

**“MY FAMILY WAS IN SHOCK” :**

**THE HARM CAUSED BY PRESIDENT  
TRUMP’S EXECUTIVE ORDERS ON  
TRAVEL TO THE US**



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**CLEAR (Creating Law Enforcement Accountability & Responsibility) is a project of Main Street Legal Services, Inc., the clinical arm of CUNY School of Law.**

**CLEAR serves Arab, Muslim, South Asian and any other communities that are disparately affected by post-9/11 law enforcement policies and practices deployed in the name of security.**

**CLEAR**

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# SUMMARY

US President Donald Trump had been in office for exactly a week when he issued an executive order barring the entry of people from seven Muslim-majority countries and slamming the door on refugees. Together with the promised wall along the US/Mexico border, the “Muslim ban” was one of his campaign’s signature issues, and his precipitous action on the topic fulfilled a major campaign pledge. And when the courts halted his first executive order, his administration pushed out a second order with largely the same provisions, which, in turn, was promptly blocked by litigation.

Motivated by anti-Muslim animus, and disproportionately impacting Muslims, both executive orders violate the principle of non-discrimination, codified in treaties binding upon the United States. They evince a view of immigrants and other non-citizens that is intolerant, bigoted, and offensive.

The first executive order was only in effect for a week before it was blocked on a nationwide basis by a federal court in Seattle, a ruling that was upheld on appeal. Even during that brief period, however, the order succeeded in wreaking havoc on people’s lives. As this briefing describes, the order separated families, disrupted people’s most carefully laid plans, and caused enormous emotional anguish.

A fear that his family would be permanently barred from the United States because of their Yemeni citizenship led Baraa H. (not his real name) and his wife to leave their baby daughter in Malaysia, in the care of friends. “It was a very cruel choice,” Baraa said, but one that he felt was forced upon him.

A Sudanese doctor doing post-graduate training in internal medicine was separated from his wife and 4-month-old baby in Dubai, where he feared they might be stuck for months. “It was a big ordeal for both of us,” he said. “We didn’t know what the end result would be.”

A Pakistani research scholar whose Iranian wife was caught up in the ban, and was barred from boarding two flights, recalled the experience as “maybe the most stressful week in my life.”

A Syrian woman who was prevented from traveling to the United States emphasized the hurt and anxiety caused by the executive order. She said that because the courts acted quickly, the concrete impact of the order was small, at least for her: just the inconvenience of changing plans and rebooking flights. “What was much bigger,” she explained, “was the emotional turmoil. It makes you feel that no matter who you really are, what you achieve, you’re always going to be labeled something negative.”

Even people who have lived in the United States for decades were shaken. A US citizen of Iranian descent, who came to live in the United States at age 8, said the executive order hit her very hard. “It was heartbreaking,” she said, as her voice choked up. “Overnight I went from feeling American to feeling like an invader in my own country.”

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She explained: “I felt like my country didn’t want me. I felt like if they could take away my citizenship they would.”

Besides documenting the harms caused by the first executive order during the relatively brief period in which it was in effect, this briefing paper describes the situations of people who are still awaiting US visas, some of whom could be irreparably harmed if the US courts were to rule that the second executive order is constitutional.

An Iranian transsexual who has been waiting two years for resettlement as a refugee to the United States lives in a situation of harassment and abuse. “I cannot stand it anymore like this,” she said. “I just want to live in a safe place that accepts my condition.”

People whose family members are trapped in conflict zones are especially concerned that if the executive order is upheld by the courts, it will bar their relatives from finding refuge in the United States. “I am scared about their safety,” a Yemeni man said of his wife and 4-year-old daughter, who live in the city of Ibb, in central Yemen. “There’s a war in Yemen. We hear the rebels fighting near our house. Projectiles from the fighting hit near our house. [It’s] terror, really.”

This briefing paper is a joint initiative of Amnesty International and the CLEAR project (Creating Law Enforcement Accountability & Responsibility) at CUNY School of Law. CLEAR law students and attorneys provided legal advice to numerous immigrants and refugees who were stranded abroad or detained at US airports when the first Muslim ban order was in effect. Its staff referred some of these people for interviews by Amnesty International, and provided information and analysis about the impact of the ban.

Amnesty International researchers interviewed a total of 38 people affected by the Trump administration executive orders, including citizens of Iran, Iraq, Libya, Somalia, Sudan, Syria, and Yemen. Many of the people who were interviewed asked that their testimony be kept anonymous, out of concern that speaking out publicly could have adverse ramifications for their immigration status, including, in some cases, their pending visa applications. As one refugee explained, “where I come from, we have a fear of fighting against the government. There can be serious consequences for doing this.”<sup>1</sup>

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<sup>1</sup> Telephone interview, 6 April 2017.

