

UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF NEW YORK

HAMEED KHALID DARWEESH, et al.,

on behalf of themselves and others similarly  
situated,

*Petitioners,*

v.

DONALD TRUMP, President of the United  
States, et al.,

*Respondents.*

Case No. 1:17-cv-00480 (CBA)

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**PLAINTIFFS' OPPOSITION TO THE MOTION TO DISMISS AND REPLY**  
**REGARDING PRELIMINARY INJUNCTION**

Michael J. Wishnie (MW 1952)  
Muneer I. Ahmad<sup>†</sup>  
Elora Mukherjee (EM 4011)  
Marisol Orihuela<sup>†</sup>  
JEROME N. FRANK LEGAL SERVICES  
ORGANIZATION<sup>\*</sup>  
YALE LAW SCHOOL<sup>‡</sup>  
P.O. Box 209090  
New Haven, CT 06520-9090  
Phone: (203) 432-4800  
Fax: (203) 432-1426  
michael.wishnie@yale.edu

Lee Gelernt (LG-8511)  
Omar C. Jadwat (OJ-7025)  
Cecillia D. Wang (CW-8359)  
Andre I. Segura<sup>†</sup>  
AMERICAN CIVIL LIBERTIES  
UNION FOUNDATION  
125 Broad Street, 18th Floor  
New York, NY 10004  
Tel. (212) 549-2600  
lgelernt@aclu.org  
ojadwat@aclu.org  
cwang@aclu.org  
asegura@aclu.org

*Counsel for Petitioners*  
*Additional Counsel Appear on next page*

Mark Doss  
Rebecca Heller  
Julie Kornfeld  
Stephen Poellot  
INTERNATIONAL REFUGEE ASSISTANCE  
PROJECT  
URBAN JUSTICE CENTER  
40 Rector St, 9th Floor  
New York, NY 10006  
Tel. (646)-602-5600  
mdoss@refugeerights.org  
bheller@refugeerights.org  
jkornfeld@refugeerights.org  
spoellot@refugeerights.org

Karen C. Tumlin<sup>††</sup>  
Nicholas Espiritu<sup>††</sup>  
Melissa S. Keaney<sup>†</sup>  
Esther Sung<sup>†</sup>  
NATIONAL IMMIGRATION  
LAW CENTER  
3435 Wilshire Boulevard, Suite 1600  
Los Angeles, CA 90010  
Phone: (213) 639-3900  
tumlin@nilc.org  
espiritu@nilc.org  
keaney@nilc.org  
sung@nilc.org

Jennifer Chang Newell<sup>††</sup>  
Cody H. Wofsy<sup>††</sup>  
AMERICAN CIVIL LIBERTIES UNION  
FOUNDATION IMMIGRANTS' RIGHTS PROJECT  
39 Drumm Street  
San Francisco, CA 94111  
Tel. (415) 343-0770  
jnewell@aclu.org  
cwofsy@aclu.org

Jonathan Polonsky  
KILPATRICK TOWNSEND & STOCKTON LLP  
1114 Avenue of the Americas  
New York, NY 10036-7703  
Tel. (212) 775 8703  
jpolonsky@kilpatricktownsend.com

Justin B. Cox<sup>†</sup>  
NATIONAL IMMIGRATION  
LAW CENTER  
1989 College Ave. NE  
Atlanta, GA 30317  
Phone: (678) 404-9119  
cox@nilc.org

<sup>\*\*</sup> Application for admission forthcoming.

<sup>††</sup> Appearing *pro hac vice*.

<sup>‡</sup> For identification purposes only.

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Plaintiffs hereby oppose the government's motion to dismiss and reply to the government's memorandum in opposition to a preliminary injunction.

### INTRODUCTION

This case involves a challenge to Executive Order No. 13769 by individuals who have reached or will reach United States soil. As such, it is far narrower and more straightforward than virtually every other case around the country challenging the Executive Order, including the State of Washington's case, in which the Ninth Circuit issued a preliminary injunction barring enforcement of the Executive Order as to individuals on U.S. soil and those abroad who have never traveled to the United States. *Washington v. Trump*, \_\_\_F.3d \_\_\_, 2017 WL 526497 (9th Cir. 2017).

The Executive Order bars certain noncitizens from entering the country for varying lengths of time. Specifically, it bars refugees from entering for 120 days; immigrant (i.e., green card) and nonimmigrant (i.e., temporary visitor) visa holders from seven Muslim-majority countries for 90 days; and Syrian refugees indefinitely. In addition, the Order is designed to disfavor Muslim refugees and to favor Christian refugees. In its short period of operation, before being enjoined by this and other courts, the ban placed people at risk of persecution and torture, separated families, disrupted workplaces, and interfered with courses of study. By design, the ban has disproportionately impaired the rights of Muslims; although ostensibly justified on the basis of national security, the Executive Order seeks to fulfill the President's campaign promise to ban Muslim entry to the country, and that repeatedly expressed intention is evident on the face of the Order.

There is no question that the plaintiffs in this case, individuals who are or will be on U.S. soil, are entitled to statutory rights, including, most importantly, the right to apply for persecution-related relief. There is likewise no question that plaintiffs have constitutional rights, including the right to be free from religious discrimination and the right to due process. And as both the Ninth Circuit and a Virginia district court recently held, these rights cannot simply be discarded by the President, regardless of what authority he invokes. *Washington*, 2017 WL 526497 at \*9 (“[T]he government has failed to establish that it will likely succeed on its due process argument in this appeal.”); *Aziz v. Trump*, No. 17-0116 at \*20 n.11 (E.D. Va. Feb. 13, 2017) (order granting preliminary injunction) attached as Ex. A to Decl. of Nicholas Espiritu (“Espiritu Decl.”).

That is particularly so where, as here, the President has offered no evidence that the ban is necessary to protect national security; indeed the only evidence in the record regarding national security is the uncontradicted declaration of 10 national security professionals, including two former Secretaries of State, who explain that this unprecedented ban is not only unnecessary to protect national security, but is actually counterproductive. *See* Espiritu Decl. Ex. B (Joint Declaration of Madeleine K. Albright, et al. in *Washington v. Trump*, No. 17-35105 (9th Cir., filed Feb. 6, 2017)); *see also* Dkt. No. 137 (Amicus Brief of Former National Security Officials). As the Ninth Circuit stated: “Rather than present evidence to explain the need for the Executive Order, the Government has taken the position that we must not review its decision at all.” *Washington*, 2017 WL 526497 at \*10; *see also Aziz*, No. 17-0116 at 17 (“Defendants have not . . . produced any evidence, beyond the text of the EO itself, to support their contention that the EO was primarily motivated by national security concerns.”).

Given that this case concerns only those individuals who have reached or will reach U.S. soil, the government understandably devotes comparatively little space to the merits, and instead argues that the case is moot. But the case is not moot under well-established Second Circuit law, because this is a putative class action involving highly transitory claims in which the two named plaintiffs received (incomplete) relief only *after* the class certification motion was filed. The Second Circuit has stressed repeatedly that the government should not be permitted to moot a case by granting relief to the named plaintiffs after a class certification motion is filed, especially where, as here, the claims are inherently transitory and the putative class includes future members as well as those already affected by the challenged policy.

The Court should deny the government's motion to dismiss. It should also grant a preliminary injunction in light of the heavy vetting of individuals who have reached or will reach the United States, the inevitable chaos that will ensue if the ban is allowed to take effect again, and the irreparable harm that many plaintiffs would face.

#### **STATEMENT OF THE CASE**

Approximately twelve hours after the Executive Order was signed, plaintiffs Darweesh and Alshawhi brought this action on behalf of themselves and those similarly situated, seeking to enjoin the operation of the Order against those who had reached or would reach U.S. soil. Dkt. No. 1. Plaintiffs assert statutory and constitutional claims, including the denial of the statutory right to apply for asylum and similar forms of relief from persecution; the denial of due process; the denial of equal protection; and the violation of the Administrative Procedure Act, 5 U.S.C. §§ 706(2)(A)-(D) (prohibiting, *inter alia*, action that is arbitrary, capricious, an abuse of discretion, or contrary to constitutional right). *Id.* Plaintiffs simultaneously filed for class certification. Dkt. No. 4.

As alleged in the complaint, President Trump signed the Executive Order on January 27, 2017, one week after assuming office. Dkt. No. 1 ¶¶ 12, 13. The Order, *inter alia*, invokes Immigration and Nationality Act (“INA”) Section 212(f), 8 U.S.C. § 1182(f), as authority to suspend the entry into the United States of refugees, including Syrian refugees indefinitely, as well as of noncitizens from seven designated countries: Iraq, Iran, Libya, Somalia, Sudan, Syria, and Yemen. Dkt. No. 1 ¶¶ 14-16; *see also* Executive Order, Dkt. No. 2 Ex. A (“Order”). Within hours of the Order being signed, there were numerous individuals—to whom the United States had already granted visas, permanent residency, or refugee status after extensive vetting—detained and questioned by immigration officers, denied entry to the United States, and subjected to the threat of removal because of the Executive Order. Dkt. No. 1 ¶ 55.

Mr. Darweesh, for example, held an Iraqi Special Immigrant Visa, granted to him based on his ten years of service to the U.S. government (including the U.S. military) and the threats to his life and well-being that he suffered as a result. *Id.* ¶¶ 17-22. The process for obtaining that visa involved securing a statement from the U.S. government that he had provided “faithful and valuable service” to the government and waiting over two additional years for his and his family’s visas to be processed. *Id.* ¶¶ 23-30. Despite holding a valid visa, Mr. Darweesh was detained by the government on his arrival in the United States and remained detained at the time the complaint was filed. *Id.* ¶ 31. He was denied access to his attorneys and was at risk of being returned to Iraq against his will despite the serious danger to his life in that country. *Id.* ¶¶ 32-38.

Similarly, Mr. Alshawhi arrived in the United States carrying a valid immigrant visa, granted by the U.S. government to reunite him with his wife and seven-year-old son, both of whom are lawful permanent residents. *Id.* ¶¶ 39-42, 45. Ms. Alshawhi, Mr. Alshawhi’s wife,

worked for a U.S. contractor in Iraq, and her family was targeted because of that association. *Id.* ¶¶ 43-44. She and their son were granted refugee status, and Mr. Alshawi was approved to enter the United States to join them. *Id.* ¶¶ 45-46. Like Mr. Darweesh, however, Mr. Alshawi was detained upon arrival, refused access to his attorneys, and was at risk of removal at the time the complaint was filed. *Id.* ¶¶ 48-53. When Mr. Alshawi’s attorneys sought to speak with their client, a government agent told them that the person to talk to was “Mr. President. Call Mr. Trump.” *Id.* ¶ 51. Other class members were similarly detained and at risk of removal. *Id.* ¶ 55.

Shortly after filing their complaint and motion for class certification, plaintiffs filed a motion seeking a stay of removal. Dkt. No. 6. After a hearing held on the evening of January 28, 2017, Judge Donnelly enjoined removals of individuals designated in the Order but otherwise entitled to enter the United States, concluding that plaintiffs had a “strong likelihood of success” on the merits, that there was “imminent danger” of “substantial and irreparable injury to refugees, visa-holders, and other individuals” subject to the Order, and that a stay of removal would not “injure the other parties interested in the proceeding.” Dkt. No. 8. Judge Donnelly also found a likelihood of success that class certification would be granted. Conference Tr. Jan. 28, 2017, at 13. The government has opposed the maintenance of this order, and has moved to dismiss the complaint under Fed. R. Civ. P. 12(b)(1) and 12(b)(6).

