

How President Trump's Executive Order on Refugees and Immigration Impacts at risk Iraqis with U.S. Affiliations

Congress created two special programs to protect Iraqis at risk due to their work with the U.S. government and other U.S. ties: (1) a Special Immigrant Visa (SIV) program, and (2) a direct access resettlement program. On January 27, 2017, President Trump issued an executive order that directs the suspension of resettlement and visas for Iraqis. This would derail the programs that Congress created, leaving Iraqis who risked their lives to support the United States in dangerous and difficult situations. The executive order may also discourage others from working with U.S. forces in the future. While U.S. Customs and Border Protection indicated an exception will be made for SIVs, that language does not reflect a similar exception for the thousands of U.S. affiliated Iraqis in the direct access resettlement program.

The U.S. Commitment to Protect Iraqis at Risk Due to U.S. Ties

- ☑ Many Iraqis supported the United States' involvement in Iraq. Thousands worked as translators and in other support roles with the U.S. military. Hundreds have been employed by the U.S. diplomatic mission in Baghdad, regional embassy offices, and provincial reconstruction teams. Tens of thousands have worked with contractors on U.S.-funded reconstruction projects, and many others worked with U.S. based media and nongovernmental organizations.
- ☑ Due to this work, many Iraqis have faced persecution and direct threats from insurgent groups, militias, and terrorist organizations. Their U.S. ties have made them targets, and some have been killed.
- ☑ Recognizing these Iraqis' service to the United States, many members of Congress, former U.S. government officials and staff, Iraq war veterans, former military leaders, journalists, and others urged that the United States had a moral responsibility to protect and resettle persecuted Iraqis and their families.
- ☑ The Refugee Crisis in Iraq Act, introduced with bipartisan support, created two pathways for resettlement of U.S. affiliated Iraqis—the Special Immigrant Visa (SIV) program and the direct access resettlement program (DAP). The act passed the Senate unanimously and was signed into law on January 28, 2008, as part of the Department of Defense Authorization Act for Fiscal Year 2008.

The Special Immigrant Visa and Direct Access Resettlement Programs for U.S. Affiliated Iraqis

- ☑ **SIV Program.** Iraqis who were employed by or on behalf of the U.S. government in Iraq for one year or longer (between March 20, 2003 and September 30, 2013), and who have experienced or are experiencing threats due to their employment were eligible for resettlement and legal permanent residence (“green card”) in the United States through the Special Immigrant Visa (SIV) program.

- ☑ The SIV program allocated 5,000 visas per year for five years after the act was signed into law, and those visas ran out in 2014. However, about 1,000 Iraqis still have pending applications and are awaiting an outcome on their case. In addition, many Iraqis who would otherwise have applied for protection through the SIV program remain eligible for, and have applied for, U.S. protection via the direct access resettlement (DAP) program.
- ☑ **DAP Resettlement.** The Refugee Crisis in Iraq Act directed the Secretaries of State and Homeland Security to create the direct access resettlement program (DAP) for Iraqis who work or worked for the U.S. government, military, mission contractors, and U.S.-based media or non-governmental organizations. Normally refugees must first be referred for resettlement in the United States by UNHCR, however DAP allows eligible Iraqis to apply directly to the U.S. for resettlement consideration. Family members are also eligible for protection through DAP. About 58,000 Iraqis were awaiting consideration and processing through that program as of 2015.
- ☑ Both SIV and DAP processing involve extensive requirements, interviews, and vetting. The vetting procedures are lengthy and have been regularly reviewed and enhancements have been added.