<sup>2</sup> Executive Order 13769, Protecting the Nation from Foreign Terrorist Entry

# 1. BACKGROUND

President Trump's original executive order, signed on 27 January 2017, barred the entry of nationals of seven majority-Muslim countries (Iran, Iraq, Libya, Somalia, Sudan, Syria, and Yemen) for at least 90 days; suspended the refugee resettlement program for 120 days; cut the total number of refugees admitted for resettlement to 50,000 in fiscal year 2017, and imposed an indefinite ban on Syrian refugees.<sup>2</sup> It also said that upon the resumption of the refugee resettlement program, people who made claims of religious-based persecution would receive priority for resettlement, so long as their religion was a minority religion in their home country (for example, Christians fleeing Iraq).<sup>3</sup> Evidencing the administration's worrying longer-term strategy, the order also provided for the future issuance of a presidential proclamation that would ban, on an indefinite basis, the entry of nationals from a list of countries still to be determined.<sup>4</sup>

The order was titled "Protecting the Nation from Foreign Terrorist Entry into the United States" and it purported to justify these restrictive measures by the need to prevent "terrorist or criminal infiltration by foreign nationals."<sup>5</sup> This rationale disregarded the fact that the empirical evidence shows no causal link in the United States between the targeted groups and terrorist activity.

The 27 January executive order was issued with no meaningful notice or advance warning, leading to chaos at US airports as immigrants and visitors, including US permanent residents, were detained, questioned, and in some cases forced to return to their countries of origin. Immigration officials denied entry to at least 141 people

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<sup>2</sup> Executive Order 13769, Protecting the Nation from Foreign Terrorist Entry into the United States, 27 January 2017.

<sup>3</sup> Executive Order 13769, sec 5(b). In an interview with Christian Broadcast News, President Trump candidly admitted that the provision was intended to give priority to Christians seeking asylum over Muslims. David Brody, "Brody File Exclusive: President Trump Says Persecuted Christians Will Be Given Priority As Refugees," CBN News, 27 January 2017.

<sup>4</sup> Executive Order 13769, sec. 3(e). The proclamation would cover countries that do not provide information requested under so-called "enhanced vetting" procedures, to be established by the Secretary of Homeland Security, in consultation with other agencies. In addition, the order provided that once the refugee admissions program restarted, it might cover a narrower range of countries, and would also include additional procedures. Executive Order 13769, sec 5(a).

<sup>5</sup> Executive Order 13769, sec. 1.

during the week after the order was issued, according to a document filed in US federal court.<sup>6</sup>

The order prompted widespread protests and numerous court challenges. Over a dozen lawsuits were brought in federal courts around the country, and several district courts issued orders blocking or limiting aspects of the travel ban.<sup>7</sup> On 3 February, a federal court in Seattle blocked the order's implementation entirely, issuing a temporary restraining order with nationwide scope.<sup>8</sup>

The second executive order, which superseded the first, was made public on 6 March 2017 and was meant to enter into effect ten days later. It modified the earlier order's provisions to a limited extent, and was clearly designed to address some of the constitutional vulnerabilities identified in the pending litigation.<sup>9</sup> Yet the core elements of the first order remained. Like the original order, the March order suspended the US's refugee resettlement program and imposed a temporary ban on the entry into the United States of citizens of several majority-Muslim countries.<sup>10</sup> Instead of seven countries, the second order covered only six, however, omitting Iraq.

## 2. DOMESTIC LITIGATION

The March executive order is facing several concurrent legal challenges that are based on the US Constitution's Establishment Clause, among other provisions. As US courts have long held, "[t]he clearest command of the Establishment Clause is that one religious denomination cannot be officially preferred over another."<sup>11</sup> The obvious animus toward Muslims embodied in the executive order violates this prohibition.

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<sup>6</sup> Michael Birnbaum and Lena H. Sun, "DHS Secretary: Trump administration considering 'more streamlined' version of travel ban," Washington Post, 19 February 2017.

<sup>7</sup> See, for example, Scott J. Croteau, "Boston federal judges also block President Donald Trump's immigration order," Mass Live, 29 January 2017.

<sup>8</sup> Nicholas Kulish, Caitlin Dickerson and Charlie Savage, "Court Temporarily Blocks Trump's Travel Ban, and Airlines Are Told to Allow Passengers," New York Times, 3 February 2017.

<sup>9</sup> Notably, the order explicitly exempts lawful permanent residents (known as green card holders) and current visa holders, and was to have been rolled out in a delayed fashion, so as not to affect people who were in transit or in US airports at the time of its issuance.

<sup>10</sup> Executive Order 13780, Protecting The Nation From Foreign Terrorist Entry Into The United States, 6 March 2017.

<sup>11</sup> *Larson v. Valente*, 456 U.S. 228, 244 (1982).

The first such case was brought by the state of Hawaii and a Muslim resident of the state the day after the order was unveiled.<sup>12</sup> After a hearing on 15 March, the US district court for Hawaii issued a nationwide restraining order against both the six-country travel ban and the suspension of the refugee admissions program. In a scathing opinion, the court found that the plaintiffs were likely to prevail on the merits of their Establishment Clause claim, given the evidence that the executive order was issued “with a purpose to disfavor a particular religion, in spite of its stated, religiously-neutral purpose.”<sup>13</sup> A US district court in Maryland issued a similar order the next day, and the administration immediately announced it would appeal both rulings.<sup>14</sup>

Those two cases have now reached the appellate level, with oral argument scheduled in the Fourth Circuit and the Ninth Circuit on 8 May and 15 May, respectively. In an unusual move that underscores the importance of this appeal, the Fourth Circuit decided to hear the case en banc, meaning that 13 judges on the court will hear it, rather than the usual three.<sup>15</sup>

Because of the executive’s traditionally broad authority in the area of immigration law, the outcome of these legal challenges is far from assured. However the appellate courts rule, it is very likely that the order’s constitutionality will ultimately be decided by the US Supreme Court. As this briefing suggests, a ruling in the government’s favor would cause tremendous harm to Muslim and refugee communities both inside and outside the US.