### LEGAL STANDARDS

In considering a motion to dismiss, the Court must construe the complaint liberally, accept all non-conclusory factual allegations as true, and draw all reasonable inferences in the plaintiffs’ favor. *Dolan v. Connolly*, 794 F.3d 290, 293 (2d Cir. 2015). The complaint need allege only enough facts to “state a claim to relief that is plausible on its face,” meaning “factual content that allows the court to draw the reasonable inference that the defendant is liable for the



misconduct alleged.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). As shown below, plaintiffs’ allegations state both constitutional and statutory claims. Similarly, in considering a motion to dismiss under Fed. R. Civ. P. 12(b)(1), “plaintiffs are entitled to rely on the allegations in the Pleading if the evidence proffered by the defendant is immaterial” to the question of subject matter jurisdiction. *Carter v. HealthPort Techs., LLC*, 822 F.3d 47, 57 (2d Cir. 2016).

The familiar four-part test governs the issuance of a preliminary injunction: the plaintiff must show (1) he is “likely to succeed on the merits,” (2) he is “likely to suffer irreparable harm in the absence of preliminary relief,” (3) “the balance of equities tips in his favor,” and (4) “an injunction is in the public interest.” *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). Alternatively, the Court may award an injunction if the plaintiff demonstrates irreparable harm and “sufficiently serious questions going to the merits to make them a fair ground for litigation and a balance of hardships tipping decidedly toward the party requesting the preliminary relief.” *UBS Fin. Servs., Inc. v. W. Va. Univ. Hosps., Inc.*, 660 F.3d 643, 648 (2d Cir. 2011) (internal quotation marks omitted). Because the merits questions under this analysis substantially overlap with the merits questions presented by the motion to dismiss, plaintiffs will address them together.

## ARGUMENT

### I. THE CASE IS NOT MOOT.

The government contends that the case is moot and the Court therefore lacks jurisdiction under Fed. R. Civ. P. 12(b)(1) because the two named plaintiffs have now been admitted to the United States. Resp’ts’ Mem. of Law in Supp. of Mot. to Dismiss, Dkt. No. 66-1 (“Gov’t Br.”) at 5. That contention is wrong under well-settled law, for two reasons. First, the claims of the named plaintiffs themselves are not moot because the relief they have received represents only a

voluntary cessation of the challenged policy. Second, the government cannot moot a class action by granting relief to the named plaintiffs after the complaint and class certification motion have been filed, where, as here, the claims are inherently transitory.

The government argues in the alternative that even if the circumstances of putative class members should be considered, the case should still be deemed moot because no class member is currently *detained*. That alternative argument is likewise wrong, for two independent reasons. First, this case challenges the Executive Order’s ban on class members’ *entry or admission* to the United States,<sup>1</sup> not simply their detention incident to the denial of admission—a point the government implicitly recognizes by repeatedly stating that the named plaintiffs’ cases are moot because they have been “admitted.” Gov’t Br. 1, 6, 7-8. The government has not suggested that all those subjected to the Executive Order have been admitted to the United States, and contends only that the putative class members are no longer detained. Second, the class is defined as all those who are or “will be” subjected to the Executive Order. Dkt. No. 4 ¶ 7. Consequently, even if the case concerned only detention, and not admission, the case would not be moot because, absent an injunction, individuals traveling to the United States in the future will be detained and removed—a point the government does not, and could not, dispute.

**A. Named Plaintiffs’ Claims Are Not Moot Under The Voluntary Cessation Doctrine.**

The Supreme Court has explained that it is “well settled that a defendant’s voluntary cessation of a challenged practice does not deprive a federal court of its power to determine the legality of the practice.” *Friends of the Earth, Inc. v. Laidlaw Envtl. Servs. (TOC), Inc.*, 528 U.S. 167, 189 (2000) (citation and internal quotation marks omitted). As the Court has emphasized,

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<sup>1</sup> The Executive Order mentions both “entry” and “admission.” *See, e.g.*, Order §§ 1, 3. The INA defines admission as the lawful entry of a noncitizen into the United States after inspection and authorization by an immigration officer. 8 U.S.C. § 1101(a)(13)(A).

“the standard we have announced for determining whether a case has been mooted by the defendant’s voluntary conduct is stringent,” and a case may only become moot if “subsequent events made it absolutely clear that the allegedly wrongful behavior could not reasonably be expected to recur.” *Id.* at 189 (citation and internal quotation marks omitted). Notably, “[t]he ‘heavy burden of persua[ding]’ the court that the challenged conduct cannot reasonably be expected to start up again lies with the party asserting mootness.” *Id.* (citation omitted); *see also id.* at 190 (describing “the formidable burden of showing that it is absolutely clear the allegedly wrongful behavior could not reasonably be expected to recur”); *Comer v. Cisneros*, 37 F.3d 775, 800 (2d Cir. 1994) (discussing defendants’ “very heavy burden”); *Etuk v. Slattery*, 936 F. 2d 1433, 1441-43 (2d Cir. 1991) (holding that it is the defendants’ burden to show there is no reasonable expectation that they would re-impose the challenged practice and that absent an “unambiguous assurance that [defendants] will not revert to its old policies, plaintiffs plainly have a continuing stake in the outcome of this litigation”); *Aziz*, No. 17-0116 at 3; *Washington v. Trump*, 2017 WL 526497 at \*8.

The government has not met its “formidable” burden here. Notably, although the government has admitted the named plaintiffs, the Executive Order has not been rescinded, and the government continues to claim the unreviewable authority to deny entry to the noncitizens specified in Section 3(c), including the named plaintiffs.<sup>2</sup> It is only by virtue of the stay issued in this case and the preliminary injunctions in *Washington* and other cases that the government has currently ceased to apply the Executive Order. As a result, plaintiffs are unable to leave the

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<sup>2</sup> The Executive Order on its face covers lawful permanent residents and was originally applied to them. As other courts have noted, the Order has not been revised and the statement from White House counsel that the Order no longer covers lawful permanent residents is not binding. *See Washington*, 2017 WL 526497 at \*8; *Aziz*, No. 17-0116 at 3-4 (citing *Washington*, 2017 WL 526497 at \*8).

United States without the risk that they will be denied boarding onto a flight back to the United States on the basis of the Executive Order, or, should they be able to return to a U.S. port of entry, the risk that they will be detained and removed pursuant to the Executive Order. The named plaintiffs' activities thus continue to be constrained by the challenged policy.<sup>3</sup>

**B. Because Plaintiffs' Claims Are Inherently Transitory, The Government Cannot Moot The Case By Granting Relief To The Named Plaintiffs After The Complaint And Class Certification Motion Were Filed.**

Even assuming the named plaintiffs' claims were moot, the Second Circuit has repeatedly made clear that the government should not automatically be able to moot a case by granting relief to named class members after the filing of a complaint and class certification motion, even if a class certification motion has not yet been granted. As the Second Circuit has held, the government's mooted of a class representative's claims will not moot a class action where the claims are inherently transitory. Any other rule would mean that the government's actions in such cases could effectively be insulated from review. *See, e.g., White v. Mathews*, 559 F.2d 852, 857 (2d Cir. 1977) (explaining that otherwise, the government "could avoid judicial scrutiny of its procedures by the simple expedient of granting [relief] to plaintiffs who seek, but have not yet obtained, class certification").

The well-established rule is that "[w]here class claims are inherently transitory, the termination of a class representative's claim does not moot the claims of the unnamed members of the class." *Robidoux v. Celani*, 987 F.2d 931, 938-39 (2d Cir. 1993) (citation and internal quotation marks omitted). Thus, "[e]ven where the class is not certified until after the claims of the individual class representatives have become moot, certification may be deemed to relate

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<sup>3</sup> Currently, the district court's preliminary injunction in the *Washington* case, which the Ninth Circuit refused to stay, would likely permit plaintiffs' return if they traveled abroad, but the Administration is challenging that ruling.

back to the filing of the complaint in order to avoid mootness of the entire controversy.” *Id.* at 939 (citing *County of Riverside v. McLaughlin*, 500 U.S. 44, 51-52 (1991)); *see also Salazar v. King*, 822 F.3d 61, 73 (2d Cir. 2016) (“The exception to the mootness doctrine for ‘inherently transitory’ claims asserted by the named plaintiff(s) in a class action allows such claims to ‘relate back’ to the time of the filing of the complaint with class allegations.”). Not only does this doctrine prevent defendants from defeating judicial review, but it ensures that “a district court [will] have enough time to consider these important issues of class status carefully . . . .” *White*, 559 F.2d at 857. Notably, the government ignores this rule, Gov’t Br. 8, even though the main case on which it relies, *Comer v. Cisneros*, 37 F.3d 775, 799 (2d Cir. 1994), makes clear that “[w]here the claims of the named plaintiffs become moot prior to class certification, there are several ways in which mootness is not had,” including if the claims are inherently transitory.

Under the “inherently transitory” exception, “a case will not be moot, even if the controversy as to the named plaintiffs has been resolved, if: ‘(1) it is uncertain that a claim will remain live for any individual who could be named as a plaintiff long enough for a court to certify the class; and (2) there will be a constant class of persons suffering the deprivation complained of in the complaint.’” *Salazar*, 822 F.3d at 73 (citations omitted).

Here, there is no dispute that the named plaintiffs had standing to bring their claims at the time the complaint was filed. The class claims are inherently transitory because the government could detain, exclude, and remove countless noncitizens before this Court has an opportunity to rule on class certification. Alternatively, as it has done with the named plaintiffs, the government could choose to admit noncitizens covered by the Executive Order. In either event, the period is likely to be too short to allow for adjudication of the class certification motion. *See Salazar*, 822 F.3d at 74 (holding that the inherently transitory exception applied because the

defendant federal agency “processes . . . applications . . . relatively quickly,” such that the named plaintiffs received relief after filing of the complaint and before class certification could be decided); *Robidoux*, 987 F.2d at 939; *Amador v. Andrews*, 655 F.3d 89, 99-101 (2d Cir. 2011) (applying “inherently transitory” exception to prison policy challenge, even though class representatives had been released after filing of complaint).

The “inherently transitory” exception applies with special force here because of the practical constraints on identifying affected class members before their claims become moot. The government does not allow lawyers and family members into the area of the airport where “secondary inspection” occurs. *See* Temporary Restraining Order, *Aziz v. Trump*, No. 1:17-cv-116 (E.D. Va. Jan. 28, 2017) (ordering respondents to allow attorneys access to petitioners detained at Dulles International Airport). Indeed, the only individuals likely to be able to effectively seek relief are those who, like the named plaintiffs, had preexisting attorney-client relationships and could have their attorneys file immediately, before they were removed.

Further, as shown below, there is no question that, in the absence of an injunction, “there will be a constant class of persons” subject to the challenged provisions of the Executive Order. *Salazar*, 822 F.3d at 74. Regardless of whether the government is *currently* detaining anyone under the Executive Order, if the injunctions were lifted, the government could continue to detain, deny admission to, and remove noncitizens who reach American soil in the future.

Thus, under settled Second Circuit law, the government is incorrect that this case is moot because the two named plaintiffs were granted partial relief after the filing of the complaint.

**C. The Putative Class Members’ Claims Are Not Moot.**

The government argues, in the alternative, that even if the circumstances of putative class members should be considered, the case should still be deemed moot because no class member is currently *detained*. Gov’t Br. 9. That is wrong for three reasons.

