. In return, these family members often work in family businesses; care for children and elderly family members; pool money for investments in homes, cars, or businesses; and generally provide a social safety net for each other.

### Visa Backlogs

The system has served our country well, but after half a century the system is in dire need of updating. Due to categorical and per-country caps explained in the "Immigration Pathways" discussion of this report, long backlogs have built up over time, forcing families to live apart for years and sometimes decades. The State Department reports that the worldwide total of aspiring immigrants waiting in line for family-based preference visas in fiscal year (FY) 2019 is 3,671,442. Comprising 76.2% of this number, the top 10 countries with the highest number of waiting list registrants include:

Country	Number of Waiting List Registrants
<b>Mexico</b>	1,227,897
<b>Philippines</b>	301,706
<b>India</b>	261,765
<b>Vietnam</b>	228,921
<b>China (mainland-born)</b>	186,307
<b>Bangladesh</b>	168,926
<b>Dominican Republic</b>	146,090
<b>Pakistan</b>	115,111
<b>Haiti</b>	94,484
<b>El Salvador</b>	64,656

Six of the top 10 countries are Asian countries. A total of 1,519,710 individuals, more than 40% of the people stuck in the family backlogs, are from Asia.<sup>96</sup>

Asian Americans are heavily impacted by the visa backlogs. Compared to the backlogs in other family preference categories, permanent residents have relatively short waits to be reunited with their spouse and children under 21. As of January 2019, U.S. Citizenship and Immigration Services (USCIS) was processing applications in the F-2A category that were filed in November 2016, which represents a wait time of over 2 years. The wait jumps to nearly 7 years for their unmarried sons and daughters over age 21 (F-2B), and about 11.5 years for unmarried sons and daughters over age 21 from the Philippines.<sup>97</sup>

There are nearly 3.7 million aspiring immigrants waiting for family preference visas, and more than 40% of the people stuck in the family backlogs are from Asia.

For U.S. citizens, the current wait to be reunited with their unmarried sons and daughters (F-1) is approximately 7.5 years. The Philippines has longer wait times in nearly all family preference categories. The wait for unmarried sons and daughters of U.S. citizens from the Philippines is nearly 12 years. For the married sons and daughters of U.S. citizens (F-3), the wait is approximately 12.5 years, and over 23 years for the Philippines. The longest waits are for the siblings of U.S. citizens (F-4): approximately 13.5 years overall, 14.5 years for India, and over 23 years for the Philippines.<sup>98</sup> These wait times represent average times for immigrants currently receiving green cards. In the years since these immigrants applied, many more people applied in the oversubscribed categories. For immigrants being sponsored now, the waits are much longer. While it is difficult to project exactly how long it will take in each category because data on attrition rates over many years are lacking, the categories with the longest lines, such as the F-4 preference category, are projected to have wait times of several decades at minimum.

These wait times are clearly untenable and create social and emotional burdens on families. Family members who are caught in the backlogs often put their lives on hold in their country of origin and put off marriage or the purchase of a home. Furthermore, arriving in the U.S. after years or even decades of delay puts immigrants at a disadvantage when it comes to investing in roots in the U.S. including restarting a career, starting a small business, or purchasing a home.

FIGURE 19: U.S. State Department, Bureau of Consular Affairs, "Annual Report of Immigrant Visa Applicants in the Family-Sponsored and Employment-Based Preferences Registered at the National Visa Center as of November 1, 2018."

**Family-Based Visa Preference Categories, Backlogs, and Most Impacted Asian Countries**

FY 2019

FIGURE 19

Visa Category	Who This Applies To	Annual Visa Limit	Total Number of Individuals in Backlogs FY 2019	Asian Countries Most Impacted, with Number of Individuals in Backlogs FY 2019
<b>Family First Preference (F-1)</b>	Unmarried sons & daughters of U.S. citizens	23,400	261,704	Philippines 17,535 Vietnam 4,579
<b>Family Second Preference (F-2)</b>	Family members of permanent residents, detailed below	114,200	470,092	See below for the breakdown in each subcategory
<b>F-2A</b>	Spouses and children of permanent residents	87,934 (77% of total F-2 visas)	145,861	Philippines 4,721 China 3,817 Vietnam 3,336
<b>F-2B</b>	Adult unmarried sons and daughters of permanent residents	26,266 (23% of total F-2 visas)	324,231	Philippines 46,646 Vietnam 8,671 China 6,694
<b>Family Third Preference (F-3)</b>	Married sons and daughters of U.S. citizens	23,400	689,924	Philippines 119,315 India 45,892 Vietnam 39,249 China 20,397 Pakistan 14,129
<b>Family Fourth Preference (F-4)</b>	Brothers and sisters of adult U.S. citizens	65,000	2,249,722	India 210,863 Vietnam 173,086 Bangladesh 160,345 China 153,106 Philippines 113,489 Pakistan 97,249

## Attacks on the System

### *Proposed Legislation: RAISE Act*

President Trump has sought to cut immigration by more than half and end the family-based immigration system as we know it. White House-backed legislative proposals, such as the Reforming American Immigration for Strong Employment (RAISE) Act, would end sponsorship of parents of U.S. citizens and all of the family-based preference categories. The proposed bill would lower the age of minor children from 21 to 18. The only remaining family-based sponsorship option would be U.S. citizens and lawful permanent residents sponsoring their spouse and children under 18 years of age. Additionally, the number of green cards allocated for family-based sponsorship would be capped at a mere 88,000 per year. In comparison, in FY 2017, around 749,000 people received green cards through the family-based system. This proposed bill also would cut off U.S. citizen children from sponsoring their undocumented parents. Currently a small number of parents may adjust status if they meet current strenuous waiver requirements. The proposed bill would cut off people currently waiting in line for their family-based visas, individuals who have already paid fees and waited in line for many years. Finally, the RAISE Act also proposes to end the diversity visa program and drastically limit the number of refugees welcomed into the U.S.<sup>99</sup>



### TESSA XUAN

“My story wouldn’t be possible without immigration.” My parents were born in mainland China. They came to America as international students. They met and married here. Once they naturalized, my dad sponsored my grandparents to immigrate. Growing up, since my mother worked in a different city and my father’s job required frequent travel abroad, my grandparents were often the ones who took care of us. My grandpa kept a vegetable garden in our backyard, and he took my sister to preschool every day on his bicycle. I remember watching him practice Tai Chi in our driveway in the evenings. “The presence of my grandparents in our home had a profound impact on all of our lives.”

The president himself chose to end the Deferred Action for Childhood Arrivals (DACA) program and then sought to trade relief for DACA recipients for legislation that would limit family-based immigration. The administration’s real goal is to lower the number of immigrants and people of color granted lawful permanent resident status and U.S. citizenship.

### *Proposed Administrative Rule Change: Public Charge*

The current administration also seeks to attack the family-based immigration system through administrative changes. The most prominent of these proposals is through proposed changes to the public charge rule, which as of this writing is not yet in effect. Public charge is the term in the Immigration and Nationality Act (INA) that refers to people who rely on government assistance as their primary means of support. If the government considers someone to be a “public charge,” that person could be denied entry or admission to the U.S., denied an extension or change to their nonimmigrant status, or denied lawful permanent resident status.<sup>100</sup> Under current law, officials look at the “totality of the circumstances,” using a variety of factors in deciding whether a person is likely to become a public charge. The only public benefits considered are cash assistance programs, such as Temporary Assistance for Needy Families, and long-term nursing home care paid for by the government.<sup>101</sup>

The Department of Homeland Security (DHS) has published a new proposed public charge rule that would make the test stricter. The agency proposes to add vital health, nutrition, and housing programs to the list of benefits considered under the rule. These include nonemergency Medicaid, the Medicare Part D Low-Income Subsidy (which helps low-income seniors afford prescription drug coverage), the Supplemental Nutrition Assistance Program (SNAP) or food stamps, and Section 8 housing vouchers and subsidized public housing.<sup>102</sup>

In addition to whether someone is currently using public benefits, the rule would weigh different factors such as age, health, family status, financial status (including income), and education and skills. For the first time, English language proficiency may be considered. If these changes are finalized, lower-income, older, disabled, or limited English proficient family members will be denied green cards, as would less-skilled or low-wage workers and people with chronic illnesses. If the rule goes into effect, U.S. citizens would face significant barriers to sponsoring their parents to immigrate.

If the proposed change to the public charge rule goes into effect, lower-income, older, disabled, or limited English proficient family members will be denied green cards, as would less-skilled or low-wage workers and people with chronic illnesses.

The impact of these proposed changes is already being felt. Since 1997, consular officials have accepted the sponsor's affidavit of support as the primary—and often the only—form of evidence necessary to satisfy the public charge test since by signing the affidavit the sponsor accepts financial responsibility for the immigrant. This may be changing, however, as the *Foreign Affairs Manual* was updated in January 2018, advising consulates that the sponsor's affidavit of support should no longer be considered sufficient on its own. Practitioners have noted an increase in visa denials based on public charge inadmissibility.<sup>103</sup>

## The Case for Continuing Family-Based Immigration

Attacks on the family-based immigration system that argue in favor of prioritizing the employment-based immigration system fail to recognize many of the positive though hard-to-quantify impacts of family reunification as the core of our immigration system. Reuniting families through the immigration system is not only humane—recognizing that for many people, families are a source of love and support—but also contributes to integration, stability, prosperity, and stronger communities. Having support networks increases the odds of people succeeding and contributing to their communities. Family members step in to provide support in times of personal and economic hardship. Together families buy homes and invest in family members' jobs and educations. Caretakers, who are predominantly women, spouses, mothers, grandmothers, and aunts, do often-unpaid and undervalued work that enables their family members to work outside the home and contribute to our economy.

This focus on family unity is one reason the U.S. has been able to attract talented immigrants. Family-based immigration encourages dynamism, learning, and flexibility. Immigrants start businesses in higher numbers than native-born Americans, yet entrepreneurial spirit is not something that is captured by a degree or a test. The vast majority of immigrants in the employment-based system (other than the millionaires who come through the EB-5 program) cannot start a business for many years. Additionally, workers who come through the employment-based programs are tied to their employer or their industry, whereas immigrants who come through the family-based system, the diversity visa program, or as refugees are able respond to dynamic labor market needs.

## Policy Recommendations

Family unity is a core American value, and our family-based immigration system has helped to create the strong, vibrant, and diverse American communities that make the U.S. the country that it is today. Rather than making it more difficult for families to stay together or reunify, we should celebrate our nation's diverse immigrant heritage by expanding opportunities for American families to thrive together. Congress should pass legislation to update the family immigration system and resolve the problem of the visa backlogs. We support the Reuniting Families Act, which would update our family-based immigration laws, clear the family backlogs, and lift the family and employment-based visa country caps. The bill would provide much-needed enforcement relief to preserve family unity by returning discretion to immigration judges and USCIS adjudicators, allowing them to waive inadmissibility or deportability criteria. The Reuniting Families Act would also resolve issues related to the treatment of widows, orphans, and stepchildren, and allow for same-sex sponsorship for people who are unable to legally marry in their country of origin.

The Diversity Visa Program must be maintained so that this pathway, which enables people to apply for a visa independent of the sponsorship of a family member or employer, remains open to people from countries with historically low rates of immigration to the U.S.

Furthermore, the administration should not move forward with the harmful and unnecessary changes to the public charge rule that would result in significant barriers to family reunification and community well-being.

We support the Reuniting Families Act, which would update our family-based immigration laws, clear the family backlogs, and lift the family and employment-based visa country caps.

## NOTES

<sup>96</sup> U.S. State Department, *Annual Report of Immigrant Visa Applicants in the Family-Sponsored and Employment-Based Preferences Registered at the National Visa Center as of November 1, 2018* (2018).

<sup>97</sup> The projections provided are based on the priority dates listed by the State Department in the Visa Bulletin for January 2019. Since processing time frames can fluctuate, it is important to consult the most up-to-date Visa Bulletin. U.S. State Department, "Visa Bulletin for January 2019."

<sup>98</sup> U.S. State Department, "Visa Bulletin for January 2019."

<sup>99</sup> U.S. Congress, Senate, *RAISE Act*, S. 354, 115th Cong., 1st sess. introduced February 13, 2017; Department of Homeland Security, "Table 10. Persons Obtaining Lawful Permanent Resident Status by Broad Class of Admission and Region by Country of Birth: Fiscal Year 2017," *2017 Yearbook of Immigration Statistics* (October 2, 2018).

<sup>100</sup> There are groups of people who are exempt from the public charge test: refugees, asylees, survivors of trafficking and domestic violence, witnesses of serious crimes, Violence Against Women Act self-petitioners, special immigrant juveniles, and certain other immigrants. Em Puhl, Erin Quinn, and Sally Kinoshita, "An Overview of Public Charge," *Immigrant Legal Resource Center* (December 2018).

<sup>101</sup> Protecting Immigrant Families (Center for Law and Social Policy and National Immigration Law Center), Fact Sheet, "Public Charge: A New Threat to Immigrant Families" (October 2018).

<sup>102</sup> Department of Homeland Security, "Inadmissibility on Public Charge Grounds," *Federal Register* Vol. 83, No. 196 (October 10, 2018).

<sup>103</sup> Ariel Brown, "Consular Processing Practice Alert on Public Charge and Affidavit of Support Issues," *Immigrant Legal Resource Center* (July 2018).