## 3. INTERNATIONAL HUMAN RIGHTS LAW

The power to determine who may enter a state’s territory is considered one of the core attributes of state sovereignty, and states traditionally enjoy broad discretion in crafting their immigration rules.<sup>16</sup> However, a state’s power to regulate and

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<sup>12</sup> Alexander Burns, “Hawaii Sues to Block Trump Travel Ban; First Challenge to Order,” *New York Times*, 8 March 2017.

<sup>13</sup> *State of Hawaii v. Trump*, CV. NO. 17-00050 DKW-KSC, Order Granting Motion for Temporary Restraining Order (15 March 2017).

<sup>14</sup> Laura Jarrett, “Trump admin to appeal travel ban rulings ‘soon,’” *CNN*, 16 March 2017.

<sup>15</sup> US appellate courts sometimes decide to hold en banc rehearings of important cases after the cases have been previously decided by a three-judge panel, but it is extraordinary for a case to be heard en banc in the first instance.

<sup>16</sup> See, for example, Ian Brownlie, *Principles of Public International Law* (1990), p. 519. The US Supreme Court has consistently emphasized the state’s power in this area. “The exclusion of aliens is a fundamental act of sovereignty ... inherent in the executive power,” the Court explained in 1950. *United States ex rel. Knauff v. Shaughnessy*, 338 U.S. 537, 542 (1950).

restrict immigration is constrained by human rights and refugee protection law.<sup>17</sup> In particular, differences in treatment between different categories of non-citizens can only be justified under international human rights law if they are necessary to achieve a legitimate objective, including, among others, the protection of national security.<sup>18</sup>

The strongest legal argument against the US travel ban order is that it discriminates on the basis of religion. It is unquestionable, first of all, that the 6 March order's temporary ban on the entry of citizens from six majority-Muslim countries has a disparate impact on Muslims, as the vast majority of people who would be affected by the ban are Muslim. Indeed, Muslims constitute more than 90 percent of the population of all the countries covered by the travel ban.<sup>19</sup>

Besides the order's impact, the intent behind it is also relevant to assessing its consistency with human rights law. Trump's notorious anti-Muslim positions when he was running for president provide ample grounds for concluding that the order was motivated by anti-Muslim animus. On 7 December 2015, in the clearest precursor to the current executive orders, the Trump campaign announced an initiative aimed at "preventing Muslim immigration" that called for "a total and complete shutdown of Muslims entering the United States."<sup>20</sup> Moreover, Trump's repeated references to Muslims as a "problem"—both orally and in tweets—evidence an Islamophobic bias.<sup>21</sup>

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<sup>17</sup> Notably, in its General Comment on the position of aliens, the UN Human Rights Committee affirmed that "it is in principle a matter for the State to decide who it will admit to its territory." It emphasized, nonetheless, that non-citizens are protected by international legal prohibitions on discrimination, even in relation to entry or residence within a foreign state. CCPR General Comment No. 15: The Position of Aliens Under the Covenant Adopted at the Twenty-seventh session of the Human Rights Committee, on 11 April 1986; International Covenant on Civil and Political Rights (ICCPR), articles 2 and 26.

The nondiscrimination provisions of the ICCPR are also reflected in customary international law norms that are binding on the United States. See, for example, Hurst Hannum, *The Status of the Universal Declaration of Human Rights in National and International Law*, Georgia Journal of International and Comparative Law, Vol. 25, pp. 340-42 (1995/1996) (concluding that the fundamental right of nondiscrimination with respect to human rights is guaranteed under customary international law).

<sup>18</sup> According to article 12 (3) of the ICCPR, restrictions on rights can only be justified if they "are provided by law, are necessary to protect national security, public order (ordre public), public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant."

<sup>19</sup> The following are the approximate percentages of the populations of each country that are Muslim: Iran, 99.4 percent; Libya, 96.6 percent; Somalia, 98.5 percent; Sudan, 97 percent; Syria, 92.2 percent, and Yemen, 99.1 percent. Pew Research Center, *Mapping the Global Muslim Population*, October 2009, pp. 28-31; UN Development Program (UNDP), *About Sudan*. Iraq, whose citizens were covered in the first executive order, is 99 percent Muslim.

<sup>20</sup> Donald J. Trump Statement on Preventing Muslim Immigration, 7 December 2015. (The statement was removed from Trump's campaign web site immediately before the US Court of Appeals for the Fourth Circuit held oral argument in the travel ban case.) And on 28 January 2017, just after Trump took office, his campaign web site posted a summary of an editorial that declared that Trump was doing "'exactly' what he promised" during his campaign.