1. The government’s affidavit states only that no individual is currently “detained.” *See* Gov’t Br., Exhibit A. But even assuming that there is no one currently detained, that does not moot the case, because this case challenges the denial of *entry or admission* under the Executive Order, including those who were detained and excluded under the Executive Order and have not been subsequently admitted. *See, e.g.*, Complaint, Dkt. No. 1 ¶ 56 (“Each of these similarly situated individuals is entitled to bring a petition for a writ of habeas corpus or, in the alternative a complaint for declaratory and injunctive relief, to prohibit the policy, pattern, and practice of Respondents detaining class members and prohibiting class members from entering the United States . . . .”). Indeed, the government appears to recognize that the case is about detention *and* admission in that the government repeatedly notes that the named plaintiffs have been “admitted.” Gov’t Br. 1, 6, 7-8. Any other understanding of the case would make little sense, since plaintiffs then would be agreeing that they could be stripped of their visas and/or removed. The government, which has yet to produce the list of those detained under the Executive Order, as ordered by Judge Donnelly, Dkt. No. 8, does not claim that every individual subjected to the Executive Order in the past has been *admitted*.<sup>4</sup>

2. The government’s argument is also wrong because the class includes individuals who in the future will be subjected to the Executive Order. *See* Complaint, Dkt. No. 1 ¶ 56 (defining class to include specified individuals who “*will be* denied entry to the United States on the basis

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<sup>4</sup> The government has worked with plaintiffs’ counsel to facilitate the return of individuals plaintiffs’ counsel have brought to their attention, but in the absence of the list, there is an indeterminate number of individuals who have not been able to return.

of the January 27, 2017 Executive Order”) (emphasis added); Class Cert. Mot., Dkt. No. 4 ¶ 7 (same). The government has conspicuously not stated that if the injunction is lifted, it will refrain from applying the Executive Order to individuals who in the future reach United States soil. As noted in plaintiffs’ motion for class certification, based on statistics compiled by the Department of State from Fiscal Year 2015, about 25,317 individuals from Iraq, Syria, Sudan, Yemen, Iran, Libya, and Somalia typically enter the United States on non-immigrant, special immigrant, and refugee visas within a given 90 days (the duration of the ban on entry of noncitizens from these countries)—a figure which does not account for the large number of other immigrant visas holders. *See* Class Cert. Mot., Dkt. No. 4 ¶ 26 & n.2. Indeed, plaintiffs would welcome a binding statement from the government that the Executive Order will not be applied in the future to any individual who reaches United States soil.

3. Finally, the government’s argument fails to account for the continuing effects of the Executive Order on class members who have been admitted. As noted above with respect to the named plaintiffs, noncitizens in the United States and subject to the Executive Order are precluded from traveling abroad. Moreover, under the Executive Order, the government revoked the visas of at least 60,000 people.<sup>5</sup> The visa revocation not only would preclude plaintiffs from traveling abroad, but could also subject them to deportation.<sup>6</sup>

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<sup>5</sup> *See* Espíritu Decl. Ex. C (Justin Jouvenal, Rachel Weiner & Ann E. Marimow, *Justice Dept. Lawyer Says 100,000 Visas Revoked Under Travel ban; State Dept. says About 60,000*, Wash. Post (Feb. 3, 2017)). The government has temporarily lifted that visa revocation, following the injunction issued by the district court in Washington. Dkt. No. 50, Attachment 1.

<sup>6</sup> Section 237(a)(1)(B) of the Immigration and Nationality Act, 8 U.S.C. § 1227(a)(1)(B), provides: “Any alien . . . whose nonimmigrant visa (or other documentation authorizing admission into the United States as a nonimmigrant) has been revoked under section 221(i), is deportable.” The visa revocation ordered pursuant to the Executive Order invoked §221(i). *See* Dkt. No. 20-1.



In short, under settled law, the government cannot moot this case by providing relief to the named plaintiffs after the filing of the class certification motion. Any other rule would allow the government to effectively insulate its actions from review, especially in cases, like this one, where the claims are inherently transitory and the government controls access to the affected individuals.

## **II. THE EXECUTIVE ORDER DISCRIMINATES ON THE BASIS OF RELIGION AND IS THEREFORE UNCONSTITUTIONAL.**

Government conduct that prefers one religion over another strikes at one of the founding principles of this country and violates the guarantee of equal protection provided by the Due Process Clause. The Constitution “mandates governmental neutrality between religion and religion” and the government “may not adopt programs or practices . . . which . . . oppose any religion,” a prohibition which is “absolute.” *Larson v. Valente*, 456 U.S. 228, 246 (1982) (Establishment Clause) (internal quotation marks omitted); *see also City of New Orleans v. Dukes*, 427 U.S. 297, 303 (1976) (per curiam) (equal protection); *United States v. Brown*, 352 F.3d 654, 668 (2d Cir. 2003) (same); *Aziz*, No. 17-0116 at 13-14 (in discussing Establishment Clause claim, noting the “message of exclusion” when the government acts to disfavor a religion). “[T]he Religion Clauses . . . and the Equal Protection Clause as applied to religion . . . all speak with one voice on this point: Absent the most unusual circumstances, one’s religion ought not affect one’s legal rights or duties or benefits.” *Hassan v. City of New York*, 804 F.3d 277, 290 n.2 (3d Cir. 2015) (quoting *Bd. of Educ. of Kiryas Joel Vill. Sch. Dist. v. Grumet*, 512 U.S. 687, 715 (1994) (O’Connor, J., concurring in the judgment) (alterations in original, internal

quotation marks omitted)); *see also* *Washington*, 2017 WL 526497 at \*10; *Brown*, 352 F.3d at 669 n. 18.<sup>7</sup>

The Executive Order violates the Constitution because it discriminates on the basis of religion by disfavoring Muslims, favoring Christian refugees, and drawing an arbitrary line between majority and minority religions. This discrimination is clear whether one looks at the voluminous evidence prior to the signing of the Order or at the Order itself. *See Hunter v. Underwood*, 471 U.S. 222, 227-28 (1985); *Vill. of Arlington Heights v. Metro. Hous. Dev. Corp.*, 429 U.S. 252, 266-68 (1977).

In seeking to dismiss plaintiffs’ religious discrimination claim, the government incorrectly suggests that the Court may apply only a deferential standard of review. Gov’t Br. 11. Assuming, *arguendo*, a deferential standard applies, the Order would not survive because it is arbitrary and designed to discriminate. The proffered national security rationale is not “bona fide” and does not hold up to even rational basis scrutiny, and there is overwhelming evidence to establish discriminatory intent behind the Executive Order. Moreover, the government’s assertion that the “subjective motivations for enacting the Executive Order” are “irrelevant,” and that therefore the Court cannot go beyond the four corners of the Order to evaluate its constitutionality, Gov’t. Br. 13, is wrong as a matter of law, as two courts have already held. *Washington v. Trump*, 2017 WL 526497 at \*10 (“It is well established that evidence of purpose beyond the face of the challenged law may be considered in evaluating Establishment and Equal Protection Clause claims.”); *Aziz*, No. 17-0116 at 14 (similarly rejecting the argument “that the Court may not go beyond the text of the EO in assessing its purpose”).

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<sup>7</sup> Courts rely on the shared principles of these constitutional provisions in adjudicating claims. *See Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 532, 534, 540 (1993) (discussing common thread in equal protection and the Religion Clauses).

**A. The Order Is Arbitrary And Discriminatory On Its Face.**

The plain language of the Executive Order evinces religious discrimination. The Order repeatedly employs barely veiled references to stereotypes regarding Islam. The Order invokes terms singling out and disparaging Muslims, such as references to “honor killings,” Order §§ 1, 10(a)(iii); “violent ideologies,” Order § 1; “persecution of those who practice religions different from their own,” Order § 1; and “foreign nationals” being “radicalized,” Order § 10(a)(ii). These terms should be recognized for what they are: statements that this Order is directed at individuals of a particular, disfavored faith. *See Lukumi*, 508 U.S. at 534 (statute’s use of the purportedly neutral terms “sacrifice” and “ritual” was evidence of singling out a particular religion). The derogatory reference to Islam was even clearer in a prior draft of the Order, which was publicly leaked days before the final Order was signed. That draft—the effective equivalent of the legislative history of this Order—included the phrase “violent religious edicts.” Espiritu Decl. Ex. D § 1. While these references are clear enough on their own terms, their meaning becomes undeniable when read against the backdrop of the President’s prior statements regarding Islam, discussed below, which invoke the same false and dangerous stereotypes about Muslims. *Infra* Section B; *cf. Lukumi*, 508 U.S. at 534-35 (examining statements made leading up to enactment of purportedly neutral law in concluding that object was to target a particular religion).

The Order also establishes explicit preferences based on religion, arbitrarily favoring “minority” religions over “majority” religions in determining who will be admitted to this country as a refugee. *See* Order § 5(b) (directing officials 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”); *id.* § 5(e) (similar). This ranking of religions is further intrinsic evidence of intent to target Muslims. But it is also

an independent violation. The government may not make “explicit and deliberate distinctions between different religious organizations,” as the Order does between minority and majority religions. *Larson*, 456 U.S. at 245-46 & n.23 (striking down statutory discrimination between religions based on the source of their contributions, observing that political leaders “are required to accord to their own religions the very same treatment given to small, new, or unpopular denominations”).

Any government determination of what constitutes “majority” and “minority” religions in a given country will also lead to impermissible government entanglement with religion. *See Texas Monthly v. Bullock*, 489 U.S. 1, 20 (1989) (plurality opinion). Government agents might need to determine, for example, whether various combinations of Catholics, Orthodox Christians, Protestants, Methodists, Anglicans, Baptists, Mormons, Jehovah’s Witnesses, and dozens or hundreds of other groups professing belief in Jesus are adherents to the “same” or “different” religions in order to determine whether an individual’s religion is the majority or the minority in a particular country. Similar lines would need to be drawn with regard to Muslim denominations, and those of other faiths. To make such decisions, the government would be required to consider the beliefs and practices of a sect in comparison to those of other sects to decide whether an individual is of a “majority” or “minority” religion. The Constitution does not tolerate this level of government entanglement with the nuance of religious belief. *Id.*

**B. There Is Overwhelming Evidence Of Intent To Discriminate On The Basis Of Religion.**

“Determining whether invidious discriminatory purpose was a motivating factor demands a sensitive inquiry into such circumstantial and direct evidence of intent as may be available.” *Arlington Heights*, 429 U.S. at 266; *see also Lukumi*, 508 U.S. at 540 (same). Case law identifies a variety of factors that can be probative of a discriminatory purpose, including the nature and

degree of the disparate impact produced by the challenged law; the historical background and specific series of events leading to the law's enactment; the legislative or administrative history, including contemporaneous statements made by the decisionmaker(s); and any departures from normal processes or substantive considerations. *Lukumi*, 508 U.S. at 540; *Arlington Heights*, 429 U.S. at 266-68; *McCreary County, Ky. v. ACLU of Ky.*, 545 U.S. 844, 861-66 (2005). This list of factors is nonexhaustive. *Arlington Heights*, 429 U.S. at 268. As the Court found in the Virginia case, the task here is “determining whether the proffered reason for the EO is the real reason.” *Aziz*, No. 17-0116 at 16.

