

In the name of protecting the United States from “bad guys”, President Donald Trump signed an executive order on January 27, 2017, which temporarily suspended the US Refugee Admissions Programme (USRAP), and specifically bars Syrian refugees until further notice. Unsurprisingly, this ban has caused outrage worldwide.

The United States’ obligation to shelter refugees is not just a moral duty, it’s a legal duty as well, since the US’s signing of the 1967 Protocol demands that it act in compliance with the United Nation’s 1951 *Convention and Protocol Relating to the Status of Refugees*. The tenets of the Convention are ensconced into US law via the United States Refugee Act of 1980 (Public Law 96-212), which is an amendment to the earlier Immigration and Nationality Act, and the Migration and Refugee Assistance Act, and was created to provide a permanent and systematic procedure for the admission to the United States of refugees of special humanitarian concern.

The Convention defines a refugee as “someone who is unable or unwilling to return to their country of origin owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion.” The 1967 Protocol amends the Convention by removing the spatio-temporal restrictions to its application, and parties to it assume the responsibilities of the 1951 Convention. Under the terms of the Convention, the U.S. cannot ban asylum seekers from certain countries, and it has the international law-ensconced requirement to abide by the principles of non-refoulement, an obligation that the US adheres to as well under the terms of the UN Convention Against Torture

(<http://www.ohchr.org/EN/ProfessionalInterest/Pages/CAT.aspx>). Under this convention there is an absolute duty not to return a person to a state where they may face torture or other serious persecution, and many if not most Syrian refugees fall under this category. President Trump’s executive order not only departs from the Refugee Convention, but it also parallels dark moments in history. It can be compared turning boats or Jewish Refugees away during Hitler’s Third Reich¹, or when the United States began interdicting Haitians in the 1980s². Furthermore, while President Trump’s actions are in part to fight against ISIS, his executive order may fuel their propaganda: portraying America as intolerant and jingoistic.

The Executive Order regarding refugees is illogical. Prior to the order, it was already extremely difficult to enter the United States as a refugee. Between 2013 and 2015, 210,000 refugees were accepted in the United States for resettlement, and only 1,823 of those were Syrian refugees. Refugees are the most vetted group to enter the United States. The resettlement process can take up to 36 months and involves screening by the Department of Homeland Security, the FBI, the Department of Defense, United States Customs and Border Protection, and the State Department and the National Counterterrorism Center / U.S. Intelligence Community. In addition, Syrians must complete the “Enhanced Syrian Review”, which creates extra review steps with intelligence agency officers who have particular expertise and training in conditions in Syria and the Middle East.³

The ban will not make America safer, and conflicts with American values of freedom, fairness, compassion, and the U.S.’s role as a humanitarian leader.

¹ <https://www.ushmm.org/wlc/en/article.php?ModuleId=10005267>

² <http://immigrationtounitedstates.org/536-haitian-boat-people.html>

³ https://www.nytimes.com/2016/01/24/magazine/why-is-it-so-difficult-for-syrian-refugees-to-get-into-the-us.html?_r=0

Despite the United State's failure to oblige by it international legal obligations, it's likely that little can be done in the enforcement realm. International refugee and international human rights laws rely heavily on the attempt to publicly shame or pressure a nation to comply with its international legal obligations. This can be impactful on some smaller states, but for a nation as big and powerful can easily set aside its international duties without much repercussion from the international community.