

**DON'T TIP THE MELTING POT:
A Case Study of the U.S., U.K., and
Denmark's Use of Anti-immigration
Laws to Shift Blame for Real Social
and Economic Problems to Immigrants
and the Economic and Legal
Impacts of Their Use**

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Some of the most notorious phrases that have been introduced into the United States’ lexicon over the past three years are “Build the Wall!”¹ and “Make America Great Again!”² These phrases represent the growing anti-immigration and xenophobic sentiments that have become popular in the United States and internationally. The growth of these sentiments worldwide can be seen in the United Kingdom³ and even in the historically progressive state of Denmark.⁴ It is widely known that one of the dominating factors that influenced the United Kingdom to ultimately leave the European Union (EU), was the growing anti-immigration sentiment of its population.⁵ In Denmark, the reaction to the migration crisis in Europe was not acceptance and

1. Jenna Johnson & Sean Sullivan, *From ‘Build that Wall’ to Kick the Can: Trump’s Border Promise Might be Hard To Break*, WASH. POST (Apr. 26, 2017), https://www.washingtonpost.com/politics/from-build-that-wall-to-kick-the-can-trumps-border-promise-might-be-hard-to-break/2017/04/26/1137581a-2a96-11e7-be51-b3fc6ff7face_story.html?utm_term=.42e2edad4bfb [<https://perma.cc/Y4AD-RMHZ>].

2. DONALD J. TRUMP, <https://www.donaldjtrump.com/about/> [<https://perma.cc/L2YQ-ECG2>] (last visited Sept. 23, 2017).

3. Laura Devine, *Changes to the UK’s Immigration Law – Immigration Act 2015-2016*, WHO’S WHO LEGAL (Apr. 2016), <http://whoswholegal.com/news/features/article/33109/changes-uks-immigration-law-immigration-act-20152016> [<https://perma.cc/J6Z7-3HSV>].

4. Sasha Abramsky, *If Sweden and Denmark Are So Progressive, Why Did They Close Their Doors to Refugees?*, THE NATION (Sept. 27, 2016), <https://www.thenation.com/article/if-sweden-and-denmark-are-so-progressive-why-did-they-close-their-doors-to-refugees/> [<https://perma.cc/CNG2-R7K9>].

5. Tonia Novitz, *Collective Bargaining, Equality and Migration: The Journey to and from Brexit*, 46 INDUS. L.J. 109, 111 (2017).

aid, but instead to close its doors, sending the message that migrants are not welcome.⁶ These sentiments have had an effect on immigration legislation in all three countries. Underlying these changes is the following rationale: “[i]t doesn’t take a very large number of ‘uninvited guests’ for an insecure state to make them scape goats for the ills of society and its perceived decline.”⁷

Political agendas in these countries have had a profound effect on legislation.⁸ Increasingly stringent anti-immigration laws in the United States (U.S.), United Kingdom (U.K.), and Denmark represent a period of extremism in legislative actions. As this Article demonstrates, this extremism is not beneficial to these nations and their citizens.

The focus on aliens is often used as a way of deflecting attention from underlying problems nations face. Nazi Germany, for example, blamed the Jewish population for the economic hardship of German workers.⁹ Today, immigrants are blamed for the economic plight of a nation’s workers.¹⁰ Rather than focusing on the true problems facing societies (including, but not limited to, the need for global security against terrorists groups like ISIS; civil wars; drug violence plaguing countries like Syria, Mexico, and others that have contributed to substantial emigration from those nations; and the need for internal job growth), the focus has been channeled into anti-immigration and anti-migration sentiments. Although there are legitimate problems that arise out of immigration that require regulation, extreme regulations are not needed. Extremism is distracting lawmakers and the public from the real issues. Additionally, extreme regulations passed often infringe on human rights, violate constitutional provisions, and hurt economies.

This Article consists of four parts that lay the framework and analyze extreme immigration legislation and anti-immigration sentiments in the U.S., U.K., and Denmark. Part I focuses on the history of immigration

6. Abramsky, *supra* note 4.

7. T. Alexander Aleinikoff, *Reflections on the Worldwide Refugee “Crisis”*: Keynote Address: *The Worldwide Migration Crises*, 21 UCLA J. INT’L L. FOREIGN AFF. 1, 3 (2017).

8. See Emmarie Huetteman & Nicholas Kulish, *House Passes 2 Strict Immigration Bills, at Trump’s Urging*, N.Y. TIMES (June 29, 2017), <https://www.nytimes.com/2017/06/29/us/politics/house-passes-strict-immigration-bills-at-trumps-urging.html> [https://perma.cc/6C5C-7SKX]; Devine, *supra* note 3; Abramsky, *supra* note 4.

9. PIERRE JAMES, *THE MURDEROUS PARADISE: GERMAN NATIONALISM AND THE HOLOCAUST* 132 (Praeger, 2001).

10. Julia Preston, *Immigrants Aren’t Taking Americans’ Jobs, New Study Finds*, N.Y. TIMES (Sept. 21, 2016), <https://www.nytimes.com/2016/09/22/us/immigrants-arent-taking-americans-jobs-new-study-finds.html> [https://perma.cc/F24T-7RSP].

and anti-immigration sentiments in the three countries. Part II discusses governing laws in the three countries that have received the most attention because of their extreme impact on immigrants. Part III analyzes these laws, focusing on their legal ramifications, discriminatory effects on immigrants, and economic harm. Finally, Part IV explains why these laws reflect an extreme approach to immigration and raise serious legal questions if they are not modified in the future. This Article concludes by recommending that these countries reject extreme immigration laws that are subject to serious legal challenges and are not economically beneficial for their citizens. This Article also proposes simple changes to immigration integration policy that can aid in society's acceptance of immigrants and increase their benefits to the economy even more.

I. THE HISTORY OF IMMIGRATION IN THE U.S., U.K., AND DENMARK

The purpose of this section is to explore the history of immigration regulation in the U.S., U.K. and Denmark.

A. U.S. History

The U.S. is a nation founded upon mass immigration. It prides itself on being a “melting pot.”¹¹ The U.S., however, has an extensive history of anti-immigration sentiments that currently threatens to “tip” the melting pot in ways that are not beneficial.

In the nineteenth century, around thirty million immigrants entered the U.S.¹² Shortly after this mass immigration, the U.S. Congress passed one of its first major legislative immigration statutes, the Immigration Act of 1924 (Act).¹³ This Act expanded the Chinese Exclusion Act of 1882, which specifically targeted Chinese workers by suspending their immigration to the U.S. for a period of ten years.¹⁴ The 1924 provision also prohibited immigration by all Asians.¹⁵ Although the Act was the first comprehensive

11. Victor Davis Hanson, *America: History's Exception*, NAT'L REV. (June 9, 2016), <http://www.nationalreview.com/article/436347/americas-melting-pot-culture-made-country-great-we-are-losing-it> [https://perma.cc/G2YQ-P6QS].

12. GEORGE M. STEPHENSON, *A HISTORY OF AMERICAN IMMIGRATION 1820–1924* 3 (Ginn & Co., 1926).

13. Immigration Act of 1924, 68 P.L. 139 (1924); *The Immigration Act of 1924 (The Johnson-Reed Act)*, OFFICE OF THE HISTORIAN, <https://history.state.gov/milestones/1921-1936/immigration-act> [https://perma.cc/QCA7-U36F] (last visited Nov. 20, 2017).

14. Chinese Immigration, (22 Stat. 58) 58–59 (1882, repealed 1943); *Chinese Immigration and the Chinese Exclusion Acts*, OFFICE OF THE HISTORIAN, <https://history.state.gov/milestones/1866-1898/chinese-immigration> [https://perma.cc/D3X9-5J5G] (last visited Nov. 20, 2017); STEPHENSON, *supra* note 12, at 3.

15. Chinese Immigration, *supra* note 14; *The Immigration Act of 1924 (The Johnson-Reed Act)*, *supra* note 13.

legislative immigration statute promulgated by Congress, it was certainly not the first nor the last demonstration of anti-immigration sentiment.

Shortly before the Act was passed, a political party known as “The Know Nothings” came into existence.¹⁶ This political party was mostly known for its intolerance of immigration, specifically for persons of German and Irish decent.¹⁷ The Germans and the Irish were often perceived as lesser human beings when compared to their Anglo-Saxon protestant brethren. Benjamin Franklin, for example, described Germans as “swarthy,” which was considered an affront to the purity of the Anglo-Saxon race.¹⁸ Roman Catholic Irish persons were considered lazy, drunken brawlers, unwelcome in a country founded by Protestants.¹⁹ The Know Nothings did not gain much political power, except in Massachusetts.²⁰ However their sentiments and rhetoric are reflected in discussions of immigration today. Discussions of immigration from parts of Europe and Asia during the times of the Know Nothings are remarkably similar to those held today of immigration from Latin America and the Middle East.²¹

Over the years, various events have transpired in the U.S. that have raised anti-immigration sentiments. This Article focuses on the past few decades in which immigration has become one of the most hotly contested legal issues in the U.S. Two major events in recent history that have altered U.S. immigration policy are the terrorist attacks on September 11, 2001 (9/11)²² and the Great Recession of 2008.²³ Since 9/11, the topic of immigration has become more important because many associate immigration with

16. Douglas Kierdorf, *Getting To Know the Know-Nothings*, B. GLOBE (Jan. 10, 2016), <https://www.bostonglobe.com/ideas/2016/01/10/getting-know-know-nothings/yAojakXKkiauKCAzsf4WAL/story.html> [https://perma.cc/EE6Z-NYVF].

17. *Id.*

18. Matthew Yglesias, *Swarthy Germans*, ATLANTIC (Feb. 4, 2008), <https://www.theatlantic.com/politics/archive/2008/02/swarthy-germans/48324/> [https://perma.cc/92RE-23T3].

19. Kierdorf, *supra* note 16.

20. *Id.*

21. Lorraine Boissoneault, *How the 19th-Century Know Nothing Party Reshaped American Politics*, SMITHSONIAN (Jan. 26, 2017), <https://www.smithsonianmag.com/history/immigrants-conspiracies-and-secret-society-launched-american-nativism-180961915/> [https://perma.cc/N2QM-A67D].