Here, the Order has an overwhelmingly disparate impact on Muslims, and in ways that are probative of intent. *See Reno v. Bossier Parish Sch. Bd.*, 520 U.S. 471, 487 (1997). The seven countries whose nationals are banned from entering the United States are each over 90% Muslim. *See* Espíritu Decl. Ex. E (Central Intelligence Agency's World Listing Factbook website providing countries' population percentage by religious affiliation). Section 5's suspension of the refugee resettlement program and its indefinite prohibition on the entry of Syrians as refugees has a similarly disparate impact on Muslims. Moreover, the special carve-outs for religious minorities in Section 5(b) and (e) indicate a preference to lessen the adverse impact on Christians, which has been confirmed by President Trump himself.<sup>8</sup>

As a candidate, now-President Trump expressly stated numerous times that he intended, if elected, to ban Muslim immigrants from entering the United States<sup>9</sup>—a commitment that he

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<sup>8</sup> Espíritu Decl. Ex. F (David Brody, *Brody File Exclusive: President Trump Says Persecuted Christians Will Be Given Priority As Refugees*, CBN News (Jan. 27, 2017)) (President Trump confirming that Christians would be given priority when applying for refugee status, stating, “[W]e are going to help them.”); *see also id.* at Ex. G (Sarah Pulliam Bailey, *Trump signs order limiting refugee entry, says he will prioritize Christian refugees*, Wash. Post (Jan 31, 2017)).

<sup>9</sup> Espíritu Decl. Ex. H (Statement by Donald J. Trump on Preventing Muslim Immigration (Dec. 7, 2015) [hereinafter Trump Statement on Preventing Muslim Immigration]) (stating that

never repudiated and that, in fact, remains on his campaign website today.<sup>10</sup> President Trump conceded that he was using territory as a proxy for religion.<sup>11</sup> When asked after his election victory whether he still intended to ban Muslim immigrants from the United States, President-elect Trump confirmed that his plans had not changed.<sup>12</sup> And one week after being inaugurated he signed the Executive Order at issue here, banning entry of all non-citizens from seven overwhelmingly Muslim countries. Two days after the Order was issued, Rudolph Giuliani, an advisor to President Trump, stated that then-candidate Trump had asked Mr. Giuliani for help in “legally” creating a “Muslim ban”; that, in response, Mr. Giuliani and others decided to use territory as a proxy; and that this idea is reflected in the signed Order.<sup>13</sup> Even without other

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“Donald J. Trump is calling for a total and complete shutdown of Muslims entering the United States until our country’s representatives can figure out what is going on,” and asserting that “there is great hatred towards Americans by large segments of the Muslim population,” and “it is obvious to anybody the hatred is beyond comprehension.”); *see also id.* at Ex. I (Donald J. Trump (@realDonaldTrump), Twitter (December 7, 2015, 1:47 PM)); *id.* at Ex. J (Jenna Johnson, *Trump calls for ‘total and complete shutdown of Muslims entering the United States’*, Wash. Post (Dec. 7, 2015)) (noting that in addition to the call for the complete shutdown of Muslims entering the United States, President Trump had signaled his support for “heavy surveillance of mosques” and that he “would consider establishing a database to track all Muslims in the country”).

<sup>10</sup> Espíritu Decl. Ex. H (Trump Statement on Preventing Muslim Immigration).

<sup>11</sup> Espíritu Decl. Ex. K (*Meet the Press* (NBC television broadcast July 24, 2016)) (in response to being asked if a plan similar to the now-enacted Executive Order was a “rollback” from “[t]he Muslim Ban,” then-candidate Trump stated: “I actually don’t think it’s a rollback. In fact, you could say it’s an expansion. . . . I’m looking now at territory. 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>12</sup> Espíritu Decl. Ex. L (Katie Reilly, *Donald Trump on Proposed Muslim Ban: ‘You Know My Plans,’* Time (Dec. 21, 2016)).

<sup>13</sup> Espíritu Decl. Ex. M (Amy B. Wang, “Trump asked for a ‘Muslim ban,’ Giuliani says – and ordered a commission to do it ‘legally’”, Wash. Post (Jan. 29, 2017)) (Mr. Giuliani explaining that “when [then-candidate Trump] first announced it, he said, ‘Muslim ban.’ He called me up. He said, ‘Put a commission together. Show me the right way to do it legally.’”).

evidence, or the benefit of any discovery, there is voluminous evidence that the Order was intended, at least in part, to discriminate against Muslims.<sup>14</sup>

### C. The Order Would Fail Even Under Deferential Review.

The government contends that the Executive Order should be reviewed under a rational basis standard. In other cases challenging the Executive Order, the government has argued for application of the “facially legitimate and bona fide” standard. *See Washington*, 2017 WL 526497 at \*6; *Aziz*, No. 17-0116 at 16. But, as discussed below, such deferential review is not the proper standard where religious discrimination is at issue. In any event, the Executive Order cannot survive even a deferential standard of review.

As an initial matter, the government is incorrect that “subjective motivations” are “simply irrelevant” under deferential review. Gov’t Br. 13. As Judge Brinkema explained in the Virginia case, if the government’s proffered reason “has been given in ‘bad faith,’ it is not ‘bona fide,’” meaning the Court must determine “whether the proffered reason . . . is the real reason.” *Aziz*, No. 17-0116 at 16 (citing, *inter alia*, *Am. Acad. of Religion v. Napolitano*, 573 F.3d 115, 126 (2d Cir. 2009); *accord Kerry v. Din*, 135 S. Ct. 2128, 2141 (2015) (Kennedy, J., concurring in the

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<sup>14</sup> Espíritu Decl. Ex. N (Jenna Johnson, *Donald Trump says he is not bothered by comparisons to Hitler*, Wash. Post (Dec. 8, 2015)) (comparing his proposed Muslim ban to former President Franklin Roosevelt’s decision to intern Japanese Americans during World War II, and suggesting that internment camps for Muslims would be considered as “a temporary measure until our representatives, many of whom are grossly incompetent, until our representatives can figure out what’s going on.”); *id.* at Ex. O (Theodore Schliefer, *Donald Trump: ‘I think Islam hates us’*, CNN (Mar. 10, 2016)) (stating “I think Islam hates us”); *id.* at Ex. P Alex Griswold, *Trump Responds to Brussels Attacks: ‘We’re Having Problems With the Muslims*, Mediate (Mar. 22, 2016)) (stating that “we’re having problems with the Muslims, and we’re having problems with Muslims coming into the country,” adding, “You need surveillance, you have to deal with the mosques whether you like it or not . . . These attacks aren’t done by Swedish people, that I can tell you”); *compare with Hunter*, 471 U.S. at 229 (“The delegates to the all-white [Alabama Constitutional Convention of 1901] were not secretive about their purpose. John B. Knox, president of the convention, stated in his opening address: ‘And what is it that we want to do? Why it is within the limits imposed by the Federal Constitution, to establish white supremacy in this State.’”) (citation omitted).

judgment). Here, as set forth above, there is ample evidence that the purported distinction drawn on the basis of nationality is pretext for religious discrimination, and is therefore not bona fide.<sup>15</sup>

Discriminatory policy cannot survive even deferential review because the government has no legitimate interest in such discrimination. *Romer v. Evans*, 517 U.S. 620, 634-35 (1996) (“[L]aws of the kind now before us raise the inevitable inference that the disadvantage imposed is born of animosity toward the class of persons affected. ‘[I]f the constitutional conception of ‘equal protection of the laws’ means anything, it must at the very least mean that a bare . . . desire to harm a politically unpopular group cannot constitute a *legitimate* governmental interest.’”) (quoting *Department of Agriculture v. Moreno*, 413 U.S. 528, 534 (1973)). Here, anti-Muslim animus is evident on the face of the Order and in the abundant evidence of intent, not least of which is a statement by the President on the same day that the Order was issued.<sup>16</sup>

Further, in litigation before this court, the Ninth Circuit, and the Eastern District of Virginia, “the Government has done little more than reiterate” its interest in combatting terrorism without explaining how the Order is necessary or even useful for that purpose. *Washington*, 2017 WL 526497 at \*10; *accord Aziz*, No. 17-0116 at 6 (the government has not “offered any evidence to identify the national security concerns that allegedly prompted this [Order], or even described the process by which the [P]resident concluded that this action was necessary”). That is insufficient. The government’s national security powers do not “automatically trump the

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<sup>15</sup> The government cites *Louhghalam v. Trump*, No. 17-10154-NMG, 2017 WL 479779 (D. Mass. Feb. 3, 2017), which applied deferential review and upheld the Order. *Louhghalam* notably recognized that the Second Circuit requires examination of whether the government’s decision was in fact “bona fide,” but concluded First Circuit precedent was to the contrary. The Court’s decision was also issued without the benefit of full merits briefing or the evidence from senior former national security experts submitted here (and on which the Ninth Circuit and Eastern District of Virginia heavily relied).

<sup>16</sup> Espiritu Decl. Ex. F (David Brody, *Brody File Exclusive: President Trump Says Persecuted Christians Will Be Given Priority As Refugees*, CBN News (Jan. 27, 2017)).



Court’s own obligation to secure the protection that the Constitution grants to individuals,’ even in times of war,” *Washington*, 2017 WL 526497 at \*6 (quoting *Holder v. Humanitarian Law Project*, 561 U.S. 1, 34 (2010)), and “[n]ational defense cannot be deemed an end in itself, justifying any exercise of . . . power,” no matter how weak the rationale may be, *id.* (quoting *United States v. Robel*, 389 U.S. 258, 264 (1967) (internal quotation marks omitted)).

By contrast, former senior national security, foreign policy, and intelligence officials have submitted evidence that the Order in fact “ultimately undermines the national security of the United States, rather than making us safer” and “cannot be justified on national security or foreign policy grounds.” Espíritu Decl. Ex. B (Joint Declaration of Madeleine K. Albright, et al.). Moreover, four of the signatories to that declaration “were current on active intelligence regarding all credible terrorist threat streams directed against the U.S. as recently as one week before the issuance of the” Order, and yet know of no “specific threat that would justify the travel ban.” *Id.* That fact should not be particularly surprising: “The Administration has identified no information or basis for believing there is now a heightened or particularized future threat from the seven named countries.” *Id.* Instead, the Order “will aid ISIL’s propaganda effort and serve its recruitment message by feeding into the narrative that the United States is at war with Islam,” and will harm troops deployed abroad, the ability to gather intelligence, and law enforcement operations. *Id.*; see also *Aziz*, No. 17-0116 at 6, 21 (extensively citing similar declaration); Dkt. No. 137 (Amicus Brief of Former National Security Officials).

Likewise, there is no justification for the Order’s arbitrary and discriminatory distinction between majority and minority religions sufficient to survive even deferential scrutiny. As already explained, the preference for minority religions will require government officials to delve into the fine points of religious doctrine to determine what counts as separate religions and

what does not. Even apart from the constitutional violation inherent in such entanglement with religion, there is simply no reason to do so apart from an illegitimate desire to preference Christian refugees from majority-Muslim countries.<sup>17</sup> The desire to harm Muslim refugees from majority-Muslim countries would of course be likewise illegitimate. *See Romer*, 517 U.S. at 634-35. Thus, even if the Court were to apply a deferential standard of review, the Executive Order could not survive.

**D. Neither The Plenary Power Doctrine Nor INA Section 212(f) Justifies This Unprecedented Religious Discrimination.**

The government has effectively pursued the same course here as was rejected by the Ninth Circuit: “Rather than present evidence to explain the need for the Executive Order, the Government has taken the position that we must not review its decision at all.” *Washington*, 2017 WL 526497 at \*10. But, as that court explained, “it is beyond question that the federal judiciary retains the authority to adjudicate constitutional challenges to executive action.” *Id.* at \*7; *see also Aziz*, No. 17-0116 at 10 (“This is a familiar judicial exercise.”) (internal quotation marks omitted). The government has pointed to nothing that would justify rubber-stamping this Order.

