

## Collective Responsibility of Uncertainty

By Gabriela Heizer

*“The refugee crisis is the great moral test of our age and we have failed, abysmally.” Jessica Goudeau*

As consumerism teaches: when demand goes up, so should supply. Correspondingly, the refugee crisis around the world should adopt the same notion. As the number of refugees increase substantially, so should the amount of countries supporting these refugees. That is why, when world powers refuse to help, it makes a dramatic impact on the international community. Such is true regarding the current administration of the United States. Policies such as the infamous “travel ban” as well as the decrease in numbers of refugee admitted into the country will create a negative ripple effect in the international community. The U.N. High Commissioner for Refugees, Filippo Grandi, addressed this issue in a recent interview with National Public Radio. He states, “We need U.S. leadership.”<sup>1</sup>

Of course, this is not to say that the U.S. must take in all refugees and responsibilities. As Grandi also points out: “the Refugee Convention says...that refugees are a collective, international responsibility. So we all do bear part of that responsibility.”<sup>2</sup> However, as a world leader, the U.S. must continue to lead efforts, as it has in the past. In 2016, the U.S. hosted the United Nations Summit for Refugees. Through this meeting with world leaders, the New York Declaration for Refugees and Migrants established an international need and desire to help refugees and asylum seekers.<sup>3</sup> Yet, the new Administration of the U.S. has taken counterproductive actions relating to refugees. Not only has the U.S. stepped back from the refugee crisis, but it has also stepped back from other international agreements, such as the Paris

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<sup>1</sup> Rachel Martin, *U.N. Commissioner Wants U.S. To Show Leadership On Refugee Crisis*, NPR.org, Oct. 23, 2017, <https://www.npr.org/2017/10/23/559454562/u-n-commissioner-wants-u-s-to-show-leadership-on-refugee-crisis>, (last visited Mar 21, 2018).

<sup>2</sup> Id.

<sup>3</sup> United Nations, *New York Declaration*, UN.org, 2018, <http://refugeesmigrants.un.org/declaration>, (last visited Mar 21, 2018).

Agreement.<sup>4</sup> These actions create an imbalance within the international community. As will be shown below, the collaboration of multiple countries help relieve the responsibility of one single country.

This article will explore the refugee crisis as a whole. It will go into the history of when refugees first began to need assistance and will continue with policies created to support them. Furthermore, a comparative analysis highlights how other nations handle the refugee crisis. This article will also emphasize the need for the U.S. to respond as a global leader in this crisis. Throughout this article, the need for international collaboration will demonstrate how collective responsibility will aid in making the refugee crisis seem manageable.

### **Introduction**

In the era of World War II, circumstances caused the displacement of civilians from their countries of origin, for reasons beyond their control. These circumstances included political turmoil, internal and external wars, natural disasters, and persecution of any kind. Civilians were powerless to control these situations so they fled to other countries seeking safety and a better life. The name for displaced civilians who fled their home countries is “refugee.” By 2016, the majority of these refugees were mainly from three countries: Syrian Arab Republic, Afghanistan, and South Sudan.<sup>5</sup> Additionally, more than half of them were children under the age of 18.<sup>6</sup>

Since World War II, the numbers of refugees worldwide has grown tremendously. The increase in the refugee rate has caused a crisis, as the international community struggles to find ways to provide new homes for these individuals. This crisis has led to debates on how to control this migration and provide the financial resources for this influx of people. The international community also has to figure out how to manage refugees who

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<sup>4</sup> Michael D. Shear, *Trump Will Withdraw U.S. From Paris Climate Agreement*, NYTimes.com, June 1, 2017, <https://www.nytimes.com/2017/06/01/climate/trump-paris-climate-agreement.html>, (last visited Mar 21, 2018).

<sup>5</sup> UN Refugee Agency, *UNHCR Global Trends - Forced displacement in 2016*, June 19, 2017, <http://www.unhcr.org/globaltrends2016>, (last visited Mar 21, 2018).

<sup>6</sup> Id.

lack proper documentation. This paper will focus on the refugee crisis and aim to offer a solution: collective responsibility.

