

Chaos at the Airports: Blocking Trump's Executive Order

By [Dr. Binoy Kampmark](#)

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The diary of this particular US administration is bound to be heavy with incident. Executive orders are now coming out of the Trump administration at pace, and the question of whether they will compel obedience or not looms. In many parts of the US, the answers have already been determined in advance. As ever, it is the US legal system that has stepped in, with flocks of legal eagles ready to add their bit to the unfolding chaos.

One of the hottest issues remains immigration and the fantasy of controlling it in the name of security. As President Donald Trump promised to do, a halt to the immigration programme would take place, however ill-reasoned.

Then, with a degree of arbitrary silliness, nationals from Iran, Iraq, Libya, Somalia, Sudan, Syria and Yemen faced a 90-day travel ban as outlined in the order. (There were delightfully bizarre omissions: the Kingdom of Saudi Arabia, always screaming for recognition in such lists, was not added.)

The reasoning behind the executive order of January 27 entitled "Protecting the Nation from Foreign Terrorist Entry into the United States" has a Disneyland flavour to it. It imposes a 120-day moratorium on the refugee settlement program; it cited the "entry of nationals of Syria" as "detrimental to the interests of the United States." Then came the seven banned countries.

With the banned list for travel coming into effect, travel chaos ensued. Trump proved oblivious. "It's working out very nicely," asserted a blithe president on Saturday. "You see it at the airports, you see it all over." True, things were being seen at airports, but they were not in the manner Trump assumed.

The actions to enforce the executive order saw a spike in judicial orders dealing with stranded passengers caught mid-flight, affecting between a hundred to two hundred individuals across US airports. Ever the entertainment fiend, Trump shows a lack of awareness on the division between policy and publicity, legislation and entertainment. But pure gruesome entertainment it was, a vast cinematic set of lawyers, petitioners, officials and tears.

The American Civil Liberties Union, for one, was determined to make sure that the smoothness of Trump's plans would be roughed. On Saturday, the organisation, along with Hameed Khalid Darweesh and Haider Sameer Abdulkhaleq Alshawi, filed a petition for writ of habeas corpus and complaint for declaratory and injunctive relief.[1]

Darweesh had been granted a Special Immigrant Visa on January 20, an outcome due to his

services to the US as a contractor, engineer and interpreter. Alshawi received a Follow to Join Visa on January 11 to reunited with his wife and son, both of whom had been granted refugee status due to family links with the US military.

According to the ACLU, the executive order had been unlawfully applied to the petitioners in detaining them, a violation of the Fifth Amendment procedural and substantive due process rights.

Federal Judge Ann Donnelly of the federal district court in Brooklyn brought Trump officials back to earth, issuing an emergency nationwide ruling preventing the removal from the US of individuals whose refugee applications and visas had been approved along with “other individuals... legally authorised to enter the United States.” Returning the petitioners to their country of origin would cause them “irreparable harm”.

In the judge’s words of understatement, “I think the government hasn’t had a full chance to think about this.” Even one of the government lawyers conceded that matters had “unfolded with such speed, that we haven’t had time to review the legal situation yet.”[2] Indeed: a brief acquaintance with the cases of Darweesh and Alshawi would hardly suggest these petitioners to be remote security risks – quite the contrary.

US District Judge Thomas Zilly in Seattle added his name to the obstructionist list, issuing an emergency stay of removal regarding two people from Sea-Tac airport, scheduling a hearing for February 3 “to determine whether to lift the stay.” For Gov. Jay Inslee, the action of detention was one of “manifest and unjustifiable cruelty”.[3]

On the other side of the US, District Judge Allison D. Burroughs and Magistrate Judge Judith Gail Dein decided that two professors at the University of Massachusetts, both Iranian nationals, should be released from detention at Logan International Airport.[4] The pertinent point there was the ruling’s application to green card holders.

In Virginia, federal court judge Leonie Brinkema added muscle to the effort, providing another layer of restraint against executive zeal. Her order staying the deportation of detainees being held at Dulles International Airport would only hold for seven days. Despite the judicial response, reports were coming out of individuals being “quietly and quickly... cuffed and shipped offsite to detention centres to circumvent the EDVA order”.[5]

The problem with Trump’s executive orders have been their indifference to specifics. If Make America Great Again is a slogan with any sensibility, then punishing academic and professional engagements and forms of collaboration seems daft and self-defeating. Empty-headed parochialism is a poor substitute for variety.

Even leaving that rationale aside, this round of legal rulings constitute the sharply defiant hor d’oeuvres of what is to come: the main meal will feature feasts of legal rulings that will impair, and cripple, to a large extent, the travel restriction and immigration agenda of the Trump administration. The brakes on this nascent empire of rage and confusion are already being placed.

Dr. Binoy Kampmark was a Commonwealth Scholar at Selwyn College, Cambridge. He lectures at RMIT University, Melbourne. Email: bkampmark@gmail.com

Notes

[1]

<https://www.aclu.org/legal-document/darweesh-v-trump-petition-writ-habeas-corpus-and-complaint-declaratory-and-injunctive?redirect=legal-document/petition-writ-habeas-corpus-and-complaint-declaratory-and-injunctive-reliefpetition>

[2]

<https://www.theguardian.com/us-news/2017/jan/28/federal-judge-stays-deportations-trump-muslim-executive-order>

[3]

<http://www.washingtontimes.com/news/2017/jan/28/atty-1-somali-national-turned-away-at-seattle-airport/>

[4]

<http://www.newyorker.com/news/news-desk/in-boston-a-late-night-victory-against-trumps-immigration-ban>

[5] <https://twitter.com/AdamBlickstein/status/825837466213052416>

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