1. The government alludes to the doctrine of plenary power over immigration. Gov’t Br. 11 n.2. But “the Supreme Court has repeatedly and explicitly rejected the notion that the political branches have unreviewable authority over immigration or are not subject to the Constitution when policymaking in that context.” *Washington*, 2017 WL 526497 at \*5 (citing *Zadvydas v. Davis*, 533 U.S. 678, 695 (2001); *INS v. Chadha*, 462 U.S. 919, 940-41 (1983)); *accord Aziz*, No. 17-0116 at 11-12 (“Every presidential action must still comply with the limits

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<sup>17</sup> Espiritu Decl. Ex. F (David Brody, *Brody File Exclusive: President Trump Says Persecuted Christians Will Be Given Priority As Refugees*, CBN News (Jan. 27, 2017)).

set by Congress’ delegation of power and the constraints of the Constitution, including the Bill of Rights.”). Moreover, the Supreme Court has *never* applied the plenary power doctrine to uphold religious discrimination. *Cf. Lamont v. Woods*, 948 F.2d 825, 835 (2d Cir. 1991) (noting that the Supreme Court “itself has suggested that the constitutional prohibition against establishments of religion targets the competency of Congress to enact legislation of that description—irrespective of time or place”).

Likewise, the circuit precedent the government cites regarding discrimination generally has nothing at all to do with *religious* discrimination. Gov’t Br. 11-13.<sup>18</sup> The one case the government cites addressing a religious discrimination claim actually supports plaintiffs’ argument: The Second Circuit rejected a claim against a registry established shortly after the September 11 attacks because the plaintiffs had offered no *evidence* of “improper animus toward Muslims” beyond the fact that the countries at issue were predominantly Muslim. *Rajah v. Mukasey*, 544 F.3d 427, 439 (2d Cir. 2008). Here, as already explained, plaintiffs have provided ample evidence of intent to discriminate against Muslims. *See Aziz*, No. 17-0116 at 18 (“Absent the direct evidence of animus presented by the Commonwealth, singling out these countries for additional scrutiny might not raise Establishment Clause concerns; however, with that direct evidence, a different picture emerges.”).

2. The Order invokes INA § 212(f), 8 U.S.C. § 1182(f), but that provision says nothing of religion, has never been invoked to justify religiously discriminatory exclusion, and should

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<sup>18</sup> *See Yuen Jin v. Mukasey*, 538 F.3d 143, 158-60 (2d Cir. 2008) (distinction between those who comply with a removal order and those who do not); *Romero v. INS*, 399 F.3d 109, 111-12 (2d Cir. 2005) (statutory distinction by nationality); *Jankowski-Burczyk v. INS*, 291 F.3d 172, 178 (2d Cir. 2002) (distinction between permanent residents and other noncitizens); *Rojas-Reyes v. INS*, 235 F.3d 115, 125 (2d Cir. 2000) (distinction between those with final and non-final deportation orders); *United States v. Lue*, 134 F.3d 79, 86 (2d Cir. 1998) (distinction between citizens and noncitizens).

not be read to authorize exclusion of a “class” of noncitizens on the basis of religion.<sup>19</sup> Indeed, Section 212(f)’s text simply does not allow the President to impose a restriction on entry that is religiously discriminatory. Section 212(f) emphatically does not allow entry restrictions to be imposed on Presidential fiat. Rather, in addition to the clear limitations on 212(f) authority imposed by other statutes and the Constitution, Section 212(f) itself requires that it be in “the interests of the United States” to impose the restriction at issue. The United States has no “interest” in denying entry on a religiously discriminatory basis, *cf. Romer*, 517 U.S. at 634-35, and Section 212(f) therefore does not authorize the President to impose the ban at issue here. Moreover, Section 212(f) should be understood against the backdrop of our Constitution’s unique emphasis on religious nondiscrimination and thus should be read to avoid the serious constitutional questions that would be presented by an immigration statute authorizing discrimination on the basis of religion.

Indeed, Congress has shown particular concern for religious freedom, further undercutting an interpretation of 212(f) that would authorize exclusion of members of a particular faith. *See, e.g.*, Religious Freedom Restoration Act of 1993 (RFRA), 42 U.S.C. §2000bb *et seq.*; *City of Boerne v. Flores*, 521 U.S. 507, 516 (1997) (explaining that RFRA’s application is “universal” across the federal government, including all federal statutes, whether adopted before or after its enactment); *see also* Religious Land Use and Institutionalized Persons Act of 2000, 42 U.S.C. § 2000cc *et seq.*

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<sup>19</sup> INA § 212(f), 8 U.S.C. § 1182(f), provides in relevant part: “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.”

In light of these considerations, any suggestion that Congress has authorized the President to order a ban disfavoring Muslims, or favoring Christians, is simply wrong. But if Congress did, *sub silentio*, authorize religious discrimination in § 212(f), that application of the provision is unconstitutional. Neither Congress nor the President can override the Constitution. *See Washington*, 2017 WL 526497 at \*5-7; *Aziz*, No. 17-0116 at 10-12.

### **III. THE EXECUTIVE ORDER UNLAWFULLY DEPRIVES CLASS MEMBERS OF THEIR RIGHT TO APPLY FOR ASYLUM AND WITHHOLDING OF REMOVAL.**

The Order also unlawfully seeks to eliminate the statutory rights, guaranteed to all noncitizens on U.S. soil, to apply for asylum, withholding of removal, and relief under the Convention Against Torture (CAT). *See* 8 U.S.C. 1158(a) (asylum); 8 U.S.C. § 1231(b)(3) (withholding); Pub. L. No. 105-277, § 2242, 112 Stat. 2681-822 (1998) (reprinted in 8 U.S.C. § 1231, Notes (2012)) (CAT).

Under the withholding statute, “the Attorney General *may not remove* an alien to a country if the Attorney General decides that the alien’s life or freedom would be threatened in that country” on enumerated grounds. 8 U.S.C. § 1231(b)(3)(A) (emphasis added). The government, including the President, has no discretion to violate this command. Noncitizens who satisfy the statutory standard “are *entitled* to mandatory suspension of deportation.” *INS v. Cardoza-Fonseca*, 480 U.S. 421, 444 (1987) (emphasis in original); *Yiu Sing Chun v. Sava*, 708 F.2d 869, 876 (2d Cir. 1983). The same principle applies for the CAT: “Protection under the CAT, like withholding of removal, is a mandatory form of relief.” *Kone v. Holder*, 596 F.3d 141, 147 (2d Cir. 2010).

The President also cannot deprive noncitizens of the right to apply for asylum within the United States. The asylum statute provides that “[a]ny alien who is physically present in the

United States or who arrives in the United States ... irrespective of such alien's status, may apply for asylum." 8 U.S.C. § 1158(a)(1). The statute expressly prohibits the government from denying arriving noncitizens the right to apply for asylum. *See* 8 U.S.C. § 1225(b)(1)(A)(ii) (providing that "the officer *shall* refer the alien for an interview by an asylum officer" if the alien claims fear or the desire to apply for asylum) (emphasis added); 8 C.F.R. § 235.3(b)(4) ("[T]he inspecting officer *shall not proceed further* with removal of the alien until the alien has been referred for an interview by an asylum officer.") (emphasis added).

These provisions "confer[] upon *all aliens* a statutory right to apply for asylum." *Campos v. Nail*, 43 F.3d 1285, 1288 (9th Cir. 1994) (emphasis added); *see also Orantes-Hernandez v. Thornburgh*, 919 F.2d 549, 553 (9th Cir. 1990) (discussing "the right of aliens to apply for asylum" and stating that "[i]t is undisputed that all aliens possess such a right under the Act"). The Second Circuit has thus held that "asylum seekers at our border" are "entitled to nothing less" than an opportunity to apply for asylum. *Chun*, 708 F.2d at 876. As a result, "a total denial of opportunity to apply for asylum justifies injunctive relief." *Campos*, 43 F.3d at 1288.

The Supreme Court has thus recognized that these statutory requirements limit the President's authority to exclude noncitizens under 8 U.S.C. § 1182(f). In *Sale v. Haitian Centers Council, Inc.*, 509 U.S. 155 (1993), the Court considered a challenge to a Presidential proclamation, issued under 8 U.S.C. § 1182(f), ordering the interdiction and return of Haitian nationals at sea, without any asylum or withholding procedures. Although the Court rejected the challenge, holding that the Refugee Act of 1980 did not apply *extraterritorially*, the Court recognized that asylum and withholding procedures prevent the President from eliminating access to those procedures for individuals *on U.S. soil*. Indeed, the Court explicitly noted that

withholding requirements applied to noncitizens “on the threshold of initial entry.” *Id.* at 170, 180, 187 (citation and internal quotation marks omitted). This case concerns *only* individuals who reach U.S. soil. The plaintiffs are therefore entitled to a hearing to determine whether they are eligible for asylum, withholding, and CAT relief.

#### **IV. THE EXECUTIVE ORDER’S DISCRIMINATION ON THE BASIS OF NATIONALITY VIOLATES SECTION 202 OF THE IMMIGRATION AND NATIONALITY ACT.**

By suspending entry of refugees from Syria indefinitely, and immigrants from Iraq, Iran, Libya, Somalia, Sudan, Syria, and Yemen for 90 days, the Executive Order contravenes the INA’s prohibition on nationality discrimination and therefore exceeds the President’s statutory authority to exclude noncitizens. Section 202(a)(1)(A) of the INA, 8 U.S.C. § 1152(a)(1)(A), provides, with limited and immaterial exceptions, that “no person shall receive any preference or priority or be discriminated against in the issuance of an immigrant visa because of,” among other things, the person’s “nationality.” Passed in 1965, at the height of the civil rights movement, Section 202 was explicitly framed as a repudiation of nationality discrimination in immigration policy. President Johnson, in his signing statement, declared that “for over four decades the immigration policy of the United States has been twisted and has been distorted by the harsh injustice of the national origins quota system.” Lyndon B. Johnson, Remarks at the Signing of the Immigration Bill (October 3, 1965).

The Executive Order violates Section 202’s anti-discrimination command by relying on nationality to suspend the issuance of visas and to ban entry. Section 3 of the Executive Order explicitly “Suspen[ds] *Issuance* of Visas and Other Immigration Benefits to Nationals of Countries of Particular Concern” (emphasis added), directly contravening Section 202(a)(1)(A)’s prohibition on “discriminat[ion] . . . in the issuance of an immigrant visa.” The ban on entry in

Section 3(c) of the Executive Order also violates this prohibition: for 202(a)(1)(A) to have any meaning, the anti-discrimination principle necessarily applies not only to issuance, but also to maintenance, revocation, and entry into the country.

The government relies on 8 U.S.C. § 1152(a)(1)(B), which provides that the nondiscrimination provision may not “limit the authority of the Secretary of State to determine the *procedures* for the processing of immigrant visa applications.” *See* Gov’t Br. 13 (emphasis added). Yet the Executive Order does not merely change procedures for the processing of visas, but rather expressly suspends issuance of those visas, as well as entry into the country. Moreover, the State Department implemented the Executive Order by categorically revoking the visas of nationals of the seven banned countries. *See* Dkt. No. 20-1. That the Order *also* alters processing procedures does not render lawful its discrimination in issuance, revocation, and entry.

