President Trump’s Revised Refugee and Immigration Executive Order

On March 6, 2017, President Trump signed a revised executive order, “Protecting The Nation From Foreign Terrorist Entry To The United States.” The order imposes bans on nationals of six Muslim-majority countries, and halts and slashes refugee resettlement. The revised order was issued following the court-ordered stay of President’s Trump’s January 27 executive order, and goes into effect on March 16.

The New Executive Order:

- Bars entry by “immigrant and nonimmigrant” nationals from six Muslim-majority countries—Libya, Iran, Somalia, Sudan, Syria and Yemen—for 90 days, and potentially longer. The order excludes U.S. legal permanent residents, dual-citizens, and certain existing visa holders. Countries can be added or removed from this list after the 90 days. Iraq, which was included in the prior order, has been removed.

- Slashes U.S. refugee resettlement by more than half and suspends the U.S. Refugee Admissions Program (USRAP) for 120 days. Upon resumption of USRAP, decisions on refugee applications will only be made for “stateless persons and nationals of countries for which the secretary of state, the secretary of homeland security, and the director of national intelligence have jointly determined that the additional procedures implemented...are adequate to ensure the security and welfare of the United States.” The indefinite ban on Syrian refugees has been removed.

- No longer includes a stated exception for religious minorities fleeing religious persecution from these countries, nor does it state that when resettlement resumes it will “prioritize refugee claims made...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.”

- Sets up a process of “extreme vetting” that is similar to the prior order, and could trigger long-term bans on visas, immigration or refugee resettlement from other countries including the six targeted Muslim-majority countries and/or direct that the United States rely on data from repressive regimes and dysfunctional states to vet the very refugees and political dissidents who have fled those countries.

- Allows consular officers and officials of customs and border protection to provide travel-ban waivers on a “case-by-case basis” if denying entry would cause the person “undue hardship,” “would not pose a threat to national security, and would be in the national interest.” For the resettlement program, the order states that “the Secretary of State and the Secretary of Homeland Security may jointly determine to admit...refugees on a case-by-case basis,” provided it is “in the national interest and does not pose a threat” to security. Top intelligence and national security officials have stated that such case-by-case exceptions are “unrealistic for these overburdened agencies to apply such procedures to every one of the thousands of affected individuals with urgent and compelling needs to travel.”

The Order Hurts U.S. National Security

- National security officials who have served both Democratic and Republican administrations...
have repeatedly confirmed that bans on Muslim-majority countries harm, and do not help, U.S. national security by playing into ISIS’s rhetoric that the United States is “engaged in a religious war.” Instead, U.S. resettlement of refugees advances America’s national security interests by countering terrorist propaganda that America discriminates against Muslims based on their religion and nationality.

The order jeopardizes America’s relationships with allies and partners on whom it relies upon for vital counterterrorism cooperation and information sharing. Top national security officials noted that the first order had already “alienated U.S. allies” and “undermin[ed] years of effort to bring them closer,” risking “access to the intelligence and resources necessary to fight the root causes of terror or disrupt attacks launched from abroad, before an attack occurs within our borders.”

National security experts have also stressed that resettlement advances national security interests by supporting the stability of its allies that are struggling to host large numbers of refugees.

Recent Department of Homeland Security (DHS) reports found that country of citizenship is not likely a reliable indicator of potential terrorist activity and that citizens from the six countries banned under the order were rarely implicated in U.S.-based terrorism.

The Order Blocks Iraqis Who Put Their Lives at Risk to Work with the United States

Despite Iraq being removed from the travel ban list, which should allow the issuance and travel of Iraqi Special Immigrant Visas, the order suspends resettlement for Iraqis refugees 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.

More than 50,000 Iraqis who worked with the U.S. government and other U.S. entities in other capacities (including NGOs and media) are currently waiting for resettlement through a 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.

The Order Negatively Impacts LGBT Refugees

LGBT status is criminalized in all six countries whose nationals are banned from entry, and in Yemen, Sudan, Iran, and Somalia LGBT people can face the death penalty on account of their sexual orientation or gender identity.

Many of these individuals have faced rejection from their families, flee alone, and do not have a support system in the host countries where they await resettlement.

LGBT people encounter institutionalized homophobia in host countries. In Turkey, Lebanon, and Jordan—frontline host countries in the global refugee crisis—LGBT individuals face marginalization and hostility. As in many parts of the world, transgender people are particularly vulnerable to violence. Due to the extreme risks and persecution that LGBT people face even in refugee-hosting countries, they are sometimes identified as vulnerable and in need of resettlement.

Cases of homophobic attacks against LGBT refugees underscore the dangers they face in refugee-hosting countries. In July 2016, a gay Syrian refugee was beheaded in Turkey. Prior to his murder, he had received threats and had been kidnapped and raped.