<sup>21</sup> On 10 December 2015, Trump posted three tweets referring to Muslims. Two of them spoke of the UK's "Muslim problem," and the third claimed that more British Muslims had joined ISIS than had joined the British army. Similarly, on 22 March 2016, Trump told a Fox News commentator, "Frankly, we're having

By targeting countries rather than Muslims per se, President Trump may have believed that his proposal would be easier for the public (and the courts) to accept, a subterfuge that he effectively admitted in a July 2016 interview with NBC's Meet the Press. Asked whether he was backing off from his position on Muslims, he responded: "I don't think so .... People were so upset when I used the word Muslim. Oh, you can't use the word Muslim. Remember this. And I'm OK with that, because I'm talking territory instead of Muslim."<sup>22</sup> Notably, after the first executive order was issued, President Trump's long-time adviser Rudolph Giuliani told the press that Trump had consulted with him regarding how to institute a Muslim ban "legally."<sup>23</sup>

An executive order that is intended to discriminate against Muslims, and that has the effect of disadvantaging Muslims, is unjustifiable under international human rights law. There is no valid national security rationale for anti-Muslim discrimination, and no evidence has been adduced to show that restricting the entry of Muslims to the United States is necessary to protect US national security.

## 4. CASE STUDIES

The following are case studies of people who were negatively affected by the first travel ban order, as well as of people who are likely to be impacted if the second order is ever allowed to enter into force. Their accounts show how, during the brief period that the first travel ban order was implemented, it played havoc with people's lives, and how, if the second order were upheld by the courts, it too would cause enormous harm.

The names of some of these people, and certain potentially identifying details, have been withheld at their request for reasons of protection.

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problems with the Muslims. Mark Hensch and Jeff Byrnes, "Trump: 'Frankly, we're having problems with the Muslims,'" The Hill, 22 March 2016.

<sup>22</sup> Jenna Johnson, "Donald Trump is expanding his Muslim ban, not rolling it back," Washington Post, 24 July 2016.

<sup>23</sup> Amy B. Wang, "Trump asked for a 'Muslim ban,' Giuliani says – and ordered a commission to do it 'legally,'" Washington Post, 29 January 2017. Trump and his advisers may have had in mind a precedent from the era of President George W. Bush known as the National Security Entry-Exit Registration System (NSEERS). NSEERS was a program for registering non-citizen visa-holding males from a broad range of majority-Muslim countries, plus North Korea. Established a year after the September 11 attacks, its rationale was fighting terrorism. Considered a failure, the program was suspended in 2011 and finally ended in 2016. See Nadeem Muaddi, "The Bush-era Muslim registry failed. Yet the US could be trying it again," CNN, 22 December 2016.

"MY FAMILY WAS IN SHOCK"

## BABY DAUGHTER LEFT BEHIND

US-Yemeni dual national Baraa H. (not his real name), his wife, and their eldest daughter flew to the US in February, leaving their baby daughter in the care of friends in Malaysia. Their decision to travel without their daughter was a wrenching one, taken out of a sense of desperation.

“I would have never left my daughter behind in Malaysia and flown back [to the States] if it weren’t for the decision by the President. Nothing would have made me leave my daughter behind ... But [Trump’s executive order] really compelled us to do what we did,” Baraa told Amnesty International not long after the family arrived in the US.<sup>24</sup>

Having left Yemen several years ago to seek work abroad, Baraa settled in New York City, where he is employed as a salesman. In 2014, he became a naturalized US citizen and he sponsored his wife and first daughter, now a toddler, for visas to join him.

When his second daughter was born in late 2015, he filed an additional application to obtain a visa for her. Despite Baraa’s multiple discussions with US immigration officials regarding her case, the baby’s application remained separate from the rest of the family’s. His wife and eldest daughter received their visas in late 2016, but his youngest daughter did not.

In 2015 and 2016, as the conflict in Yemen worsened and civilians faced indiscriminate bombardment and ground attacks, life became ever more dangerous for Baraa’s wife and young daughters. When the unrest forced the US embassy in Yemen’s capital Sana’a to close, Baraa arranged, at great expense, for the family to travel to Malaysia where they could continue the visa application process.

He flew from New York to Kuala Lumpur to join them, and stayed there for 11 months while they awaited their visas.

“Because of the conditions in Yemen, I wanted to bring my wife and daughter here because they were living in [a city that was] one of the most affected areas during the war. I wanted them to be with me, but my primary concern was the war,” Baraa explained.

Then came the devastating news of Trump’s travel ban on 27 January of this year. When a US district court issued an order to temporarily block the executive order, Yemenis and others with valid US visas rushed to enter the country to avoid being barred again. With no updates on their baby’s visa, Baraa and his wife faced an impossible choice. They finally decided to fly to the US in early February and to leave their infant daughter behind.

“I had no choice but to leave my baby with a friend and his wife and go back [to the US] to bring in my wife and elder daughter, who had been approved. It was a very cruel choice, but what could I have done? I had no other choice. I couldn’t risk all of them losing their chance of getting in,” Baraa said.

In the weeks after the three family members arrived in the US, the pain of leaving the baby behind caused enormous emotional strain.

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<sup>24</sup> Telephone interview, 27 February 2017.

Baraa explained in late February: “[The baby] was breastfeeding when she was separated from her mother. I am telling you the mother is like a crazy person now; she does strange things. She blames me: she says this is my fault. You can imagine how she is missing her child. Even I am truly suffering: I feel torn inside that I left my baby.”