22. Ted Hesson, *Five Ways Immigration System Changed After 9/11*, ABC NEWS (Sept. 11, 2012), https://abcnews.go.com/ABC_Univision/News/ways-immigration-system-changed-911/story?id=17231590 [https://perma.cc/93VB-S2Y2].

23. Joonghyun Kwak & Michael Wallace, *The Impact of the Great Recession on Perceived Immigrant Threat: A Cross-National Study of 22 Countries*, 8 SOCIETIES, July 16, 2018, at 1.

national security.²⁴ As a result, the government has made efforts to allocate more resources to immigration control.²⁵ For example, deportations have increased,²⁶ and immigrants have been and continue to be subject to greater control under legislation passed by Congress.²⁷ The Great Recession of 2008 continues to threaten U.S. citizens and has disrupted their expectations of “economic” security. Immigrants are unfairly blamed for the lack of job growth following this event. They have become “scapegoats” for the consequences of the Great Recession.²⁸ As tensions have caused violence to spread worldwide, people have looked inward—to put up barriers to protect themselves from the “other” and to put “America First.”²⁹

B. U.K. History

The history of immigration in the U.K. is unique in that until the mid-1980s the U.K. saw a greater number of emigrants than immigrants.³⁰

After World War II the U.K. implemented more restrictive immigration laws. It espoused two-pillar goals.³¹ The first pillar referred to as “limitation,” had the ultimate goal of keeping the overall population consistent.³² That is, a “zero net immigration” policy was adopted that sought to have the amount of individuals immigrating into the country not to exceed those emigrating from it.³³ The legislation distinguished between persons who were U.K. born and those who were not.³⁴ Only those who were not born in the U.K. were subject to controls adopted under the “net zero” immigration policy.³⁵

The second pillar goal focused on integration.³⁶ This kind of legislation did not control the number of individuals immigrating but instead focused on their identity or place of origin. The legislation was influenced by the

24. Hesson, *supra* note 22.

25. *Id.*

26. *Id.*

27. *Id.*

28. See Preston, *supra* note 10.

29. Ariana Berengaut & Edward Fishman, *Why Americans Should Fight Donald Trump's Isolationism*, TIME (June 15, 2017), <http://time.com/4820160/trump-america-first-global-leadership/>.

30. Will Somerville et al., *United Kingdom: A Reluctant Country of Immigration*, MIGRATION POL'Y INST. (July 21, 2009), <https://www.migrationpolicy.org/article/united-kingdom-reluctant-country-immigration> [<https://perma.cc/VT3D-8LVB>].

31. *Id.*

32. *Id.*

33. *Id.*

34. *Id.*

35. *Id.*

36. *Id.*

Civil Rights Movement in the U.S., taking form in anti-discrimination laws.³⁷

The immigration policy shifted again after the fall of the Soviet Union in the mid-1980s, resulting in more asylum seekers pursuing entry into the U.K.³⁸ As a consequence, the immigration laws became more restrictive, although there was a growing humanitarian need to immigrate. The laws in the 1990s, in particular, made it more difficult for asylum seekers to obtain asylum and reduced the benefits available to them.³⁹

The 9/11 attacks in the U.S. also resulted in the implementation of significant security measures in the U.K. The U.K. became more concerned with developing tighter security, which was reflected in its immigration policy.⁴⁰ Anti-immigration sentiment that arose in the 1990s also increased as a result of 9/11.⁴¹ Today, immigration is one of the most important public policy issues in the U.K. Approximately three-quarters of the British population support reducing immigration to their country.⁴²

C. Denmark History

Denmark's history shows similar patterns of anti-immigration policy and sentiment, as discussed above. In the early twentieth century, immigration to Europe ceased during the World Wars.⁴³ However, immigration began to increase in the early 1960s.⁴⁴ The first restrictive Danish immigration laws came into effect in the 1970s, when a large number of persons immigrated to Denmark.⁴⁵ However, anti-immigration sentiments have substantially increased since the early 1990s.⁴⁶ Moreover, since the wake

37. *Id.*

38. *Id.*

39. *Id.*

40. *Id.*

41. *Id.*

42. Scott Blinder & William Allen, *UK Public Opinion Toward Immigration: Overall Attitudes and Level of Concern*, MIGRATION OBSERVATORY (Nov. 28, 2016), <http://www.migrationobservatory.ox.ac.uk/resources/briefings/uk-public-opinion-toward-immigration-overall-attitudes-and-level-of-concern/#kp1> [<https://perma.cc/3HY7-8JHS>].

43. See Eskil Wadensjö, *Immigration, the Labour Market, and Public Finances in Denmark*, 7 SWED. ECON. POL'Y REV. 59, 61 (2000).

44. *Id.*

45. *Id.*

46. Lindsey Rubin, Comment, *Love's Refugees: The Effects of Stringent Danish Immigration Policies on Danes and Their Non-Danish Spouses*, 20 CONN. J. INT'L L. 319, 320 (2005).

of 9/11 the Danish People's Party (the "People's Party"), a conservative party, has played on the citizens' fear of immigration in the wake of 9/11.⁴⁷ The Party has gained popularity with its views, which claim that Denmark is not meant to be "multi-ethnic" and that the country is not meant for immigrants.⁴⁸ These ideas have received popular support and encouraged sustained anti-immigration rhetoric in the country.⁴⁹ The People's Party has gained popularity and is now the second largest party in Denmark's Parliament.⁵⁰

The history of these three countries has demonstrated varying approaches to immigration policy over the years. Today immigration is perceived more negatively than in the past, resulting in more restrictive immigration legislation that many consider to embrace the extreme responses to immigration.

II. APPLICABLE LAWS

Before turning to a discussion of current immigration laws in the U.S., U.K. and Denmark, distinguishing the kinds of immigration laws and types of immigrants is an important consideration. Laws may apply to legal or illegal immigration, or both. They may also apply to different types of immigrants, such as migrants, refugees, or asylum seekers.

First, although many of the governing laws examined in this Part involve legal immigration, certain laws also discuss illegal immigration. In the simplest terms, a legal immigrant is an immigrant who has been officially authorized,⁵¹ whereas an illegal immigrant is a person present in a country without official authorization.⁵² Making this distinction proves important because the severity of certain laws often depends on whether the law applies to legal immigration or illegal immigration. Illegal immigration is generally more severely regulated. However, most public opinion surveys do not distinguish between illegal and legal immigrants. Most surveys simply refer to immigration in general, which brings up several different issues.

Different types of immigrants often fall within the term "immigrants," such as migrants, refugees, and asylum seekers. Although the term "migrant"

47. *Id.*

48. *Id.* at 320–21.

49. *Id.*

50. *Danish Election: Opposition Bloc Wins*, BBC (June 19, 2015), <http://www.bbc.com/news/world-europe-33171549> [<https://perma.cc/TCF8-PR84>].

51. *Illegal*, OXFORD ENGLISH DICTIONARY, [dhttps://en.oxforddictionaries.com/definition/us/illegal](https://en.oxforddictionaries.com/definition/us/illegal) [<https://perma.cc/652Q-PSP2>] (last visited Nov. 20, 2017).

52. *Id.*

- often encompass a broader definition,⁵³ this Article uses the term migrant to refer to a “migrant worker.” According to the UN Convention on the Rights of Migrants, a “migrant worker” is defined as: “a person who is to be engaged, is engaged, or has been engaged in a remunerated activity in a State of which he or she is not a national.”⁵⁴ Another important distinction to make is that the term “migrant” refers to individuals who freely decide to become immigrants, i.e., without the intervention of external compelling factors.⁵⁵ This distinguishes migrants from refugees and asylum seekers.⁵⁶

In contrast to a migrant, a refugee is defined as: “someone who has been forced to flee his or her country because of persecution, war, or violence. A refugee has a well-founded fear of persecution for reasons of race, religion, nationality, political opinion or membership in a particular social group.”⁵⁷ An asylum seeker is similar to a refugee in this respect. However, a refugee has been granted protection by a State, whereas an asylum seeker is “someone who has applied for protection as a refugee and is awaiting the determination of his or her status.”⁵⁸

A. U.S. Governing Law

The Trump presidential campaign utilized the anti-immigration sentiments following 9/11 and the Great Recession, previously discussed. In office, he has implemented anti-immigration policies such as travel bans and modifications of the Dream Act that are discussed in this Section.

53. UNESCO, *Migrant/Migration*, UN EDUC. SCI. & CULTURAL ORG., <http://www.unesco.org/new/en/social-and-human-sciences/themes/international-migration/glossary/migrant/> [<https://perma.cc/X27K-WT3R>] (last visited Nov. 20, 2017) [hereinafter UNESCO, *Migrant/Migration*].

54. G.A. Res. 45/158, art. 2 ¶ 1, International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Dec. 18, 1990).

55. See UNESCO, *Migrant/Migration*, *supra* note 53. However, in some cases a Migrant’s decision to move is not necessarily autonomous. Other external factors that are not significant enough to grant them asylum or refugee status have caused conditions which effectively force the Migrant’s decision.

56. UNESCO, *Migrant/Migration*, *supra* note 53.

57. UNHCR, *What is a Refugee*, <https://www.unrefugees.org/refugee-facts/what-is-a-refugee/> [<https://perma.cc/PPG9-8G5W>] (last visited Nov. 20, 2017).

58. UNESCO, *Asylum Seeker*, UN EDUC. SCI. & CULTURAL ORG., <http://www.unesco.org/new/en/social-and-human-sciences/themes/international-migration/glossary/asylum-seeker/> [<https://perma.cc/SL36-9TSQ>] (last visited Nov. 20, 2017) [hereinafter UNESCO, *Asylum Seeker*].

