

US State Governors Have No Right to Exclude Syrian Refugees

By [Prof. Marjorie Cohn](#)

Global Research, November 21, 2015

[Truthout](#) 19 November 2015

Region: [USA](#)

Theme: [Law and Justice](#)

In-depth Report: [SYRIA](#)

As the world reels from the horrific terrorist attacks in Paris last week, more than half of US governors began lining up to scapegoat Syrian refugees fleeing violence in their country. Of those 27 governors, all but one are Republicans. Democrat Maggie Hassan of New Hampshire joined the gubernatorial group and called for the United States to refuse to admit those fleeing Syria. Many proclaimed they would deny entry to the refugees. Texas Gov. Greg Abbott wrote to President Barack Obama: "I write to inform you that the State of Texas will not accept any refugees from Syria in the wake of the deadly terrorist attack in Paris."

A Republican congressman from Tennessee, House Republican Caucus Chair Glen Casada, wants the National Guard to round up Syrian refugees already settled there and prevent others from entering Tennessee. "We need to activate the Tennessee National Guard and stop [Syrian refugees] from coming in to the state by whatever means we can," he said.

But only the federal government - not the states - has the power to decide if and where refugees can settle in this country.

The Law on States' Rights and Immigration

In 2012, the Supreme Court reaffirmed in *Arizona v. United States* that "The Government of the United States has broad, undoubted power over the subject of immigration and the status of aliens." Justice Anthony Kennedy wrote for the majority, "Returning an alien to his own country may be deemed inappropriate ... The foreign state may be mired in civil war, complicit in political persecution, or enduring conditions that create a real risk that the alien or his family will be harmed upon return." Kennedy noted that under the supremacy clause of the US Constitution, "Congress has the power to preempt state law." States cannot regulate conduct in a field that Congress "has determined must be regulated by its exclusive governance," Kennedy added. "Federal law makes a single sovereign responsible for maintaining a comprehensive and unified system to keep track of aliens within the Nation's borders."

The 1980 Refugee Act grants authority to the president to determine how many refugees may be admitted to the United States. The president must consider whether "an unforeseen emergency refugee situation exists" and whether "the admission of certain refugees in response to the emergency refugee situation is justified by grave humanitarian concerns or is otherwise in the national interest."

Obama said he will continue with his plan to admit 10,000 Syrian refugees in 2015, stating "many of these refugees are the victims of terrorism themselves ... That's what they're

fleeing. Slamming the door in their faces would be a betrayal of our values.”

“Our nations can welcome refugees who are desperately seeking safety and ensure our own security,” he added, citing rigorous screening and security checks. “We can and must do both.”

Republican presidential candidates, including Marco Rubio and Ben Carson, oppose the admission of Syrian refugees to the United States. Donald Trump says if he’s elected president, “they’re going back.”

Responding to Jeb Bush, who wants to focus assistance efforts on Christian refugees fleeing Syria, Obama retorted, “That’s shameful. That’s not American. That’s not who we are. We don’t have religious tests to our compassion.” In fact, in addition to Christians, Kurds, Yazidis, Alawites, Shiite Muslims and Sunni Muslims have been targeted for persecution by ISIS.

Refugee Screening and Resettlement

While states cannot refuse to admit refugees, they may make resettlement more onerous by denying resources, including housing assistance, to the federal government. If governors tried to block certain categories of refugees, they would be vulnerable to discrimination lawsuits.

Security screenings for refugees are conducted by several federal agencies, including the US Department of Homeland Security, FBI, National Counterterrorism Center and National Security Council. “The vetting process now in place is already a dreadful maze – a Rubik’s Cube of bureaucracies practically guaranteeing that few Syrians will ever set foot on our shores,” according to James Jennings, president of Conscience International, a humanitarian organization that delivers aid to Syrian refugees in Iraq, Jordan, Lebanon, Turkey and Greece. “The process takes up to three years and requires 21 steps with numerous agencies, including the Department of Homeland Security, all required to sign off. There is next to no chance that a terrorist could get in under the present system. A greater threat is posed by considerable numbers of disaffected, angry young men who are already in the US.”

Kevin Appleby, director of the Migration and Refugee Services Office of Migration and Refugee Policy at the US Conference of Catholic Bishops, concurs. “These refugees are the most vetted, they go through more security screening than any arrivals to the United States. It’s not like Europe. It’s a different scenario,” he told the Los Angeles Times.

Muslims constitute the largest proportion of victims of terrorism, with those in Syria and Iraq leading the pack. Many of the Syrian refugees in Europe are escaping ISIS; others are fleeing Syrian President Bashar al-Assad’s repression. Iyad El-Baghdadi, an activist during the Arab Spring, monitors jihadist chatter on Twitter. “Nothing pissed off Islamist extremists” more than “watching [Europe’s] very humane, moral response to the refugee crisis,” he told teleSUR.

Indeed, according to a 2012 report of the US National Counterterrorism Center, between 82 percent and 97 percent of the victims of religiously motivated terror attacks during the previous five years were Muslims.