## History

In times of uncertainty, provisions are developed to adjust to abnormal conditions. Such is the case with refugees. They face unusual odds, which are out of their control, and the international community seeks to provide aid. Prior to World War II, the League of Nations attempted to offer solutions to aid documentation of refugees, notably a solution known as a “Nansen Passport.”<sup>7</sup> This provided some level of documentation for refugees to flee to another country when they lacked formal documentation. However, this solution failed as it focused on one certain category of refugees, and it did not solve any of the other issues such as the financial struggle refugees faced.

The first successful implementation of a solution came from the United States. In the aftermath of World War II, many innocent individuals encountered harm and danger because of communist regimes. During this time, the United States government passed The Displaced Persons Act of 1948.<sup>8</sup> This public law allowed displaced persons from specific European countries to enter into the United States for a “brief period of time.”<sup>9</sup> This was the first successful legislation created regarding refugees, and it was the beginning of a sequence of events.

Shortly after this legislation passed, the international community took further action. The United Nations developed The Refugee Convention of 1951 (the “Convention”), which was pivotal as it set the groundwork for the current procedures taken towards refugees. At the Convention, 26 countries came to a consensus regarding vital principles of refugee law. The Convention set a universal standard for refugees, along with guidelines on how host nations should treat them. The two most important values that the Convention

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<sup>7</sup> Paul Weis, *The Development of Refugee Law*, 3 Mich. J. Int'l L. 27-42, (1982), <https://repository.law.umich.edu/mjil/vol3/iss1/2/>

<sup>8</sup> 62 Stat 1009, June 25, 1948,

<http://library.uwb.edu/Static/USImmigration/62%20stat%201009.pdf>, (last visited Mar 21, 2018).

<sup>9</sup> Id.

established included the definition of refugee and the non-refoulement principle.

According to the Convention, the definition of a refugee is any person who has a “well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion.”<sup>10</sup> Yet, this definition became an issue because it preemptively limited refugees to a class: “as a result of events occurring before 1 January 1951”. The Protocol of 1967 corrected this.<sup>11</sup>

The non-refoulement principle, as written in the Convention states: “no one shall expel or return (“refouler”) a refugee against his or her will, in any manner whatsoever, to a territory where he or she fears threats to life or freedom.”<sup>12</sup> According to Paul Weis, honorary professor of the University of Vienna, this principle “can be regarded as the cornerstone of refugee law”.<sup>13</sup> Although this principle is essential to refugee law, in recent years difficulties have arisen in regards to how party nations follow this principle. The non-refoulement is very clear that party nations cannot expel or return refugees, yet to bypass this, countries have created policies barring refugees from entering the country in the first place. If a party nation expels a refugee from which they are seeking asylum, then the party nation will have broken the guidelines of the Convention. Therefore, to avoid the non-refoulement principle altogether, some party nations have created barriers to prevent refugees from entering. A current example of this would be President Donald Trump’s “Travel Ban”.<sup>14</sup> President Trump’s Executive Order has prevented certain refugees from entering the U.S. These sort of actions are bypassing the non-refoulement principle. Not every country is a party to the Convention, either.

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<sup>10</sup> UNHCR, *Convention and Protocol Relating to the Status of Refugees*, 1951.

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> Donald Trump, *Executive Order Protecting the Nation from Foreign Terrorist Entry into the United States*, The White House, Jan. 27, 2017, [www.whitehouse.gov/presidential-actions/executive-order-protecting-nation-foreign-terrorist-entry-united-states](http://www.whitehouse.gov/presidential-actions/executive-order-protecting-nation-foreign-terrorist-entry-united-states), (last visited Mar 21, 2018).

The Convention laid the foundation; however, many improvements need to be adapted to the current culture. Eric Ormsby, graduate from Columbia Law School, states that the international community developed this Convention based on need (referred to as the “need-based concept”). They created the verbiage and the principles to fit the problems that had arisen then. Now, over 50 years later, this Convention needs revisiting so that it can fit the needs of the world's current climate. The number of refugees has significantly increased since 1951, and this ever-growing crisis needs solutions, both internationally and nationally.<sup>15</sup>