1. Trump Travel Bans

One week after President Trump came into office, he signed an Executive Order⁵⁹ commonly referred to as President Trump's "travel ban."⁶⁰ The Order prohibited entry into the U.S., for ninety days, any citizen of Iran, Iraq, Syria, Yemen, Sudan, Libya, and Somalia.⁶¹ The Order also imposed an indefinite ban on refugees from Syria.⁶² This controversial Order immediately resulted in opposition from politicians, lawyers, and the public. These critics claimed the Order violates the U.S. Constitution, violates the Immigration and Nationality Act, and felt that it attacked this country's core values.⁶³ Mass protests broke out in airports after the ban was signed with many claiming "we are all immigrants!"⁶⁴ Included in the protests were thousands of lawyers from around the country who gave legal advice to aid those affected by the Order in order to secure their entry into the U.S.⁶⁵ The Order targeted a group the U.S. has often protected, refugees fleeing their nations to find safety in the U.S.⁶⁶

On February 3, 2017, District Court Judge James Robart issued a temporary restraining order halting the implementation of the Order nationwide in a challenge by the states of Washington and Minnesota to the travel ban.⁶⁷ The district court's order was ultimately upheld by the Court of Appeals for the Ninth Circuit.⁶⁸ The appellate court found that the Order was unconstitutional because it violated the due process requirement of the Fifth Amendment of the U.S. Constitution.⁶⁹ The Fifth Amendment provides that the government may not deprive any individual of life,

59. Exec. Order No. 13769, 82 Fed. Reg. 8977 (Jan. 27, 2017). This Executive Order was titled "Executive Order Protecting the Nation from Foreign Terrorist Entry Into the United States."

60. Paul Owen et al., *US Refugee Ban: Trump Decried for 'Stomping on' American Values*, GUARDIAN (Jan. 28, 2017), <https://www.theguardian.com/us-news/2017/jan/27/trump-immigration-plan-refugees-vetting-reaction> [https://perma.cc/9Y9C-3Y4R].

61. Proclamation No. 13769, 82 Fed. Reg. 8977 (Jan. 27, 2017).

62. *Id.*

63. *Trump's Executive Order: Who Does Travel Ban Affect?*, BBC NEWS (Feb. 10, 2017), <http://www.bbc.com/news/world-us-canada-38781302> [https://perma.cc/L6FA-FZJ2].

64. Ralph Ellis, *Protestors Mass at Airports to Decry Trump's Immigration Policies*, CNN (Jan. 28, 2017), <http://www.cnn.com/2017/01/28/politics/us-immigration-protests/index.html> [https://perma.cc/3RUC-6XGH].

65. Lucy Westcott, *Thousands of Lawyers Descend on U.S. Airports To Fight Trump's Immigrant Ban*, NEWSWEEK (Jan. 29, 2017), <http://www.newsweek.com/lawyers-volunteer-us-airports-trump-ban-549830> [https://perma.cc/PXK9-LYUS].

66. See Owen et al., *supra* note 60.

67. *Washington v. Trump*, No. C17-0141JLR, 2017 U.S. Dist. LEXIS 16012, at *10 (W.D. Wash. Feb. 3, 2017).

68. *Washington v. Trump*, 847 F.3d 1151, 1168–69 (9th Cir. 2017).

69. *Trump*, 847 F.3d at 1168.

liberty, or property without due process of law.⁷⁰ The Order failed to provide any type of notice or hearing before restricting an individual's ability to travel.⁷¹ The court found that the term "individual" in the Fifth Amendment extends to all 'persons' in the U.S. regardless of their citizenship.⁷²

The court also addressed claims that the Order was unconstitutional on the grounds of religious discrimination.⁷³ The First Amendment of the United States Constitution prohibits any "law respecting an establishment of religion."⁷⁴ The States bringing the action against the Order argued that the travel ban was specifically meant to disfavor Muslims, and therefore the Order violated the Establishment Clause of the First Amendment.⁷⁵ The court did not make a holding specifically on the grounds of the Establishment Clause, stating that the States raised significant issues of constitutionality that it reserved the right to consider these religious discrimination claims at a later time.⁷⁶

Finally, the court held that insufficient evidence existed that the Order protected the public from terrorist attacks.⁷⁷ It further held the evidence demonstrated that the Order caused damage to many residents in the U.S.⁷⁸ The States that brought the action were able to demonstrate that "the travel prohibitions harmed the States' university employees and students, separated families, and stranded the States' residents abroad."⁷⁹ The government argued that the travel ban was necessary for national security reasons, specifically in safeguarding the U.S. population from a terrorist attack.⁸⁰ However, the government was unable to provide any evidence that aliens from any of the countries banned had perpetrated a terrorist attack in the U.S.⁸¹ Furthermore, the government was unable to demonstrate any evidence that showed the travel ban could be put in place without causing the harm that the States alleged.⁸²

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70. U.S. CONST. amend. V.
71. *Trump*, 847 F.3d at 1164.
72. *Id.* at 1165.
73. *Id.* at 1167–68.
74. U.S. CONST. amend. I.
75. *Trump*, 847 F.3d at 1167.
76. *Id.* at 1168.
77. *Id.*
78. *Id.* at 1168–69.
79. *Id.* at 1169.
80. *Id.* at 1168.
81. *Id.*
82. *Id.* at 1169.

In response to the court's decision, President Trump revised the Order.⁸³ On March 6, 2017 he issued Executive Order 13780 with the same name as his previous Order.⁸⁴ This revised Order retained the ninety day travel ban for all the previously listed countries, except for Iraq.⁸⁵ It also removed the indefinite ban on Syrian refugees, and allowed citizens from the listed countries who had valid U.S. visas to enter the country.⁸⁶ These changes were made in an attempt to circumvent injuries that the States claimed the ban caused them.⁸⁷ However, even with these changes, a new petition for a temporary restraining order was filed by Hawaii.⁸⁸ Hawaii was the first state to challenge the revised Order. It argued that the revised Order violated the Establishment Clause, an argument discussed above.⁸⁹ The State of Hawaii also argued that the order violated the Immigration and Nationality Act (INA).⁹⁰ The INA claim specifically contended that the order violated this Act by discriminating on the basis of nationality and exceeding the President's authority delegated under the INA.⁹¹

In a decision written by Judge Derrick Watson, the District Court of Hawaii issued a preliminary injunction that prohibited the implementation of the revised Order, holding that the plaintiffs succeeded in demonstrating a substantial likelihood of success in showing a violation of the Establishment Clause.⁹² However, the Court of Appeals for the Ninth Circuit declined to affirm the district court's decision based on the Establishment Clause claim, citing the Supreme Court's admonition that "courts should be extremely careful not to issue unnecessary constitutional rulings."⁹³ The court reasoned that it did not need to address the Establishment Clause issue as it could affirm the preliminary injunction based only on the plaintiff's INA claims.⁹⁴

The court held that the travel ban was discriminatory in violation of the INA and affirmed the district court's decision to issue the preliminary

83. Meridith McGraw et al., *A Timeline of Trump's Immigration Executive Order and Legal Challenges*, ABC NEWS (June 29, 2017, 12:22 PM), <http://abcnews.go.com/Politics/timeline-president-trumps-immigration-executive-order-legal-challenges/story?id=45332741> [<https://perma.cc/3BV9-6XGH>].

84. Exec. Order No. 13780, 82 Fed. Reg. 13,209 (Mar. 6, 2017).

85. *Id.*

86. *Id.*

87. By allowing citizens who already had a valid visa to travel back to the U.S., many of the harms suffered by the States were no longer at issue because employees, students, or family members living in the States would have legal visas to allow them entry into the U.S.

88. *Hawaii v. Trump*, 241 F. Supp. 3d 1119, 1122–23 (D. Haw. 2017).

89. *Id.* at 1128.

90. *Id.*

91. *Id.*

92. *Id.* at 1133.

93. *Hawaii v. Trump*, 859 F.3d 741, 761 (9th Cir. 2017).

94. *Id.*

injunction against the travel ban.⁹⁵ In order to address the INA claim fully, the court first determined whether the Plaintiffs were within the zone of interests protected by the INA.⁹⁶ The court held that indeed the Plaintiffs were within the protection of the law since the INA governs family reunifications⁹⁷ and authorizes aliens to be students and employees within the U.S.⁹⁸ The court also found that certain provisions of the INA⁹⁹ provide for procedure on the admission of refugees, and therefore refugee resettlement policies and programs fall within the protection of the law.¹⁰⁰ The court also found that the travel ban was in conflict with the INA's non-discrimination clause because the ban discriminated against persons based on their nationalities.¹⁰¹

Under the INA,¹⁰² the President has the authority to ban any alien or class of aliens only if that class is detrimental to the interests of the U.S.¹⁰³ The government argued that the President had the authority for national security reasons.¹⁰⁴ However, the court found that the Government was unable to justify the ban on this ground.¹⁰⁵ Essentially, the power delegated to the President by the INA to bar entry of a class of aliens to the U.S. must still be supported by a showing of that detrimental interest. As such, the Government would need to show that entry of nationals from all six countries and refugees in excess of 50,000 would be detrimental to the U.S.¹⁰⁶ The court concluded "the [revised] Order does not offer a sufficient justification to suspend the entry of more than 180 million people on the basis of nationality. National security is not a 'talismanic incantation' that, once invoked, can support any and all exercise of executive power."¹⁰⁷

The U.S. Supreme Court granted certiorari regarding the decision of the court of appeals.¹⁰⁸ The Supreme Court granted a stay of parts of the injunction

95. *Id.* at 789.

96. *Id.* at 766.

97. *Legal Assistance for Vietnamese Asylum Seekers v. Dep't of State, Bureau of Consular Affairs*, 45 F.3d 469, 471–72 (D.C. Cir. 1995).

98. Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(f-o) (2018).

99. Immigration and Nationality Act, 8 U.S.C. § 1157 (2018).

100. *Trump*, 859 F.3d at 766.

101. *Id.* at 762.

102. Immigration and Nationality Act, 8 U.S.C. § 1182(f) (2018).

103. *Trump*, 859 F.3d at 770.

104. *Id.* at 771.

105. *Id.* at 774.

106. *Id.* at 770.

107. *Id.* at 774.