The Sudden Proliferation of Anti-Refugee Legislation

Two GOP presidential hopefuls are introducing legislation to prevent or slow down the migration of Syrian refugees to the United States. Sen. Ted Cruz is reportedly drafting a bill that would forbid Syrian Muslim refugees from entering the United States. It would, however, welcome Christians. Sen. Rand Paul will introduce a bill to place an immediate moratorium on US visas, preventing refugees and “others from obtaining visas to immigrate, visit, or study in the US from about 30 countries that have significant jihadist movements.” Paul plans to pay for the legislation “with a special tax on arms sales to any of these countries.”

Later this week, a subcommittee of the House Judiciary Committee will take up security matters related to Syrian refugees.

To their credit, all three Democratic presidential candidates favor Obama’s plan to admit 10,000 Syrians this year. “We will not be terrorized or live in fear. During these difficult times, we will not succumb to Islamophobia,” Sen. Bernie Sanders said. “We will not turn our backs on the refugees who are fleeing Syria and Afghanistan. We will do what we do best and that is be Americans – fighting racism, fighting xenophobia, fighting fear.”

“There are women, there are children dying,” observed Martin O’Malley. “They are fleeing the same sort of carnage that was unleashed on the people of France ... I don’t think it’s too much to ask of us that we do our part here.” Hillary Clinton tweeted, “We’ve seen a lot of hateful rhetoric from the GOP. But the idea that we’d turn away refugees because of religion is a new low.”

There is no evidence that refugees pose a security risk. The Paris attackers were not refugees, although one of them used a fake Syrian passport; they were born in Europe. Since 1980, none of the millions of refugees the United States has welcomed – many of them from the Middle East – has committed a terrorist attack. The 9/11 hijackers entered the United States legally on student or tourist visas. The Boston Marathon bombers were not refugees.

The charge that refugees are a threat to the United States is a tempest in a teapot. If we want to stop terrorism, we should stop killing innocent civilians in other countries.

Bombing Is Not the Solution

Western airstrikes against ISIS in Iraq and Syria have killed at least 459 civilians, including more than 100 children, according to the Guardian. French President François Hollande retaliated for the Paris attacks by bombing Raqqa, thought to be the “headquarters” of ISIS. Raqqa is a city with hundreds of thousands of civilians. The bombs struck the electricity grid, a museum and clinics. Untold numbers of people have been injured or killed in the strikes.

The invasions and occupations of Iraq and Afghanistan, and drone bombings in Iraq, Afghanistan, Pakistan, Yemen, Somalia, Libya and Syria have not destroyed ISIS. Military retaliation is exactly what ISIS wants.

Four former Air Force service members who operated drones wrote an open letter to Obama saying that the drone program has “fueled the feelings of hatred that ignited terrorism and groups like ISIS, while also serving as a fundamental recruitment tool similar to Guantanamo Bay.”

Brandon Bryant, Michael Haas, Stephen Lewis and Cian Westmoreland maintained that the killing of civilians in drone strikes has been one of the most “devastating driving forces for terrorism and destabilization around the world.”

That is why the bombing by the United States and France must stop immediately. A diplomatic solution involving all players in the region, including Iran, Russia and China, should be seriously pursued.

Arms sales must be halted. Saudi Arabia, Qatar and Kuwait have spent billions of dollars arming the opposition to the Assad regime but ISIS is a beneficiary of those weapons. The French have a \$10 billion arms deal with Saudi Arabia, and Obama has concluded more than \$100 billion in arms sales to the Saudis during the past five years.

As Charles Pierce argues in Esquire, our Middle East “allies,” including the bankers and political elites, must be held accountable. “Assets from these states should be frozen, all over the West,” Pierce writes.

The United States should welcome many more than the 10,000 Syrian refugees Obama has agreed to accept. We have a moral responsibility to provide refuge to those displaced by US actions, which contributed to destabilizing the entire region with invasions and regime changes since 2001. It is the vacuum we created that gave birth to ISIS.

Marjorie Cohn is a professor at Thomas Jefferson School of Law, former president of the National Lawyers Guild, and deputy secretary general of the International Association of Democratic Lawyers. Her most recent book is Drones and Targeted Killing: Legal, Moral, and Geopolitical Issues. See www.marjoriecohn.com.

The original source of this article is [Truthout](#)
Copyright © [Prof. Marjorie Cohn](#), [Truthout](#), 2015

[Comment on Global Research Articles on our Facebook page](#)

[Become a Member of Global Research](#)

Articles by: [Prof. Marjorie Cohn](#)

Disclaimer: The contents of this article are of sole responsibility of the author(s). The Centre for Research on Globalization will not be responsible for any inaccurate or incorrect statement in this article. The Centre of Research on Globalization grants permission to cross-post Global Research articles on community internet sites as long the source and copyright are acknowledged together with a hyperlink to the original Global Research article. For publication of Global Research articles in print or other forms including commercial internet sites, contact: publications@globalresearch.ca

www.globalresearch.ca contains copyrighted material the use of which has not always been specifically authorized by the copyright owner. We are making such material available to our readers under the provisions of "fair use" in an effort to advance a better understanding of political, economic and social issues. The material on this site is distributed without profit to those who have expressed a prior interest in receiving it for research and educational purposes. If you wish to use copyrighted material for purposes other than "fair use" you must request permission from the copyright owner.

For media inquiries: publications@globalresearch.ca