The U.S.'s strict annual ceiling of 140,000 employment-based green cards and great demand for high-skilled workers leaves many employment visa categories backlogged. The employment backlogs disproportionately affect Asian immigrant workers.

## ISSUE BRIEF: IMMIGRANT WORKERS

The United States has a long history of using immigrant workers to meet its labor needs, including admitting immigrants with needed skills on both a permanent and temporary basis. Asian immigrants to the U.S. include professionals working in science, technology, engineering, and math; individuals who have gone on to become successful entrepreneurs and industry leaders; and individuals employed as caregivers and in other service industries. As noted in the discussion on immigration pathways in this report, the Immigration and Nationality Act (INA) includes a number of categories of employment-based visas.



### Backlogs in Employment-Based Immigrant Visas

The U.S.'s strict annual ceiling of 140,000 employment-based (EB) green cards and great demand for high-skilled workers leaves many employment visa categories backlogged. Like the backlogs in family-based immigration, the employment-based visa backlogs disproportionately affect Asian immigrant workers. In almost all EB categories, immigrant workers from China and India face extensive backlogs. According to the January 2019 State Department Visa Bulletin, U.S. Citizenship and Immigration Services (USCIS) is processing EB-2 and EB-3 applications from India filed about 10 years ago, and EB-3 applications in the “other workers” category from China filed in July 2007. The Cato Institute has projected that at the current rate of visa issuances, workers with advanced degrees from India who apply for EB-2 visas could expect to face a wait time exceeding 150 years.<sup>104</sup>

New technologies and economic growth have created demand for high-skilled labor well beyond the annual limits on employment-based green cards established in the Immigration Act of 1990. At the same time, only about 20% of full-time graduate students at U.S. universities in computer science and electrical engineering are U.S. citizens or green card holders.<sup>105</sup> Rigid limits on employment-based visas jeopardize not only the careers of immigrant workers but also the development of key U.S. companies and industries and the overall American economy.

### Nonimmigrant Visas

U.S. immigration law contains numerous temporary visas that allow foreign nationals to work for a limited duration in the U.S. Many immigrants who are sponsored for employment-based visas first come to the U.S. on such temporary nonimmigrant visas.<sup>106</sup> Sometimes referred to as an “alphabet soup” of visas, this section highlights some of the more common visas that Asian nationals use to temporarily live and work in the U.S.

#### *F-1 Visas and Optional Practical Training*

The F-1 visa allows students from foreign countries to enter the U.S. to study at an academic institution or in a language training program. The number of foreign students enrolled at U.S. colleges and universities through F-1 visas has grown



dramatically in recent years. There were nearly 364,000 such students in 2016, more than double the number in 2008. Students from China, India, and South Korea accounted for more than half (54%) of all new foreign students pursuing U.S. higher-education degrees in 2016. The U.S. is the “country of choice” for international students, hosting about 1.1 million of the 4.6 million enrolled worldwide in 2017.<sup>107</sup>

The Optional Practical Training (OPT) program allows full-time F-1 students to remain in the U.S. on a temporary basis to gain practical work experience after they graduate. College graduates from India and China accounted for nearly 70% of OPT approvals in 2017.

The Optional Practical Training (OPT) program, part of the F-1 visa program, allows full-time F-1 students to remain in the U.S. on a temporary basis to gain practical work experience after they graduate. Although short in duration and subject to many limitations, OPT provides a gateway for students to gain work experience and in some cases enables them to transition to a temporary work visa or employment-based green card. In 2017, college graduates from India and China accounted for nearly 70% of OPT approvals. That same year, the Trump administration tightened the regulations that govern the OPT program, and growth in the program has slowed. The number of enrollees grew by only 8% in 2017, down from 34% growth the prior year.<sup>108</sup>

#### *J-1 Visas*

Established in 1961 to facilitate educational and cultural exchange with other countries, the J-1 Exchange Visitor Program now is primarily used as a temporary-worker program. J-1 participants are sponsored by public and private entities designated by the U.S. Department of State. Participants fit into one of 15 different categories, ranging from professors and research assistants to students, au pairs, and camp counselors. The spouses and children of J-1 visa holders are eligible to come to the U.S. through the J-2 visa.<sup>109</sup>

In 2013, the J-1 program surpassed all other temporary work visa programs in recruiting international workers by authorizing approximately 300,000 admissions each year. In fiscal year (FY) 2017, there were a total of 523,864 J-1 admissions, with an additional 70,321 J-2 admissions.<sup>110</sup>

Under the “Alien Physician” program, foreign physicians can receive J-1 visas to participate in American graduate medical school programs or training at accredited American medical schools. The State Department reported a total of 2,832 new Alien Physician Exchange Visitors in 2017, with 496 from India, 255 from Pakistan, 92 from Saudi Arabia, 80 from Jordan, 47 from Nepal, and 27 from the Philippines.<sup>111</sup>

#### *H-2 Visas*

The H-2 visa program was instituted in 1943 to bring foreign agricultural workers to the U.S. The H-2A category is for seasonal agricultural workers, and the H-2B category has been added for seasonal nonagricultural workers. The secretary of State and secretary of Homeland Security designate the countries approved to receive visas. As of January 2019, 84 countries are designated for the H-2A program and 81 for H-2B. This discussion focuses on the H-2B visa program. For 2019, nationals from only the following Asian and Pacific Islander countries are eligible to participate in the H-2B program: Brunei, Fiji, Japan, Kiribati, Madagascar, Mongolia, Nauru, Papua New Guinea, Samoa, Singapore, Solomon Islands, South Korea, Taiwan, Thailand, Timor-Leste, Tonga, Tuvalu, and Vanuatu.<sup>112</sup>

It is the employer who submits the immigration petition in both the H-2A and H-2B categories. For H-2B, a prospective employer must demonstrate that there are not enough U.S. workers who are able, willing, qualified, and available to do

the temporary work; that employing H-2B workers will not adversely affect the wages and working conditions of similarly employed U.S. workers; and its need for the prospective worker’s services is temporary (one-time occurrence or seasonal), regardless of whether the underlying job can be described as temporary.<sup>113</sup>

Among the 95 Asian nationals that received H-2A visas in FY 2017, 64 were Filipino, 29 were Thai, and 2 were Nepalese. That same year, 992 H-2B visas were distributed among three Asian countries: the Philippines (767), Japan (223), and South Korea (2). While H-2A visas were not issued to any of the Pacific Island nations in FY 2017, Fiji received 31 H-2B visas.<sup>114</sup>

The H-2 temporary nonimmigrant visa programs are criticized for placing workers at risk of exploitation such as wage theft and labor trafficking.

The H-2 temporary nonimmigrant visa programs are criticized for placing workers at risk of exploitation such as wage theft and labor trafficking. Workers often pay high sums of money in illegal recruitment fees to get coveted U.S. jobs and are desperate to make money before returning home. Workers are tied to one employer, far from their home country, with their immigration status dependent on maintaining their job. Both this and the fact that they are often isolated and live in employer-provided housing results in high rates of labor law violations and little likelihood that workers will complain or take action to enforce their rights. The “Immigration Pathways” section of this report delves into the high rates of T visas provided to Filipino workers on temporary visas and the recent removal of the Philippines from the countries eligible for the H-2 program.

*The H-1B Visa Program and Backlogs in Employment-Based Visas*

The largest program for U.S. employers to temporarily hire foreign high-skilled workers is through the H-1B visa program. The H-1B visa allows employers to petition for foreign workers in occupations that require highly specialized knowledge and a bachelor’s degree or higher in the specific specialty. Before sponsoring someone on an H-1B visa, employers must complete an application in which the employer attests that it will pay the required wages, provide working conditions that will not adversely affect U.S. workers, ensure that there is no strike or labor dispute, and provide notice that it intends to hire a nonimmigrant worker.<sup>115</sup>

The H-1B visa program is dominated by people who work in fields related to science, mathematics, engineering, and technology, but it is also a path for professors and other workers. Asian immigrants make up the majority of H1-B visa holders: from FY 2001 to 2015, workers from India (50.5%), China (9.7%), the Philippines (3%), and South Korea (2.8%) comprised the highest share of awarded individuals.<sup>116</sup>

FY 2017



Among the 179,049 H-1B visas that were issued in FY 2017, approximately 90% (161,491 visas) were issued to Asian nationals. The top five Asian countries include the following:

India <b>129,097</b>	South Korea <b>1,939</b>	Taiwan <b>1,261</b>
China (mainland-born) <b>22,993</b>	Philippines <b>1,328</b>	

In FY 2017, only three H-1B visas were issued to Fiji, whereas the other Pacific Island nations received none.<sup>117</sup>

While the H-1B visa program is a temporary work program, the majority of H-1B workers are engaged in permanent employment and seek to permanently immigrate to the U.S. The H-1B visa lasts for three years and can be renewed for a total of up to six years, by which point the visa holder would typically be sponsored for an employment-based green card, most commonly EB-2 or EB-3. However, for many years there have been insufficient green cards available in comparison to the number of H-1B visa holders, compounding the resulting serious backlogs for employment-based immigrant visas.<sup>118</sup>

The number of H-1B visas granted exceeds the number of immigrant visas (green cards) available in the EB-2 and EB-3 categories. The current cap on H-1B visas is 65,000, plus an additional 20,000 visas for foreigners with a graduate degree from a U.S. university. Universities and colleges, nonprofits, and government research institutions are exempt from the cap. In 2002 and 2003, the cap was raised to 195,000 visas with no additional immigrant visas available for these workers to adjust status. Many aspiring immigrant workers are pushed by the limited availability of immigrant visas to apply instead for temporary nonimmigrant visas, which are not subject to the per-country caps. As a result, over half of H-1B visas in recent years have gone to Indian nationals, resulting in increased backlogs.<sup>119</sup>

Congress created a temporary fix for H-1B visa holders, in certain circumstances allowing them to continue to renew their H-1B visas indefinitely once their employer has sponsored them for a green card.<sup>120</sup> However, living many years in temporary status in the U.S. dependent on an employer for immigration status and paying taxes and contributing to the U.S. economy without the rights and privileges of other citizens or even lawful permanent residents poses a problem for our democracy.

#### *H-4 Visas and Employment Authorization*

The families of H-1B workers, their spouse and children under age 21 are eligible for H-4 visas. In 2017, 127,155 H-4 visas were issued to individuals from Asia. No H-4 visas were issued to individuals from the Pacific Islands.<sup>121</sup>

For many years, the H-4 visa did not make its holders eligible for work authorization. Recognizing the predicament of H-4 spouses, the vast majority of whom are women, the Obama administration created a program to provide work authorization in May 2015. The H-4 Employment Authorization Document (H-4 EAD) program allows H-4 spouses who have a pending application for lawful permanent residence to receive work authorization.<sup>122</sup>

In the fall of 2018, the Trump administration announced plans to rescind the H-4 EAD program, impacting mostly Asian women and their families. Approximately 95% of H-4 visa holders who have secured work authorization are women, and the overwhelming majority are from India (93%) with a smaller but significant percentage from China (5%).<sup>123</sup> If implemented, the revocation of work authorization will have a negative impact on families' income, their children, and these women's well-being and sense of self-worth.

## **Policy Recommendations**

We need an immigration system that upholds the dignity of all people. As a nation, we are stronger and at our best when we recognize and respect the contributions of all those who would call America home. Congress should focus on policy solutions that promote economic security and prosperity for all members of our society, immigrant and native-born alike.

While the H-1B visa program is a temporary work program, the majority of H-1B workers seek to permanently immigrate to the U.S. However, for many years there have been insufficient green cards available in comparison to the number of H-1B visa holders, compounding the resulting serious backlogs for employment-based immigrant visas.

The U.S. should not have immigration programs that seek to gain from the skills and labor of foreign nationals while treating them like second-class members of our society. Any visa program that invites workers and their families to the U.S. should offer meaningful pathways for workers and their families to become lawful permanent residents and full citizens. During any short-term temporary status, all family members of working age should be offered work authorization. Further, Congress should pass legislation to preserve work authorization for H-4 visa holders.

In addition, U.S. law must better protect vulnerable immigrant workers from abuse, including those whose immigration status is dependent on their employers as well as undocumented workers. These protections must include protection against retaliation, including reporting to immigration authorities. Investments in outreach, community education, and legal assistance are key to protecting immigrant workers from exploitation.

## NOTES

- <sup>104</sup> U.S. State Department, Bureau of Consular Affairs, "Visa Bulletin, January 2019"; David Bier, "150-Year Wait for Indian Immigrants with Advanced Degrees," *Cato Institute* (June 8, 2018).
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## ISSUE BRIEF: UNDOCUMENTED IMMIGRANTS

The Center for Migration Studies estimates that there were approximately 10.7 million undocumented immigrants in the United States as of 2017. Of these, 1.7 million are Asian immigrants. Approximately 16%, or one out of every six undocumented immigrants in the U.S., are from Asia. Further, this means that one out of every seven Asian immigrants are undocumented.<sup>124</sup>

### Asian-Origin Countries with the Largest Share of Undocumented Population

2017 | Ranked by Undocumented Population

FIGURE 20

Country	Undocumented Population	% of Asian Undocumented Population	% of Total Undocumented Population
India	629,183	37.0%	5.9%
China	304,211	17.9%	2.9%
Philippines	175,743	10.3%	1.6%
South Korea	166,257	9.8%	1.6%
Vietnam	82,270	4.8%	0.8%
Pakistan	49,653	2.9%	0.5%

In 2017, India and China accounted for the largest share of the Asian undocumented population.

