

Judicial Procedures against Trump's Immigration Executive Orders against Muslims

By [Dr. Amir A. Amirshकारी](#)

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On 9 March 2017, Douglas Chin, A federal judge in Hawaii, challenged the new executive order of President Donald Trump, dated 6 March 2017, in which he blocked citizens of six predominantly Muslim countries from entering the United States.

Attorneys for the state have prepared a new request on 7 March asking a federal judge to suspend the new presidential order. Douglas Chin has stated that sections 2 and 6 of Trump's executive order were contrary to the constitution and the laws of the US, and the president, issuing the order, has exceeded his authority.

Apparently, the reason of the issuance of the order, as has been explicated in section one thereof, is to protect the US from the terrorist attacks by foreign nationals.

Before the issuance of the new order, Trump had also issued, on 27 January 2017, executive order 13769 according to which he imposed an immigration ban on the citizens of seven Muslim-majority countries: Iran, Syria, Iraq, Yemen, Sudan, Libya, and Somalia.

In reaction to the executive order 13769 issued by president Donald Trump, District Judge James Robart of the United States District Court for Western District of Washington issued a ruling temporarily blocking major portions of the executive order. Although as a result of order 13769, and contrary to basic rules of human rights, hundreds of travellers entered into the US have been in detention for hours in the US international airports deprived from accessibility to their own families as well as from legal assistances, and more than 60,000 visas have temporary been annulled, it appears that president Donald Trump does not want to back down from his position.

Last time, although Trump administration tried to reverse Robart's ruling, the Court of Appeal rejected the request of the Justice Department unanimously on February 9. Therefore, Trump decided to plan a new executive order banning immigrants from six countries, excluding Iraq this time for her cooperation, as has been expressed in the order, with the US-led coalition to fight against ISIS. The new order has less limitations than the order 13769.

In 2011, Obama's state department suspended the processing of Iraqi refugee requests for six months. Also, according to H.R.158, Visa Waiver Program Improvement and Terrorist Travel Prevention Act of 2015, signed by Obama, the Visa Waver Program allows citizens from 38 countries to enter the US without a visa up to 90 days. Under the Program, citizens of those 38 countries who had travelled to Iran, Syria, Iraq, and Sudan after March 2011 were no longer eligible for the visa waver. Libya, Somalia, and Yemen were later added to

the list.

Although the Trump administration recurrently claims that their policy is similar to that of president Obama, it seems to be fallacious for two reasons: firstly, in 2011, there was a specific threat, and secondly, Obama's order was so much narrower in scope.

According to the section 2(c) of the new order, the entry of nationals of the above mentioned six Muslim-majority countries into the US is suspended for 90 days. It has been contended that the restrictions, as well as additional procedures, in the executive order have been taken to impede threats to the national security and welfare of the United States.

But According to a report published by Charles Kurzman, Department of Sociology, University of North Carolina, Chapel Hill (hereafter referred to as "the report"), on 26 January 2017, terrorism by Muslims constitutes one-third of one percent of all murders in the US.

Whereas the population of Muslims in the US is about 3.3 million people, according to the report, 46 Muslim-Americans were associated with violent extremism in 2016, which has been 40 percent drop from 2015. It should be noted that according to the report, 20 percent (9 of 46) of these individuals had family background for seven countries which was subject to the limitation of the order 13769. It is worth noting that whereas Iraq has been removed from the limitations, the percentage of those individuals is less than 20 percent at the moment. Of those 46, only 24 were actually implicated in a concrete terrorist plot. On the contrary, 11000 US nationals were murdered in gun homicide, in 2016, and Trump has never issued an order to limit that violence. Hence, statistic shows that the new executive order of the US president is discriminatory.

Therefore, it seems that the new executive order, although milder than executive order 13769 with regard to the limitations, is not different to the latter, and both of them are against fundamental human rights and democracy.

According to article 4(1) of International Covenant on Civil and Political Rights (ICCPR), of which the US also is one of the members,

"In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the States Parties to the present Covenant may take measures derogating from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law and do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin."

Although it is doubtful that the US is in time of public emergency, even if she was in such a situation, the order would be contrary to article 4(1) of ICCPR for its being political motivated and discriminatory against Muslim-majority countries.

Also, if the US has problems with the governments of those 6 countries, she has no logical base to create limitations against their nationals, the majority of them are not involved in politics.

It seems that once more the judiciary of the US will be exposed to another great trial. It

remains to be seen how far it can withstand against Mr Trump's support for his recurrent immigration bans, this time on the citizens of six Muslim-majority countries.

Amir Abbas Amirshkari, PhD in International Law (University of Tehran, Iran), Advocate (Iran Bar Association)

a_amir_shekari@hotmail.com

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