108. *Trump v. Int'l Refugee Assistance Project*, 137 S. Ct. 2080, 2083 (2017).

on the travel ban.¹⁰⁹ The Supreme Court held that the lower court's finding on the travel ban were sufficient and persuasive regarding persons who have a bona fide relationship with a person or entity in the U.S.¹¹⁰ A bona fide relationship includes those who have a familial relationship in the U.S. or a relationship with a U.S. entity that is formal, documented, and formed in the ordinary course of business.¹¹¹ Therefore, a student accepted to a U.S. university, or a worker who is given an offer by a company in the U.S. would qualify as having a bona fide relationship with a U.S. entity and thus, granted entry.¹¹² However, the Supreme Court did not agree with the court of appeals regarding persons who have no relationship with the U.S.¹¹³ Relationships formed with the purpose of evading the revised Order are insufficient to grant entry.¹¹⁴ Foreign nationals working with a non-profit organization to seek entry into the U.S. and working with this organization purely to avoid the Executive Order is another example of an insufficient relationship.¹¹⁵ The Supreme Court found that persons with no prior relationships with U.S. persons or entities have no legally relevant hardship affected by the travel ban.¹¹⁶ Therefore, national security claims warranted a stay of the preliminary injunction against the travel ban with respect to these persons.¹¹⁷ Currently, the travel ban prohibits any citizen from the six aforementioned countries from entering the U.S. unless they have a "bona fide relationship with any person or entity in the U.S."¹¹⁸ Although this type of relationship protects families from being separated and protects students and workers, it prohibits entry of refugees from the listed countries seeking safety.¹¹⁹

Although President Trump was only partially successful in implementing his anti-immigration executive orders, the Administration has replaced some provisions of the controversial travel ban with new restrictions.¹²⁰ The third travel ban is similar to the first two bans; however, it includes restrictions on immigration from Venezuela and North Korea.¹²¹ The third

109. *Id.* at 2089.

110. *Id.* at 2088.

111. *Id.*

112. *Id.*

113. *Id.*

114. *Id.*

115. *Id.*

116. *Id.*

117. *Id.*

118. *Id.*

119. McGraw et al., *supra* note 83.

120. Laura Jarrett & Sophie Tatum, *Trump Administration Announces New Travel Restrictions*, CNN (Sept. 25, 2017, 5:15 PM), <http://www.cnn.com/2017/09/24/politics/trump-travel-restrictions/index.html> [<https://perma.cc/69NC-Y3S6>].

121. Proclamation No. 9645, 82 Fed. Reg. 45,161 (Sept. 24, 2017).

travel ban has been challenged, again by the State of Hawaii and other states.¹²² The claims presented in the most recent case present the same issues that were addressed above including that the travel ban does not provide sufficient reason to justify a violation of the INA.¹²³ However, in December 2017, the Supreme Court ordered that the travel ban will take effect while the appeals process continues in the lower courts.¹²⁴ The Court issued brief, unsigned orders which urged the appellate courts to move swiftly in coming to their decision; however the Court's order gave no reason for its decision.¹²⁵

2. *The Dream Act*

Another recent Presidential decision that represents anti-immigration sentiment is the rescission of the “Deferred Action for Childhood Arrival” Program (also known as the “Dream Act” or “DACA”).¹²⁶ The DACA program was designed to allow foreign-born individuals who arrived in the U.S. to avoid immediate deportation so they could obtain work permits, stay in school, and secure driver's licenses.¹²⁷ The DACA program was first implemented on June 15, 2012, during President Obama's term through a memorandum by the U.S. Department of Homeland Security.¹²⁸

As of September 4, 2017, the DACA program had approximately 689,800 participants.¹²⁹ President Trump, however, decided to terminate the program

122. *Hawaii v. Trump*, 265 F. Supp. 3d 1140, 1145 (D. Haw. 2017); Matt Zapposky, *Federal Judge Blocks Trump's Third Travel Ban*, WASH. POST (Oct. 17, 2017), https://www.washingtonpost.com/world/national-security/federal-judge-blocks-trumps-third-travel-ban/2017/10/17/e73293fc-ae90-11e7-9e58-e6288544af98_story.html [<http://perma.cc/8N88-TCKX>].

123. *Trump*, 265 F. Supp. 3d at 1147–48.

124. Adam Liptak, *Supreme Court Allows Trump Travel Ban to Take Effect*, N.Y. TIMES (Dec. 4, 2017), <https://www.nytimes.com/2017/12/04/us/politics/trump-travel-ban-supreme-court.html> [<http://perma.cc/7YUL-KHYH>].

125. *Id.*

126. Richard Gonzales, *5 Questions About DACA Answered*, NPR (Sept. 5, 2017, 8:48 PM), <http://www.npr.org/2017/09/05/548754723/5-things-you-should-know-about-daca> [<http://perma.cc/6UYL-YQHJ>].

127. *Id.*

128. Memorandum from Janet Napolitano, Sec'y of Homeland Sec., to David Aguilar, Acting Comm'r, U.S. CBP, et al., *Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the U.S. as Children* (June 15, 2017).

129. U.S. CITIZENSHIP IMMIGR. SERV., *APPROXIMATE ACTIVE DACA RECIPIENTS* (2017), <https://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/I>

based on the claim that the Obama Administration did not have the legal authority to implement the program.¹³⁰ President Trump’s decision to end DACA was provoked by the legal actions against a similar program, the “Deferred Action for Parents of Americans and Lawful Permanent Residents” (DAPA).¹³¹ DAPA was challenged in numerous state courts, led by Texas.¹³² The Court of Appeals for the Fifth Circuit ultimately ruled that DAPA was not authorized by the Immigration and Nationality Act.¹³³ The court stated that the Act “flatly does not permit the reclassification of millions of illegal aliens as lawfully present and thereby make them newly eligible for a host of federal and state benefits, including work authorization.”¹³⁴ This ruling was affirmed by the U.S. Supreme Court in a plurality decision.¹³⁵

The Trump Administration cited multiple reasons for ending DACA.¹³⁶ The first being that, since the Supreme Court made its ruling clear on DAPA, the similar program of DACA would likely be deemed unconstitutional as well.¹³⁷ Secondly, the administration reasoned that the program conflicted with current immigration laws put in place by Congress.¹³⁸ Finally, the Trump Administration stated that, since the policies behind DACA conflicted with current law, Congress should make the program into law itself.¹³⁹

B. U.K. Governing Law

The U.K. has also experienced major legislative changes due to anti-immigration sentiments.

mmigration%20Forms%20Data/All%20Form%20Types/DACA/daca_population_data.pdf [https://perma.cc/7BAJ-QK4T].

130. Memorandum from Elain C. Duke, Acting Sec’y, Dep’t of Homeland Sec. to James W. McCarmet, Acting Dir., U.S. Citizenship and Immigr. Serv., et al. (Sept. 5, 2017) [hereinafter Duke], <https://www.dhs.gov/news/2017/09/05/memorandum-rescission-daca> [https://perma.cc/WPQ4-S7KU].

131. The DAPA program permitted individuals who had a son or daughter, who is a U.S. citizen or lawful permanent resident, to remain lawfully present in the United States. *Texas v. United States*, 809 F.3d 134, 147–49, 184 (5th Cir. 2015); “Lawful presence”, under DAPA, was not an enforceable right to remain in the U.S., but it did have legal consequences, including a renewable three-year work permit, government benefits, and exemption from deportation. *Id.* at 148–49.

132. *Id.*

133. *Id.*

134. Duke, *supra* note 130; *Texas v. United States*, 809 F.3d 134, 184 (5th Cir. 2015).

135. *United States v. Texas*, 136 S. Ct. 2271, 2272 (2016) (per curiam).

136. Duke, *supra* note 130.

137. *Id.*

138. *Id.*

139. *Id.*

I. Brexit

In 2016, the U.K. made headlines worldwide with its controversial exit from the European Union, referred to as “Brexit”.¹⁴⁰ On June 23, 2016, in a referendum, U.K. citizens voted in favor of the U.K. leaving the European Union (EU).¹⁴¹

The U.K. had been one of the earliest members of the EU, becoming a member in 1973.¹⁴² In March 2017, Theresa May, Prime Minister of the U.K., officially facilitated the U.K.’s exit from the EU by delivering a letter to the EU Council President which triggered Article 50 of the EU treaty.¹⁴³ Article 50 allows members of the EU, such as the U.K., to leave the Union with proper notice.¹⁴⁴ Prime Minister May, in making this notification, stated, this is “an historic moment from which there can be no turning back.”¹⁴⁵

With the decision to leave the EU, the U.K. faces many new challenges regarding economic trade, border control, and security, as well as the apparent primacy of EU laws already on the books in the U.K.¹⁴⁶ The process of leaving will take at least two years.¹⁴⁷ Negotiations occurring between the U.K. and the remaining EU countries will attempt to provide answers to those questions left in the wake of the exit.¹⁴⁸ The decision to

140. Bryony Jones, *Brexit: The Week that Brought Britain to its Knees*, CNN (July 1, 2016), <http://www.cnn.com/2016/07/01/europe/brexit-one-week-on/index.html> [https://perma.cc/95BZ-BZVD]; *Brexit Consequences: What Happens Next?*, AL JAZEERA (June 24, 2016), <http://www.aljazeera.com/news/2016/06/brexit-happen-160624052138992.html> [https://perma.cc/Z53A-VNEE]; Fraser Nelson, *Brexit: A Very British Revolution*, WALL ST. J. (June 24, 2016, 4:33 PM), <https://www.wsj.com/articles/brexit-a-very-british-revolution-1466800383> [https://perma.cc/X68W-YYM8].

141. Novitz, *supra* note 5.

142. *The History of the European Union*, EUR. UNION, https://europa.eu/european-union/about-eu/history_en [https://perma.cc/XC2V-B2A8].

143. ‘No Turning Back’ on Brexit as Article 50 Triggered, BBC (Mar. 30, 2017), <http://www.bbc.com/news/uk-politics-39431428> [https://perma.cc/W4EC-63W2].

144. Treaty of Lisbon Amending the Treaty on European Union and the Treaty Establishing the European Community art. 50, Dec. 13, 2007, 2007 O.J. (C 306) 1.

145. ‘No Turning Back’ on Brexit as Article 50 Triggered, *supra* note 143.

146. Alex Hunt & Brian Wheeler, *Brexit: All You Need To Know About the UK Leaving the EU*, BBC (Jan. 16, 2019, <http://www.bbc.com/news/uk-politics-32810887>) [https://perma.cc/96ZK-9U7Y].