FIGURE 20: Center for Migration Studies, State-Level Unauthorized Population and Eligible-to-Naturalize Estimates (2017).

### Mode of Entry

There are two main modes of entry for undocumented immigrants to enter the U.S:

- Enter or entry without inspection (EWI): Individuals who enter the U.S. without being inspected at an authorized port of entry or paroled into the U.S.<sup>125</sup>
- Visa overstay: Undocumented residents who entered the U.S. with valid temporary visas and subsequently establish residence without authorization.

People enter the U.S. without being inspected by crossing the northern or southern border on foot or hiding in a vehicle or boat. While people EWI on both land borders, more people cross from the southern border into the U.S. Nearly all who EWI are from just six countries—Mexico, El Salvador, Guatemala, Honduras, Nicaragua, and Dominican Republic. However, Asian nationals also travel to other countries in the Americas and cross the border into the U.S. without inspection. For example, in fiscal year 2017, 2,227 Indians were apprehended trying to cross the border. Many people who attempt to cross from the southern border are seeking asylum. Due to an agreement with Canada, asylum seekers who arrive in Canada must apply for asylum there and may not apply for asylum at the U.S.-Canada border. Thus, more asylum seekers may be trying to come to the U.S. from our southern border.<sup>126</sup>

Most Asian immigrants become undocumented as a result of visa overstays. While the initial entry, whether by temporary work, student, tourist, or some other form of visa, was authorized, these individuals become undocumented when their visas lapse or expire. According to the Center for Migration Studies, the number of people who overstay their visas accounted for about two-thirds of those who joined the undocumented population in 2014.<sup>127</sup>

In fiscal year 2017, among Asian countries, China had 35,571 visa overstays, followed by India with 28,174, the Philippines with 13,318, Saudi Arabia with 6,109, Vietnam with 5,995, and Thailand with 3,562.<sup>128</sup>

Most Asian immigrants become undocumented as a result of visa overstays. While the initial entry, whether by temporary work, student, tourist, or some other form of visa, was authorized, these individuals become undocumented when their visas lapse or expire.

## Undocumented Population on the Decline

According to AAPI Data, the Asian undocumented population grew faster than the undocumented population from any other region of the world between 2000 and 2015, more than tripling within 15 years, growing from an estimated 500,000 in 2000 to an estimate of over 1.7 million in 2015.<sup>129</sup>

Among Asian countries, only India has had continuing growth in its undocumented population, with a 72% increase from 2010 to 2017. This may be due, at least in part, to the significant backlogs in both the employment-based and family-based visas.

Overall, however, the undocumented population has been shrinking since it reached an all-time high of 12.2 million in 2007, primarily due to a significant decrease in the undocumented population from Mexico. According to a 2019 report by the Center for Migration Studies, from 2010 to 2017, the undocumented population from many countries with significant rates of visa overstays declined, including a 29% decrease in the undocumented population from the Philippines and a 19% decrease in the undocumented population from South Korea. Among Asian countries, only India has had continuing growth in its undocumented population, with a 72% increase from 2010 to 2017. This may be due, at least in part, to the significant backlogs in both the employment-based and family-based visas.<sup>130</sup>

## Policy Recommendations

Our immigration system should respect the inherent worth of all people and guard against the unequal, second-class treatment of any members of our communities. Undocumented immigrants are an integral part of our society—they are our family members, neighbors, and friends seeking to build the American dream. Congress should pass a legalization bill to offer undocumented immigrants in the U.S. a path to citizenship that would include an application process with background checks. Additionally, updates to our immigration system, such as the Reuniting Families Act, would resolve the status of many Asian undocumented immigrants stuck in visa backlogs or facing barriers to adjusting status. Finally, there should be expanded opportunities for low-wage workers to immigrate to the U.S. permanently to work in jobs for which there are labor market needs.

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## ISSUE BRIEF: RESCISSION OF DEFERRED ACTION FOR CHILDHOOD ARRIVALS AND TEMPORARY PROTECTED STATUS

### Deferred Action for Childhood Arrivals

As a result of years of advocacy by undocumented youth, the Obama administration established the Deferred Action for Childhood Arrivals (DACA) program in June 2012. DACA allows certain undocumented people, also referred to as “Dreamers,” who came to the U.S. under the age of 16 and meet other criteria to apply for temporary protection from deportation and work authorization. DACA participants receive deferred action for a period of two years, with the ability to renew every two years. Since the program was established by the president and not in legislation passed by Congress, it is subject to change or termination by subsequent administrations. Indeed, as described below, President Trump has moved to terminate the program and, as of this writing, U.S. Citizenship and Immigration Services (USCIS) is no longer accepting new applications. It is accepting renewal applications under court order.<sup>131</sup>



DACA has provided incredible opportunities to this segment of the undocumented population. DACA recipients are able to obtain a Social Security number, obtain a driver's license, build credit, and seek jobs with benefits such as health care. In several states, DACA recipients can access in-state tuition, greater financial support, and scholarships. Through these lifted burdens, DACA recipients can feel a greater sense of security, helping to alleviate symptoms of stress and exclusion due to their status.<sup>132</sup> As Anthony Ng, policy manager for immigrant rights with Asian Americans Advancing Justice—Los Angeles and DACA recipient, puts it, “DACA has been a lifeline for many. I’ve met young people with DACA who are able to sustain themselves, provide for themselves, their families, and to live a normal life.”

#### *Impact of DACA on the Asian American Population*

At the start of the program in 2012, the Migration Policy Institute estimated that 150,000 Asian Americans were eligible for DACA, with another 79,000 potentially becoming eligible in the near future. Asian Americans have had some of the lowest application rates for DACA. Among Asian countries, South Korea had the highest DACA participation rate at 24% as of August 2018, ranking 14th behind nations from Central and South America and the Caribbean.<sup>133</sup>

DACA allows certain undocumented people who came to the U.S. under the age of 16 and meet other criteria to apply for temporary protection from deportation and work authorization.

### Asian-Origin Countries with the Highest Participation in the DACA Program

Ranked by Number of DACA Recipients 2018

FIGURE 21

Country	Number of DACA Recipients	Immediately Eligible Population	Participation Rate
<b>South Korea</b>	7,090	29,000	24%
<b>Philippines</b>	3,760	25,000	15%
<b>India</b>	2,550	20,000	13%
<b>Thailand</b>	190	6,000	3%
<b>China</b>	690	23,000	3%
<b>Vietnam</b>	30	5,000	1%

FIGURE 21: Migration Policy Institute, Deferred Action for Childhood Arrivals (DACA) Data Tools (2018).

Barriers to applying for DACA have included the high application fee, collecting the required documents (such as a birth certificate or other recognized identity documents), and lack of trust in the government, including fear of deportation of applicants’ family members. Lack of language assistance, the stigma of having an undocumented status, and isolation from their ethnic communities also appear to have a greater impact on Asian applicants than on Latino applicants.<sup>134</sup>

#### *Rescission of DACA*

On September 5, 2017, then–Attorney General Jeff Sessions announced the decision to rescind the DACA program. DACA recipients sued the administration in federal court, and the government is currently under a temporary court order to continue accepting DACA renewal applications. The government is no longer accepting new applications, which means that younger people who age into the program (applicants must be aged 15 or older to apply) and older people who never previously applied now are barred from applying. Litigation over the DACA decision is ongoing, and the entire program could be fully terminated in the future.<sup>135</sup>

If DACA is terminated, then close to 700,000 recipients would lose protection and be susceptible to deportation. DACA recipients also would face losing jobs, benefits, potentially have to drop out of college or graduate school, and would lose homes, cars, or other investments if they can no longer pay their bills.

If DACA is terminated, then close to 700,000 recipients would lose protection and be susceptible to deportation. DACA recipients also would face losing jobs, benefits, potentially have to drop out of college or graduate school, and would lose homes, cars, or other investments if they can no longer pay their bills. In addition to the harmful impacts on DACA recipients and their families, collectively, there would be a significant negative impact on our nation’s economy. According to research from the New American Economy, the DACA-eligible population earns almost \$19.9 billion in total annual income. Most importantly, rescinding DACA also betrays our current undocumented youth who have come forward, placed their faith in the government, and shared personal information including addresses where their parents or other undocumented family members may live when applying for the program.<sup>136</sup> When DACA was repealed, Raymond Partolan, an immigration activist formerly on the staff of Asian Americans Advancing Justice—Atlanta, recounts, he was “devastated and angry,” not just for himself, but for the hundreds of thousands of DACA recipients who had “come out of the shadows, declared themselves to be undocumented, presented themselves to the government so that they could get their driver’s licenses and work, and essentially pay almost \$500 every two years just to be able to live a normal life in this country.”

President Trump has demanded devastating changes to our immigration laws in exchange for legislation protecting DACA recipients. His demands include slashing the number of immigrants that the U.S. welcomes by more than half, ending the family reunification system and the diversity visa program, and implementing harsh enforcement measures, and building a wall at the U.S.–Mexico border. These proposals failed to get the required votes in both houses of Congress in 2018. The current administration’s anti-immigrant sentiments and harsh enforcement policies come with a greater sense of urgency to protect our immigrant—and especially undocumented—communities.

Raymond, Anthony, and many DACA recipients, their families, and allies continue to fight for their futures, calling for passage of a “clean” DREAM Act, one that would give them a pathway to citizenship without sacrificing immigration relief for other undocumented immigrants.



## Temporary Protected Status

Temporary Protected Status, or TPS, is a humanitarian form of immigration status intended to protect foreign nationals in the United States from being returned to their home country if it becomes unsafe during the time they are in the U.S. and returning would put them “at risk of violence, disease, or death.” TPS was established by Congress through the Immigration Act of 1990. Under the law, the secretary of the Department of Homeland Security may designate a country for TPS in cases of ongoing armed conflict, environmental disaster, or epidemic where “the foreign state is unable to adequately handle the return of its citizens,” or other conditions that prevent safe return. While TPS does not confer permanent resident status or U.S. citizenship, it does provide temporary protection from deportation and eligibility for work authorization, allowing individuals with TPS to support their families in the U.S. and abroad.<sup>137</sup>

Temporary Protected Status is a humanitarian form of immigration status intended to protect foreign nationals in the U.S. from being returned to their home country if it becomes unsafe during the time they are in the U.S. and returning would put them “at risk of violence, disease, or death.”

Ten countries have been designated for TPS: South Sudan, Syria, Yemen, Somalia, Sudan, Nicaragua, Nepal, Haiti, El Salvador, and Honduras. Liberia had TPS designation for a time but now is designated for Deferred Enforcement Departure, a similar type of protection. Approximately 300,000 to 400,000 individuals hold TPS.<sup>138</sup>

TPS designations have been generally extended by both Democratic and Republican administrations. The Trump administration, however, has terminated TPS for 98% of all TPS holders, including individuals from Honduras, El Salvador, Haiti, Nepal, and Sudan, plus Deferred Enforcement Departure for Liberia. The administration extended but did not redesignate TPS for South Sudan, Syria, and Yemen. As a result of a legal challenge, a temporary injunction in the case of *Ramos et al. v. Nielsen* is in place, preventing the administration from ending TPS for El Salvador, Haiti, Nicaragua, and Sudan.<sup>139</sup>



PHOTO CREDIT: ADHIKAAR

**BIBEK\***

Bibek came to the U.S. in 2014. As a TPS recipient he was able to secure a stable, good-paying job as a chef in Manhattan, and support his wife and two young children back home as Nepal struggles to rebuild from the earthquake. Without TPS, Bibek fears that the “dreams and life [he is] building towards will be gone” and that he will lose his home, health insurance, and means of supporting his family. He prays for a solution that will allow him “to continue building a fruitful and productive life here in the U.S.”