After a more than two-month separation, the family was finally granted an immigration interview for the baby in Malaysia in mid-April, and on 29 April Baraa was able to fly back to the US with his daughter in his arms.<sup>25</sup>

## **AN EXHAUSTING, CHAOTIC AND EMOTIONALLY PAINFUL END TO A 14-YEAR WAIT**

Yasmin F. (not her real name) came to the US from Iran about 35 years ago and is now a US citizen. Fourteen years ago she applied for US permanent resident (green card) status for her brother and two sisters, who were living in Tehran.<sup>26</sup> The efforts of her family members to immigrate were eventually met with success, but only after the first travel ban order caused them a good deal of anguish and stress.

Even before the current rules were in place, the immigration process was long and arduous. About two years ago, the siblings’ names reached the top of the waiting list for immigrant visas. Then a complex bureaucratic process ensued, in which they had to provide tax returns, police records, medical records, copies of birth certificates, and proof of work history, and pay thousands of dollars in costs and fees.

They were interviewed for their US visas in September 2016. All of the family members were soon informed that they qualified for green cards, except for the husband of one of the sisters, for whom the US authorities required an additional background check.

Under the terms of the visas, they were supposed to travel to the US within six months. Yasmin’s brother came immediately, but the two sisters’ lives were more complicated: they had to sell their homes and settle their children’s schooling. Their plan was to come to the US in March 2017, just before the travel period expired.

Five family members planned to travel to the US together: one sister and her husband, and the other sister and her two children. When the family heard rumors that a restrictive executive order was about to be issued, they moved up their planned travel date, but ended up getting tickets for flights that left the day after the order was released.

The family went to the airport that day and was barred from boarding the plane. Yasmin recalled: “Imagine, they’re at the airport with their baggage—a huge amount of baggage—five people, 15 bags, everyone depressed. I can’t even describe how they felt.”

That was their first attempt to come. They tried again after a federal court in Boston issued a ruling that temporarily blocked the executive order’s application to passengers on flights landing at

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<sup>25</sup> Telephone interview, 3 May 2017.

<sup>26</sup> Telephone interview, 4 April 2017.

Boston's Logan Airport. The family went to the airport in Tehran, got boarding passes, but were barred from boarding the plane 30 minutes prior to the flight's departure. "It was a nightmare," said Yasmin, who was in contact with her relatives by phone. "The kids were crying. My sisters didn't know what to do. They started thinking they would have to stay in Iran and buy back all of their stuff."

Several days later, the federal court in Seattle ordered a nationwide suspension of the travel ban. This time, the five family members were able to get on a flight and come to the US.

The family's ordeal is far from over, however, as other family members are still hoping to come to the US, and fear the future impact of the travel ban order. The sister who came with her husband also has two sons, ages 22 and 30, who want to immigrate. Yasmin applied for visas for both of them 14 years ago, but by the time the visas became available her nephews were over 21 and not eligible. Now her sister has to apply on their behalf, a process that will take years.

Yasmin's father, age 82, is also awaiting a visa.

Yasmin said that the travel ban order was a looming negative presence in their lives. As she explained: "The executive order impacts all of us. Even as a citizen, I'm wary of traveling; I'm afraid of having problems at the airport."

## **NEWLY-MARRIED COUPLE IN LIMBO**

Raha N. (not her real name), an Iranian citizen, and Robert S. (not his real name), a US citizen, got married in Turkey in August 2016. Their plan was for Raha to immigrate to the US as soon as possible. But, as Robert emphasized when he spoke to Amnesty International in March, the January executive order put the couple's future "in limbo, basically."<sup>27</sup>

Robert is currently a graduate student in Georgia, his home state, and Raha is a researcher at a genetics lab in Iran. They met via Raha's sister and brother-in-law, whom Robert knows well.

Although Robert began the process of trying to obtain an immigrant visa for Raha as soon as he returned to the US from Turkey, he is afraid that if the US executive order is upheld by the courts, his wife could be kept out of the US indefinitely. What worries him most is the possibility, referenced in both executive orders and mentioned in comments by Trump administration officials, that certain countries will be subject to a permanent ban, and that Iran could be among those countries.

"Obviously this is very difficult for both of us," he said. "We came into this whole process knowing that we would be separated for a time, and that was difficult, when I asked her to marry me; that was something that was on my mind. It was on both of our minds at the time. And we knew that we would be separated, that we would have to wait before we could be together for real. The thing about it is that we knew [it could be] 8 months—6 months maybe if we were super

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<sup>27</sup> Skype interview, 13 March 2017.

lucky—maybe 10 months if we were unlucky, but this situation has thrown us into limbo. We don't know.”

Raha echoed Robert's sense of disquiet. “We don't exactly know our future now .... We talked about having children, but I don't want to have children when we can't live together.”

The search for a way to end their separation has preoccupied both of them. They have considered moving to a third country, but Robert has another year before he will obtain his degree, and it is not clear what work opportunities their educational backgrounds will bring them abroad.

“I have spent hours and hours researching what our options might be,” Robert explained. “I have written more letters than I can count and made more phone calls than I can count trying to get various people to go to bat, so to speak, on our behalf .... it's because this is the most important thing to me in the entire world.”

## DEMOCRACY ACTIVIST WORRIED ABOUT THE FUTURE

Iranian activist and journalist Saman Z. (not his real name) was compelled to flee his country in 2013. He had been arrested and tortured for his political activities several times in previous years, starting in 2006.

