

Trump's Refugee and Immigration Executive Order

The order discriminates against Muslims, imperils refugees, and degrades U.S. national security and global leadership.

The executive order of January 27, 2017, titled “Protecting the Nation from Foreign Terrorist Entry into the United States,” bars Syrian refugees indefinitely, targets immigrants from several Muslim-majority nations, and slashes refugee resettlement.¹ The order:

- ☑ Bars rigorously vetted Syrian refugees from U.S. resettlement indefinitely.
- ☑ Bars entry by “immigrant and nonimmigrant” nationals from seven Muslim-majority countries including Syria, Iraq, Iran, Sudan, Somalia, Libya and Yemen for 90 days.
- ☑ Slashes U.S. refugee resettlement in half and suspends the U.S. Refugee Admissions Program (USRAP) for 120 days, a move that will derail the program for much longer. It makes an exception for religious minorities fleeing religious persecution, which would exclude the overwhelming number of (mostly Muslim) refugees fleeing these countries.

Though the Trump Administration claims the order is not a ban on Muslims and is not indefinite, the order indicates the opposite.

- ☑ The order indicates that once refugee resettlement processing resumes, the State and Homeland Security Departments should “prioritize refugee claims made by individuals on the basis of religious-based persecution, provided that the religion of the individual is a minority religion in the individual’s country of nationality,”² which, given the geographical locations of major refugee-producing states, would generally exclude Muslims.
- ☑ President Trump and others connected to his administration have explicitly advocated favoring Christian refugees over Muslims and have stated that this is the goal of the ban.³ President Trump also openly called for a Muslim ban during his campaign.⁴
- ☑ While the ban is supposed to be temporary, it halts the admission of any Syrian national indefinitely, even though vetting is already rigorous, as national security experts and former U.S. officials have testified.⁵
- ☑ The ban will affect more than 100,000 current visa holders.⁶ These individuals may also be barred from the United States long enough that their visas will expire, forcing them to restart the lengthy and thorough vetting process already in place.

The order led to legal permanent residents and other legal immigrants being barred from the United States.

- ☑ Green card holders, who are legal permanent residents of the United States, were also initially barred under the order. However, Homeland Security Secretary John Kelly has released a statement that he deems “the

entry of lawful permanent residents to be in the national interest,” and that “lawful permanent resident status will be a dispositive factor in our case-by-case determinations.”⁷ White House Chief of Staff Reince Priebus also announced January 29 that green card holders would not be prevented from entering the country “going forward,”⁸ and U.S. Customs and Border Protection has updated its stance on the entry of permanent legal residents to say that “the Executive Order ... does not apply to their entry to the United States.”⁹ But reports show that airport officials have implemented conflicting policies, and green card holders are still unsure about what to expect from customs and border officials.¹⁰

- ☑ The order initially also barred dual citizens if they are citizens of one of the blacklisted countries.¹¹ Homeland Security officials clarified January 31 that dual nationals with visas and passports from countries not excluded by the ban would be eligible to apply for entry.¹²

The order blocks the admission of Iraqis whose lives are at risk due to their work with Americans, despite protections for them under the Refugee Crisis in Iraq Act.

- ☑ The order seemed to suspend priority resettlement and immigration through special visas (SIVs) for Iraqis whose lives are at risk because of their work with and ties to the United States. These include Iraqis who risked their lives working as translators, engineers, security guards, embassy clerks, and in other dangerous roles for the U.S. military and government. Some of those who have already been granted visas under the SIV program have had their visas cancelled, and the order initially halted additional visas from being issued,¹³ but Homeland Security has reportedly stated that SIV recipients will be allowed to “come to the U.S. to be processed and reviewed in person.”¹⁴
- ☑ It does not appear that the exemption also applies to the thousands of Iraqis who worked with the U.S. government and other U.S. entities in other capacities (including NGOs and media) and have been waiting for resettlement through a priority processing program created for them by Congress. These men and women face grave threats because of their work with the U.S. government, military, and other entities, and their close ties to Americans.
- ☑ It is also unclear whether new visas will be issued to these Iraqis, and recipients already have to wait due to enormous backlogs.¹⁵ The Pentagon is reportedly assembling a list of Iraqis who have helped the United States who might be exempted from the ban, but this list has not been approved by the White House.¹⁶ The executive order may also discourage others from working with U.S. forces in the future.

The order is different from the Obama Administration’s actions on resettling Iraqi refugees.