*\*Name changed to protect privacy.*

*Focus on TPS for Nepal*

On June 24, 2015, TPS was approved for citizens of Nepal as a result of the earthquake that devastated that country in April 2015. As of October 12, 2017, 14,791 individuals from Nepal have Temporary Protected Status.<sup>140</sup>

On April 26, 2018, DHS Secretary Nielsen announced the termination of the TPS designation for Nepal, citing her assessment that the original conditions under which the country was designated were no longer substantial and that Nepal could adequately handle the return of its nationals. A 12-month delay of the termination date to allow for an orderly transition was also announced. The TPS designation for Nepal is set to terminate on June 24, 2019.<sup>141</sup>

The Congressional Asian Pacific American Caucus has referred to the termination of TPS for Nepal as “heartless,” “irresponsible,” and “inhumane,” stating that many Nepalis are still struggling with the effects of the earthquake with 90% still in temporary homes.<sup>142</sup>

Many have been mobilizing to protest the termination of TPS. The National TPS Alliance organized a rally in Washington, DC on February 12, 2019, to draw attention to the plight of TPS holders. Adhikaar, a New York-based nonprofit organization whose mission is to work with the Nepali-speaking community to promote human rights and social justice for all, was part of the mobilization. Protest organizers report that TPS holders from nearly every designated country participated in the rally.<sup>143</sup>

Advocates also have looked to the courts for relief. On February 11, 2019, a class-action lawsuit was filed to stop the unlawful termination of TPS for over 100,000 TPS holders from Honduras and Nepal. The lawsuit also seeks to prevent the separation of tens of thousands of U.S. citizen children from their TPS-holder parents. Plaintiffs are members of diverse organizations fighting to defend TPS in the courts and in Congress, including Adhikaar, the International Union of Painters and Allied Trades, and the National TPS Alliance. On May 10, 2019, DHS announced



that it would not enforce the decision to terminate TPS for Honduras or Nepal pending the resolution of litigation. In addition, DHS announced that it would automatically extend the validity of TPS-related documents for beneficiaries under the TPS designation for Nepal through March 24, 2020.<sup>144</sup>

## Policy Recommendations

Dreamers and TPS recipients represent the cornerstone of American values and help our country thrive and advance. They are members of our families and communities who have called America home for decades. Forcing Dreamers and TPS recipients to leave the U.S. would cause harm not only to them and their families but would disrupt communities and local economies and, for TPS holders, place an even greater burden on their still-recovering impoverished countries of origin. Congress should pass a “clean” DREAM Act that would finally offer undocumented youth a pathway to citizenship within, for many, the only country they have ever known, without expanding harmful immigration enforcement measures that separate immigrant families. Congress should pass legislation that offers all Temporary Protected Status recipients and Deferred Enforced Departure recipients a pathway to citizenship. We support the American Dream and Promise Act of 2019 (H.R. 6), as filed on March 12, that would offer a pathway to citizenship for Dreamers, TPS recipients, and Deferred Enforced Departure recipients.

Congress should pass a “clean” DREAM Act that would offer undocumented youth a pathway to citizenship and pass legislation that offers all Temporary Protected Status recipients and Deferred Enforcement recipients a pathway to citizenship.

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## ISSUE BRIEF: MUSLIM AND REFUGEE BANS

### Muslim Ban History and Legal Challenges

The first significant policy change made by President Trump after being sworn in to office was to effectuate his campaign promise of a Muslim ban. On January 27, 2017, the president issued Executive Order (EO) 13769 “Protecting the Nation From Foreign Terrorist Entry into the United States,” which immediately suspended the entry of nationals of Iran, Iraq, Libya, Somalia, Sudan, Syria, and Yemen into the U.S. for 90 days. It also immediately suspended the U.S. Refugee Admissions Program (USRAP) for 120 days, with an exception for religious minorities, and indefinitely banned the entry of refugees from Syria. In addition, the EO reduced the number of refugee admissions for 2017 to 50,000, well below the prior year’s cap of 110,000. With no planning nor guidance to the government agencies charged with enforcing this order, people with valid visas and green cards were immediately detained at ports of entry within the U.S. and barred from getting on planes headed to the U.S. Chaos ensued with mass protests of the ban at airports as lawyers tried to get access to detained individuals.<sup>145</sup>

On January 27, 2017, the president issued Executive Order 13769, which immediately suspended the entry of nationals of Iran, Iraq, Libya, Somalia, Sudan, Syria, and Yemen into the U.S. for 90 days. It also suspended the U.S. Refugee Admissions Program for 120 days.

This first iteration of the Muslim ban was immediately challenged in the courts, and on February 3, 2017, a federal court issued a nationwide temporary injunction in *Washington v. Trump*, preventing the federal government from enforcing EO 13769. After appellate courts upheld the injunctions, the president revoked EO 13769 and signed EO 13780 on March 6, 2017—the Muslim Ban 2.0. The new ban extended to nationals of Iran, Libya, Somalia, Sudan, Syria, and Yemen for a period of 90 days and took Iraq off the list of banned countries. It also maintained the same refugee cap as the first EO and required the suspension of travel for refugees for an additional 120 days. On June 26, 2017, the Supreme Court allowed the ban to go into partial effect, applying it to foreign nationals and refugees “who lacked any bona fide relationship with a person or entity in United States.” The Trump administration interpreted this narrowly to mean that a refugee’s ties to resettlement agencies do not constitute a “bona fide” relationship.<sup>146</sup>

On September 24, 2017, when the time provisions of the Muslim Ban 2.0 expired, the president issued Presidential Proclamation 9645, dubbed Muslim Ban 3.0. This proclamation placed country-by-country restrictions on nationals of Chad, Iran, Libya, North Korea, Syria, Yemen, and certain diplomatic officials from Venezuela.<sup>147</sup> It also removed Sudan from the list following the state’s cooperation with U.S. allied war efforts in Yemen.<sup>148</sup>

The Muslim Ban 3.0 was immediately challenged in federal courts. In *Hawai’i v. Trump*, Judge Watson issued a temporary restraining order on Establishment Clause grounds. In *IRAP v. Trump*, Judge Chuang issued a nationwide preliminary injunction barring the federal government from enforcing the travel ban on people from all of the covered countries, except for North Korea and Venezuela.<sup>149</sup>



The federal government appealed the decisions to the Supreme Court. On December 4, 2017, the Supreme Court allowed the ban to go into full effect while litigation was pending. On June 26, 2018, the Court decided *Trump v. Hawaii*. In a 5-4 decision, Chief Justice John Roberts allowed the Muslim Ban 3.0 to permanently remain in effect. Specifically, the Supreme Court held that the president has wide authority to suspend classes of aliens from the U.S. based on nationality, that the Immigration and Nationality Act's nondiscrimination language does not apply to this authority, and that the Muslim Ban did not violate the Establishment Clause prohibiting discrimination because there was a facially neutral justification grounded in national security concerns. This was despite the fact that the president and his proxies repeatedly made clear that the goal of the ban was to prevent Muslims from coming to the U.S., and the justifications were added later in the third version of the ban. Justice Sotomayor's dissent countered that "a reasonable observer would conclude that the Proclamation was driven primarily by anti-Muslim animus, rather than by the Government's asserted national-security justifications." Since the decision, the Muslim Ban has continued to severely restrict the ability of nationals from five Muslim-majority countries from entering the U.S., with no end in sight.<sup>150</sup>

On October 23, 2017, upon the expiration of the 120-day ban on refugee resettlement, the government issued guidelines blocking refugee resettlement from 11 mostly Muslim-majority countries for 90 days and indefinitely pausing the follow-to-join program designed to reunite refugee families. The next day, President Trump released EO 13815 "Resuming the United States Refugee Admissions Program with Enhanced Vetting Capabilities," putting the government's guidelines into legal effect and resuming USRAP under these directives.<sup>151</sup>

In a 5-4 decision, Chief Justice John Roberts allowed the Muslim Ban 3.0 to permanently remain in effect. Justice Sotomayor's dissent countered that "a reasonable observer would conclude that the Proclamation was driven primarily by anti-Muslim animus, rather than by the Government's asserted national-security justifications."

## Number of People Affected

The number of foreign nationals worldwide who fall under the ban exceeds 170 million.<sup>152</sup> Published data on the number of visas granted to nationals of the countries impacted by the Muslim Ban demonstrate dramatic decreases in the percentage of visas granted compared to the years prior to the EO. Each of the countries listed, with the exception of Venezuela and North Korea, has seen dramatic decreases in both immigrant and nonimmigrant visa issuances, which affect not only foreign nationals but also their families living in the U.S.

**Immigrant Visa Issuances for Countries Impacted by the Muslim Ban**  
FY 2016–2018

FIGURE 22

	FY 2016	FY 2017	FY 2018	% Change FY 2016–2018
<b>Iran</b>	7,727	6,643	1,449	-81.2%
<b>Libya</b>	383	458	139	-63.7%
<b>North Korea</b>	9	3	5	-44.4%
<b>Somalia</b>	1,797	1,791	546	-69.6%
<b>Syria</b>	2,633	2,551	838	-68.2%
<b>Venezuela</b>	2,471	2,909	3,172	+28.4%
<b>Yemen</b>	12,998	5,419	1,195	-90.8%

Yemen has seen a 90.8% decrease in immigrant visas issued while in the midst of an international humanitarian crisis resulting from the U.S.-sanctioned war on Yemen by U.S. ally Saudi Arabia.

**Nonimmigrant Visa Issuances for Countries Impacted by the Muslim Ban**  
FY 2016–2018

FIGURE 23

	B-1, B-2 Visas			H Visas			F Visas			J Visas		
	2016	2018	% Change	2016	2018	% Change	2016	2018	% Change	2016	2018	% Change
<b>Iran</b>	23,048	3042	-86.8%	213	29	-86.4%	3,139	1,643	-47.7%	1,220	662	-45.7%
<b>Libya</b>	1406	208	-85.2%	66	32	-51.5%	352	178	-49.4%	60	94	+56.7%
<b>North Korea</b>	52	0	-100%	0	0	0%	0	0	0%	0	0	0%
<b>Somalia</b>	221	38	-82.8%	1	0	100%	50	27	-46%	16	14	-12.5%
<b>Syria</b>	7,797	1,687	-78.4%	67	20	-70.1%	364	76	-79.1%	106	73	-31.1%
<b>Venezuela</b>	144,283	20,775	-85.6%	781	548	-29.7%	4139	1851	-55.3%	579	582	+0.5%
<b>Yemen</b>	3,786	535	-85.9%	9	8	-11.1%	840	243	-71.1%	62	42	-32.3%

FIGURE 22: U.S. Department of State, Bureau of Consular Affairs, "Table XIV, Immigrant Visas Issued at Foreign Service Posts (by Foreign State Chargeability) (All Categories), Fiscal Years 2009-2018," *Report of the Visa Office 2018*.

FIGURE 23: U.S. Department of State, Bureau of Consular Affairs, "Table XVII (Part I), Nonimmigrant Visas Issued, Fiscal Year 2016," *Report of the Visa Office 2016*; U.S. Department of State, Bureau of Consular Affairs, "Table XVII (Part I), Nonimmigrant Visas Issued, Fiscal Year 2018," *Report of the Visa Office 2018*.

While the government has exempted Iranian nationals applying for F and M (student) and J (exchange visitor) visas, these travelers are subject to enhanced screening and vetting requirements. Somali nationals entering the U.S. on nonimmigrant visas are also subject to additional scrutiny. Nonimmigrants from Chad, Libya, and Yemen may travel to the U.S. on the F, M, and J visas and are permitted to enter without being subject to additional scrutiny.<sup>153</sup> There also has been a negative impact on businesses, educational institutions, and health care agencies that had relied on people affected by the ban for work or study. The most dramatic reductions can be seen in the difference in the total number of B-1 (business) and B-2 (tourism) visas issued, which demonstrate -85% difference across all countries impacted. The only visa category type that has seen any increase between 2016 and 2018 is the J visa (exchange visitor for education or work), which was issued to 34 more Libyan and 3 more Venezuelan nationals in 2018.

**Refugees Admitted**

Since the implementation of EO 13815, USRAP has resumed with increasingly stringent vetting procedures and more limited yearly ceilings for refugee admissions. While the ceiling has averaged 96,000 per year in previous administrations, under President Trump, refugee admissions were limited

to 45,000 in fiscal year (FY) 2018 and 30,000 in FY 2019—the lowest since the beginning of the country’s refugee program. The number of refugees actually processed and admitted under these lowered ceilings has further decreased drastically across all geographical zones, with the exception of Europe. This is a stark departure from past precedent, which kept the ceiling and the admitted numbers in close alignment.<sup>154</sup>

### USRAP Refugee Ceilings and Actual Admissions 2016–2018

FIGURE 24

	2016		2017		2018	
	Ceiling	Admitted	Ceiling	Admitted	Ceiling	Admitted
<b>Africa</b>	27,500	31,624	35,000	20,232	19,000	10,459
<b>East Asia</b>	14,000	12,518	12,000	5,173	5,000	3,668
<b>Europe</b>	4,000	3,957	4,000	5,205	2,000	3,612
<b>Latin America/ Caribbean</b>	1,500	1,340	5,000	1,688	1,500	955
<b>Near East/South Asia</b>	38,000	35,555	40,000	21,418	17,500	3,797
<b>Total</b>	<b>85,000</b>	<b>84,994</b>	<b>110,000</b>	<b>53,716</b>	<b>45,000</b>	<b>22,491</b>

## Legal and Policy Changes

### *Waiver Process under Proclamation 9645*

The Court’s ruling in *Trump v. Hawaii* upholding the ban explicitly focused on Proclamation 9645’s assurance that the ban would be offset by a “robust” waiver process that would permit otherwise-banned individuals to obtain a visa. Consular officers and U.S. Customs and Border Protection (CBP) officers have the discretion to authorize waivers to impacted individuals. As of this writing, however, the State Department has no waiver application form. Instead, the State Department directs that “an individual who seeks to travel to the United States should apply for a visa and disclose during the visa interview any information that might demonstrate that he or she is eligible for a waiver.” The waiver determination hinges on whether (1) denying entry would cause undue hardship, (2) entry would pose a threat to national security or public safety, and (3) entry would be in the interest of the U.S. The grant of a waiver does not guarantee entry to the U.S.; a successful waiver applicant still must apply for and receive a visa.<sup>155</sup>

To date, the State Department has reported that in FY 2018, 2,673 waiver and visa applicants were “granted waivers,” allowing them to receive a U.S. visa for travel. In comparison, the government denied waivers and consequently rejected the visa applications of 37,000 applicants, a 94% rejection rate that has led to charges that the waiver provision is a sham process.<sup>156</sup>

Currently there are at least two federal class-action lawsuits challenging the waiver provision and unlawful implementation of the ban. On July 31, 2018, *Pars v. Pompeo* was filed, arguing that the government has failed to provide requisite and adequate guidance for the waiver provision resulting in its implementation “in such a haphazard, opaque, and capricious manner . . . that the process by which waivers are supposedly granted has become part and parcel of the ban itself.” On February 4, 2019, a number of civil rights organizations filed a class-action complaint in *Emami et al. v. Kirstjen Nielsen*, arguing that “the government’s failure to provide a meaningful, orderly, and accessible process” for a waiver violates the Administrative Procedure Act, the Immigration and Nationality Act, and the plaintiffs’ right to due process under the Fifth Amendment. If these cases move forward, they may result in transparency and accountability for the so-called waiver provision.<sup>157</sup>

FIGURE 24: Department of State Bureau of Population, Refugees, and Migration Refugee Processing Center, “Summary of Refugee Admissions” (February 28, 2019).