“I was tortured and witnessed others also being tortured,” he said, “and there were three people who died during torture. When I came out, I started talking about it although I was not supposed to, but I was outspoken.”<sup>28</sup> He said that he and his wife finally had to leave the country when they began receiving death threats.

His case was taken up in December 2015 by the UN refugee agency, UNHCR, which recognized him as a refugee, and in February 2016 he was informed that he would be resettled in the US. In mid-2016 he was interviewed as part of the resettlement process, and in October 2016 he was informed that the US Department of Homeland Security was carrying out his background checks.

President Trump's decision in January 2017 to issue the travel ban order came as an enormous blow. “When we heard the news about the ban, we were deeply saddened. All the hopes that we would be moving to a country where we would actually be recognized as having rights, that's all gone. There's also the sense of really not knowing what's going to happen and not being able to make any plans, or knowing what the next step is.”

After the travel ban order was blocked by the federal courts, Saman's application appeared to move forward. Saman and his wife are currently waiting to receive final clearance to fly to the US, which he expects to get within the next couple of months.<sup>29</sup> An appellate court ruling to reinstitute the ban, however, would derail his life once again.

Saman expressed frustration with the way that the executive order instituted sweeping rules based solely on a person's country of

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<sup>28</sup> Skype interview, 15 March 2017.

<sup>29</sup> Skype interview, 3 May 2017.

citizenship, rather than individual circumstances: “The reason I left Iran is because I am in conflict with that government, but I am being treated as if I am part of that government .... The ban is supposed to be about security; I am running away for my security, too.”

## TWO TEENAGE BROTHERS STRANDED IN DJIBOUTI

In April 2015, Hauwd Al-Ashraf, a neighbourhood of Ta’iz, Yemen, was the site of intense fighting. As shells fell around their house, Rami and Omar, then aged 16 and 18, took shelter beneath the stairs. They stayed there for three days eating stale bread and drinking a dwindling supply of water. As dawn broke on the fourth day they made a run for it, dodging gunfire.

“Bullets were hitting close to their feet as they ran,” Fatima C. (not her real name), their mother, recounted. “Luckily they were not injured.”<sup>30</sup>

A US permanent resident who lives in New York City, Fatima has one abiding dream: that her sons will be able to join her there. In November 2016, nearly two years after the brothers had applied to come to the United States, they had an interview at the US embassy in Djibouti, the country in which they are currently stranded.<sup>31</sup> The interview went well and they were hopeful that their long wait to be reunited with their mother would soon end. But the travel ban has added another enormous source of anxiety to their already difficult lives. As all of the family members wait impatiently for the administrative processing of the boys’ visa applications to be concluded, they have to worry about whether the travel ban order will, at some point, be upheld by the US courts.

Fatima, a former Fulbright Scholar with a master’s degree in medical health physics from a state university, is extremely worried about her sons’ situation in Djibouti, and is running up debts in order to send them money. Life for Rami and Omar, unemployed and struggling, is hard.

“My sons are feeling absolutely helpless and lost. They’re in an absolute state of loss—no education, no jobs, no stability whatsoever,” Fatima said. “They eat one meal a day only ... The eldest boy has irritable bowel syndrome and he’s constantly in pain; the other one is unable to sleep.”

“These decisions made by President Trump have left us in a state of constant fear,” added Fatima. “We feel like suspects even though we’ve never done anything wrong in our lives.”

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<sup>30</sup> Telephone interview, 27 February 2017.

<sup>31</sup> Unfortunately, the brothers’ experience is all too common. Beginning long before the Trump administration, many people in similar situations, hailing from Yemen and other Muslim-majority countries, have faced inordinately long processing delays on applications for various US immigration benefits both in the United States and abroad.

## TRANSSEXUAL SEEKING SAFETY

Nadia A. (not her real name) is an Iranian transsexual who is living outside of her home country while awaiting resettlement to the United States. She has faced abuse because of her gender identity both in Iran and in the country in which she is temporarily residing.

“My life in Iran was like hell,” she recalled.<sup>32</sup> She said that she suffered rape and severe harassment there, and was ostracized by her family, who felt ashamed of her. Not only did her family refuse to accept her gender identity, members of her family, including her father, beat her many times. “Really, they wanted to kill me,” she said. “They didn’t accept me.”

“I love my family,” she said, “but they don’t want me, unfortunately.”

Nadia left her country over two years ago to try to find a safe place to live. She applied to the US for resettlement as a refugee in approximately April 2015. She said that she was willing to go to any country in which she would be protected. “To be in the US, Canada, Australia, or a European country; it doesn’t matter to me.”

In early 2017, after she had been interviewed by a resettlement agency, she learned that the US would be granting her refugee status. She was preparing to travel to San Francisco, which she had heard had a strong LGBT community. The last step in the process was her medical examination, but before that could take place the 27 January executive order was issued. When she called the resettlement agency to find out what was happening, she learned that she would need to wait at least 120 more days before she could come to the US. Since then, despite US court rulings that blocked the impact of the order, she has not received any positive news regarding her long-awaited move to the US.<sup>33</sup>

“Really I don’t know what to do,” she said the last time she spoke to Amnesty International. “I am always crying because of this awful situation, and unfortunately there is no help.”<sup>34</sup>

## HUSBAND AND WIFE SEPARATED

“As much as he loves me and I love him, there is a lot of uncertainty. It is really very hard and very painful,” Rabyaah Althaibani told Amnesty International, describing being separated from her husband Basheer Othman.<sup>35</sup> Basheer, a prominent liberal journalist in Yemen, had to flee the country for his own safety, and is now stranded in Malaysia.