This need-based concept is what led to all the policies the U.S. implemented prior to 1980. There was a large influx of refugees seeking shelter from Vietnam, Cuba, Indochina, Cambodia, Laotian, and Germany. After many nations refused them, the U.S. began to create policies for each specific group. The result created many unequal laws that favored certain groups over the other. Furthermore, financial issues began as the government provided financial benefits for refugees but never clearly stated when the financial benefits would end. As a result, the need for a more concise and equal legislation led the U.S. to create The Refugee Act of 1980 (the “Act”). The Act is the current policy in the United States. When drafts of this legislation began, Congress wanted to create something that would be clear but also flexible for the years to come. David Martin, Professor of International Law at the University of Virginia, states: “Members of Congress and the public have generally wanted refugee programs to be flexible, so as to meet new crisis effectively. But at the same time, they wanted no surprises.”<sup>16</sup> To uphold this, the legislation created two categories of refugees: those that enter through a government program, and those who escaped to the United States. This was so that the decision-making process could be fairer by treating these two separate groups according to their circumstances. The legislation also requires the reexamination of individual refugees from both groups after one year before becoming permanent residents. Most importantly, this new legislation

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<sup>15</sup> Eric A. Ormsby, *The Refugee Crisis as Civil Liberties Crisis*, 117 Columbia Law Review 1191-1229, (2017), <http://www.jstor.org/stable/44288097>, (last visited Mar 21, 2018).

<sup>16</sup> David A. Martin, *The Refugee Act of 1980: Its Past and Future*, 3 Mich. J. Int'l L. 91 (1982), <https://repository.law.umich.edu/mjil/vol3/iss1/5>.

established a basis for how many refugees the U.S. would admit. It set the ceiling of 50,000 refugees per year. This aspect became crucial as it allows for flexibility based upon need. The president or Congress can change this number based on “humanitarian purpose”.<sup>17</sup>

### **International Response**

According to the United Nations High Commissioner for Refugees (“UNHCR”), developing countries are currently hosting 84% of refugees.<sup>18</sup> “It is deeply ironic that wealthy Western countries refuse to share the burden of the global refugee crisis.”<sup>19</sup> The graph below displays which countries in 2015-16 hosted the most refugees and the amount of refugees they hosted.<sup>20</sup> As shown, the majority of countries that were hosts were also the closest geographically to the areas from which the refugees fled, as well as those countries that have an open or more liberal refugee policy, like the country of Germany. Significant to note are those other countries that are closer geographically but that do not have a formal refugee policy, like Saudi Arabia and other Gulf nations. These countries simply do not permit refugees of any kind to enter into their country.

Turkey has received a large amount of refugees over the last few years due to the conflicts in Syria. This has caused much political and financial unrest within the country. Not because the refugees in themselves cause harm, but rather because Turkey takes in more than double the numbers that other countries take in. *See*, below. If every country helped take in refugees or to provide financial aid, then the problems in Turkey would not be as large as currently seen. Along with receiving limited help from other nations, Turkey

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<sup>17</sup> S.643 – *Refugee Act of 1979, Summary*, Congress.Gov.

<https://www.congress.gov/bill/96th-congress/senate-bill/643>, (last visited March 21, 2018).

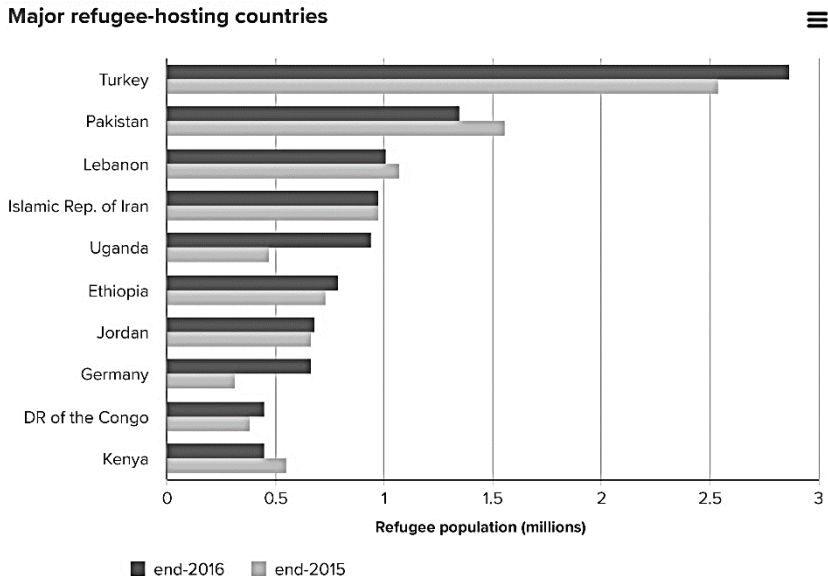
<sup>18</sup> *Global Trends, Forced Displacement in 2016*, United Nations High Commission for Refugees, <http://www.unhcr.org/5943e8a34.pdf>, (last visited March 21, 2018).