147. *Id.*

148. *Id.*

leave the EU was and remains a controversial decision, regardless of if it was approved by a majority vote of the people.¹⁴⁹

The public vote to exit the EU demonstrates anti-immigration sentiment as an influential factor leading up to the referendum. Many in the U.K. feel that the U.K. should have full control over who enters the country; they also believe that laws regarding immigration should be determined by the U.K. parliament alone and not the EU.¹⁵⁰ Eighty-eight percent of those who voted in favor of Brexit also believed that Britain should let fewer immigrants into the country.¹⁵¹

Immigration has become a prominent issue because of anti-immigration sentiment among the British population.¹⁵² In the years leading up to the referendum vote on Brexit, the U.K. had seen the highest net immigration numbers in its history.¹⁵³ In the year prior to June 2016, before Brexit was made official, the U.K. experienced a net migration increase of around 336,000 individuals.¹⁵⁴ The U.K.'s goal of removing itself from the EU in order to reduce immigration has turned into a reality. In its first full year since Brexit was made official, the U.K. has seen the largest decrease of net migration for a 12-month period since immigration statistics first began being recorded in the mid-1960s.¹⁵⁵ In the year prior to June 2017, the U.K. witnessed a net migration drop of over 100,000, with more than three-quarters of the fall due to a decrease in migration of EU citizens.¹⁵⁶ The largest decrease came from countries like France, Germany, Spain, and Poland.¹⁵⁷ Furthermore, the number of EU citizens emigrating out of the U.K. increased by twenty-nine percent.¹⁵⁸

149. *Id.*

150. See Mary Bulman, *Brexit: People Voted To Leave EU Because They Feared Immigration, Major Survey Finds*, INDEPENDENT (June 28, 2017), <http://www.independent.co.uk/news/uk/home-news/brexit-latest-news-leave-eu-immigration-main-reason-european-union-survey-a7811651.html> [<https://perma.cc/6DMJ-RQKN>].

151. Matthew Goodwin & Oliver Heath, *Brexit Vote Explained: Poverty, Low Skills and Lack of Opportunities*, JOSEPH ROWNTREE FOUND. (Aug. 31, 2016), <https://www.jrf.org.uk/report/brexit-vote-explained-poverty-low-skills-and-lack-opportunities> [<https://perma.cc/2U36-EJ6Z>].

152. Novitz, *supra* note 5.

153. OFFICE FOR NAT'L STATISTICS, *MIGRATION SINCE THE BREXIT VOTE: WHAT'S CHANGED IN SIX CHARTS* (2017), <https://visual.ons.gov.uk/migration-since-the-brexit-vote-whats-changed-in-six-charts/> [<https://perma.cc/2BXQ-2MNK>] [hereinafter U.K. MIGRATION STATISTICS].

154. U.K. MIGRATION STATISTICS, *supra* note 153.

155. *Id.*

156. *Id.*

157. *Id.*

158. *Id.*

2. U.K. Immigration Act of 2016

Examples of anti-immigration sentiments were prevalent in Britain before Brexit, mainly reflected in amendments to the Immigration Act. The most recent version is referred to as the Immigration Act of 2016 (the “Act”).¹⁵⁹ The distinctions made earlier in this Article concerning illegal versus legal immigration are of importance regarding this Act. The Act specifically targets illegal migrants, with little changes made which affect the other categories of immigrants discussed earlier (i.e., legal migrants, refugees, and asylum seekers).

Changes in recent years have made the U.K. a more hostile location for undocumented migrants.¹⁶⁰ The Act specifically targets undocumented workers, which have been of growing concern in the U.K. The Act uses numerous provisions to achieve this increasingly hostile climate. The provisions of the Act have made it more difficult for undocumented workers to settle in the U.K. and have access to services.¹⁶¹ The Act introduces more powers to find and remove these illegal migrants, as well as increasing the penalties for those workers and their employers.¹⁶² Finally, the Act introduces measures which make it more attractive for employers to hire domestically rather than hiring overseas workers.¹⁶³

a. Impacting Employment Opportunities for Illegal Migrants

In targeting the labor market as a source of undocumented workers, a previous amendment to the Act doubled the fines for employers who are caught hiring illegal migrants.¹⁶⁴ The new Act also changed the *mens rea* requirement for employers charged with criminal offenses.¹⁶⁵ It no longer requires employers to have actual knowledge of the undocumented status

159. See generally Immigration Act 2016, c.19 (Eng.).

160. Devine, *supra* note 3.

161. *Id.*; see generally Immigration Act 2016.

162. Devine, *supra* note 3; see generally Immigration Act 2016.

163. Devine, *supra* note 3; see generally Immigration Act 2016.

164. The Immigration (Employment of Adults Subject to Immigration Control) (Maximum Penalty) (Amendment) Order 2014, SI 2014/1262, art. 2, ¶ 1 (Eng.), http://www.legislation.gov.uk/uksi/2014/1262/pdfs/ukxi_20141262_en.pdf [<https://perma.cc/ECZ9-FAR3>]; see also Devine, *supra* note 3.

165. Immigration Act 2016 § 35; see also Devine, *supra* note 3.

of their employees.¹⁶⁶ A criminal offense may be predicated on whether employers have reasonable cause to know their employees are undocumented.¹⁶⁷

b. Impacting Housing Options for Illegal Migrants

The housing market has also been targeted in an attempt to create a more hostile environment for illegal immigrants.¹⁶⁸ The Act creates more severe penalties for leasing agents who know or have reasonable cause to know they are leasing to undocumented immigrants.¹⁶⁹ Additionally, the immigration officers that enforce these measures now have greater power to apprehend illegal immigrants.¹⁷⁰ They no longer need a warrant to arrest someone they suspect is committing the leasing crime.¹⁷¹ There is also a program that requires lessors to check whether their tenants can legally rent the property.¹⁷² This program, along with the increasingly severe punishment for lessors and lessees who break the rules, has created a hostile environment which is detrimental not only to the immigrants, but to the service providers that suffer from the costly and burdensome requirements of the program.¹⁷³

c. Regulations Impacting Illegal Migrants Regarding Driving and Financial Accounts

Changes in the Act have also affected daily activities such as driving and maintaining financial accounts.¹⁷⁴ The Act criminalizes driving in the U.K. by illegal immigrants.¹⁷⁵ The major concern with this legislation is the difficulty in determining what constitutes a reasonable belief that a driver is illegally in the U.K. without the potential risk of law enforcement discriminating against certain drivers.¹⁷⁶ The Act also requires financial institutions to regularly check the account holders within their institutions to determine whether they are legally allowed in the U.K.¹⁷⁷ The enforcement

166. See Immigration Act 2016 § 35; see also Devine, *supra* note 3.

167. Immigration Act 2016 § 35; see also Devine, *supra* note 3.

168. Devine, *supra* note 3.

169. Immigration Act 2016 § 39; see also Devine, *supra* note 3.

170. See Immigration Act 2016, §§ 46–48; see also Devine, *supra* note 3.

171. Immigration Act 2016, § 39; see also Devine, *supra* note 3.

172. *Check Your Tenant's Right to Rent*, GOV.UK, <https://www.gov.uk/check-tenant-right-to-rent-documents> [<http://perma.cc/5HU8-SMRM>].

173. Devine, *supra* note 3.

174. *Id.*

175. Immigration Act 2016, § 44; see also Devine, *supra* note 3.

176. Devine, *supra* note 3.

177. Immigration Act 2016, § 45, sch. 7; see also Devine, *supra* note 3.

of these provisions of the Act severely disrupt the intention of undocumented migrants to settle in the country.¹⁷⁸

d. Due Process Concerns Regarding Illegal Migrants

Finally, stricter policies regarding the Act's enforcement and the appeals process contribute to a hostile environment.¹⁷⁹ Law enforcement officers are able to search and seize any evidence pertaining to illegal immigration if they are legally on a property and have reason to believe such evidence exists.¹⁸⁰ Regarding the appeals process, the Immigration Act of 2014 had already significantly decreased the number of immigration decisions allowed to be appealed from seventeen to four.¹⁸¹ The 2016 Act included a provision that would allow the government to deport an immigrant before they were able to appeal the decision.¹⁸² This “deport first, appeal later”¹⁸³ policy applied to most immigration cases, except for asylum and human rights cases where removal would pose a serious risk of harm and breach the U.K.'s human rights obligations.¹⁸⁴ However, as of June 2017, the power of the government to deport first has been significantly restricted due to a landmark decision of the U.K. Supreme Court.¹⁸⁵ The Supreme Court ruled that requiring “out-of-country” appeals is unlawful.¹⁸⁶ The decision rested primarily on the basis that deporting immigrants first before allowing them to appeal infringed upon their human rights. The Court found that obstruction of their appeal was likely if they were required to appeal from abroad.¹⁸⁷

178. Devine, *supra* note 3.

179. *Id.*

180. Immigration Act 2016, § 48; *see also* Devine, *supra* note 3.

181. Devine, *supra* note 3.

182. Immigration Act 2016, § 63; *see also* Devine, *supra* note 3.

183. Devine, *supra* note 3.

184. *Id.*

185. *See generally* R v. Secretary of State for the Home Department [2017] UKSC 42 (appeal taken from EWCA) (UK).

186. *See id.* at 78; *see also* Alan Travis, *Supreme Court Rules UK System for Deporting Foreign Criminals Unlawful*, GUARDIAN (June 14, 2017), <https://www.theguardian.com/law/2017/jun/14/supreme-court-rules-uk-system-for-deporting-foreign-criminals-unlawful> [<https://perma.cc/JTU5-UPKX>].

187. *See* R v. Secretary of State for the Home Department [2017] UKSC 42 [76]-[78] (appeal taken from EWCA) (UK).