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<sup>32</sup> Skype interview, 9 March 2017.

<sup>33</sup> Despite court orders suspending the implementation of President Trump’s executive orders, the US Department of Homeland Security has reportedly not resumed processing applications of refugees overseas. Tens of thousands of refugees are now stuck in limbo, waiting for this stalled process to restart. Karoun Demirjian and Abigail Hauslohner, “‘Refugee processing has ground to a halt’: A group of senators wants to know why,” Washington Post, 4 May 2017.

<sup>34</sup> Skype interview, 3 May 2017.

<sup>35</sup> Interview, Brooklyn, NY, 26 February 2017; telephone interview, 3 March 2017.

Rabyaah is an American citizen who has lived in the United States for more than 30 years, and who met Basheer in 2010 when she was visiting Yemen for three months. The two of them got to know each other while collaborating on setting up a network of writers and activists during the 2011 uprising against Yemeni president Ali Abdullah Saleh. Over the following year, she and Basheer gradually fell in love, finally deciding to marry. “I was going to go to Yemen in September 2015 [for the wedding] but the situation was becoming really dangerous for him,” she says. “There were a lot of other journalists who were either missing or put in jail ... A month before he left, his friend was shot in the leg in Sanaa in front of everybody.”

The couple decided to marry in India instead of Yemen. With the airports in Yemen shut down, Rabyaah says that Basheer had to “kind of smuggle himself” out of the country, narrowly escaping armed clashes and Saudi airstrikes before getting passage on a boat from Aden to Djibouti. From there he made it to Goa, where he and Rabyaah were married.

Back in New York, Rabyaah applied for an immigrant visa for Basheer in March 2016. When President Trump’s travel ban was issued the following year, it was a discouraging blow. Rabyaah is especially concerned about the Yemeni government’s ability to assist in the vetting that is required by the executive order, which could mean that Yemenis could, in the future, face an indefinite ban. “We don’t even have a functioning government [in Yemen] ... Which government are they talking about? Hadi’s government in exile? Or the Houthis in the north?” she asked.

Rabyaah has been finding it hard to be separated from Basheer. “When I spoke to him recently I was so very sad,” she said. “He was also sad .... It’s a roller-coaster ride, very much a roller-coaster ride.”

“There’s a lot of uncertainty, so that really, as much as he loves me and I love him, it’s really very painful and hard,” she concluded.

## **FAMILY WITH A NEWBORN SEPARATED FOR A WEEK**

Suleiman (not his real name) is a doctor from Sudan. He and his wife, who is also Sudanese, came to the US in May 2015 on J1 and J2 visas; Suleiman was doing post-graduate training in internal medicine in Detroit.<sup>36</sup>

The couple had a baby in September 2016, and in early 2017 Suleiman’s wife brought the baby to Qatar to show members of her family, who live there. Three days before she was to return to the US, the travel ban order was issued.

“At first there was huge confusion,” Suleiman recalled.<sup>37</sup> The family got conflicting advice as to whether his wife would be able to travel, and so she even went to the airport one day, but was not

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<sup>36</sup> The J1 visa is for students and the J2 visa is for their dependents.

<sup>37</sup> Telephone interview, 6 April 2017.

allowed to board a flight. There were also worrying complications involving the baby's visa for Qatar.

"It was a big ordeal for both of us," Suleiman said. "We didn't know what the end result would be. It happened all of a sudden. It was really stressful. I took a week off work so that I could focus on trying to solve this problem. I couldn't do my job at the same time with all of the stress. I was really missing my daughter and my wife."

Finally, when the federal court in Seattle issued a nationwide order to stop the ban, his wife and daughter were able to travel. "The court order saved us," Suleiman explained. "Two or three days after the court order was issued the airlines said my wife could board the flight, even though she wasn't sure what would happen when she arrived in the US. Her flight was from Doha to Philadelphia, then to Detroit. I got help from immigration lawyers and others—I got lots of support during this ordeal—and I went with a lawyer and was waiting for them at the airport in Philadelphia. I met them when they landed."

Suleiman said that the experience left him and his wife feeling vulnerable. Although they previously had plans to visit Canada, the couple has now decided not to leave the US until Suleiman's training ends. "I wouldn't dare to leave now," he said. "I have only one year ahead of me, and I plan to stay here the whole time."

## **REFUGEE FAMILY TEMPORARILY SPLIT**

Roya N. (not her real name) is an Iraqi doctor who came to the US as a refugee in 2014 with her husband and two children; she and her family are now US permanent residents.

Roya's mother died in December 2016 and she and her children visited Iraq to pay their respects. A week before they were due to return to the US, the travel ban executive order was issued. Roya called the US embassy, the airlines, and others, trying to find out what was happening and what she should do. A week later, after switching airlines, she and her children were able to return home.

"I feel lucky that I was only affected for one week," she said. "Just to think that I might have been separated from my husband for 90 days, or maybe permanently, was terribly scary. My kids are in school; I was worried about what this would mean for them. All of those thoughts were overwhelming. It was very difficult to think about what might happen."