<sup>19</sup> Tom Porteous, *Why West's refugee response is all wrong*, CNN.com, May 21, 2015, <https://www.cnn.com/2015/05/21/opinions/porteous-migration-crisis/index.html>, (last visited Mar 21, 2018).

<sup>20</sup> *Id.*

must keep within its borders a majority of refugees because European Union (“EU”) nations refuse to allow them to enter their counties. From the graph below, it can also be noted that Turkey took in approximately 0.3 million more refugees in 2016 than it did in 2015. Germany took in approximately .5 million more refugees between those same years. This shows that Germany helped relieve some of the refugees that would have otherwise gone to Turkey to seek shelter.

Major refugee-hosting countries



Germany is a country whose action highlights an open response towards refugees. In 2015, German Chancellor Angela Merkel adopted an open arms policy that led to almost a million refugees entering the country. The EU’s policy on refugees is that they must claim asylum in the country in which they entered the EU territory. This became extraneous on bordering nations. However, upon Merkel’s decision, many more refugees began to go to Germany, thereby lessening the migration into other countries. Merkel has faced much scrutiny because of the open arms policy, but she stands by her decision. As shown in the graph above, as a direct result of her policy, the numbers of refugees hosted in Germany doubled from 2015 to 2016. These

refugees came from areas that were resisting their entrance. As soon as Germany passed this open arms policy, within the month 17,000 refugees arrived from Hungary.<sup>21</sup> This shows the importance of a collective response to the refugee crisis because as more countries become open to receiving refugees, the burden on the few nations that currently host them will decrease.<sup>22</sup>

As seen, Hungary responded to the refugee crisis contrarily to Germany's response. Although Hungary geographically is closer to the crisis area in the Middle East, the country has done little to accept the surge of refugees. They have adapted a "zero refugee" policy.<sup>23</sup> The country has gone as far to create propaganda to influence popular support on their stance to prohibit entry of refugees, warning against the dangers of refugees. They have also added fences along the borders to keep refugees out of the country. This sort of reaction endangers the refugees by making their passage more difficult, thus exposing the refugees to harsh elements, food and gas shortages, and other dangers. For example, since the German open arms policy, they now have to go a different route to reach Germany instead of going through Hungary. Many obstacles unnecessarily make it more difficult for a refugee to flee to Hungary, and that is how their government sees fit.

These two stark differences within Europe shows the difficulty in reaching an international solution to the refugee crisis. If all countries partook in a collective effort to aid these refugees, then the scope of the situation would dramatically decrease. Many countries do not take responsibility to aid the crisis. As Angela Merkel stated: "The causes for the unprecedented wave of migrants coming to Europe and Germany in particular have to be tackled and

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<sup>21</sup> Valentina Pop, Matt Bradley and Margit Feher, *Tide of Migrants Pours Into Austria, Germany*, WSJ.com, Sept, 6, 2015, <https://www.wsj.com/articles/tide-of-migrants-continues-to-pour-into-austria-germany-1441532134>, (last visited Mar 21, 2018).

<sup>22</sup> Valentina Pop and Andrea Thomas, *Germany Eases Rules for Syrian Refugees*, WSJ.com, Aug. 25, 2015, <https://www.wsj.com/articles/germany-eases-rules-for-syrian-refugees-1440530030>, (last visited Mar 21, 2018).