### *Extreme Vetting Forms*

On March 6, 2017, President Trump issued a memorandum titled “Implementing Immediate Heightened Screening and Vetting of Applications.” On May 4, 2017, the State Department announced its intention to obtain emergency review and approval of a massive new data collection effort to “more rigorously evaluate applicants for terrorism or other national security-related visa ineligibilities.” Subsequently, the Department of Homeland Security put forth Form DS-5535 “Supplemental Questions for Visa Applicants,” a standardized form requesting additional information from applicants who “warrant additional scrutiny in connection with terrorism or other national security-related visa ineligibilities.” The DS-5535 requires disclosure of all travel history, source of travel funding, and all employment during the last 15 years; social media handles used during the last 5 years; the names and dates of birth for all partners, siblings, and children; and all passport numbers and countries of issuance. In comparison, the regular form, DS-160, only asks for 5 years of employment and travel history. The collection of social media handles is troubling because there are no standards or parameters on social media vetting, which may raise First Amendment concerns for U.S. citizens, residents, and visitors. Although the Supreme Court upheld the Muslim Ban under the conditions of the case-by-case waiver process, the implementation of the extreme-vetting forms go beyond the countries listed under the ban and allows for discrimination under the radar and with little oversight.<sup>158</sup>

## **Policy Recommendations**

We should maintain an immigration system that is true to our American values and spirit as a land of opportunity for all people regardless of their race, religion, national origin, gender, or educational attainment. We must protect immigrants from discrimination based on religious animus, and we must prevent the abuse of executive power to deny entry to classes of people based on illegitimate reasons. Congress must defund and repeal all iterations of the Muslim Ban and prevent any future president from enacting any new, similar bans. Additionally, Congress should broaden nondiscrimination provisions within the Immigration and Nationality Act to add religion to the list of protected classes, and to cover all visa applicants, immigrant and nonimmigrant alike. We support the NO BAN Act (H.R. 2214 and S. 1123) to end the Muslim Ban and prevent discrimination on the basis of religion in immigration, as well as measures such as H.R. 810 and S. 246 to prohibit the Department of Homeland Security and other federal agencies from using funds, resources, or fees to implement or enforce the Muslim Ban.

Furthermore, Congress must lift the refugee ban that further harms Muslim immigrant communities. We recommend greater investment in refugee resettlement so that assistance is sufficient to meet refugees’ needs.

## NOTES

- <sup>145</sup> “Executive Office of the President, “Executive Order 13769 of January 27, 2019, “Protecting the Nation from Foreign Terrorist Entry into the United States,” *Federal Register* Vol. 82, No. 20 (February 1, 2017); John V. Kelly, “DHS Implementation of Executive Order #13769 ‘Protecting the Nation from Foreign Terrorist Entry into the United States,’” *U.S. Department of Homeland Security, Office of the Inspector General* (January 27, 2017).
- <sup>146</sup> *State of Washington and State of Minnesota v. Trump*, 847 F.3d 1151 (9th Cir. 2017); Executive Office of the President, “Executive Order 13780 of March 6, 2017, Protecting the Nation from Foreign Terrorist Entry into the United States” *Federal Register* Vol. 82, No. 45 (March 9, 2017); *Trump v. Int’l Refugee Assistance Project*, 137 S. Ct. 2080, 198 L. Ed. 2d 643 (2017).
- <sup>147</sup> Chad was later removed from the list on April 10, 2018.
- <sup>148</sup> Executive Office of the President, “Proclamation 9645 of September 24, 2017, Enhancing Vetting Capabilities and Processes for Detecting Attempted Entry into the United States by Terrorists or Other Public-Safety Threats,” *Federal Register* Vol. 82, No. 186 (September 27, 2017); Ryan Grim and Alex Emmons, “How Sudan Got Off Donald Trump’s Latest Travel Ban List,” *The Intercept* (September 25, 2017).
- <sup>149</sup> *Hawai’i v. Trump*, 241 F. Supp. 3d 1119 (D. Haw. 2017); *Int’l Refugee Assistance Project v. Trump*, 241 F. Supp. 3d 539, 565 (D. Md. 2017).
- <sup>150</sup> *Trump v. Hawaii*, 138 S. Ct. 542, 199 L. Ed. 2d 382 (2017); *Trump v. Hawaii*, 138 S. Ct. 2392, 201 L. Ed. 2d 775 (2018).
- <sup>151</sup> Egypt, Iran, Iraq, Libya, Mali, North Korea, Somalia, Sudan, South Sudan, Syria, Yemen. With the exception of North Korea and South Sudan, all of these listed countries are Muslim-majority and account for the largest portion of refugees accepted into the U.S.
- <sup>152</sup> U.S. Central Intelligence Agency, *The World Factbook* (2018).
- <sup>153</sup> Elizabeth Redden, “Travel Ban 3.0,” *Inside Higher Ed* (September 26, 2017).
- <sup>154</sup> Dara Lind, “Trump Slashed Refugee Levels This Year. For 2019, He’s Slashing Them Even Further,” *Vox* (September 18, 2018); Department of State Bureau of Population, Refugees, and Migration Refugee Processing Center, “Summary of Refugee Admissions” (February 28, 2019).
- <sup>155</sup> U.S. Department of State, Bureau on Consular Affairs website, “June 26 Supreme Court Decision on Presidential Proclamation 9645”; *Trump v. Hawaii*, 138 S. Ct. 2392, 201 L. Ed. 2d 775 (2018).
- <sup>156</sup> State Department, “June 26 Supreme Court Decision on Presidential Proclamation 9645.”
- <sup>157</sup> *Pars Equality Center et al. v. Mike Pompeo et al.*, 2018 WL 3730676 (W.D. Wash.); *Emami v. Nielsen*, No. 18-CV-01587-JD, 2019 WL 428780 (N.D. Cal. Feb. 4, 2019). The U.S. District Court for the Northern District of California denied Defendant’s motion to dismiss for Plaintiff’s Administrative Procedure Act claim, dismissed Plaintiff’s Fifth Amendment claim “with leave to file an amended complaint by February 25, 2019,” and dismissed Plaintiff’s mandamus claim “without prejudice to potential remedies if appropriate at a later stage.”
- <sup>158</sup> Executive Office of the President, “Memorandum of March 6, 2017, Implementing Immediate Heightened Screening and Vetting of Applications for Visas and Other Immigration Benefits, Ensuring Enforcement of All Laws for Entry into the United States, and Increasing Transparency among Departments and Agencies of the Federal Government and for the American People,” *Federal Register* Vol. 82, No. 62 (April 3, 2017); U.S. State Department, “Notice of Information Collection under OMB Emergency Review: Supplemental Questions for Visa Applicants,” *Federal Register* Vol. 12, No. 85 (May 4, 2017); NAFSA: Association of International Educators, “6 March 2017 Presidential Memorandum on Heightened Screening, Vetting, and Enforcement” (October 26, 2017).

## ISSUE BRIEF: IMMIGRATION ENFORCEMENT: ARRESTS, DETENTION, AND DEPORTATION

Within five days of taking office, President Trump issued several executive orders that made sweeping changes to our immigration enforcement system. Through these major policy shifts, the administration has rapidly increased arrests, detention, and deportations of immigrants in the interior of the United States, and severely curtailed the due process rights of immigrants along the southern border. The federal government has the authority to exercise prosecutorial discretion in immigration enforcement, meaning that immigration officials may decide whether to arrest, detain, and deport an immigrant. Previous Republican and Democratic administrations adhered to priorities that focused enforcement on certain individuals. For example, the Obama administration issued immigration enforcement priorities that shielded around 87% of the undocumented immigrant population from deportation. In contrast, the Trump administration has explicitly abandoned all forms of prosecutorial discretion and has directed federal agencies to employ “all lawful means” to deport “all removable” noncitizens. As a result, the enforcement agencies Immigration and Customs Enforcement (ICE) and Customs and Border Protection (CBP) have enacted a dragnet enforcement approach, escalating raids and arrests across the country, and striking fear into immigrant communities.<sup>159</sup>

Since 2017, we have witnessed a drastic increase in targeted enforcement against long-time community members, including many long-term residents and refugees.

Since 2017, we have witnessed a drastic increase in targeted enforcement against long-time community members, including many long-term residents and refugees. As detailed in the issue brief on Deferred Action for Childhood Arrivals (DACA) and Temporary Protected Status (TPS) in this report, the administration’s termination of the DACA and TPS programs potentially places over one million DACA recipients and TPS holders at risk of arrest and deportation. The Trump administration’s dramatic shifts in immigration enforcement policy serve the administration’s ultimate goals of expanding deportations and decreasing pathways to lawful immigrant status and citizenship.<sup>160</sup>

### Arrests

Since President Trump assumed office, ICE arrests of immigrants in the interior of the United States have increased compared to the last two years of the Obama administration. In fiscal year (FY) 2017, ICE arrested 143,604 immigrants compared to 110,593 in FY 2016 and 119,876 in FY 2015. The administration’s dragnet enforcement tactics have resulted in increased arrests of immigrants with and without criminal convictions. During President Trump’s first 14 months in office, ICE arrests of immigrants without a criminal record more than tripled compared to the final 14 months of the Obama administration, growing from 19,128 to 58,010. ICE arrests of undocumented immigrants with criminal convictions increased by 18% during that same time period. Despite the administration’s claims that arrested immigrants are dangerous criminals, the most frequent criminal charges for immigrants held in detention in FY 2018 were driving under the influence, followed by drug offenses, traffic offenses, and immigration offenses (such as reentering the U.S. after a deportation order).<sup>161</sup>

Since the beginning of FY 2015, ICE has arrested nearly 500,000 immigrants, including nearly 15,000 immigrants from Asia. About 70% of Asian immigrants arrested (or around 10,000 individuals) come from 10 countries, with immigrants from China, Vietnam, and India comprising the majority of individuals arrested.<sup>162</sup>



## ICE Arrests within the Interior of the United States—Top Ten Asian Countries of Origin

FY 2015–2018 | Ranked by Total Number of Arrests

FIGURE 25

Country	FY 2015	FY 2016	FY 2017	FY 2018	Total
<b>China, People's Republic of</b>	491	530	713	739	<b>2,473</b>
<b>Vietnam</b>	419	422	456	401	<b>1,698</b>
<b>India</b>	357	354	496	432	<b>1,639</b>
<b>Philippines</b>	277	224	237	152	<b>890</b>
<b>Iraq</b>	130	142	398	114	<b>784</b>
<b>Laos</b>	184	194	193	110	<b>681</b>
<b>Cambodia</b>	125	172	94	181	<b>572</b>
<b>Pakistan</b>	124	129	171	140	<b>564</b>
<b>South Korea</b>	160	114	107	97	<b>478</b>
<b>Jordan</b>	109	92	136	115	<b>452</b>

Immigrants with deep ties to the U.S., including long-time residents and refugees, have also increasingly been targeted for arrest and deportation. In particular, ICE has targeted Southeast Asian American refugee community members with old removal orders who came to the U.S. at a very young age. After fleeing genocide and war as children, many Southeast Asian refugees sought safety in the U.S., only to be resettled in poor urban areas without adequate resources. Faced with economic insecurity and overpolicing within their neighborhoods, many Southeast Asian American youth made mistakes that resulted in convictions. Despite many of them serving their sentences years (and sometimes decades) ago, and growing up to become pillars within their local communities, Southeast Asian American immigrants are three to four times more likely to be deported for old criminal convictions compared to other groups of immigrants. And although most Southeast Asian American refugees gained lawful permanent resident status, and have U.S.-citizen children and family members, many are barred from seeking immigration relief to stay in the U.S. with their families due to old convictions.<sup>163</sup>

In 2017, the Trump administration escalated enforcement against multiple Asian refugee communities. In October 2017 alone, ICE arrested approximately 100 Cambodian American community members nationwide, the largest raids ever to target this community. By comparison, prior to the October raids, ICE had arrested and detained 500 Cambodian Americans since 2002. In that same year, 456 Vietnamese and 193 Lao American community members were arrested. About two-thirds of those arrested were individuals who had lived in the U.S. for more than 20 years. At least 16,000 Southeast Asian American community members have received final orders of removal, more than 13,000 of which are based on old criminal convictions. And at least 14,000 Southeast Asian Americans with final orders of removal remain in the U.S., meaning that tens of thousands of Southeast Asian American families are living in limbo with at least one family member at risk of arrest and deportation.<sup>164</sup>

In addition to targeted enforcement against Southeast Asian American refugee communities, in summer 2017, ICE arrested about 70 Indonesian immigrants who claimed asylum after overstaying nonimmigrant visas. Additionally, ICE has targeted Iraqi refugee communities for arrest and deportation. In FY 2017, ICE arrested 398 Iraqi American community members, at least 166 (42%) of whom had lived in the U.S. for more than 20 years.<sup>165</sup>

FIGURE 25: Transactional Records Access Clearinghouse, "Immigration and Customs Enforcement Arrests," Syracuse University.