C. Denmark Governing Law

Although Denmark is known as one of the most progressive countries in Europe,¹⁸⁸ its laws regarding refugees is at odds with this reputation. Denmark has experienced a growing anti-immigration sentiment that has increased dramatically in recent years because of the refugee crisis in Europe.¹⁸⁹ It has resulted in legislation that makes it difficult for non-EU immigrants to qualify for residence rights; reduces the state benefits given to refugees; grants the state powers to seize assets from legal migrants and asylum seekers; and creates multiple issues regarding family reunification.¹⁹⁰

I. Danish Alien Act

Denmark has adopted a closed-door policy in responding to the recent refugee crisis.¹⁹¹ Advertisements in place in the Middle East make it clear that Denmark does not welcome refugees. In 2015 for example, Denmark's Ministry of Immigration, Integration and Housing placed an advertisement in a Lebanese newspaper that warned asylum seekers of stricter regulations, including rigorous language and culture tests.¹⁹² It also warned that Denmark had cut its social benefits for asylum seekers by up to fifty percent.¹⁹³ As a further deterrent, the advertisement warned asylum seekers that those who were granted temporary asylum were not entitled to family reunification for their first year of residence.¹⁹⁴ Finally, it notified asylum seekers that their removal from Denmark would occur as quickly as possible if they were denied asylum.¹⁹⁵ At the time of this advertisement, Lebanon was hosting approximately 1.1 million Syrian refugees.¹⁹⁶ Denmark's closed-door policy is clearly reflected in this advertisement which was distributed to specifically

188. Sarah Young, *These Are the 20 Most Socially Progressive Countries in the World*, INDEPENDENT (June 22, 2017), <http://www.independent.co.uk/life-style/social-progress-index-progressive-countries-medication-sanitation-freedom-tolerance-uk-scandinavia-a7803056.html> [<http://perma.cc/DN37-9KZU>]; MICHAEL E. PORTER ET AL., 2017 SOCIAL PROGRESS INDEX 4 (2017), <https://www2.deloitte.com/content/dam/Deloitte/de/Documents/public-sector/Social-Progress-Index-Findings-Report-SPI-2017.pdf> [<https://perma.cc/AE77-VVG9>].

189. Abramsky, *supra* note 4.

190. *Id.*

191. *Id.*

192. *Denmark Advert in Lebanon Newspapers Warns Off Refugees*, AL JAZEERA (Sept. 7, 2015), <http://www.aljazeera.com/news/2015/09/denmark-advert-lebanon-newspapers-warns-refugees-150907225146384.html>.

193. *Id.*

194. *Id.*

195. *Id.*

196. *Id.*

target Syrians who are in most need of aid.¹⁹⁷ Additionally, legislative changes also create a hostile environment for migrants.¹⁹⁸ The following sections discuss the various provisions and changes to the Danish Alien Act (the “Alien Act”) for refugees, migrants, and asylum seekers.

a. Refugee Benefits Downsized

A major change to the Alien Act in 2015 significantly cut state benefits for unemployed refugees.¹⁹⁹ The change affected refugees who had been living in Denmark for less than seven of the past eight years and all incoming refugees.²⁰⁰ The new “integration benefits” for a single refugee with no children decreased by forty-five percent.²⁰¹ This change was intended to deter refugees from choosing Denmark as their destination.²⁰² This intention is reflected in a press release from the Ministry of Employment that stated: “The government will, as promised during the election, quickly implement a new integration benefit for new arrivals, in order to make Denmark a less attractive destination while making it more attractive to work and contribute to Danish society.”²⁰³ This change was just one of many controversial legislative decisions made by Denmark’s Parliament since the refugee crisis began.²⁰⁴

b. Assets of Refugees Seized

Another harsh change to the Alien Act in 2016 has created further controversy.²⁰⁵ This change, often referred to as the “Jewelry Law” allows Danish authorities to seize any assets from legal migrants and asylum seekers

197. *Id.*

198. Abramsky, *supra* note 4.

199. *Denmark Enacts Cuts to Refugee Benefits*, LOCAL DK (Aug. 26, 2015), <https://www.thelocal.dk/20150826/denmark-passes-controversial-refugee-benefit-cuts> [perma.cc/PUU4-MSZE].

200. *Id.*

201. *Id.*

202. *Id.*

203. *Id.*

204. *See* Abramsky, *supra* note 4.

205. *See generally Denmark Urged to Reject ‘Cruel’ Refugee Laws*, AL JAZEERA (Jan. 21, 2016), <http://www.aljazeera.com/news/2016/01/denmark-urged-reject-cruel-refugee-laws-160121045329929.html> [https://perma.cc/XKK5-YTF7].

that exceed 10,000 kroner (which equals about \$1,450 or €1,340).²⁰⁶ Items of sentimental value, such as wedding rings, are excluded from this limit.²⁰⁷ The seizure of assets is intended to help the government pay its costs associated with migrants and asylum seekers.²⁰⁸

In July 2016, this controversial “Jewelry Law” was first utilized and made headlines when the Danish government confiscated assets worth over 79,600 kroner (about £8,200 or \$11,700) from a group of five Iranians seeking asylum.²⁰⁹ In response to this seizure of assets, Zoran Stevanovic, the northern Europe representative of the United Nations’ refugee agency, stated:

We have urged Denmark not to introduce a possibility to seize asylum-seekers’ personal assets and belongings, in order to use their value to pay for their reception during the asylum procedure in Denmark. . . . It is at a minimum inhumane and degrading to expect asylum seekers and refugees to let go of their treasured belongings irrespective of value. . . . In addition, it may be important for refugees to have some personal assets at their disposal when they are about to start a life in a new country and start the process towards self-sufficiency and integration.²¹⁰

Other commentators agreed with Stevanovic, referring to the law as “despicable” and “vindictive.”²¹¹ The adverse response to the use of the law demonstrates the controversy surrounding it. Potential human rights violations are likely to surface that would impact the government’s ability to implement the law.

c. Three-Year Moratorium on Family Member Unification

The Alien Act was also changed in 2016 to extend the time period that refugees must wait before they can apply for their family members to join

206. *Here’s How Denmark’s Famed ‘Jewellery Law’ Works*, LOCAL DK (Feb. 5, 2016), <https://www.thelocal.dk/20160205/heres-how-denmarks-controversial-jewellery-law-works> [<https://perma.cc/L6DP-L5KC>].

207. Lov nr. 1021 af 19.09.2014 om forældelse af visse fordringer som ændret ved lov nr. 102 af 03.02.2016 [Aliens Act] (Den.); Arwa Damon & Tim Hume, *Denmark Adopts Controversial Law to Seize Asylum Seekers’ Valuables*, CNN (Jan. 26, 2016, 6:46 PM), <http://www.cnn.com/2016/01/26/europe/denmark-vote-jewelrv-bill-migrants/index.html> [<https://perma.cc/C5MC-JJ2B>]; see also *Here’s How Denmark’s Famed ‘Jewellery Law’ Works*, *supra* note 206.

208. Damon & Hume, *supra* note 207.

209. Harriet Agerholm, *Denmark Uses Controversial ‘Jewellery Law’ to Seize Assets from Refugees for First Time*, INDEPENDENT (July 1, 2016), <http://www.independent.co.uk/news/world/europe/denmark-jewellery-law-migrants-refugees-asylum-seekers-unhcr-united-nations-a7113056.html> [<https://perma.cc/N7EN-E77R>].

210. *Id.*

211. *Id.*

them in Denmark from one year to three years.²¹² This change, as well as that relating to the seizure of assets from refugees, has raised concerns over whether Denmark is complying with refugee human rights requirements.²¹³ Nils Muižnieks, the Council of Europe Commissioner for Human Rights, released a letter to Denmark's Minister for Immigration, Integration and Housing expressing his concerns about the amendments.²¹⁴ He states in his letter:

The proposal to postpone the right to family reunification to three years for beneficiaries of temporary subsidiary protection raises issues of compatibility with Article 8 of the European Convention on Human Rights which protects the right to respect for one's family life and could also infringe on the rights of children to live within their family environment, as prescribed by the United Nations' Convention on the Rights of the Child.²¹⁵

As it currently stands the amendments are still in place.²¹⁶ However, the European Court of Human Rights has found other provisions of Denmark's family reunification laws to be discriminatory.²¹⁷ These provisions are discussed in the next subsection.

d. The Attachment Requirement Regarding Spousal Residency Permits

On May 24, 2016, the European Court of Human Rights (European Court) ruled in *Biao v. Denmark* that provisions of Denmark's immigration law

212. Edward Delman, *How Not to Welcome Refugees*, ATLANTIC (Jan. 27, 2016), <https://www.theatlantic.com/international/archive/2016/01/denmark-refugees-immigration-law/431520/> [https://perma.cc/582W-88MS].

213. *Denmark: Amendments to the Aliens Act Risk Violating International Legal Standards*, COUNCIL EUR. (Jan. 15, 2016), <http://www.coe.int/en/web/commissioner/-/denmark-amendments-to-the-aliens-act-risk-violating-international-legal-standards?desktop=true> [https://perma.cc/H4VS-3DD7].

214. *Id.*

215. *Id.*

216. Lov nr. 1021 af 19.09.2014 om forældelse af visse fordringer som ændret ved lov nr. 102 af 03.02.2016 [Aliens Act] (Den.); *see also Family Reunification to Individuals with Temporary Protected Status*, NEW TO DEN., <https://www.nyidanmark.dk/en-GB/Words-and-concepts/US/Familie/Family-reunification-to-individuals-with-temporary-protected-status/?anchor=F30C7872E5AC462A9EDD9576F7AEFC2F&callbackItem=8181A12C550C448496BB45EA08D41AF6&callbackAnchor=85925CD93B9340EA865ADC98751EE4E6> [http://perma.cc/5SGF-SSUE].

