

Human Rights First

Discrimination, Detention, and Deportation: Immigration & Refugees

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By Joe Jenkins

On Monday, judges of the 7th Circuit Court [dealt a major blow](#) to states trying to buck the federal refugee resettlement program when it blocked Indiana governor Mike Pence's plan to keep out Syrian refugees.

The state accepts federal dollars to resettle nearly 1500 refugees annually, but in 2015 Pence directed the state to [bar only Syrians from being resettled in Indiana](#), largely in reaction to the deadly attacks in Paris that year (regardless of the fact that none of the perpetrators were refugees or Syrians). Pence is joined by a myriad of other state governors who doubt the effectiveness of the refugee security vetting process.

Pence's anti-Syrian policy was dismantled by a notably conservative panel of 7th Circuit judges led by oft-cited legal mind Judge Richard Posner. Posner first issued a rebuke of Pence's accusation that Syrian refugees pose a threat to the United States:

[Pence] believes, though without evidence, that some of these persons were sent to Syria by ISIS to engage in terrorism and now wish to infiltrate the United States in order to commit terrorist acts here, Posner offered in his ruling. No evidence of this belief has been presented, however; it is nightmare speculation.

Posner's words echo national security experts like former [Department of Homeland Security heads Janet Napolitano and Michael Chertoff](#), who agree that the refugee vetting process is thorough and robust, allowing us to safely admit the most vulnerable refugees while protecting the American people. A bevy of retired [military leaders](#) and diplomats also know that [welcoming refugees both enhances our national security and upholds our national values](#).

The screening process, which includes [a rigorous system of interviews, background checks, and biometric data](#), takes place before refugees can even step foot into the United States. This can take anywhere from 18 to 24 months and even longer for Syrian refugees, who undergo an additional screening.

This process is clearly effective: no Syrian refugee has ever been charged with terrorism, a fact that would seem to make Indiana's policy not only unconstitutional, but entirely unnecessary.

Pence's concerns about the vetting process ignore such information, asserting that Indiana's anti-Syrian refugee stance represents an overriding security interest, allowing the state to justify a clear violation of anti-discrimination law.

Posner said this position was akin to forbidding black people to settle in Indiana not because they're black but because he's afraid of them, and since race is therefore not his motive he isn't discriminating.

But that of course would be racial discrimination, just as his targeting Syrian refugees is discrimination on the basis of nationality, says Posner.

The court's opinion also offers that Pence and Indiana may simply forego the federal money and withdraw from the federal refugee program entirely if they wish (the decision comes as Texas [announced its own exit from the federal refugee program](#) the week prior). In such an event, the federal government would then give the funds to private Indiana resettlement organizations [willing to do the work](#).

The court's decision makes it increasingly hard for state governments to justify their fearmongering against Syrian refugees, and presents an opportunity for refugee resettlement advocates to return to the important work of welcoming refugees and helping them integrate successfully into their new communities.

It remains unclear whether or not the nation's top politicians and lawmakers will do more to make America a leader in the worst

humanitarian crisis of our time, or if they will continue their own nightmare speculation of threats posed by millions of displaced Syrian innocents.

Read the 7th Circuit Courts full opinion[here](#).

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Reports

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