- ☑ President Trump has claimed, “My policy is similar to what President Obama did in 2011 when he banned visas for refugees from Iraq for six months.”¹⁷
- ☑ The Obama Administration did not suspend resettlement of Iraqi refugees. Instead it enhanced the vetting process for Iraqis after two Iraqis were arrested for terrorism-related charges in Kentucky in 2011 for sending money to Al Qaeda in Iraq and plotting to use IEDs against U.S. troops while in Iraq. This led to a slow down, but not a ban on resettlement. The enhancements included a second security clearance check before departure to the United States, which could have prevented the resettlement of the two Iraqis, who had used IEDs against U.S. troops in Iraq. The United States continued to accept Iraqi refugees during this period, albeit at a slower pace, and the Obama Administration policy still allowed Iraqi citizens to enter the country.¹⁸

Parts of the order have been halted by courts, but only temporarily, and officials may not be complying.

- ☑ Courts in five different districts halted parts of the executive order in the week after it was issued.¹⁹ A district court in Seattle granted a halt to the executive order nationwide,²⁰ and a federal appeals court denied a government request to overturn the decision, but these actions are temporary.²¹
- ☑ None of the rulings so far resolve any broader legal challenges to the order, including its constitutionality, whether it is discriminatory, and whether it denies due process of law. They are emergency actions to address the plight of the hundreds of passengers stuck because of the order.
- ☑ Reports show that customs officials at some airports have not abided by court rulings, continuing to detain travelers and have even confiscated travelers' green cards.²²

¹ <https://www.nytimes.com/2017/01/27/us/politics/refugee-muslim-executive-order-trump.html>

² Ibid.

³ <http://www1.cbn.com/thebrodyfile/archive/2017/01/27/brody-file-exclusive-president-trump-says-persecuted-christians-will-be-given-priority-as-refugees>; <https://www.washingtonpost.com/news/the-fix/wp/2017/01/29/trump-asked-for-a-muslim-ban-giuliani-says-and-ordered-a-commission-to-do-it-legally/>

⁴ <https://www.donaldjtrump.com/press-releases/donald-j.-trump-statement-on-preventing-muslim-immigration>

⁵ <http://www.humanrightsfirst.org/resource/refugees-and-national-security>

⁶ <http://www.nbcnews.com/news/us-news/over-100-000-visas-have-been-revoked-immigration-ban-justice-n716121>

⁷ <https://www.dhs.gov/news/2017/01/29/statement-secretary-john-kelly-entry-lawful-permanent-residents-united-states>

⁸ <https://www.nytimes.com/2017/01/29/us/trump-refugee-ban-muslim-executive-order.html>

⁹ <https://www.cbp.gov/border-security/protecting-nation-foreign-terrorist-entry-united-states>

¹⁰ <https://www.theguardian.com/us-news/2017/jan/29/customs-border-protection-agents-trump-muslim-country-travel-ban>, <http://www.vox.com/policy-and-politics/2017/2/2/14453682/trump-wall-airport-dulles-immigration-ban>

¹¹ <http://www.cnn.com/2017/01/29/politics/donald-trump-travel-ban-green-card-dual-citizens/>

¹² http://www.huffingtonpost.com/entry/dhs-trump-ban-refugees_us_5890c96ee4b0522c7d3d68ad

¹³ <http://www.thedailybeast.com/articles/2017/01/28/the-iraqi-heroes-left-behind-by-trump-s-immigration-ban.html>; <http://fortune.com/2017/01/28/trump-refugees-iraqi-translators/>

¹⁴ <http://foreignpolicy.com/2017/01/30/pentagon-scrambles-to-make-exception-for-iraqi-translators/>

¹⁵ <http://www.politico.com/story/2015/04/iraqi-refugee-us-refugee-program-restarts-117318>

¹⁶ See note 14.

¹⁷ <http://www.vox.com/policy-and-politics/2017/1/29/14432362/trump-muslim-ban-statement>

¹⁸ <https://www.washingtonpost.com/news/fact-checker/wp/2017/01/29/trumps-facile-claim-that-his-refugee-policy-is-similar-to-obama-in-2011>

¹⁹ <https://www.justsecurity.org/36960/stock-weekends-district-court-orders-immigration-eo/>

²⁰ <http://www.seattletimes.com/seattle-news/politics/federal-judge-in-seattle-halts-trumps-immigration-order/>

²¹ <http://www.cnn.com/2017/02/04/politics/doj-appeals-travel-ban-ruling/>

²² See note 10.