<sup>23</sup> Lili Bayer, *Hungary's 'zero refugee' strategy*, Politico.eu, Sept, 20, 2016, <https://www.politico.eu/article/hungary-zero-refugee-strategy-viktor-orban-europe-migration-crisis/>, (last visited Mar 21, 2018).



national responses won't work."<sup>24</sup>

The shifting numbers of refugees in various countries do not always directly correlate to demonstrating the relief brought on through a collective international response. One reason is that the number of refugees has constantly increased over the last several years. As the amount of migrating refugees increase, it is difficult to show an apparent decrease of any one nation's intake of refugees as that country takes in its share of additional refugees. It is important to point out that even if the percentage of change in a country remains stable, or even slightly increases, that is a more desired result than an exponential increase. For example, the number of refugees worldwide increased by 1.2 million between 2015 and 2016.<sup>25</sup> If all of these 1.2 million refugees flowed into one country, the refugee intake of that country would increase drastically as opposed to the slight increase it took when the international community used a collective approach.

Many countries fear accepting refugees for a variety of reasons. One of these reasons is that developed nations dread these refugees entering and never leaving. Hungary, for example, cites to the fear of losing its national culture. Although these are possibilities, research shows that refugees actually want to remain in their home countries.<sup>26</sup> Refugees are more inclined to remain in their native land; however, the turmoil in their home does not allow this to happen. Subsequently, the majority of refugees prefer to stay closer to their home countries because they want to return as soon as they are able. These refugees are simply looking for shelter, food, and safety while they wait to go home; they are willing to wait anywhere. UNHCR Spokesperson Chris Boian states, "As long as it's safe there and [the country] has things that people need to have a life, they'll remain there."<sup>27</sup> Therefore, as soon as more countries join in on the collective effort, refugees will have more options and likely will leave the overburdened countries. This will further the process of collective

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<sup>24</sup> Id.

<sup>25</sup> Id.

<sup>26</sup> Malaka Gharib, *CHART: Where The World's Refugees Are*, NPR.org, Mar. 27, 2017, <https://www.npr.org/sections/goatsandsoda/2017/03/27/518217052/chart-where-the-worlds-refugees-are>, (last visited Mar 21, 2018).

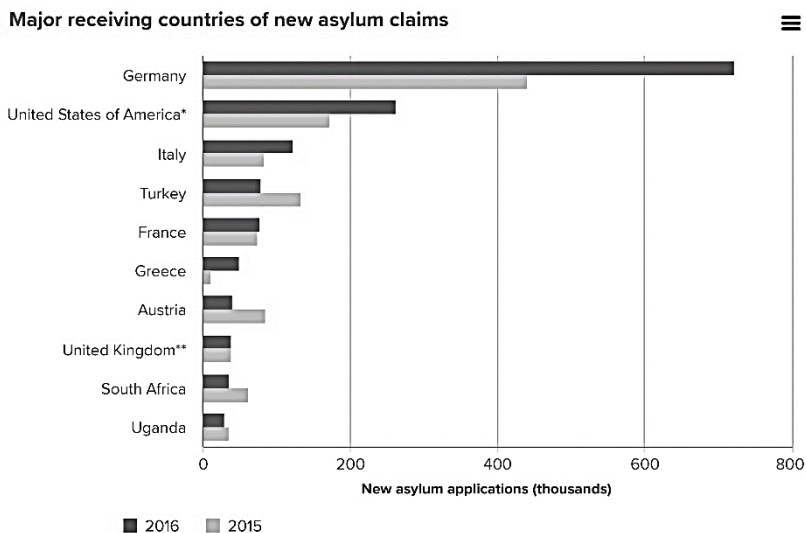
<sup>27</sup> Id.

responsibility without causing permanent international migration.

Although countries can aid in the relief of refugees the ultimate problem lies with the milieu of their home country. There needs to be an entire bottom-up overhaul to the problems that cause the migration of refugees, including violent internal political and religious conflicts within a country. However, the bottom-up renovation will not happen overnight, and the international community needs to aid the refugees now.

