

## POLITICS

# President Trump's Immigration Order, Annotated

By ADAM LIPTAK JAN. 28, 2017

WASHINGTON — President Trump on Friday afternoon approved a sweeping executive order that suspended entry of all refugees to the United States for 120 days, barred Syrian refugees indefinitely, and blocked entry into the United States for 90 days for citizens of seven predominantly Muslim countries: Iran, Iraq, Libya, Somalia, Sudan, Syria and Yemen. It also barred green card holders from those countries from re-entering the United States, the Department of Homeland Security said, though the administration said exemptions could be granted.

Here are some major excerpts from the executive order, with comments by The New York Times. The full text of the order is available [here](#).

## It invokes the attacks of Sept. 11, 2001

*The visa-issuance process plays a crucial role in detecting individuals with terrorist ties and stopping them from entering the United States. Perhaps in no instance was that more apparent than the terrorist attacks of September 11, 2001, when State Department policy prevented consular officers from properly scrutinizing the visa applications of several of the 19 foreign nationals who went on to murder nearly 3,000 Americans.*

Most of the 19 hijackers on the planes that crashed into the World Trade Center, the Pentagon and a field in Shanksville, Pa., were from Saudi Arabia. The rest were from the United Arab Emirates, Egypt and Lebanon. None of those countries are on Mr. Trump's visa ban list.

## America's founders were pro-immigration

*In order to protect Americans, the United States must ensure that those admitted to this country do not bear hostile attitudes toward it and its founding principles.*

The nation's founding principles, as reflected in the Declaration of Independence, included dissatisfaction with what were said to be overly restrictive immigration practices.

## It defines what non-U.S. citizens should believe

*The United States cannot, and should not, admit those who do not support the Constitution, or those who would place violent ideologies over American law.*

"There is no statutory requirement that noncitizens entering the United States support the Constitution," said Peter J. Spiro, a law professor at Temple University. "The executive order seems to suggest that even temporary visitors like tourists and students should support the U.S. Constitution, which doesn't make a lot of sense."

## Does Mr. Trump have the power to do this?

*To temporarily reduce investigative burdens on relevant agencies during the review period described in subsection (a) of this section, to ensure the proper review and maximum utilization of available resources for the screening of foreign nationals, and to ensure that adequate standards are established to prevent infiltration by foreign terrorists or criminals, pursuant to section 212(f) of the INA, 8 U.S.C. 1182(f) . . .*

**This provision** is the key to the power Mr. Trump claims. It says: "Whenever the president finds that the entry of any aliens or of any class of aliens into the United States would be detrimental to the interests of the United States, he may by proclamation, and for such period as he shall deem necessary, suspend the entry of all aliens or any class of aliens as immigrants or nonimmigrants, or impose on the entry of aliens any restrictions he may deem to be appropriate."

The provision "gives the president capacious authority to deny entry to any alien or class of aliens," Professor Spiro said. "No court has ever reversed a presidential order under it."

But he added, "In terms of the number of prospective immigrants involved, this is by far the most significant use of the power by any president."

Some critics say the order runs afoul of a later law that bars discrimination “in the issuance of an immigrant visa because of the person’s race, sex, nationality, place of birth or place of residence.”

The tension between the two laws has not been definitively resolved by the courts. Jennifer Chacon, a law professor at the University of California, Irvine, said that a challenge to the executive order based on the later law’s equal-protection principles was the most promising line of attack.

In an opinion article in The New York Times, David J. Bier, an immigration policy analyst at the Cato Institute, a libertarian group, said Mr. Trump had at least violated the spirit of the later law.

“Even if courts do find wiggle room here, discretion can be taken too far,” Mr. Bier wrote. “If Mr. Trump can legally ban an entire region of the world, he would render Congress’s vision of unbiased legal immigration a dead letter.”

## It targets 7 countries

*... I hereby proclaim that the immigrant and nonimmigrant entry into the United States of aliens from countries referred to in section 217(a)(12) of the INA, 8 U.S.C. 1187(a)(12), would be detrimental to the interests of the United States, and I hereby suspend entry into the United States, as immigrants and nonimmigrants, of such persons for 90 days from the date of this order . . .*

The countries are Iraq, Syria, Iran, Sudan, Libya, Somalia and Yemen.

## Some people are exempt

*... (excluding those foreign nationals traveling on diplomatic visas, North Atlantic Treaty Organization visas, C-2 visas for travel to the United Nations, and G-1, G-2, G-3, and G-4 visas).*

These exceptions are mostly for diplomats, people traveling to the United Nations in New York, and others involved in international organizations.

## The order has room to grow

*The Secretary of Homeland Security, in consultation with the Secretary of State, shall submit to the President a list of countries recommended for inclusion on a Presidential proclamation that would prohibit the entry of foreign nationals.*

The initial list may soon change and expand.

## But it also extends beyond the 7 countries

*The Secretary of State shall suspend the U.S. Refugee Admissions Program (USRAP) for 120 days.*

This provision suspends all admissions of refugees, not limited to the seven countries.

## The order prioritizes Christian refugees

*Upon the resumption of USRAP admissions, the Secretary of State, in consultation with the Secretary of Homeland Security, is further directed to make changes, to the extent permitted by law, to 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.*

As a general matter, this will give priority to Christian refugees over Muslim ones. Though framed in a neutral way, this part of the order may raise questions of religion-based discrimination. Mr. Trump has said that he means to favor Christian refugees.

That violates the First Amendment's ban on government establishment of religion, according to David Cole, the legal director of the American Civil Liberties Union. "One of the critical questions with respect to the validity of executive action challenged under the Establishment Clause is its intent and effect," he wrote in a [blog post](#). "If intended to disfavor a particular religion, it violates the Establishment Clause."

## Syrians are 'detrimental' to U.S. interests, it says

*Pursuant to section 212(f) of the INA, 8 U.S.C. 1182(f), I hereby proclaim that the entry of nationals of Syria as refugees is detrimental to the interests of the United States and thus suspend any such entry until such time as I have determined that sufficient changes have been made to the USRAP to ensure that admission of Syrian refugees is consistent with the national interest.*

This effectively expands the ban on immigrants from Syria.

## How it restricts all refugees

*(d) Pursuant to section 212(f) of the INA, 8 U.S.C. 1182(f), I hereby proclaim that the entry of more than 50,000 refugees in fiscal year 2017 would be detrimental to the interests of the United States, and thus suspend any such entry until such time as I determine that additional admissions would be in the national interest.*

This cuts the cap on refugees in half.

### ***Correction: January 29, 2017***

A picture caption with an earlier version of this article misstated the day on which the president and vice president attended an event at the Pentagon. It was Friday, not Monday.

*Follow The New York Times's politics and Washington coverage on Facebook and Twitter, and sign up for the First Draft politics newsletter.*