Nor can Section 212(f) override Section 202’s nondiscrimination requirement. Section 202 was enacted in 1965, thirteen years after Section 212(f). Moreover, Section 212(f) is limited not only by Congress’ express disfavor of nationality restrictions, but also by the asylum and withholding provisions described above. *See Davis v. Michigan Dep’t of Treasury*, 489 U.S. 803, 809 (1989) (“It is a fundamental canon of statutory construction that the words of a statute must be read in their context and with a view to their place in the overall statutory scheme.”). It is therefore unsurprising that Section 212(f) has never been invoked to justify so broad a nationality-based restriction on entry. Indeed, in the narrow circumstances in which Congress has found nationality classifications necessary, it has passed specific legislation. *See, e.g., Romero v. INS*, 399 F.3d 109, 112 (2d Cir. 2005) (rejecting challenge to legislation implementing immigration preferences for nationals of Nicaragua and Cuba). The immigration



laws do not authorize the President's nationality-based visa and entry restrictions, and those restrictions are therefore invalid. *See* 5 U.S.C. § 706(2)(A).

## **V. THE EXECUTIVE ORDER VIOLATES DUE PROCESS.**

The Executive Order deprives lawful permanent residents and visa holders of their right to enter the country and does not provide any process whatsoever. As the Ninth Circuit concluded, the government cannot show “that the Executive Order provides what due process requires, such as notice and a hearing prior to restricting an individual’s ability to travel.” *Washington*, 2017 WL 526497 at \*7. Indeed here, as in the Ninth Circuit, “the Government does not contend that the Executive Order provides for such process.” *Id.* Instead, the government contends that the due process claims are not viable because plaintiffs’ claims are moot and they have therefore not suffered prejudice by the lack of process. Gov’t Br. 10. But, as discussed above, the case is not moot and the government has not and cannot justify, on the merits, its deprivation of all process.

The statutory rights to apply for asylum, withholding, and CAT give rise to interests protected by the Due Process Clause. “[T]he Due Process Clause applies to all ‘persons’ within the United States, including aliens,” regardless of “whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). The Executive Order deprives class members of their protected interests, including the right to apply for asylum and withholding, without any hearing or opportunity to show eligibility for such relief from removal.

For instance, the asylum, withholding, and CAT statutes give rise to interests protected by the Due Process Clause. *Augustin v. Sava*, 735 F.2d 32, 37 (2d Cir. 1984) (“[T]he protected right to avoid deportation or return to a country where the alien will be persecuted warrants a

hearing where the likelihood of persecution can be fairly evaluated.”); *see also Ezeagwuna v. Ashcroft*, 325 F.3d 396, 400, 405 (3d Cir. 2003) (finding due process violation in case of asylum seeker detained “[u]pon her arrival at Newark International Airport,” and confirming that “[d]ue process protections are afforded to aliens facing removal”); *Kowalczyk v. INS*, 245 F.3d 1143, 1146-49 (10th Cir. 2001) (holding that noncitizen, who applied for asylum upon arrival in the United States, suffered a due process violation when he was denied an opportunity to respond to administratively noticed facts); *Haitian Refugee Ctr. v. Smith*, 676 F.2d 1023, 1038 (5th Cir. 1982) (“Congress and the executive have created, at a minimum, a constitutionally protected right to petition our government for political asylum.”).

The Executive Order deprives prospective class members of these protected interests without offering any opportunity whatsoever to contest that determination. For example, when Customs and Border Protection detained and sought to remove Mr. Darweesh, it offered him no opportunity to explain that he had worked for the U.S. government in Iraq for nearly ten years, and that, as a result, two of his colleagues had been murdered and he had been targeted by the Baghdad Police, who are known to work with anti-American militias. Compl. ¶ 20. Such summary, irrational removal violates the due process rights of class members who fear persecution upon return to their home countries.

The Executive Order also violates due process by banning the entry or reentry of lawful permanent residents and visa holders without any process at all. These individuals have a substantial interest in being able to travel to their homes, their studies, their jobs, and their loved ones in the United States, an interest that cannot be deprived without process. Individuals granted fiancé visas traveling to the United States to marry their intended marital partner; noncitizens granted employment visas who are traveling to jobs they have been offered and

accepted; those granted student visas who have paid tuition and committed to a course of study at an institution of higher learning here in the United States, and many others who have been granted visas after submitting extensive applications and undergoing painstaking vetting, cannot have their interests summarily extinguished. *See, e.g., Landon v. Plascencia*, 459 U.S. 21, 33-34 (1982) (recognizing due process rights of lawful permanent resident returning from abroad); *Ibrahim v. Dep't of Homeland Sec.*, 669 F.3d 983, 997 (9th Cir. 2012) (allowing noncitizen whose student visa was revoked while she was traveling outside the United States to proceed with due process claim); *Manwani v. U.S. Dep't of Justice*, 736 F. Supp. 1367, 1381 (W.D.N.Ca. 1990) (holding that U.S. citizen “has a protected property interest, codified in the INA, to petition the INS to obtain immediate relative status for a bona fide spouse”). Indeed, and at a very minimum, these noncitizens have a right to have their applications for admission determined under the lawful procedures enacted by Congress, and free from the restrictions imposed by the Executive Order, which is unlawful for the multiple reasons discussed herein. *See, e.g., Dia v. Ashcroft*, 353 F.3d 228, 239 (3d Cir. 2003) (en banc) (explaining that noncitizen denied entry enjoyed due process rights stemming “from those statutory rights granted by Congress and the principle that ‘[m]inimum due process rights attach to statutory rights’”) (citation omitted).

Thus, the Ninth Circuit properly concluded that the government was unlikely to establish that the Executive Order satisfies due process. The Court concluded that it was “obvious” that there were “viable claims based on the due process rights of persons who will suffer injuries to protected interests due to the Executive Order.” *Washington*, 2017 WL 526497 at \*9 (recognizing that the Executive Order may violate, *inter alia*, the due process of rights of returning lawful permanent residents, non-immigrant visaholders “who have been in the United

States but temporarily departed,” and noncitizens “who have a relationship with a U.S. resident or an institution that might have rights of its own to assert”) (citations omitted). The Ninth Circuit’s decision reflects the well-established principle that persons with substantial connections to the United States have significant interests that may not be deprived without due process. *See, e.g., Plascencia*, 459 U.S. at 33-34.<sup>20</sup>

## **VI. THE EXECUTIVE ORDER VIOLATES THE ADMINISTRATIVE PROCEDURE ACT.**

The Executive Order also violates the Administrative Procedure Act, which authorizes judicial review of administrative action that is “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law,” 5 U.S.C. § 706(2)(A), or “contrary to constitutional right, power, privilege, or immunity,” *id.* § 706(2)(B). Under the APA’s arbitrary or capricious standard, “courts retain a role, and an important one, in ensuring” that the agency has “engaged in reasoned decisionmaking,” a “task [that] involves examining the reasons” the agency gives, “or, as the case may be, the absence of such reasons.” *Judulang v. Holder*, 565 U.S. 42, 53 (2011). Moreover, the agency must offer a more detailed justification “when, for example, its new policy rests upon factual findings that contradict those which underlay its prior policy; or when its prior policy has engendered serious reliance interests that must be taken into account.” *F.C.C. v. Fox Television Stations, Inc.*, 556 U.S. 502, 515 (2009).

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<sup>20</sup> In *Louhghalam*, which did not find a likely due process violation, the court erred in relying on *Azizi v. Thornburgh*, 908 F.2d 1130, 1134 (2d Cir. 1990), which rejected a due process challenge to the revocation of a visa that had been mistakenly granted in violation of the applicable law. *See Louhghalam*, No. 17-10154-NMG at 13-14. In *Azizi*, the Second Circuit explicitly held that *because the statute did not authorize the granting of the visa* in that case, the plaintiffs could not show they had a property right in the visa. Here, by contrast, there is no dispute over the statutory validity of the visas, and the President therefore may not revoke them and deny entry without any due process of law.

Here, the Department of Homeland Security and the Department of State changed their policies overnight, with no factual findings indicating changed circumstances and no consideration of the serious reliance interests at issue. As the Court noted and the government acknowledged on January 28, 2017, if the plaintiffs “had come here two days [earlier], we wouldn’t be here.” Dkt. No. 17, at 8. Nor has either the Department of State or the Department of Homeland Security offered any evidence to support the proposition that these changes in policy were rationally related to a security threat. *See Aziz*, No. 17-0116 at 6. Indeed, the evidence in the record from high-ranking former national security officials suggests that the Executive Order increases security threats rather than addressing them. Espíritu Decl. Ex. B (Joint Declaration of Madeleine K. Albright, et al.). Moreover, as the Ninth Circuit noted, even since the issuance of the Executive Order, the government has changed its policy several times without explanation. *See Washington*, 2017 WL 526497 at \*8 (noting the government’s “shifting interpretations of the Executive Order”). Such arbitrary changes in policy, without detailed justification or consideration of reliance interests, violate the Administrative Procedure Act. *See Judulang*, 565 U.S. at 64 (concluding that the Court must reject a policy “when we cannot discern a reason for it”).

Thus, because the Executive Order is arbitrary and contrary to various statutory and constitutional provisions, it violates the Administrative Procedure Act.

## **VII. OTHER PRELIMINARY INJUNCTION FACTORS**

Plaintiffs have already addressed and shown a likelihood of success on the merits. Accordingly, in this section, plaintiffs address only the relative harms to the parties and the public interest prong of preliminary injunction test.

### **A. Plaintiffs Will Suffer Irreparable Harm Absent An Injunction.**

At the time plaintiffs filed suit, they sought to certify a class of persons who, like them, were detained by the government, denied entry to the United States, and threatened with forcible return to the country from which their travel originated, notwithstanding being legally authorized to enter the United States. The future members of the class face the same irreparable harms, and thus perpetuate the controversy. *See supra* Part I (mootness).<sup>21</sup>

The nature of the harm threatened by the government's unconstitutional conduct is unquestionably irreparable, including religious discrimination and the lack of any process. *See Mitchell v. Cuomo*, 748 F. 2d 804, 806 (2d Cir. 1984) (affirming finding of irreparable harm where possible deprivation of constitutional rights is alleged); *Ambrose v. Malcolm*, 414 F. Supp. 485, 493 (S.D.N.Y. 1976) (observing that “the continuing daily deprivation of constitutional rights . . . is irreparable by definition”) (internal quotation marks and citations omitted).

Beyond the loss of constitutional rights, many plaintiffs who are removed or denied entry would face threats of persecution, torture, and even death, as well as denial of their right to apply for asylum, 8 U.S.C. § 1158, withholding of removal, *id.* § 1231(b)(3), and relief pursuant to the CAT, *id.* § 1231 (The Foreign Affairs Reform and Restructuring Act of 1998, which implements the CAT). *See* Pet'rs. Mem. in Support of Emergency Stay of Removal, Dkt. No. 6-1, at 17-21; *see also* Espíritu Decl. Ex. Q (Decl. of Reema Khaled Dahman ¶¶ 4-16, *Ali v. Trump*, No. 17-0135 (W.D. Wash. Feb. 6, 2017)) (describing fear for son who is 16-year old minor in Syria); Espíritu Decl. Ex. R (Decl. of Babek Yaghoubi Moghadam ¶ 7, *Loughalam v. Trump*, No. 17-

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<sup>21</sup> To the extent the government argues that plaintiffs cannot base their request for injunctive relief on claims of irreparable harm to class members, *see* Gov't Br. 18, they are wrong. The Supreme Court has repeatedly considered irreparable harm to class members in granting an injunction, even where the class representatives were no longer threatened with harm. *See, e.g., Gerstein v. Pugh*, 420 U.S. 103, 110-11 (1975). The only authority cited by the government is a case that did not in fact involve a class action. Gov't Br. 18. (citing *Moore v. Consolidated Edison Co. of New York, Inc.*, 409 F. 3d 506 (2d Cir. 2005)).