In October 2017 alone, ICE arrested approximately 100 Cambodian American community members nationwide, the largest raids ever to target this community.

At the U.S.-Mexico border, unauthorized border crossings have been on the decline for nearly two decades and dropped to a 46-year low in FY 2017. In FY 2016—the most recent year with complete data—76% of all individuals arrested by CBP were men. The top two Asian countries of origin for CBP arrestees in FY 2016 were India (3,668 individuals) and China (2,439 individuals). Nearly all Indian immigrants (97%) arrested by CBP in 2016 were men, and 71% of Chinese immigrants arrested by CBP that year were men. In that same year, all 636 Bangladeshi immigrants arrested by CBP were men. In recent years, increasing numbers of Indian immigrants, many of whom are asylum seekers, have been arrested at or near the southern border, with at least 4,197 Indian nationals arrested by CBP in FY 2018.<sup>166</sup>

In 2017-2018, the Trump administration drastically ramped up arrests of asylum-seeking families at the southern border under its cruel “zero-tolerance” border enforcement policy, forcibly separating thousands of children—including infants and toddlers—from their parents and detaining the children hundreds or thousands of miles away from where their parents were detained. A federal judge has ordered the government to identify and reunify the separated families. The exact number of children separated from their parents, however, is yet unknown as the Department of Homeland Security failed to utilize a formal tracking system to keep adequate records of the children separated from their parents. Families and individuals fleeing violence have the right to claim asylum regardless of their manner of entry into the U.S., but the Trump administration has criminally prosecuted parents who crossed the southern border without authorization as part of its escalated enforcement strategy.<sup>167</sup>

Detainees often receive dangerously inadequate medical care, including unreasonable delays in care, poor practitioner and nursing care, inadequate emergency response, and inappropriate use of solitary confinement for mentally ill and suicidal detainees.

## Detention

Detention creates significant burdens for immigrants trying to secure relief from deportation to stay in the U.S. with their families and communities. Since deportation is classified as a civil rather than a criminal sanction, immigrants placed in deportation proceedings do not have the same constitutional protections as criminal defendants. In particular, immigrants facing deportation do not have the right to counsel at the government’s expense, leaving many indigent or low-income immigrants to face an immigration judge without the assistance of an attorney. Detained immigrants have a harder time accessing legal help since many detention facilities are located in remote, rural areas. About 30% of detained immigrants are held in ICE facilities more than 100 miles from the nearest government-listed legal aid provider. Between 2007 and 2012, only 37% of all immigrants in deportation proceedings had an attorney, and for immigrants in detention the representation rate plummeted to an abysmal 14%. For immigrants detained in a small city or rural area, the representation rate dropped even lower—to around 10%. Having a lawyer more than doubles a detained person’s chance of winning their immigration case. But every day, local families are being torn apart, simply because they cannot afford an attorney to defend them.<sup>168</sup>

Detention not only imposes significant legal obstacles for immigrants but also often subjects immigrant detainees to deplorable human rights abuses. Detainees often receive dangerously inadequate medical care, including unreasonable delays in care, poor practitioner and nursing care, inadequate emergency response, and inappropriate use of solitary confinement for mentally ill and suicidal detainees. As of January 2019, 188 detainees had died in ICE detention facilities since 2003, the year the agency was established. During the first two years of the Trump administration, 22 detainees died in ICE custody, and more immigrants died in

detention in FY 2017 than in any year since 2009. A study of recent detainee deaths shows that about half of the deaths in ICE custody are attributable to inadequate medical care. The 22 deaths in ICE detention in FY 2017–2018 do not include deaths in CBP custody. In 2018, three children—a 19-month-old girl, a 7-year-old girl, and an 8-year-old boy—died in CBP detention facilities near the border after receiving poor medical care. The number of miscarriages suffered by detained pregnant women also nearly doubled under the first two years of the Trump administration, with at least 18 women losing their pregnancies while in ICE detention in 2018 due to substandard medical care. Immigrants in ICE detention facilities, including multiple Bangladeshi detainees, have also been punished with solitary confinement for refusing to work for one dollar per day.<sup>169</sup>

Despite the alarming conditions in ICE detention facilities, the ICE detention and deportation budget has grown by nearly one billion dollars (from \$3.2 to \$4.1 billion) since President Trump took office in 2017—a 40% increase in funding. ICE consistently overspends its congressionally appropriated budget, leading Congress to reprimand the agency for its “lack of fiscal discipline and cavalier management of funding for detention operations.” Despite ICE’s history of severe fiscal mismanagement, Congress continues to increase funding for the agency, and the FY 2019 Department of Homeland Security appropriations bill included a record \$4.2 billion allocation to ICE for its detention and deportation activities.<sup>170</sup>

The number of detained immigrants has increased under every presidential administration over the last 25 years. The immigration detention system has grown nearly seven-fold since 1994, from an average daily population of 6,785 in 1994 to 45,890 as of February 2019. As of March 6, 2019, ICE had increased the average daily population of immigrant detainees to 50,049, a historic high. In comparison, by the end of President Obama’s second term, the average daily population in immigration detention had reached just over 34,000.<sup>171</sup>

ICE detention records for June 2018—the most recent month with complete data—provide a snapshot of the detained Asian immigrant population. As of June 2018, 4,881 Asian immigrants were detained and the majority of detainees came from seven countries.<sup>172</sup>

### Highest Number of Detained Asian Nationals: Snapshot as of June 2018

Ranked by Total ICE Detainees

FIGURE 26

Country of Origin	Male	Female	Total ICE Detainees
<b>India</b>	2,310	66	2,376
<b>China, People’s Republic of</b>	449	197	646
<b>Bangladesh</b>	254	3	257
<b>Nepal</b>	203	8	211
<b>Iraq</b>	194	3	197
<b>Vietnam</b>	162	18	180
<b>Pakistan</b>	159	1	160

Immigrant detainees are overwhelmingly male. In FY 2015, the latest fiscal year for which the federal government released comprehensive immigration detention data, ICE detainees were housed in over 630 sites spread throughout the U.S., and about 79% of detainees were men.<sup>173</sup>

Detention records after June 2018 show that immigrants from India remained detained at high numbers. In August 2018, 56% of immigrant detainees in Victorville, California, were from India, and about 40% of detainees at the ICE

FIGURE 26: Transactional Records Access Clearinghouse, “Immigration and Customs Enforcement Detainees,” Syracuse University.

Imperial Valley detention facility in California were from India. The majority of Indian detainees are asylum seekers. As of October 2018, nearly 2,400 Indian immigrants were detained nationwide.<sup>174</sup>

Additionally, many of the Asian immigrants detained by ICE in June 2018 had lived in the U.S. long term. Approximately 43% of the Vietnamese Americans detained had lived in the U.S. for more than 20 years, as had 46% of the Iraqi Americans detained. The majority of Lao and Cambodian American detainees had lived in the U.S. for more than 20 years, with 86% and 75% of Lao and Cambodian American detainees, respectively, living in the U.S. long term.<sup>175</sup>

## Deportations

Following the Trump administration's elimination of enforcement priorities, deportations of immigrants with no criminal record jumped by 174% in FY 2017. Deportations of those with convictions rose nearly 13% that same year. ICE's escalated arrests of long-time refugee community members coincided with the Trump administration's efforts to pressure certain countries into accepting more deportees. In September 2017, the Trump administration issued visa sanctions against Cambodia and several other countries for refusing to accept forced returns of their nationals. One month later, in October 2017, ICE conducted raids in Cambodian American refugee communities, detaining around 100 individuals for purposes of deportation. In April 2018, ICE deported 43 Cambodian Americans in the largest group ever to be deported in one day since the repatriation of Cambodian nationals began over a decade ago. On December 17, 2018, ICE deported 36 Cambodian refugees on a single flight. About 1,900 Cambodian Americans in the U.S. have final orders of removal and are at immediate risk of deportation.<sup>176</sup>

Deportations of refugee community members from five Asian countries increased by 86% from 2017 to 2018. The Cambodian American refugee community alone suffered a 279% increase in deportations from 2017 to 2018.

In July 2018, the Trump administration issued visa sanctions against Laos and Myanmar to punish the countries for delaying deportations from the U.S. The majority of community members from Laos and Myanmar with final orders of removal entered the U.S. as refugees and later adjusted status to lawful permanent residents. As of July 2018, over 4,600 Lao Americans and over 60 Burmese Americans had final orders of removal, placing them at immediate risk of deportation from the U.S.<sup>177</sup>

The Trump administration has also sought to escalate deportations of Vietnamese American refugees, pressuring the Vietnamese government to accept thousands of deportees of Vietnamese origin with old criminal convictions. The U.S. and Vietnam established a repatriation agreement in 2008 that only allows for the deportation of Vietnamese American immigrants who came to the U.S. after 1995, the year the two countries resumed diplomatic relations. Since at least 2017, the Trump administration has been attempting to renegotiate the repatriation agreement in order to deport Vietnamese American refugees who came to the U.S. before 1995. Around 8,400 Vietnamese American community members have final orders of removal, placing them at immediate risk of deportation from the U.S.<sup>178</sup>

Iraq, initially listed in the Muslim Ban executive order signed in January 2017, was later dropped from the list of banned countries after the Iraqi government agreed to cooperate in accepting more deportees. In FY 2017, ICE arrested nearly 400 Iraqi Americans, but deportations dropped from 61 in FY 2017 to 48 in FY 2018, due in part to a federal court order allowing Iraqis with final orders of removal to reopen their immigration cases. Approximately 1,400 Iraqi American community members in the U.S. have final orders of removal.<sup>179</sup>

### Deportations: Refugees by Asian Countries of Origin

FY 2017–2018 | Ranked by Deportations FY 2018

FIGURE 27

Country of Citizenship	FY 2017	FY 2018
Vietnam	71	122
Cambodia	29	110
Iraq	61	48
Myanmar	10	40
Laos	5	8
<b>Total</b>	<b>176</b>	<b>328</b>

Deportations of refugee community members from the five Asian countries listed above increased by 86% from 2017 to 2018. The Cambodian refugee community alone suffered a 279% increase in deportations from 2017 to 2018.

The top five Asian countries of origin for deportations in FY 2017 and 2018 were China, India, Pakistan, the Philippines, and Bangladesh, with deportations to these countries increasing by 25%.

### Deportations: Top Five Asian Countries of Origin

FY 2017–2018 | Ranked by Deportations FY 2018

FIGURE 28

Country of Citizenship	FY 2017	FY 2018
China, People's Republic of	525	726
India	460	611
Pakistan	177	235
Philippines	182	217
Bangladesh	203	147
<b>Total</b>	<b>1,547</b>	<b>1,936</b>

FIGURE 27: U.S. Immigration and Customs Enforcement, Fiscal Year 2018 ICE Enforcement and Removal Operations Report, Appendix B.

FIGURE 28: U.S. Immigration and Customs Enforcement, Fiscal Year 2018 ICE Enforcement and Removal Operations Report, Appendix B.

## Policy Recommendations

We oppose the current administration's escalation of immigration enforcement. The administration should exercise greater prosecutorial discretion and withhold from arresting, detaining, and deporting long-time members of our communities and the family members of U.S. citizens and lawful permanent residents. The administration's changes to immigration enforcement policy have escalated the separation of families and strike fear into immigrant communities. The administration must honor the right of asylum seekers to request asylum without being criminalized, turned away, detained indefinitely, or separated from their families. Additionally, states and localities should enact community trust policies that disentangle local law enforcement and government agencies from federal immigration enforcement.

At minimum, many of the administration's changes to immigration enforcement policy must be implemented through congressional appropriations, or federal spending legislation. We recommend drastic cuts to the enforcement, detention, and deportation budgets of ICE and CBP within the Department of Homeland Security to reduce the number of enforcement agents and detention beds. We also recommend strong oversight and accountability mechanisms to keep ICE operating within budget constraints. We oppose increased funding for border militarization and enforcement, including funding construction of a border wall that causes harm to border communities and the environment.

Congress should shift funding from activities that criminalize immigrants and place draconian punishments on immigrants and their families and instead invest in communities through programs that promote naturalization and social and economic well-being.



Furthermore, we recommend that taxpayer dollars should be spent on critical programs that make our communities strong and vibrant such as education, health care, infrastructure, and housing rather than fueling abusive agencies that destabilize communities and separate families. Congress should shift funding from activities that criminalize immigrants and place draconian punishments on immigrants and their families and instead invest in communities through programs that promote naturalization and social and economic well-being. We support a path to citizenship for undocumented immigrants and repeals to the Illegal Immigration Reform and Immigrant Responsibility Act and the Antiterrorism and Effective Death Penalty Act, draconian 1996 laws that tear families apart.