How the Executive Order Affects U.S. Affiliated Iraqis

- ☑ Iraqis eligible for protection under the Refugee Crisis in Iraq Act are directly affected by the January 27 executive order should it proceed forward following the court rulings that currently block it. It would ban Iraqi nationals from coming to the United States for at least 90 days, suspend the entire U.S. Refugee Admissions Program (USRAP) for at least 120 days, and cut by more than half the total number of refugees who will be resettled in the United States in 2017. It further directs the Secretaries of State and Homeland Security to prioritize refugee resettlement cases “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.”
- ☑ After the order was signed, countless Iraqi refugees were immediately affected, including Iraqis approved to come to the United States under the SIV and DAP pathways. Despite possessing valid U.S. visas, numerous Iraqis were detained or barred entry at U.S. airports, removed from U.S.-bound flights, and many others have family members stuck in Iraq, unable to join them due to the order. In preparation for beginning their lives in the United States, several of these individuals had already sold their homes and belongings and left their jobs.
- ☑ After considerable attention and confusion regarding the implementation of the order, the U.S. Customs and Border Protection website published the following language regarding Iraqi nationals: “The entry of Iraqi nationals with a valid Special Immigrant Visa to the United States is deemed to be in the national interest and such individuals can apply for admission to the United States. Accordingly, absent the receipt of significant derogatory information indicating a serious threat to public safety and welfare, possession of a Special Immigrant Visa will be a dispositive factor in case-by-case determinations. Iraqi nationals can also apply to a consular officer for Special Immigrant Visas, and, if otherwise qualified, can be issued a Special Immigrant Visa.”
- ☑ While this language addresses the SIV pathway, no exception has yet been issued for Iraqis eligible under the DAP pathway. Instead, this program has been, and depending on future court rulings may continue to be, derailed by the order’s 120-day ban on resettlement. Given the complex multi-step nature of resettlement processing, if the ban continues, the resulting delays will likely last well beyond 120 days. Additionally, the DAP may be impacted by the order’s drastic cut in annual resettlement and its direction to prioritize resettlement of religious persecution cases for those of minority religions. As a result, tens of thousands of

DAP applications will be further delayed, and these men, women, and their families will be left in danger for longer.

- ☑ Though the order allows the Secretaries of State and Homeland Security to agree to admit travelers from Iraq on a case-by-case basis, in our experience it would be 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.
- ☑ Through this order, potential future action could also affect U.S. affiliated Afghans. Congress also provided some SIVs for Afghans who worked for or on behalf of the U.S. government. Though Afghanistan is not currently listed as a travel-ban country, the order does permit the addition of other countries.

What Former U.S. Military, Intelligence and Foreign Service Leaders are Saying

- ☑ In a January 30, 2017 letter calling for the order to be rescinded, former National Security Advisor Susan Rice, former CIA Director Gen. Michael Hayden, former Secretary of the Department of Homeland Security Janet Napolitano, former Secretary of State Madeleine Albright, and 115 other senior national security officials and former military leaders who served both Republican and Democratic administrations expressed their “deep concern” that “because of actions taken by this White House” the lives of the “brave individuals who put their own lives on the line and worked side-by-side with our men and women in uniform in Iraq now fighting against ISIL...have been disrupted and they may even be in greater danger if they are sent home. Many more thousands going through the process will now be left behind.”
- ☑ A February 6, 2017 declaration issued by National Security Advisor Susan Rice, former CIA Director Gen. Michael Hayden, former CIA Director and Secretary of Defense Leon Panetta, former Secretary of State Madeleine Albright, and other former national security, foreign policy, and intelligence leaders of both political parties opposed the executive order, noting, “In our professional opinion, the Order will harm the interests of the United States in many respects...will endanger U.S. troops in the field. Every day, American soldiers work and fight alongside allies in some of the named countries who put their lives on the line to protect Americans...allies who would be barred by the Order work alongside our men and women in Iraq fighting against ISIL. To the extent that the Order bans travel by individuals cooperating against ISIL, we risk placing our military efforts at risk by sending an insulting message to those citizens and all Muslims.”
- ☑ Former U.S. Ambassador to Syria and Iraq Ryan Crocker confirmed on January 25, 2017 that the order “threaten[s] the lives of Iraqis and Afghans who risked their safety to help the United States and our servicemembers by exacerbating the backlogs they face.”
- ☑ Pentagon spokesperson Captain Jeff Davis noted that those helping the United States “often do that at great personal risk. So people who take these risks are really making a tangible signal of support to the United States, and that’s something that will, and should be, recognized.”
- ☑ A group of over 2,000 U.S. armed forces veterans sent a letter to Trump urging him to reconsider his order, explaining, “Many veterans can point to a moment when one of our foreign allies saved our lives—often by taking up arms against our common enemies. They acted because they believed in America, in our mission, and in the promise that was given.”●