



Human Rights Now

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10 February, 2017

Human Rights Now—Statement against President Trump’s Immigration Orders

In late January, United States President Trump issued three executive orders on immigration, including one specifically prohibiting nationals of seven Muslim-majority countries from entering the US for 90 days and restricting all refugee admissions for 120 days, and Syrian refugees indefinitely.¹ This includes persons who are lawful permanent residents of the US who have been temporarily outside the US.² The orders were hastily issued without internal vetting or public warning, leading to the unexpected detention of at least 109 people arriving in airports at the time covered by the order and the deportation of some of them.³

Human Rights Now finds that these orders violate multiple fundamental international human rights. First, they violate the non-discrimination duty of states, enshrined in Article 7 of the Universal Declaration of Human Rights, not to discriminate against persons for reasons of race, nationality, or religion. The International Convention on the Elimination of All Forms of Racial Discrimination (CERD), to which the US is a party, explicitly prohibits discrimination based on nationality with regards to immigration policy under Article 1(3), and Article 2(c) notes that the discrimination may include “any laws ... which have the effect of creating or perpetuating racial discrimination”.⁴

While the orders make a weak attempt to appear non-discriminatory in word, numerous statements made by President Trump indicate that, in practice, the orders are motivated by an animus against a specific category of persons, Muslims from the listed countries, and have the intention to discriminate them with regards to entry and refugee status. This includes President

¹ “Enhancing Public Safety” and “Border Security and Immigration Enforcement Improvements” were signed on 25 Jan. 2017, “Protecting the Nation from Foreign Terrorist Entry into the United States” was signed on 27 Jan., <https://www.whitehouse.gov/briefing-room/presidential-actions/executive-orders>.

² Krishnadev Calamur, “What Trump’s Executive Order on Immigration Does--and Doesn’t Do”, *The Atlantic*, 30 Jan. 2017, <https://www.theatlantic.com/news/archive/2017/01/trump-immigration-order-muslims/514844/>

³ Evan Perez, Pamela Brown, and Kevin Liptak, “Inside the Confusion of the Trump Executive Order and Travel Ban”, *CNN*, 30 Jan. 2017, <http://edition.cnn.com/2017/01/28/politics/donald-trump-travel-ban/>; Joanna Walters, “Trump’s Travel Ban: Stories of Those Who Were Detained This Weekend”, *The Guardian*, 31 Jan. 2017, <https://www.theguardian.com/us-news/2017/jan/31/people-detained-airports-trump-travel-ban>.

⁴ International Convention on the Elimination of All Forms of Racial Discrimination (CERD), 660 UNTS 195, 4 Jan. 1969, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CERD.aspx>.

Trump's campaign promise of a "total and complete shutdown of Muslims entering the United States"⁵ and explicit statements that the order prioritizes Christian over Muslims refugees in an interview following its passage.⁶

The orders, by their blanket restriction of all persons from the listed states regardless of their refugee status or risk of torture, also violate the US's obligations under the Convention Against Torture (CAT) and the 1967 Protocol to the 1951 Refugee Convention. As a state party of CAT, the US has a duty to not return a noncitizen to a country where he or she faces torture or persecution, known as the duty of non-refoulement.⁷ And as a member of the Refugee Convention's Protocol, the US is obligated comply with its objective and purpose, which include duties to accept applications for asylum of persons found in its territory and not return persons to states where they will face persecution or torture.⁸

The duties of non-discrimination, protection of refugees, and non-refoulement are among the most fundamental rights in international human rights law and are the duty of all states to uphold. Human Rights Now is gravely concerned that the immigration executive orders violates all of these fundamental rights and strongly calls on the Trump administration to immediately revoke the recent executive orders, or any part of them, which violates these rights.

⁵ Jenna Johnson, "Trump Calls for 'Total and Complete Shutdown of Muslims Entering the United States'", *The Washington Post*, 7 Dec. 2015, https://www.washingtonpost.com/news/post-politics/wp/2015/12/07/donald-trump-calls-for-total-and-complete-shutdown-of-muslims-entering-the-united-states/?utm_term=.17d94a668ff1.

⁶ See "Brody File Exclusive: President Trump Says Persecuted Christians Will Be Given Priority as Refugees", CBN News, 27 Jan. 2017, <http://www1.cbn.com/thebrodyfile/archive/2017/01/27/brody-file-exclusive-president-trump-says-persecuted-christians-will-be-given-priority-as-refugees>.

⁷ Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), 1465 UNTS 85, 26 June 1987, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CAT.aspx>.

⁸ Convention and Protocol Relating to the Status of Refugees (Refugee Convention), 189 UNTS 137, 4 Oct. 1967, <http://www.unhcr.org/protection/basic/3b66c2aa10/convention-protocol-relating-status-refugees.html>.