To better protect the constitutional rights of detained immigrants and immigrants in deportation proceedings, we recommend that Congress pass legislation guaranteeing the right to counsel in immigration proceedings similar to the right to counsel in criminal proceedings. Moreover, immigration detention is cruel and unnecessary to enforce our civil immigration laws. Therefore, we recommend that Congress mandate use of alternatives to detention programs.



## NOTES

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## ISSUE BRIEF: NATURALIZATION

While not all eligible immigrants choose to become United States citizens, for many naturalization is the culmination of their immigration journey, the step that grants them access to the same rights and privileges as natural-born citizens. Once naturalized, new U.S. citizens are able to fully participate in civic life and the democratic process; they can serve on juries, register to vote and participate in elections, and even run for office.

Asian immigrants are among the fastest to apply for naturalization once they become eligible. Individuals who naturalized in fiscal year (FY) 2017 spent a median of eight years in lawful permanent resident (LPR) status before becoming U.S. citizens. Immigrants from Asia, along with immigrants from Africa, spent the least number of years in LPR status, a median of six years, before becoming U.S. citizens.<sup>180</sup>

Asian immigrants naturalize at high rates. As noted in the immigration pathways discussion in this report, approximately 58% of Asian American immigrants are naturalized citizens. The rate for the total population, in comparison, is 47%. Further, four groups of Asian American immigrants have naturalization rates of 70% and higher: Hmong, Vietnamese, Cambodian, and Laotian Americans.

Immigrants from Asia accounted for 36.1% of individuals who naturalized in FY 2017, just behind the 36.5% of immigrants from North America<sup>181</sup> who naturalized during the same time period. With 118,559 new U.S. citizens, Mexico is the country of origin of the largest percentage of individuals (16.8%) who became U.S. citizens in FY 2017. Immediately following Mexico were India, China, and the Philippines. Six more Asian countries ranked among the top 20 countries of origin for those who naturalized in FY 2017: Vietnam, South Korea, Pakistan, Bangladesh, Iran, and Iraq.<sup>182</sup>

### Naturalization: Asian Countries of Origin

FY 2015–2017 | Ranked by Naturalizations FY 2017

FIGURE 29

Country	FY 2015	FY 2016	FY 2017
<b>India</b>	42,213	46,188	50,802
<b>China</b>	31,241	35,794	37,674
<b>Philippines</b>	40,815	41,285	36,828
<b>Vietnam</b>	21,976	24,848	19,323
<b>South Korea</b>	14,230	14,347	14,643
<b>Pakistan</b>	11,912	11,729	10,166
<b>Bangladesh</b>	9,750	9,949	8,629
<b>Iran</b>	10,344	9,507	8,324
<b>Iraq</b>	14,899	12,130	7,875
<b>Burma*</b>	6,045	6,956	6,825
<b>Bhutan</b>	4,562	5,563	5,557
<b>Thailand</b>	5,213	5,211	4,672
<b>Nepal</b>	4,225	5,004	4,509
<b>Taiwan</b>	4,420	4,043	4,151
<b>Cambodia</b>	2,878	2,756	2,184
<b>Laos</b>	2,042	1,999	1,726
<b>Japan</b>	1,858	1,758	1,713

FIGURE 29: U.S. Department of Homeland Security, Office of Immigration Statistics, Office of Strategy, Policy & Plans, *Annual Flow Report: 2017* (August 2018); U.S. Department of Homeland Security, "Table 21, Persons Naturalized by Region and Country of Birth: Fiscal Years 2015 to 2017," *2017 Yearbook of Immigration Statistics* (October 2, 2018).

\*Also known as Myanmar

FIGURE 29, CONTINUED

Country	FY 2015	FY 2016	FY 2017
Hong Kong	1,716	1,662	1,623
Indonesia	1,743	1,641	1,566
Sri Lanka	1,246	1,497	1,364
Malaysia	1,113	1,189	1,170
Mongolia	324	437	416
Singapore	285	308	279
Macau	109	101	70
North Korea	23	16	15
Brunei	13	10	11

The number of individuals from the region of Oceania, which includes numerous Pacific Island nations as well as Australia and New Zealand was 3,327, or 0.05% of the total number of individuals who naturalized in FY 2017.

### Naturalization: Pacific Island Countries of Origin

FY 2015–2017 | Ranked by Naturalizations FY 2017

FIGURE 30

Country	FY 2015	FY 2016	FY 2017
Fiji	850	996	841
Tonga	352	337	262
American Samoa	296	285	216
Samoa	213	192	164
Federated States of Micronesia	85	67	53
Palau	44	43	32
Marshall Islands	22	27	16
Papua New Guinea	21	19	13

FIGURE 30: Table 21. "Persons Naturalized by Region and Country of Birth: Fiscal Years 2015 to 2017," U.S. Department of Homeland Security.

## Barriers to Naturalization

Compared to the challenges faced by many immigrants in gaining permanent resident status, the naturalization process is more straightforward. Still, the application process, including completing the 20-page application, gathering the required information and supporting documents, and paying the filing fees can be daunting. In addition, numerous requirements can pose barriers for many immigrants. These requirements include the ability to read, speak, and write basic English; knowledge of U.S. history and government measured by a civics test; "good moral character"; and payment of a \$725 filing fee.<sup>183</sup>

## Growing USCIS Backlogs as a "Second Wall" for Immigrants

Further, immigrants who seek to naturalize now face an additional obstacle to U.S. citizenship—growing backlogs that are preventing many from becoming U.S. citizens. As detailed in a series of recently published reports, the National Partnership for New Americans recounts that applications for naturalization

spiked in FY 2016, with a total of 971,242 LPRs applying for U.S. citizenship, an increase of 188,267 applications over the previous year. While increased interest in naturalization often coincides with presidential election years, it is notable that demand for naturalization continued to increase following the 2016 election, with a total of 986,142 applications submitted in FY 2017. As more immigrants have applied to become U.S. citizens, the backlog of pending applications has steadily increased. In June 2017, there were 708,638 applications for U.S. citizenship waiting to be processed, up from 399,397 at the same time two years earlier. In its October 2017 report, the National Partnership for New Americans stated “(t)his backlog means that the wait time from the submission of the U.S. citizenship application, to being tested, and then attending the naturalization Oath Ceremony can take over one year in many regions.” By its third addendum to the report, published in July 2018, the National Partnership for New Americans cited U.S. Citizenship and Immigration Services data from the first quarter of 2018 to report a backlog of 729,400 applications for citizenship, representing an 87.59% increase in the backlog of citizenship applications over the last two years. At the time, applicants for naturalization could face processing times of up to 20 months. Only a few years ago, processing times were averaging less than 6 months.<sup>184</sup>

If immigrants rely on processing timelines of 6 to 9 months, a reasonable expectation based on the not-so-distant past, by the time they turn their attention to naturalization in early 2020, for most it will already be too late to apply and complete the process in time to meet voter registration deadlines.

Immigration service providers and immigrant rights advocates are concerned that these lengthening processing times—backlogs—will deter eligible immigrants from naturalizing. As noted above, demand for naturalization generally spikes in election years. If immigrants rely on processing timelines of 6 to 9 months, a reasonable expectation based on the not-so-distant past, by the time they turn their attention to naturalization in early 2020, for most it will already be too late to apply and complete the process in time to meet voter registration deadlines. For example, during the first three months of 2019, the processing time for naturalization applications filed in the Washington, DC area fluctuated, with projections ranging from 9 months to as long as 22.5 months. As of March 2019, areas with lengthy processing times include Los Angeles (9.5-15.5 months); Atlanta (13-23 months); New York City (14.5-28 months); Las Vegas (15.5-18 months); Phoenix (17-18.5 months); and Dallas, Minneapolis-Saint Paul, Miami, and Houston with processing times ranging from 16 to 24 months. For immigrants in these areas, the window to begin the naturalization application process so as to be able to vote in 2020 is rapidly closing, which will shut many prospective immigrant voters out of an election that is still nearly two years away.<sup>185</sup>

## The Threat of Denaturalization

In addition, the current administration’s harsh stance toward immigrants has been extended to naturalized U.S. citizens. As noted above, naturalization is seen—and often celebrated—as the final step in the immigration process. U.S. citizenship has conveyed a sense of finality, assurance that one’s immigration status would no longer be in jeopardy and that one had gained all of the rights and privileges of U.S. citizenship permanently. Denaturalization, the process by which one is stripped of citizenship, has typically been deployed only in extreme cases of fraud or treason, including Nazis and other war criminals seeking to evade prosecution. From 2004 to 2016, an average of 46 denaturalization cases were filed each year. In each of the last two years, prosecutors filed nearly twice that many cases. Further, the Trump administration has signaled that it will be reviewing 700,000 files of U.S. citizens for evidence of fraudulent naturalization, and announced the creation of a Denaturalization Task Force in June 2018.<sup>186</sup>

Individuals facing denaturalization in the criminal justice system have the right to counsel and a jury trial. Further, the prosecution must demonstrate beyond a reasonable doubt that the accused knowingly procured or attempted to procure naturalization in an unlawful manner. There is a 10-year statute of limitations on criminal denaturalization. In contrast, the grounds for denaturalization in civil proceedings are broader, and there is no requirement of intent; the standard of proof is clear, convincing, and unequivocal evidence; and there is no right to counsel, no right to a jury trial, and no statute of limitations.<sup>187</sup>

The U.S. should support immigrants in their path to U.S. citizenship by reducing the processing backlogs and addressing barriers to naturalization.

Mass-scale denaturalizations threaten the meaning of citizenship and equality for immigrants. As Seth Freed Wessler wrote in the *New York Times Magazine*, the administration “has cast naturalized citizens as suspects for fraud, and the legal immigration process itself in need of urgent course-correction to prevent that abuse.” Mae Ngai, a Columbia University historian who writes on citizenship and immigration, has compared the denaturalization campaign to the conservative campaign against voter fraud, where scarce examples of fraudulent voting are used to justify imposing greater voter restrictions on communities of color even though there is no evidence of a widespread problem. “‘It’s trying to make a crisis out of an issue that is not by any measure a crisis,’ Ngai says, ‘an attempt to call the larger systems into question.’”<sup>188</sup>

## Policy Recommendations

Naturalization is essential to fully integrate immigrants as equal members of society and enable them to fully participate in our democracy. Welcoming aspiring new Americans and granting them a pathway to full citizenship stabilizes immigrant families and communities while strengthening the economy for everyone.

The U.S. should support immigrants in their path to U.S. citizenship by reducing the processing backlogs and addressing barriers to naturalization. Specifically, we recommend that processing take no longer than six months and that the federal government invest greater resources in adult English language and civics education as well as greater outreach and engagement to promote and encourage naturalization. In addition, we urge that fee waivers be maintained to make naturalization—and other immigration processes—accessible to people with limited means. Finally, naturalized citizens must not be relegated to second-class status by renewed scrutiny and the possibility of denaturalization.

## NOTES

<sup>180</sup> U.S. Department of Homeland Security, Office of Immigration Statistics, Office of Strategy, Policy & Plans, *Annual Flow Report: 2017* (August 2018).

<sup>181</sup> North America includes Canada, Central America, and the Caribbean.

<sup>182</sup> U.S. Department of Homeland Security, *Annual Flow Report: 2017* (August 2018).

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# LOOKING AHEAD

## POLICY RECOMMENDATIONS

### Family Immigration

Family unity is a core American value, and our family-based immigration system has helped to create the strong, vibrant, and diverse American communities that make the United States the country that it is today. Rather than making it more difficult for families to stay together or reunify, we should celebrate our nation's diverse immigrant heritage by expanding opportunities for American families to thrive together. Congress should pass legislation to update the family immigration system and resolve the problem of the visa backlogs. We support the Reuniting Families Act, which would clear the family backlogs, update our family-based immigration laws, lift the family and employment-based visa country caps, and provide much-needed enforcement relief to preserve family unity.

Furthermore, the administration should not move forward with the harmful and unnecessary changes to the public charge rule that would result in significant barriers to family reunification and community well-being.

### Immigrant Workers

We need an immigration system that upholds the dignity of all people. As a nation, we are stronger and at our best when we recognize and respect the contributions of all those who would call America home. Congress should focus on policy solutions that promote economic security and prosperity for all members of our society, immigrant and native-born alike.

The U.S. should not have immigration programs that seek to gain from the skills and labor of foreign nationals while treating them like second-class members of our society. Any visa program that invites workers to the U.S. should offer meaningful pathways for workers and their families to become lawful permanent residents and full citizens. During any short-term temporary status, all family members of working age should be offered work authorization. Furthermore, Congress should pass legislation to preserve work authorization for H-4 visa holders.

In addition, U.S. law must better protect vulnerable immigrant workers from abuse, including those whose immigration status is dependent on their employers as well as undocumented workers. These protections must include protection against retaliation, including reporting to immigration authorities. Investments in outreach, community education, and legal assistance will be key to protecting immigrant workers from exploitation.

### Undocumented Immigrants

Our immigration system should respect the inherent worth of all people and guard against the unequal, second-class treatment of any members of our communities. Undocumented immigrants are an integral part of our society—they are our family members, neighbors, and friends seeking to build the American dream. Congress should pass a legalization bill to offer undocumented immigrants in the U.S. a path to citizenship that would include an application process with



background checks. Additionally, updates to our immigration system, such as the Reuniting Families Act discussed above, would resolve the status of many Asian undocumented immigrants stuck in visa backlogs or facing barriers to adjusting status. Finally, there should be expanded opportunities for low-wage workers to immigrate to the U.S. to work in jobs for which there are labor market needs.