217. Aldo Perez, *European Court of Human Rights Rules Danish Legislation on Family Reunion Discriminatory (May 24, 2016)*, AM. SOC'Y OF INT'L L. (June 3, 2016, 5:21 PM), <https://www.asil.org/blogs/european-court-human-rights-rules-danish-legislation-family-reunion-discriminatory-may-24-2016> https://perma.cc/5SUJ-TTJ4].

on family reunification were discriminatory.²¹⁸ The case involved Denmark's refusal to grant a couple residence permits for family reunification on the grounds that the couple did not satisfy the "attachment requirement."²¹⁹ The "attachment requirement" requires that spouses applying for residence permits have aggregate ties with Denmark that are stronger than their aggregate ties with another country.²²⁰ There is also an alternative provision in the Act which allows the attachment requirement to be circumvented if an individual has been a Danish citizen for at least twenty-eight years (28-year rule).²²¹

The couple in *Biao v. Denmark* claimed that the refusal by Denmark to grant them residence rights violated Article 8 of the European Convention on Human Rights.²²² This Article guarantees individuals a right of respect for their private and family life.²²³ The couple also contended that the 28-year exception violated Article 14 of the European Convention on Human Rights which prohibits discrimination.²²⁴ The couple argued that the 28-year exception was discriminatory towards non-Danish nationals because the length of time required for citizenship favors natural-born Danish citizens over foreign-born individuals who later acquired citizenship.²²⁵ The European Court agreed with the couple's arguments, stating that Denmark "failed to show that there were compelling or very weighty reasons unrelated to ethnic origin to justify the indirect discriminatory effect of the 28-year rule."²²⁶

The indirect discrimination that the European Court discussed was the effect that the 28-year rule has on the attachment requirement itself. Basically, natural-born Danish citizens can receive the benefit of a residence permit for their spouse even though their spouse does not meet the attachment requirement. This creates a loop hole that foreign-born Danish citizens cannot use since most foreign-born Danish citizens do not meet the exception of the 28-year rule unless they immigrated to the country at a very young age. The 28-year rule, although not discriminatory on its face, creates a system which discriminates against foreign-born Danish citizens who try to get residence permits for their spouses. The Court ultimately ruled that although the rule promulgates indirect discrimination, this discrimination

218. *Biao v. Denmark*, App. No. 38590/10, Eur. Ct. H.R. at 46 (2016), <http://hudoc.echr.coe.int/eng?i=001-163115> [<http://perma.cc/2ZSY-RP3E>].

219. *Id.* at 5.

220. *Id.* at 3.

221. *Id.* at 4.

222. *Id.* at 1.

223. *Id.* at 22.

224. *Id.* at 6.

225. *Id.* at 4.

226. *Id.* at 46.

still violates Article 14 read in conjunction with Article 8 of the European Convention on Human Rights.²²⁷

III. HARSH IMMIGRATION LAWS AND THEIR CONSEQUENCES

Some of the most distinct issues for these three countries are the legal ramifications that result from the extreme nature of the immigration laws. Much of the legislation is controversial on its face, but additionally there are human rights and constitutionality problems. Furthermore, much of this legislation is not actually benefitting the countries. Rather, it is hurting their economies by restricting immigration and removing a source of the economies' revenue.

A. Extremism in the Law

Harsh immigration laws have been legally contested in the U.S., U.K., and Denmark. Every single travel ban that has been introduced in the U.S. has been met with legal challenges. Each challenge addresses similar issues. They mostly center around whether or not the travel bans are legal under the U.S. Constitution and governing federal laws. In the U.K., there was a legal challenge to the “deport now, appeal later” policy. The legal issue was whether the policy created an undue burden on immigrants in their appeals process in violation of their human rights. The U.K. Supreme Court found that it did. Finally, in Denmark there are many issues present in their legislation that conflict with the basic human rights Denmark has agreed to protect as a signatory of the United Nation’s convention. Denmark has had parts of its family reunification laws challenged in court, which the European Court in fact held unlawful. Furthermore, the European Commissioner of Human Rights has warned that other parts of Denmark’s legislation may be deemed unlawful as well.

The sanctions taken against legislation demonstrate the extreme nature of these anti-immigration laws. These laws are not just targeting illegal immigration. While the legal issues in the U.K. were centered around its treatment of illegal immigrants, both the Danish and U.S. laws have dealt with legal immigrants. Legal ramifications pose serious concerns for future legislation that may be passed. In the wake of Brexit, the U.K. will no longer need to adhere to the laws of the EU. This opens up the possibility for the U.K. to implement much stricter legislation on immigration. Specifically,

227. *Id.*

the U.K. may implement stricter legislation on immigration from other European countries. Additionally, both the U.S. and Denmark currently have political parties with legislative power who prioritize the limitation of immigration. These parties have made it clear that they intend to scale back immigration as much as possible. This raises the likelihood that more extreme legislation will be introduced in these countries in the future.

Further concerns arise with this possibility of continued extreme legislation. Particularly, there are concerns that the legislation will continue to impede on the human rights of immigrants (as seen in the U.K. and Denmark), or that the laws that are being passed will continue to unjustly discriminate against immigrants (as seen with the travel bans in the U.S.).

B. Economic Harm

Another concern about the growing trend of extremism in these laws is that many of these laws are doing more harm than good. In all three countries, there are studies which highlight the economic benefits that immigrants bring to each country.²²⁸ Furthermore, these studies also demonstrate that by adopting closed-door policies, the countries are actually hurting their economies.

I. U.S.

In 2016 alone, immigrants added approximately \$2 trillion to the U.S. GDP.²²⁹ Furthermore, immigrants boost productivity through their innovation and entrepreneurship. In 2010, more than forty percent of Fortune 500 companies were founded by immigrants and their children.²³⁰ Finally, immigrants do not take job opportunities away from native-born Americans, although this claim is often made in political propaganda.²³¹ A recent

228. See, e.g., CAP Immigration Team & Michael D. Nicholson, *The Facts on Immigration Today: 2017 Edition*, CTR. FOR AM. PROGRESS (Apr. 20, 2017), <https://www.americanprogress.org/issues/immigration/reports/2017/04/20/430736/facts-immigration-today-2017-edition/> [<https://perma.cc/G7J8-K9TK>]; Ben Chu, *What Do Immigrants Do for the UK Economy? Nine Charts Conservative Ministers Seem to be Ignoring*, INDEPENDENT (Oct. 5, 2016), <http://www.independent.co.uk/news/business/news/immigration-uk-economy-what-are-the-benefits-stats-theresa-may-amber-rudd-tory-conference-speeches-a7346121.html> [<https://perma.cc/9WYZ-GVPX>]; NEOnline, *Danish Immigration Policy: Works for the Government, Not for the Economy*, NEW EUROPE (Apr. 21, 2017, 12:48 PM), <https://www.neweurope.eu/article/danish-immigration-policy-works-government-not-economy/> [<https://perma.cc/3RZ9-WY7V>].

229. CAP Immigration Team & Nicholson, *supra* note 228.

230. *Id.*

231. Tessa Berenson, *Immigration Doesn't Hurt Native Jobs or Wages in the U.S., Report Finds*, TIME (Sept. 21, 2016), <http://time.com/4503313/immigration-wages-employment-economy-study/> [<https://perma.cc/DKW5-2DQL>]; NAT'L ACADS. OF SCIS., ENG'G & MED.,

study researched the impact immigration has on employment rates and wages and found that immigrants do not reduce the employment rates of native-born Americans.²³² Native-born teens in the U.S. saw a slight decrease in the hours they worked, but the presence of immigrants did not reduce the rates at which teens were hired.²³³ In fact, the only group whose employment rates were negatively affected by immigrants were prior immigrants.²³⁴

In addition, the study found that wages were generally unaffected by immigrants.²³⁵ Similar to employment rates, the only groups who saw a decline in their wages were prior immigrants and high school dropouts.²³⁶ This is primarily attributed to a high demand for low-skill workers.²³⁷ Although immigrants had a slight negative effect on the wages of low-skill workers, the study also found that immigrants with high-skills had a positive effect on the wages of college-educated and less educated native-born workers.²³⁸ This effect is consistent with the theory that immigrants complement native-born workers by innovating and therefore raising the productivity of all workers.²³⁹ Immigration lends itself to innovation, entrepreneurship, and long-term economic growth in the U.S.²⁴⁰

Additionally, statistics support policies that focus less on deportation of illegal immigrants in the U.S. Between the years of 2000 to 2011, illegal immigrants generated a net value of \$35.1 billion for Medicare.²⁴¹ Illegal immigrants also contribute an estimated \$11.7 billion a year in state and local taxes.²⁴² Furthermore, increased deportation of illegal immigrants would result in a substantial reduction in the work force and the nation's GDP.²⁴³ Important industries, such as wholesale and retail, would suffer

THE ECONOMIC AND FISCAL CONSEQUENCES OF IMMIGRATION 268 (Francine D. Blau & Christopher Mackie eds., 2017).

232. Berenson, *supra* note 231.

233. *Id.*

234. *Id.*

235. *Id.*

236. *Id.*

237. Eduardo Porter, *The Danger From Low-Skilled Immigrants: Not Having Them*, N.Y. TIMES (Aug. 8, 2017), <https://www.nytimes.com/2017/08/08/business/economy/immigrants-skills-economy-jobs.html> [<https://perma.cc/37KD-ZPRP>].

238. Berenson, *supra* note 231; NAT'L ACADS. OF SCIS., ENG'G & MED., *supra* note 231.

239. Berenson, *supra* note 231.

240. *Id.*

241. CAP Immigration Team & Nicholson, *supra* note 228.

242. *Id.*

243. *Id.*

income losses.²⁴⁴ States with large illegal immigrant populations, such as Texas and California, would experience the largest declines in GDP.²⁴⁵ Finally, constructing the wall on the U.S. border could cost U.S. taxpayers upwards of \$66.9 billion.²⁴⁶

Moreover, President Trump's controversial decision to revoke the executive order that implemented the DACA program²⁴⁷ will have detrimental effects on the economy.²⁴⁸ By removing the labor force that DACA has protected, the U.S. is predicted to lose \$433.4 billion in GDP and \$24.6 billion in Medicare and Social Security contributions over the next decade.²⁴⁹ However, if legislative reform is put in place that focuses on integrating DACA recipients into the labor force and granting citizenship, the U.S. could see an increase of approximately \$1.2 trillion in GDP over the next decade.²⁵⁰

2. U.K.

Studies similar to those conducted in the U.S. are available for the U.K.; however, work force statistics are not as positive for the U.K. as they are for the U.S.²⁵¹ Fewer immigrants in the U.K. negatively correlates with the productivity of the U.K. market, resulting in lower GDP and less tax revenue for the U.K.²⁵² Economic research on U.K. migrants suggests that tax revenues produced from migrant workers alone outweigh the financial costs of immigrants to infrastructure and public services.²⁵³

244. *Id.*

245. *Id.*

246. *Id.*

247. This program, as it stands currently, has yet to have any permanent resolution decided by Congress. See Tal Kopan, *Congress is Trying to Run Away from Immigration. This Fall May Not Let Them.*, CNN POLITICS (Aug. 10, 2018), <https://www.cnn.com/2018/08/10/politics/daca-immigration-fight-congress/index.html> [<https://perma.cc/SK6G-RRSX>]. There has been extensive litigation regarding the program, and consequently, there still may be appeals over decisions; however, currently any previous DACA recipient can still renew their visas and stay within the country but no new applications will be considered. See *Status of Current DACA Litigation*, NAT'L IMMIGR. L. CTR., https://www.nilc.org/issues/daca/status-current-daca-litigation/#_ftn29 [<https://perma.cc/AT7X-W8LH>] (last updated Nov. 9, 2018).