### Response from the United States

Along with host countries, there are also countries in which these refugees seek asylum. That is, the country a refugee applies to live with protection and the privileges offered. Below is a graph that displays which country offers asylum to these refugees.<sup>28</sup>



As the graph shows, Germany has a substantially large amount of asylum claims due to its open arms policy. The second largest country receiving

<sup>28</sup> Id.

asylum claims is the U.S., although it has less than half the number of Germany. This shows geographically closer countries are just as responsible to assist as distant countries. Which demonstrates the Act remains useful, even in the current times. The Act requires that the U.S. take in a certain number of refugees per year. This law shows how the U.S. once led in the aiding of refugees. The U.S. has more advantage over some European counterparts in regards to passing a policy because the U.S. already has a solution; it simply needs revisiting yearly to fit the current demands of international refugee situations. Since 2013, the U.S. administration increased the ceiling to 70,000 refugees. In 2016, amid the large influx of refugees, President Obama increased that ceiling to 85,000.<sup>29</sup> The U.S. Department of State's 2016 Refugee Report stated that, "The United States leads the world in providing humanitarian aid to crises from which innocent people flee."<sup>30</sup> As seen from the UN graph above, the U.S. does not lead, Germany does. As a nation that prides itself in being a world leader, they must do just that: lead. For the 2017 Fiscal Year, the Obama Administration set the ceiling at 110,000 refugees. This was set on September 15, 2016, as the Act requires the ceiling to set by the first day of October. This capped the ceiling at the highest since 1996, which was due to the Balkan wars. This ceiling faced much criticism from the Republican Party for its high number, yet it was not nearly the highest ceiling that has been set.<sup>31</sup> The graph below shows the ceilings that have been set in the U.S. since the Act.<sup>32</sup>

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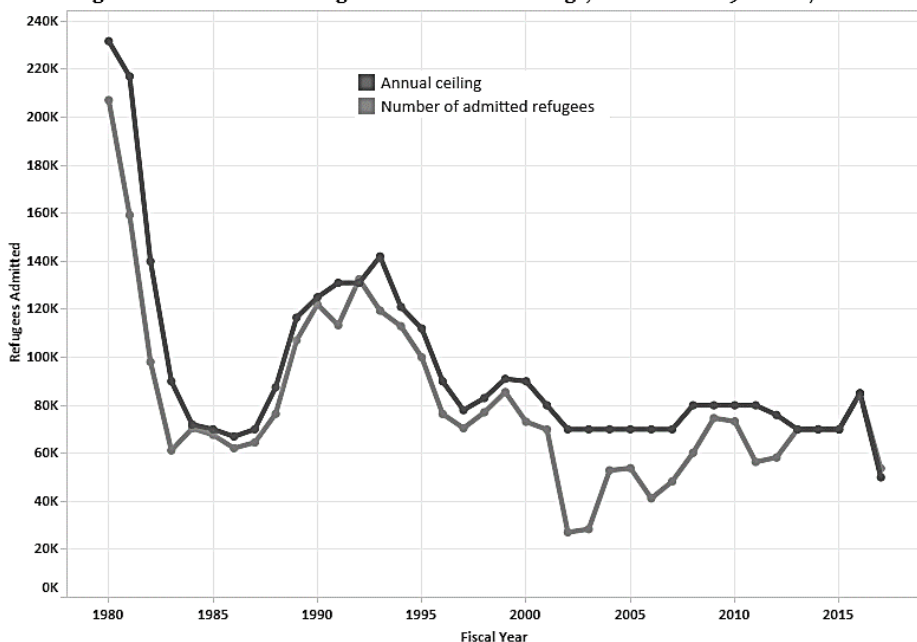
<sup>29</sup> *Proposed Refugee Admissions FY 2016*, Bureau of Population, Refugees, and Migration, U.S. Department of State, 2017, <https://www.state.gov/j/prm/releases/docsforcongress/274613.htm>, (last visited March 21, 2018).

<sup>30</sup> *Id.*

<sup>31</sup> Juliet Eilperin, *White House raises refugee target to 110,000*, WashingtonPost.com, Sept. 14, 2015, [https://www.washingtonpost.com/news/post-politics/wp/2016/09/14/white-house-plans-to-accept-at-least-110000-refugees-in-2017/?utm\\_term=.0bcb2a03dbc6](https://www.washingtonpost.com/news/post-politics/wp/2016/09/14/white-house-plans-to-accept-at-least-110000-refugees-in-2017/?utm_term=.0bcb2a03dbc6), (last visited Mar. 21, 2018).