10154 (D. Mass. Feb. 3, 2017)) (describing fear of not being permitted to return to US from Iran).

The irreparable harm from the Order also includes being subjected to periods of unlawful detention in airports across the country. *See, e.g.*, Dkt. No. 53-5 (Sara Yarjani Decl.) ¶ 34 (detained for 23 hours at Los Angeles International Airport); Dkt. No. 53-7 (Suha Amin Abdullah Abushamma Decl.) ¶ 20 (detained for 10 hours); Dkt. No. 53-8 (Hind Mohamed Hassan Ahmed Elbashir Decl.) ¶ 24 (detained for 10 hours). During such detention prospective class members are at risk of being denied basic necessities, such as food, medications, personal hygiene products, and adequate accommodations to rest. *See, e.g.*, Yarjani Decl. ¶¶ 22-25 (held overnight in room with no bathroom and given only an applesauce and juice); Abushamma Decl. ¶ 20 (not offered food until she signed a form withdrawing her application for admission); Elbashir Decl. ¶ 13 (denied medication); Dkt. No. 53-12 (Manar Decl.) ¶¶ 10, 14, 16 (held for hours without food or anywhere to rest); Espiritu Decl. Ex. S (article detailing the conditions suffered by individuals detained at LAX, including an elderly Iranian woman).

During such detention, class members are also at risk of being subjected to complete isolation with no means of communicating with anyone in the outside world, including worried family members and legal counsel. *See, e.g.*, Yarjani Decl. ¶¶ 16, 28, 30 (told she could only use her cell phone after formally withdrawing her application for admission); Dkt. No. 53-6 (Ramez Snober Decl.) ¶ 17 (prevented from contacting anyone); Abushamma Decl. ¶ 9 (never permitted to speak on the phone with her attorney); Elbashir Decl. ¶ 15 (denied permission to call his family); Dkt. No. 53-9 (Rashid Ahmed Gibril Ali Decl.) ¶ 4 (detained with other families and not given any information or permitted to use his cell phone).

Given these coercive detention conditions, prospective class members are also at risk of

being pressured into signing away their legal authorization to enter the United States. For example, numerous individuals reported being forced to sign forms they did not understand, or otherwise being told that if they did not withdraw their application for admission they would be deported and be barred from entering the United States for five years or more. *See, e.g.*, Yarjani Decl. ¶¶ 15-18, 23; Abushamma Decl. ¶¶ 13, 15-18; Snober Decl. ¶¶ 15-16; Elbashir Decl. ¶¶ 16-19; Ali Decl. ¶¶ 5-6; Dkt. No. 53-11 (Nabila Alhaffar Decl.) ¶¶ 8-10; *see also* Manar Decl. ¶¶ 14-16 (describing being scared, crying, and being told she had to sign something or she would not be allowed to the return to the United States for five years); Espíritu Decl. Ex. T (Decl. of Tareq Aqel Mohamed Aziz ¶¶ 12-14, *Aziz v. Trump*, No. 17-0116 (E.D. Va. filed on Feb. 8, 2017)) (denied request for translator or phone calls and told he had to sign a form that he did not understand).

Prospective class members also face irreparable harms resulting from the Executive Order's bar on entry to the United States. The ban on entry has inflicted and will continue to inflict emotional distress on class members who seek entry to the United States to visit or reunite with family members. *See, e.g.*, Elbashir Decl. ¶¶ 4-8 (prevented from visiting her sister and her family after careful planning to be present for the birth of her baby); Espíritu Decl. Ex. Q (Dahman Decl. ) ¶¶ 8-17 (prevented from being reunited with her minor son); Alhaffar Decl. ¶¶ 1-2, 5, 15 (prevented from returning home to Virginia and reuniting with her husband after travel abroad); Dkt. No. 53-10 (Yahya Aburomman Decl.) ¶ 2 (prevented from visiting her brothers, uncles, and aunt); Espíritu Decl. Ex. U (Ali Sanie Decl.) ¶¶ 1, 9 (*Louhghalam v. Trump*, No. 17-10154 (D. Mass. Feb. 3, 2017)) (legal permanent resident who cancelled planned travel to Iran for surgery and to visit family because of fear of inability to return).

Some class members who have authorization to enter the United States based on their



employment would face irreparable harm to their employment if denied entry. *See, e.g.*, Abushamma Decl. ¶¶ 1, 14 (a doctor at a medical clinic in Cleveland fearful over being unable to finish her residency); Ali Decl. ¶ 3 (medical professional prevented from attending a conference related to his work); Manar Decl. ¶ 6 (law student prevented from attending the 2017 Winter Youth Assembly at the United Nations, where she was to attend as a chosen delegate); Espiritu Decl. Ex. V (Decl. of Leila Amirsardary ¶¶ 1, 4-11, *Loughalam v. Trump*, No. 17-10154 (D. Mass. Feb. 3, 2017) (business owner who needs to travel abroad for work but unable to do so out of fear she will not be permitted to return)).

Other class members with authority to enter the United States on a student visa would be prevented from continuing their education if denied entry. *See, e.g.*, Yarjani Decl. ¶ 27 (describing how she had only 8 months of studies left to finish her master's degree); Espiritu Decl. Ex. W (Zahrasadat Mirrazi Renani Decl.) ¶ 1, 9, 11, *Loughalam v. Trump*, No. 17-10154 (D. Mass. Feb. 3, 2017)) (doctoral student unable to visit family abroad and attend educational conference out of fear he will be prevented from returning); Espiritu Decl. Ex. X (Najwa Elyazgi Decl.) ¶¶ 4-6, 8-10, 15-16, *Aziz v Trump*, No. 17-0116 (E.D. Va. Feb. 8, 2017)) (student denied ability to board flight after travel abroad and stranded in Istanbul for six days).

Finally, the ban inflicts social stigma on plaintiffs and class members by treating them presumptively as terrorists on the basis of their religion. The President's denigrating statements about Islam, in combination with a policy that disadvantages Muslim noncitizens, also subject plaintiffs to a category of suspicion from which they cannot escape, thereby impugning their reputation and integrity.

In short, both before and after this Court enjoined the removal of putative class members pursuant to the Executive Order, examples of the irreparable harms suffered by putative class

members resulting from detention and denial of entry were widespread. Absent an injunction from this Court, putative class members are at risk of continued, irreparable harm.

**B. The Balance Of Harms And Public Interest Militate Heavily In Favor Of An Injunction.**

The balance of harms and public interest weigh strongly in favor of granting a preliminary injunction. *See Winter*, 555 U.S. at 24. In contrast to the irreparable injury facing plaintiffs, the government has presented no evidence of harm resulting from an injunction. The only argument offered by the government is a general reference to the federal government's interest in enforcing laws related to national security. *See Gov't Br.* 18. This argument was resoundingly rejected by the Ninth Circuit. *Washington*, 2017 WL 526497 at \*10 (dismissing the government's claim of irreparable injury and noting that "the Government has done little more than reiterate" its general interest in combatting terrorism) (internal citations omitted). Likewise, the district court in Virginia found that "[i]ronically, the only evidence of in this record concerning national security indicates that the EO may actually make the country less safe." *Aziz*, No. 17-0116 at \*21; *see also* Espiritu Decl. Ex. B (Joint Declaration of Madeleine K. Albright, et al.); Dkt. No. 137 (Amicus Brief of Former National Security Officials).

Finally, the public interest also strongly favors a preliminary injunction. As the Ninth Circuit found, "the public . . . has an interest in free flow of travel, in avoiding separation of families, and in freedom from discrimination." *Washington*, 2017 WL 526497 at \*11. The Court should therefore issue a preliminary injunction.

**CONCLUSION**

The Court should deny the motion to dismiss and grant a preliminary injunction.

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Michael J. Wishnie (MW 1952)  
Muneer I. Ahmad<sup>†</sup>  
Elora Mukherjee (EM 4011)  
Marisol Orihuela<sup>†</sup>  
JEROME N. FRANK LEGAL SERVICES  
ORGANIZATION  
YALE LAW SCHOOL<sup>‡</sup>  
P.O. Box 209090  
New Haven, CT 06520-9090  
Phone: (203) 432-4800  
Fax: (203) 432-1426  
michael.wishnie@yale.edu

Mark Doss  
Rebecca Heller  
Julie Kornfeld  
Stephen Poellot  
INTERNATIONAL REFUGEE ASSISTANCE  
PROJECT  
URBAN JUSTICE CENTER  
40 Rector St, 9th Floor  
New York, NY 10006  
Tel. (646)-602-5600  
mdoss@refugeerights.org  
bheller@refugeerights.org  
jkornfeld@refugeerights.org  
spoellot@refugeerights.org

Karen C. Tumlin<sup>††</sup>  
Nicholas Espiritu<sup>††</sup>  
Melissa S. Keaney<sup>†</sup>  
Esther Sung<sup>†</sup>  
NATIONAL IMMIGRATION  
LAW CENTER  
3435 Wilshire Boulevard, Suite 1600

Respectfully submitted,

/s/ Lee Gelernt  
Lee Gelernt (LG-8511)  
Omar C. Jadwat (OJ-7925)  
Cecillia D. Wang (CW-8359)  
Andre I. Segura<sup>†</sup>  
AMERICAN CIVIL LIBERTIES  
UNION FOUNDATION  
125 Broad Street, 18th Floor  
New York, NY 10004  
Tel. (212) 549-2600  
lgelernt@aclu.org  
ojadwat@aclu.org  
cwang@aclu.org  
asegura@aclu.org

Jennifer Chang Newell<sup>††</sup>  
Cody H. Wofsy<sup>††</sup>  
AMERICAN CIVIL LIBERTIES UNION  
FOUNDATION IMMIGRANTS' RIGHTS PROJECT  
39 Drumm Street  
San Francisco, CA 94111  
Tel. (415) 343-0770  
jnewell@aclu.org  
cwofsy@aclu.org

Jonathan Polonsky  
KILPATRICK TOWNSEND & STOCKTON LLP  
1114 Avenue of the Americas  
New York, NY 10036-7703  
Tel. (212) 775 8703  
jpolonsky@kilpatricktownsend.com

Justin B. Cox<sup>†</sup>  
NATIONAL IMMIGRATION  
LAW CENTER  
1989 College Ave. NE

Los Angeles, CA 90010  
Phone: (213) 639-3900  
tumlin@nilc.org  
espiritu@nilc.org  
keaney@nilc.org  
sung@nilc.org

Atlanta, GA 30317  
Phone: (678) 404-9119  
cox@nilc.org

\*\* Application for admission forthcoming.

† Motion for admission *pro hac vice* forthcoming.

†† Appearing *pro hac vice*.

‡ For identification purposes only.

*Counsel for Petitioners*

**Certificate of Service**

I hereby certify that on February 16, 2017, I electronically filed the Opposition to the Motion to Dismiss and Reply Regarding Preliminary Injunction for Plaintiffs with the Court Clerk using the ECF system, which will send notification to Defendants' registered counsel.

Dated: February 16, 2017

/s/ Lee Gelernt  
Lee Gelernt

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

HAMEED KHALID DARWEESH, et al.,

on behalf of themselves and others similarly  
situated,

*Petitioners,*

v.