248. See CAP Immigration Team & Nicholson, *supra* note 231.

249. *Id.*

250. *Id.*

251. See Chu, *supra* note 228.

252. See *id.*; OFFICE FOR BUDGET RESPONSIBILITY, FISCAL SUSTAINABILITY REPORT (2015), <http://budgetresponsibility.org.uk/fsr/fiscal-sustainability-report-june-2015/> [<https://perma.cc/38TD-QBS3>].

253. Dr. Vargas-Silva, *Election 2015 Briefing – Fiscal Impacts of Migration to the UK*, MIGRATION OBSERVATORY (Apr. 16, 2015), <http://www.migrationobservatory.ox.ac.uk/resources/briefings/election-2015-briefing-fiscal-impacts-of-migration-to-the-uk/> [<https://perma.cc/NN8P-QBHQ>].

3. Denmark

Unsurprisingly, there are studies that demonstrate similar findings in Denmark. A recent study from the Ministry of Finance demonstrated that the continued xenophobic attitude of Denmark is hurting the country's economy.²⁵⁴ Denmark is on the verge of potential labor shortages.²⁵⁵ However, the study demonstrates that if immigrants work full-time they will produce revenue for Denmark, regardless of their work level.²⁵⁶ The salary for producing taxable revenues is an annual salary of around 200,000 kroner (roughly \$28,540).²⁵⁷ Immigrants working at a minimum wage job full-time in Denmark would produce taxable income.²⁵⁸

A study also discussed how migrants and refugee's countries of origins affected their ability to meet the income requirements.²⁵⁹ While migrants from Western countries may integrate more easily, with time refugees who require more assistance and aid due to the nature of their arrival in the country will also be able to contribute financially.²⁶⁰ The study concluded that as long as the skills gap of the migrants and refugees could close within a stipulated amount of time, the migrants and refugees could contribute around \$3 billion to the national income.²⁶¹ The study highlighted that better integration policies would aid significantly in closing that skills gap and creating more revenue faster.²⁶²

IV. RECOMMENDATIONS

Although anti-immigration sentiment has been rising throughout recent years within the U.S., U.K., and Denmark, the solution is not to adopt more stringent immigration legislation. Adopting more stringent immigration legislation could result in severe legal and economic ramifications in the future.

254. See NEOnline, *supra* note 228.

255. Stephen Gadd, *Booming Economy Gives Record Numbers of Jobs but Labour Shortage Looms*, CPH POST (Oct. 24, 2018), <http://cphpost.dk/news/business/booming-economy-gives-record-numbers-of-jobs-but-labour-shortage-looms.html> [<https://perma.cc/YWJ3-NAPD>].

256. See NEOnline, *supra* note 228.

257. See *id.*

258. See *id.*

259. See *id.*

260. See *id.*

261. See *id.*

262. See *id.*

It is important that these countries adopt new approaches that focus on implementing policies that aid in the integration of legal and illegal immigrants. There is considerable evidence that integration of immigrants into the workforce leads to mass economic benefits for all three countries.

A. *Integration Techniques*

There are already integration programs in all three countries and multiple ways that these programs can be improved, especially in the U.S. These programs are mostly focused on refugees²⁶³ and can be improved by including other immigrants. Additional proposed improvements are discussed below.

In the U.S., the resettlement programs for refugees have lost funding due to the halt in refugee processing following the Travel Bans.²⁶⁴ These funding cuts led to staff layoffs and program closures which makes running the programs effectively virtually impossible.²⁶⁵ Similarly, in the U.K. there has been a failure to develop a clear rationale for an integration agency, and funding has been cut for pre-existing programs as well.²⁶⁶ In Denmark, there is a more refined program²⁶⁷ that assigns refugees to a municipality which is responsible for aiding the refugees with integration.²⁶⁸ However, municipalities have different programs and capabilities.²⁶⁹ Many municipal programs lack staff support and ultimately fail in timely helping refugees integrate fully with language and job support.²⁷⁰

The integration process could be clearly and easily helped by immediately prioritizing these programs and beginning to generate the funding necessary to make them successful. Resources should be redirected from combative measures utilized against immigrants to integration programs. The ultimate

263. See, e.g., Michala Clante Bendixen, *The Integration Program in the Municipality*, REFUGEES DK (Apr. 8, 2018), <http://refugees.dk/en/facts/the-asylum-procedure-in-denmark/the-integration-program-in-the-municipality/> [https://perma.cc/C6AZ-BXGU]; SHAMIT SAGGAR & WILL SOMERVILLE, BUILDING A BRITISH MODEL OF INTEGRATION IN AN ERA OF IMMIGRATION: POLICY LESSONS FOR GOVERNMENT (2012), <https://www.migrationpolicy.org/research/building-british-model-integration-era-immigration-policy-lessons-government> [https://perma.cc/8NZW-7LF7]; MARGIE MCHUGH, IN THE AGE OF TRUMP: POPULIST BACKLASH AND PROGRESSIVE RESISTANCE CREATE DIVERGENT STATE IMMIGRANT INTEGRATION CONTEXTS (2018), <https://www.migrationpolicy.org/research/age-trump-populist-backlash-and-progressive-resistance-create-divergent-state-immigrant> [https://perma.cc/3K8F-LANJ].

264. MCHUGH, *supra* note 263, at 5.

265. *Id.*

266. SAGGAR & SOMERVILLE, *supra* note 263, at 12–13.

267. Bendixen, *supra* note 263.

268. *Id.*

269. *Id.*

270. *Id.*

goal of integration is to help immigrants efficiently and effectively become functioning members of society.

Programs would also benefit if they were not so narrowly tailored for certain types of immigrants (i.e. refugees, first-generation, etc.). The goal of integration is better served if programs reach wider audiences, establishing a clear set of values for all immigrants.

Another integration method, which is often overlooked, is easy access to language programs for both children and adults. Access to language programs demonstrates the importance of the programs reaching a wider audience. While there are some programs that aid refugees with learning native languages (English and Danish respectively), the deficiencies in the programs impede success.²⁷¹ Mastering the language of the country an immigrant has moved to is vital to a fast and easy integration process. This helps children succeed in school, and for many immigrants it is vital that they speak the native language to find work. Along with actually learning a language, there is a cultural education that occurs as well. This social learning is vital for the integration into society as well.

Although it is usually unpopular, especially in the U.S., to put more money into social assistance programs, these programs are vital for immigrants during the first few years after their immigration to a new country. It is worth the investment if the programs helped with the integration process, since, as discussed above, immigrants help with the long-term economic earnings in countries, especially in Denmark and the U.S.

A recent study performed in the U.S. gives insight into how refugees are integrating in the U.S.²⁷² This study has shed light on a new issue besides the issues of funding and general lack of implementation addressed above. Refugees of certain nationalities have had a consistently more difficult time integrating into society than others.²⁷³ The study specifically notes that refugees from Somalia, Iraq, and Bhutan have poorer employment outcomes than other refugee groups.²⁷⁴ The study reflects on the policy choices the United States implemented previously, and that these may not always

271. See Bendixen, *supra* note 263; see SAGGAR & SOMERVILLE, *supra* note 263, at 12–13; MCHUGH, *supra* note 263, at 5.

272. See MICHAEL FIX ET AL., HOW ARE REFUGEES FARING? INTEGRATION AT U.S. AND STATE LEVELS 2 (2017), <https://www.migrationpolicy.org/research/how-are-refugees-faring-integration-us-and-state-levels> [<https://perma.cc/CF9M-LDE3>].

273. *Id.* at 20.

274. *Id.*

benefit all types of refugees.²⁷⁵ For example, the study discusses that the U.S. focuses too much on early employment.²⁷⁶ The study argues that a focus on language acquisition and credential recognition can help with greater long-term integration²⁷⁷

It is important to note that no single program will be successful for all immigrants. However, if integration becomes a policy priority, more research can discover strategies that work, and then those strategies can be implemented. There are smaller changes, as discussed above, that can be implemented currently. More effort put into researching the different techniques will continue to help policy makers in all three countries find what works and what doesn't so that they can help immigrants integrate as effectively and efficiently as possible.

In conclusion, with a fresh approach to immigration policies these countries can focus on the greater issues at hand. Terrorism, civil war, and other forms of violence are creating unsafe environments which promote higher numbers of refugees and asylum seekers. Although these immigrants may benefit the countries they move to, it is also just as beneficial to work towards a solution to decrease the amount of global migration. Similarly, in terms of economic job growth, the focus should not be on immigrants but on ways to implement policies that will protect all workers from the growing trend of mechanization.²⁷⁸ Losing jobs to mechanization is a concern for lower skilled workers in all three countries, immigrant or not.

With less focus on the vilification of immigration and more focus on the greater problems, it can very well be possible for the U.S., the U.K., and Denmark to positively influence their economies and begin to focus their efforts on some of the greater problems that our globe is facing. These positive impacts are attainable if we simply embrace immigration and the "melting pot" that these countries have become rather than tipping the melting pot with extreme legislation.

275. *Id.*

276. *Id.*

277. *Id.*

278. MaryJo Webster, *Could a Robot Do Your Job?*, USA TODAY (Oct. 28 2018), <https://www.usatoday.com/story/news/nation/2014/10/28/low-skill-workers-face-mechanization-challenge/16392981/> [<https://perma.cc/53KX-3939>].