## **PHD STUDENT WORRIED ABOUT HER ELDERLY PARENTS**

Amina F. (not her real name), born in Sudan, is studying for her doctorate at a top-10 university. She has lived in the US for more than 20 years, and just recently became a US citizen, but at the time that the 27 January executive order was issued she was a US permanent resident.

She was in Sudan doing dissertation research when she heard that a travel ban was likely to be issued, and she tried to rush home. "I

"MY FAMILY WAS IN SHOCK"

didn't want to risk being stuck outside the country, and then potentially losing my opportunity to get citizenship," she explained. "So I got on the next plane back; my university bought me a ticket back, but I missed the connecting flight. I got in [to JFK airport in NYC] about 20 minutes after the order was signed, or after immigration officials found out the order was signed. So I was basically one of the first people to enter JFK under this order."<sup>38</sup>

Amina said that she was held for five hours and questioned about her work, her family, her education, and politics in Sudan. She was also subjected to a probing search of her body, though while fully clothed.

"I got handcuffed but quite briefly," she said, "[and] when I was handcuffed I started crying, not because of the handcuffs, but because I thought at that moment that I probably was going to get deported or detained or something like that."

At one point she asked for a lawyer, she said, and was told that a lawyer would not be able to help her because she was in "a kind of special jurisdiction." She was later allowed to make a phone call, and she contacted a university professor to try to find a lawyer. That professor in turn reached CLEAR, whose staff immediately intervened with US Customs and Border Protection at JFK to press for Amina's release. Not long after that, she was released, reportedly because she was a US permanent resident.

She recalled: "And I asked [the immigration official] if I could travel again, and he said unless I was willing to be subjected to this whole ordeal again, that he wouldn't travel if he were me, and he was like, 'If I were you, I'd stay put,' and that was it."

She continued: "I kind of bolted out of there because I was scared that they would change their minds. There was at some point a document that they wanted me to sign, from what I remember, but I didn't sign it because I was scared that it was something—I don't know—that I was going to be signing away my green card or something."

Amina has not traveled internationally since this experience, wanting to avoid further difficulties. Her most pressing concern, though, is that the travel ban might block the entry to the US of her elderly parents, whom she was planning to sponsor for a US visa this year. "My father is 80," she said with distress, "so waiting four years is not really an option for him."

## **SCHOLAR'S FAMILY STUCK OUTSIDE THE COUNTRY FOR A WEEK**

Hassan B. (not his real name), a research scholar at the Massachusetts Institute of Technology (MIT), has been in the US for over a year with his wife Darya on JI/J2 visas.<sup>39</sup> Darya, an Iranian citizen, was visiting Iran in January 2017 to show the couple's new baby to her family when the first executive order was issued.

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<sup>38</sup> Telephone interview, 4 April 2017.

<sup>39</sup> Telephone interview, 5 April 2017.

When the order was issued, Darya flew to Dubai to catch a flight back to the US, and Hassan flew to Dubai to meet her. They tried to board a plane on Sunday, two days after the order's issuance, and were denied boarding. When a federal district court in Massachusetts temporarily blocked the executive order, they tried again, and were again barred from getting on the plane. After much back and forth with three airlines, and losing \$1,800 on non-refundable tickets, the family was finally able to travel back to the US on 5 February because a federal district court in Seattle blocked the order on a nationwide basis.

Hassan spoke of the intense fear and anxiety he and his wife felt while stuck in Dubai. “[It was] maybe the most stressful week in my life,” he said.<sup>40</sup> “I was thinking of losing my job, if I should resign, my wife staying away, things like that.”

## **MARRIED COUPLE DELAYED FROM STARTING THEIR LIFE TOGETHER**

A naturalized US citizen who was born in Iran, Nasrin Noori came to the US as a child, grew up in Indiana, and later moved to Florida and then Georgia.<sup>41</sup> She met her husband Behnam, an Iranian citizen, when he was visiting the United States in 2015, and they applied for a marriage visa in October of that year.

Obtaining the visa entailed a complicated and expensive process, requiring numerous affidavits, photographic evidence, fingerprints, police reports, and more.<sup>42</sup> It took five months for the couple to establish the bona fides of their marriage, and another six months before they got an appointment for Behnam's visa. Finally, he was able to wrap up his old life in Iran and prepare for a new life in the US.

Behnam had planned to fly to Atlanta in mid-February, but the day after he booked his flight the executive order was issued, throwing the couple's plans into turmoil.

“The uncertainty was terrible,” Nasrin said. “We had already gotten through what we thought was extreme vetting. My husband had sold everything he owned; he had said his goodbyes, and suddenly everything was thrown up in the air. It's a terrible thing to have your life affected like that. It was needless. It caused needless misery and pain. It was incomprehensible.”

For a week the couple tried to figure out what to do. When the federal court rulings suspended the implementation of the travel ban, they decided to move Behnam's travel dates forward, and he reached the US on February 9. “I had prepped him for anything, including the possibility of being detained,” Nasrin said. “It was scary, but fortunately he had no problems.”

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<sup>40</sup> Telephone interview, 5 April 2017.

<sup>41</sup> Telephone interview, 9 April 2017.

<sup>42</sup> The process was typical of that faced by applicants from majority-Muslim countries.

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THE HARM CAUSED BY PRESIDENT TRUMP’S  
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