Halting resettlement, especially from the six Muslim-majority countries listed in the order, leaves vulnerable LGBT refugees who were or
would have been referred for U.S. resettlement to face violence, discrimination, and even death. For those already cleared for resettlement, medical and security clearances are likely to expire during the 120-day pause, meaning an even longer wait in unsafe conditions.

The Order’s Suspension and Slashing of Resettlement will have Long-Term Effects

☑️ The order will delay cases for many months or more due to expiration of approvals and clearances in the refugee resettlement screening process. Pausing resettlement for 120 days will affect refugees already in the pipeline for resettlement as numerous steps of the screening process depend on varied timelines that will expire during this resettlement suspension. These steps must be completed based on a rigid timetable, otherwise refugees will be unable to travel to the United States. In a process that takes several months to many years to clear, many refugees will need to restart the process all over again.

☑️ Due to the massive decrease in the number of refugees to be resettled in the United States—from 110,000 to 50,000—faith-based and other resettlement agencies across the country have already had to let go of staff, eliminating jobs and decimating the resettlement infrastructure. For example, World Relief had to lay off over 140 staff members and close five of their offices due to the reduction in resettlement.

The Order is Inconsistent with U.S. Law, the Constitution, and Treaty Commitments

☑️ The first executive order was subject to numerous lawsuits brought nationwide. On February 9, the Ninth Circuit Court of Appeals upheld a stay on that order, which suspended a majority of the provisions, including the travel ban and halt of refugee resettlement. The new executive order states that it rescinds the January 27 executive order.

☑️ The new order is still inconsistent with the U.S. Constitution and laws, despite the revisions.

☑️ The Establishment Clause of the Constitution requires the government to treat all religions equally. However, the order singles out nationals from six Muslim-majority countries to be barred entry into the United States. Additionally, President Trump has stated his intent to favor Christian over Muslim refugees.

☑️ The Ninth Circuit specified that animus towards Muslims expressed by President Trump and others, including the desire to institute a “Muslim ban,” could be considered in determining whether the first order violates the Equal Protection Clause. President Trump and his aides have indicated that this order is aimed at achieving the same outcome as the initial order, while tailoring it to the court’s ruling.

☑️ Many refugees have substantial connections to the United States, including family who already live in the United States as U.S. citizens, lawful permanent residents, refugees and asylees. Moreover, many refugees and asylees here in the United States have spouses and children who are stranded abroad, and may have a claim to due process and to the equal protection of the laws when they apply for family reunification.

☑️ The order also circumvents the process created by U.S. immigration laws to ensure consultation with Congress about refugee resettlement levels. The Refugee Act of 1980 created a process by which the president determines the number of refugees to be resettled each year.

☑️ The order also violates U.S. treaty commitments that require nondiscrimination as to religion or nationality.

The Order’s Intent and Impact Targets Muslims

☑️ Though the Trump Administration claims that this order is not a ban on Muslims, the intent and impact of the order confirm it is designed to reduce entry of Muslims. Countries targeted for
the visa bans are all Muslim-majority countries, and the resettlement suspension will also impact Muslims as most refugees worldwide, at this time, come from predominately Muslim countries.

☑️ The number of Muslim refugees resettled in the United States has risen nearly every year over the last decade, with a majority coming from the six banned countries, and last year the number of Muslim refugees resettled in the United States exceeded the number of Christian refugees for the first time since 2006.

☑️ Numerous statements made by President Trump and others connected to his administration have explicitly stated that their goal is to restrict Muslims from entering the United States. Former New York mayor Rudy Giuliani told Fox News that President Trump wanted a “Muslim ban” and asked for a way “to do it legally.” Responding to the unconstitutionality of a Muslim ban, President Trump indicated that to achieve the same goal, “you call it territories.”

☑️ In his February 16 press conference, President Trump announced that the new order would be “tailored” to the federal court’s decision on his January 27 executive order, thereby achieving the same end as that order without using language that so clearly signals discriminatory purpose.

☑️ Like the previous order, this new order creates a barrage of hurdles that appear designed to block legitimate refugees or visitors from the targeted Muslim-majority countries from entering the United States for the ban periods, but also potentially for much longer.

The United States has Stringent Vetting

☑️ Refugees are vetted more thoroughly than any other category of traveler seeking to arrive in the United States. The security process includes screenings by national and international intelligence agencies, fingerprint and other biometric data checks against terrorist and criminal databases, and multiple rounds of interviews. These processes are regularly reviewed and enhancements are regularly implemented and integrated to ensure that the most updated and rigorous measures are applied. Any additional enhancements to this process can be added without a halt in refugee resettlement or barring people from certain countries.

☑️ Top former officials of the Central Intelligence Agency, Homeland Security, State Department, and former high-level national security advisors and military officials have all stressed that refugees are subjected to the most rigorous security vetting procedures that are improved on a continuous basis.

☑️ The United States has developed a stringent system of security vetting, that leverages the full capabilities of the intelligence and law enforcement communities. This process is applied to travelers not once, but multiple times.