### Rescission of DACA and TPS

Dreamers and Temporary Protected Status (TPS) recipients represent the cornerstone of American values and help our country thrive and advance. They are members of our families and communities who have called America home for decades. Congress should pass a “clean” Development, Relief, and Education for Alien Minors (DREAM) Act that would finally offer undocumented youth a pathway to citizenship within, for many, the only country they have ever known, without expanding harmful immigration enforcement measures that separate immigrant families. Congress should also pass legislation that offers all TPS recipients and Deferred Enforced Departure (DED) recipients a pathway to citizenship. We support the American Dream and Promise Act of 2019 (H.R. 6), as filed on March 12, 2019, that would offer a pathway to citizenship for Dreamers, TPS recipients, and DED recipients.

### Muslim and Refugee Bans

We should maintain an immigration system that is true to our American values and spirit as a land of opportunity for all people regardless of their race, religion, national origin, gender, or educational attainment. We must protect immigrants from discrimination based on religious animus, and we must prevent the abuse of executive power to deny entry to classes of people based on illegitimate reasons. Congress must defund and repeal all iterations of the Muslim Ban and prevent any future president from enacting any new, similar bans. Additionally, Congress should broaden nondiscrimination provisions within the Immigration and Nationality Act to add religion to the list of protected classes, and to cover all visa applicants, immigrant and nonimmigrant alike. We support the NO BAN Act (H.R. 2214 and S. 1123) to end the Muslim Ban and prevent discrimination on the basis of religion in immigration, as well as measures such as H.R. 810 and S. 246 to prohibit the Department of Homeland Security and other federal agencies from using funds, resources, or fees to implement or enforce the Muslim Ban.

Furthermore, Congress must lift the refugee ban that further harms Muslim immigrant communities. We recommend greater investment in refugee resettlement so that assistance is sufficient to meet refugees’ needs.

### Immigration Enforcement: Arrests, Detention, and Deportation

We oppose the current administration’s escalation of immigration enforcement. The administration should exercise greater prosecutorial discretion and withhold from arresting, detaining, and deporting long-time members of our communities and the family members of U.S. citizens and lawful permanent residents. The administration’s changes to immigration enforcement policy have escalated the separation of families and strike fear into immigrant communities. The administration must honor the right of asylum seekers to request asylum without being criminalized, turned away, detained indefinitely, or separated from their families. At minimum, many of these changes must be implemented through congressional appropriations, or federal spending legislation. We recommend drastic cuts to the enforcement, detention, and deportation budgets of Immigration and Customs Enforcement (ICE) and Customs and Border Protection within the Department of Homeland Security to reduce the number of enforcement agents and detention beds. We also recommend strong oversight

and accountability mechanisms to keep ICE operating within budget constraints. We oppose increased funding for border militarization and enforcement, including a border wall. Furthermore, we recommend that taxpayer dollars should be spent on critical programs that make our communities strong and vibrant such as education, health care, infrastructure, and housing rather than fueling abusive agencies that destabilize communities and separate families.

We support a path to citizenship for undocumented immigrants and support repeals to the Illegal Immigration Reform and Immigrant Responsibility Act and the Antiterrorism and Effective Death Penalty Act, draconian 1996 laws that tear families apart. To better protect the constitutional rights of detained immigrants and immigrants in deportation proceedings, we recommend that Congress pass legislation guaranteeing the right to counsel in immigration proceedings similar to the right to counsel in criminal proceedings. Additionally, we recommend that Congress mandate expanded use of alternatives to detention programs.

## Naturalization

Naturalization is essential to fully integrate immigrants as equal members of society and enable them to fully participate in our democracy. Welcoming aspiring new Americans and granting them a pathway to full citizenship stabilizes immigrant families and communities while strengthening the economy for everyone.

The U.S. should support immigrants in their path to U.S. citizenship by reducing the processing backlogs and addressing barriers to naturalization. Specifically, we recommend that processing take no longer than six months and that the federal government invest greater resources in adult English language and civics education, as well as greater outreach and engagement to promote and encourage naturalization. In addition, we urge that fee waivers be maintained to make naturalization—and other immigration processes—accessible to people with limited means. Finally, naturalized citizens must not be relegated to second-class status by renewed scrutiny and the possibility of denaturalization.

## APPENDIX

### Asian & Pacific Island Language Speakers by Foreign-Born Population United States, 2012–2016

FIGURE 31

Languages	Number
Chinese	1,609,094
Tagalog	1,128,611
Vietnamese	1,101,085
Korean	877,675
Hindi	637,841
Mandarin	424,447
Cantonese	374,388
Filipino	342,917
Urdu	338,837
Gujarati	314,717
Telugu	279,569
Japanese	271,785
Bengali	242,063
Punjabi	221,295
Tamil	203,506
Khmer	144,411
Malayalam	140,186
Nepali	136,843
Thai	121,606
Hmong	105,784
Lao	102,570
Ilocano	83,960
Burmese	69,745
Marathi	67,500
Min Nan Chinese	60,743
Indonesian	54,093
Kannada	49,413
India NEC*	46,907
Cebuano	38,162
Karen languages	34,365

Languages	Number
Other Asian languages	33,488
Sinhala	25,348
Pashto	24,753
Other Eastern Malayo-Polynesian languages	20,452
Chin languages	17,072
Marshallese	14,963
Tibetan	14,829
Tongan	14,806
Malay	12,527
Mongolian	11,603
Konkani	11,154
Other Philippine languages	11,017
Chuukese	10,736
Pakistan NEC*	10,257
Samoan	10,088
Iu Mien	9,573
Chamorro	928
Hawaiian	575

FIGURE 31: U.S. Census Bureau, 2012–2016 American Community Survey 5-Year Estimates, Public Use Microdata Sample.

\*NEC: not elsewhere classified, representing undetermined languages.

## GLOSSARY

### **adjustment of status**

The process through which one applies for lawful permanent resident status when present in the U.S.

### **asylee**

A person who is unable or unwilling to return to their country of origin because of a well-founded fear of persecution due to race, membership in a particular social group, political opinion, religion, or national origin. Whereas a refugee seeks status from abroad, an asylee is a foreign national who is already in the U.S. or at the border who meets this criterion.

### **consular processing**

The process through which one applies for lawful permanent resident status from outside of the U.S. The individual applies at a U.S. Department of State consulate abroad for an immigrant visa in order to come to the U.S. and be admitted as a permanent resident.

### **enter or entry without inspection (EWI)**

The status of an individual who enters the U.S. without being inspected at an authorized port of entry or paroled into the U.S.

### **foreign-born**

According to the U.S. Census Bureau, includes anyone who is not a U.S. citizen at birth, including those who have become U.S. citizens through naturalization. Those born in the U.S., Puerto Rico, a U.S. Island Area (American Samoa, Guam, Commonwealth of the Northern Mariana Islands, or the U.S. Virgin Islands), or abroad to a U.S. citizen parent or parents are native-born.

### **housing cost burden**

Households are considered to have a high burden when 30% or more of household income is spent on housing costs, which include rent and utilities.

### **lawful permanent resident (LPR)**

A person who has immigrated legally but is not an American citizen. This person has been admitted to the U.S. as an immigrant and issued an LPR card, commonly known as a “green card.” One is generally eligible to naturalize after holding LPR status for five years. Additional criteria, such as “good moral character,” knowledge of civics, and basic English, must also be met.

### **limited English proficient**

A person who speaks English less than “very well.”

**low-income**

People who fall below 200% of the income-to-poverty ratio, or those with income for the past 12 months that was less than twice the poverty threshold (e.g., the 2016 Census Bureau poverty threshold was \$24,339 for a family of four with two children under age 18).

**low-wage worker**

A low-wage worker generally refers to a low-income worker, which is defined as someone who lives in a household where total household income is less than twice the federal poverty level.

**poverty**

A measure of income relative to the federal poverty threshold (the poverty line). Adjusted for family size, the 2016 Census Bureau poverty threshold was \$24,339 annually for a family of four with two children under the age of 18.

**refugee**

A person who is unable or unwilling to return to their country of origin because of a well-founded fear of persecution due to race, membership in a particular social group, political opinion, religion, or national origin. Whereas an asylee is a foreign national already in the U.S. or at the border who meets this definition, a refugee seeks status from abroad.

**senior**

A person age 65 years and over.

**small business**

According to the U.S. Small Business Administration, businesses with fewer than 20 employees are the smallest firms.

**unemployment rate**

The percentage of the workforce age 16 years or older who have been actively looking for work over the previous four weeks but have yet to find a job.

**visa overstay**

Status of an undocumented resident who entered the U.S. with a valid temporary visa and subsequently established residence without authorization.

## TECHNICAL DOCUMENTATION

### Sources of data used in this report

Most of the data included in Part I of this report are drawn from the U.S. Census Bureau's American Community Survey (ACS) Public Use Microdata Sample (PUMS) 2012–2016 5-Year Estimates with some additional data sourced from the Census Bureau's 2012 Survey of Business Owners. Since this report focuses on the immigrant population, the Census Bureau's ACS PUMS data are used due to the availability of detailed socioeconomic characteristics for this population not typically available in the ACS summary tables. Data from other sections of the report were sourced from numerous reports and publicly available data, including but not limited to those from the Department of Homeland Security, the State Department, Center for Migration Studies, Migration Policy Institute, Pew Research Center, and more.

### Measuring the characteristics of racial and ethnic groups

Since 2000, the U.S. Census Bureau has allowed those responding to its questionnaires to report one or more racial or ethnic backgrounds. While this better reflects America's diversity and improves data available on multiracial populations, it complicates the use of data on racial and ethnic groups. Data on race are generally available from the Census Bureau in two forms, for those of a single racial background (referred to as "alone") with multiracial people captured in an independent category, and for those of either single or multiple racial backgrounds (referred to as "alone or in combination with one or more other races"). Although it is normally preferable to use race data for the "alone or in combination with one or more races" populations, there are limitations in the availability of a complete and mutually exclusive list of multiracial groupings for each racial group within the public use microdata sample. As such, the "alone" category is used for all racial groups with an exception made for Pacific Islander population due to the high proportion of multiracial Pacific Islanders. The "American Indian and Alaska Native alone" racial group within the ACS PUMS file was recoded from a combination of the "American Indian alone," "Alaska Native alone, and the "American Indian and Alaska Native tribes specified; or American Indian or Alaska Native, not specified and no other races" categories to match the definition of "American Indian, Alaska Native alone" in the Census Bureau's American Community Survey Summary Tables. All ethnic group data refer to the "alone" population.



## Sample size

Due to sample size restrictions, some Asian American and Pacific Islander ethnic groups were left out of the report. A 2,000 sample-size threshold was used for PUMS-sourced data in this report.

## Definitions of “Asia” as a continent

The Department of Homeland Security broadly defines Asia. This geographic region is considered to include Afghanistan, Armenia, Azerbaijan, Bahrain, Bangladesh, Bhutan, Brunei, Burma, Cambodia, China, Cyprus, East Timor, Georgia, Hong Kong, India, Indonesia, Iran, Iraq, Israel, Japan, Jordan, Kazakhstan, Kuwait, Kyrgyzstan, Laos, Lebanon, Macau, Malaysia, Maldives, Mongolia, Nepal, North Korea, Oman, Pakistan, Philippines, Qatar, Saudi Arabia, Singapore, South Korea, Sri Lanka, Syria, Taiwan, Tajikistan, Thailand, Turkey, Turkmenistan, United Arab Emirates, Uzbekistan, Vietnam, and Yemen.

The Department of Homeland Security includes the following as part of the geographic region of Oceania: American Samoa, Australia, Christmas Island, Cocos (Keeling) Islands, Cook Islands, Federated States of Micronesia, Fiji, French Polynesia, Guam, Kiribati, Marshall Islands, Nauru, New Caledonia, New Zealand, Niue, Northern Mariana Islands, Palau, Papua New Guinea, Pitcairn Islands, Samoa, Solomon Islands, Tokelau, Tonga, Tuvalu, Vanuatu, and Wallis and Futuna Islands.

The State Department includes the following countries as part of Asia: Afghanistan; Bahrain; Bangladesh; Bhutan; Brunei; Burma; Cambodia; China (mainland born and Taiwan born); Hong Kong S.A.R.; India; Indonesia; Iran; Iraq; Israel; Japan; Jordan; Korea, North; Korea, South; Kuwait; Laos; Lebanon; Malaysia; Maldives; Mongolia; Nepal; Oman; Pakistan; Philippines; Qatar; Saudi Arabia; Singapore; Sri Lanka; Syria; Thailand; Timor-Leste; United Arab Emirates; Vietnam; and Yemen.

The State Department includes the following as part of the geographic region of Oceania: Australia, including Christmas Island, Cocos (Keeling) Islands, and Norfolk Island; Fiji; Kiribati; Marshall Islands; Micronesia, Federated States of; Nauru; New Zealand, including Cook Islands, Niue, and Tokelau; Palau; Papua New Guinea; Samoa; Solomon Islands; Tonga; Tuvalu; and Vanuatu.