<sup>32</sup> *U.S. Annual Refugee Resettlement Ceilings and Number of Refugees Admitted, 1980-Present*. Migration Policy Institute, 2017, <https://www.migrationpolicy.org/programs/data-hub/charts/us-annual-refugee-resettlement-ceilings-and-number-refugees-admitted-united>, (last visited Mar. 21, 2018).

U.S. Refugee Admissions and Refugee Resettlement Ceilings, Fiscal Years 1980-2017



However, in 2017, Donald Trump became President of the United States and just 7 days after his inauguration, he signed an executive order that greatly affected the fate of refugees worldwide. The Executive Order 13769, widely known as his “travel ban”, reduced the ceiling previously set at 110,000 to 50,000.<sup>33</sup> This executive order also suspended the program for 120 days. President Trump stated that the high admission ceiling “would be detrimental to the interests of the United States”.<sup>34</sup> This action went against the rising number of refugees in need, blatantly disregarding collective responsibility. Furthermore, facts do not support the claims President Trump made regarding the terrorism these refugees cause. According to Business Insider, “foreign-

<sup>33</sup> Id.

<sup>34</sup> Bureau of Population, Refugees, and Migration, *Proposed Refugee Admissions FY 2018*, U.S. Department of State, 2017.

born terrorists have killed roughly one American per year”.<sup>35</sup> The lifetime odds of an American dying specifically to a refugee terrorist is even smaller at only 1 in 46,192,893.<sup>36</sup> Along with no factual data to support this drastic executive order, there is very little national support behind this ban. Many states opposed this executive order and even took it to court on the grounds of it being unconstitutional as it banned predominantly Muslim countries.<sup>37</sup> Consequently, the retracting efforts by the United States in aiding refugees does not correlate to the original aims of the Refugee Act of 1980. Congress did not pass the Act so that the quota could be changed based on personal belief, but instead it was enacted to change the quote based on “humanitarian purpose”.<sup>38</sup>

### Conclusion

Due to the rising need to protect refugees, the international community must act rapidly. A collective response will decrease the burden that one country faces, as we see in Europe. Once Germany embraced an open arms policy, countries like Turkey felt the relief from the amount of refugees they allowed across their border. However, permitting the entry of refugees places a strain on a country’s resources and increases social tensions. When more countries provide help in reducing the number of refugees within one country, it helps to save the resources of the few countries that are currently supporting them and lends to reduce social and political problems.

As one of the wealthiest and most developed nations, the U.S. must step up as a world leader and lead by example by taking in these refugees.<sup>39</sup> Once

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<sup>35</sup> Dave Mosher and Skye Gould, *How likely are foreign terrorists to kill Americans? The odds may surprise you*, BusinessInsider.com., Jan. 31, 2017, <http://www.businessinsider.com/death-risk-statistics-terrorism-disease-accidents-2017-1>, (last visted Mar 21, 2018).

<sup>36</sup> Id.

<sup>37</sup> *Trump travel ban: US states launch legal challenges*, BBC.com. Mar. 10, 2017, <http://www.bbc.com/news/world-us-canada-39225773>, (last visited Mar. 21, 2018).

<sup>38</sup> Id.

<sup>39</sup> World Bank., *World Bank Country and Lending Groups*, WorldBank.org, 2017, <https://datahelpdesk.worldbank.org/knowledgebase/articles/906519>, (last visited March 21, 2018).

President Trump decreased the ceiling, 60,000 individuals lost their opportunity for a safer life. Internal conflict and terrorism are affecting these innocent people in their home countries. The violence and persecution of refugees must end so that the refugees can enjoy their native land. Until those solutions take place, the international community needs to take action. In addition to persecution, some refugees face natural disasters in their home country, which can potentially ruin their lives and livelihood. As the climate gets worse, the international community must also be ready to act when those refugees literally do not have a way to remain in their homeland. The stereotyping and false information relating to refugees causes a lot of tension regarding this issue. At the end of the day, these individuals are not at fault; rather, they are simply looking for peace and a safer life. Although refugees offer a lot of uncertainty to host nations, leaving these innocent people without protection is not right and leaving a few nations to shoulder this heavy burden does not help anyone. Only a collective approach will resolve the current crisis while a bottom-up solution begins to take place.