DONALD TRUMP, President of the United  
States, et al.,

*Respondents.*

Case No. 1:17-cv-00480 (CBA)

**DECLARATION OF NICHOLAS**  
**ESPIRITU IN SUPPORT OF PLAINTIFFS' OPPOSITION TO THE MOTION TO**  
**DISMISS AND REPLY REGARDING PRELIMINARY INJUNCTION**

I, Nicholas Espiritu, upon my personal knowledge and in accordance with 28 U.S.C. § 1746, hereby declare as follows:

1. I am an attorney with the National Immigration Law Center (NILC), and counsel of record for Plaintiffs in this action. I am licensed in the State of California and have been admitted *pro hac vice* to practice before this Court. As a witness, I could and would testify competently as to the matters set forth below.
2. Attached as Exhibit A is a true and correct copy of the Memorandum Opinion granting Motion for Preliminary Injunction in *Aziz v. Trump*, No. 17-0116 (E.D. Va. Feb. 13, 2017).
3. Attached as Exhibit B is a true and correct copy of the Joint Declaration of Madeleine K. Albright, *et. al* in *Washington v. Trump*, \_\_ F. 3d \_\_, No. 17-35105 (9th Cir. Feb. 6, 2017).
4. A true and correct copy of the February 3, 2017 Washington Post article by Justin Jouvenal, Rachel Weiner & Ann E. Marimow entitled "*Justice Dept. Lawyer Says*

*100,000 Visas Revoked Under Travel ban; State Dept. says About 60,000,*” is attached hereto as Exhibit C. The article can also be found at <http://tinyurl.com/jk342hm>.

5. Attached as Exhibit D is a true and correct copy of a draft Executive Order “*Protecting the Nation from Terrorist Attacks by Foreign Nationals*.” The draft can also be found at <https://apps.washingtonpost.com/g/documents/world/read-the-draft-of-the-executive-order-on-immigration-and-refugees/2289/>.
6. Attached as Exhibit E is a true and correct copy of the Central Intelligence Agency’s World Listing Factbook website providing countries’ population percentage by religious affiliation. This demographic information can also be found at <https://www.cia.gov/library/publications/the-world-factbook/fields/2122.html#sy>.
7. A true and correct copy of the January 27, 2017 CBN News article entitled “*Brody File Exclusive: President Trump Says Persecuted Christians Will Be Given Priority As Refugees*,” is attached hereto as Exhibit F. The article can also be found at <http://www1.cbn.com/thebrodyfile/archive/2017/01/27/brody-file-exclusive-president-trump-says-persecuted-christians-will-be-given-priority-as-refugees>.
8. A true and correct copy of the January 31, 2017 Washington Post article by Sarah Pulliam Bailey entitled “*Trump signs order limiting refugee entry, says he will prioritize Christian refugees*,” is attached hereto as Exhibit G. The article can also be found at [https://www.washingtonpost.com/news/acts-of-faith/wp/2017/01/27/we-dont-want-them-there-trump-signs-order-limiting-refugee-entry/?utm\\_term=.1238bc7f1081](https://www.washingtonpost.com/news/acts-of-faith/wp/2017/01/27/we-dont-want-them-there-trump-signs-order-limiting-refugee-entry/?utm_term=.1238bc7f1081).
9. A true and correct copy of the December 7, 2015 statement posted to Donald J. Trump’s official campaign website entitled “*Donald J. Trump Statement On Preventing Muslim Immigration*,” is attached hereto as Exhibit H. The speech can also be found at <https://www.donaldjtrump.com/press-releases/donald-j.-trump-statement-on-preventing-muslim-immigration>.
10. A true and accurate copy of the tweet by Donald J. Trump @realDonaldTrump made on December 7, 2015 at 1:47 PM is attached hereto as Exhibit I. The tweet can also be found at <https://twitter.com/realdonaldtrump/status/673982228163072000?lang=en>.
11. A true and accurate copy of the December 7, 2015 Washington Post article by Jenna Johnson entitled “*Trump calls for 'total and complete shutdown of Muslims entering the United States'*” is attached hereto as Exhibit J. The article can also be found at [https://www.washingtonpost.com/news/post-politics/wp/2015/12/07/donald-trump-calls-for-total-and-complete-shutdown-of-muslims-entering-the-united-states/?utm\\_term=.b6d478b253a6](https://www.washingtonpost.com/news/post-politics/wp/2015/12/07/donald-trump-calls-for-total-and-complete-shutdown-of-muslims-entering-the-united-states/?utm_term=.b6d478b253a6).
12. A true and correct copy of the transcript of the July 24, 2016 interview of Donald Trump by Chuck Todd on “*Meet the Press*” on NBC is attached hereto as Exhibit K. The transcript can also be found at <http://www.nbcnews.com/meet-the-press/meet-press-july-24-2016-n615706>.

13. A true and correct copy of the December 21, 2016 Time article by Katie Reilly entitled “*Donald Trump on Proposed Muslim Ban: ‘You Know My Plans,’*” is attached hereto as Exhibit L. The article can also be found at <http://time.com/4611229/donaldtrumpberlinattack/>.
14. A true and correct copy of the January 29, 2017 Washington Post article by Amy B. Wang entitled “*Trump asked for a ‘Muslim ban,’ Giuliani says – and ordered a commission to do it ‘legally,’*” is attached hereto as Exhibit M. The article can also be found at [https://www.washingtonpost.com/news/the-fix/wp/2017/01/29/trump-asked-for-a-muslim-ban-giuliani-says-and-ordered-a-commission-to-do-it-legally/?utm\\_term=.2f88f830c54c](https://www.washingtonpost.com/news/the-fix/wp/2017/01/29/trump-asked-for-a-muslim-ban-giuliani-says-and-ordered-a-commission-to-do-it-legally/?utm_term=.2f88f830c54c).
15. A true and correct copy of the December 8, 2015 Washington Post article by Jenna Johnson entitled “*Donald Trump says he is not bothered by comparisons to Hitler*” is attached hereto as Exhibit N. The article can also be found at [https://www.washingtonpost.com/news/post-politics/wp/2015/12/08/donald-trump-says-he-is-not-bothered-by-comparisons-to-hitler/?utm\\_term=.97e412919c27](https://www.washingtonpost.com/news/post-politics/wp/2015/12/08/donald-trump-says-he-is-not-bothered-by-comparisons-to-hitler/?utm_term=.97e412919c27).
16. A true and correct copy of the March 10, 2016 CNN article by Theodore Schliefer entitled “*Donald Trump: ‘I think Islam hates us,’*” is attached hereto as Exhibit O. The article can also be found at <http://www.cnn.com/2016/03/09/politics/donald-trump-islam-hates-us/>.
17. A true and correct copy of the March 22, 2016 Mediate article by Alex Griswold entitled “*Trump Responds to Brussels Attacks: ‘We’re Having Problems With the Muslims’*” is attached hereto as Exhibit P. The article can also be found at <http://www.mediaite.com/tv/trump-responds-to-brussels-attack-were-having-problems-with-the-muslims/>.
18. Attached as Exhibit Q is a true and correct copy of the Declaration of Reema Khaled Dahman, *Ali v. Trump*, No. 17-0135 (W.D. Wash. Feb. 6, 2017).
19. Attached as Exhibit R is a true and correct copy of the Declaration of Babek Yaghoubi Moghadam, *Loughalam v. Trump*, No. 17-10154 (D. Mass. Feb. 3, 2017).
20. A true and correct copy of the January 29, 2017 New York Times article by Benjamin Mueller and Matthew Rosenberg entitled “*Disorder at Airports as Travelers Are Detained Without Lawyers,*” is attached hereto as Exhibit S. The article can also be found at <https://nyti.ms/2jHM3ba>.
21. Attached as Exhibit T is a true and correct copy of the Declaration of Tareq Aqel Mohamed Aziz, *Aziz v. Trump*, No. 17-0116 (E.D. Va. Feb. 8, 2017).
22. Attached as Exhibit U is a true and correct copy of the Declaration of Ali Sanie, *Louhghalam v. Trump*, No. 17-10154 (D. Mass. Feb. 3, 2017).



23. Attached as Exhibit V is a true and correct copy of the Declaration of Leily Amirsardary, *Louhghalam v. Trump*, No. 17-10154 (D. Mass. Feb. 3, 2017).
24. Attached as Exhibit W is a true and correct copy of the Declaration of Zahrasadat Mirrazi Renani, *Loughalam v. Trump*, No. 17-10154 (D. Mass. Feb. 3, 2017).
25. Attached as Exhibit X is a true and correct copy of the Declaration of Najwa Elyazgi, *Aziz v Trump*, No. 17-0116 (E.D. Va. filed on Feb. 8, 2017).

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, based on my personal knowledge. Executed at Los Angeles, California on February 16, 2017.



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Nicholas Espiritu  
NATIONAL IMMIGRATION LAW CENTER  
3435 Wilshire Boulevard, Suite 1600  
Los Angeles, CA 90010  
(213) 639-3900  
espiritu@nilc.org

## EXHIBIT A

IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF VIRGINIA  
Alexandria Division

TAREQ AQEL MOHAMMED AZIZ, <u>et al.</u> ,	)	
	)	
Plaintiffs/Petitioners	)	
	)	
v.	)	1:17-cv-116 (LMB/TCB)
	)	
DONALD TRUMP, President of the United	)	
States, <u>et al.</u> ,	)	
	)	
Defendants/Respondents.	)	

**MEMORANDUM OPINION**

In this civil action, the Commonwealth of Virginia (“Commonwealth”) alleges that Executive Order 13,769, entitled “Protecting the Nation from Foreign Terrorist Entry into the United States” (“the EO”), violates the First and Fifth Amendments to the United States Constitution, as well as the Immigration and Nationality Act and Religious Freedom Restoration Act. Before the Court is the Commonwealth’s Motion for a Preliminary Injunction, to which defendants have responded and on which oral argument has been held. Attached to the Commonwealth’s motion were multiple exhibits and declarations. The defendants have responded with no evidence other than the EO, which they have defended primarily with arguments attacking the Commonwealth’s standing to oppose the EO and emphasizing the authority of the president to issue such an EO. For the reasons that follow, the Commonwealth’s Motion for a Preliminary Injunction will be granted.

**I. FINDINGS OF FACT**

**A. The Executive Order**

On January 20, 2017, Donald Trump (“Trump”) was inaugurated as the 45th President of the United States. On January 27, 2017, he signed the EO. Section 3 of the EO “proclaim[ed]

that the immigrant and nonimmigrant entry into the United States of aliens from” Syria, Iraq, Iran, Libya, Sudan, Yemen, and Somalia “would be detrimental to the interests of the United States” and “suspend[ed] entry into the United States, as immigrants and nonimmigrants, of such persons for 90 days from the date of this order.” [Dkt. 7-1] § 3(c). Although the EO specifically excludes “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”<sup>1</sup> from the ban on entry, it does not list lawful permanent residents (“LPRs”) among those excluded. Id. Section 5 of the EO suspends the United States Refugee Assistance Program (“USRAP”) for persons from all countries for 120 days. Id. at § 5(a). Once the suspension has ended, the EO directs the Secretaries of State and Homeland Security “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.” Id. at § 5(b).

Section 1 describes the stated purpose for the EO as follows:

Numerous foreign-born individuals have been convicted or implicated in terrorism-related crimes since September 11, 2001, including foreign nationals who entered the United States after receiving visitor, student, or employment visas, or who entered through the United States refugee resettlement program. Deteriorating conditions in certain countries due to war, strife, disaster, and civil unrest increase the likelihood that terrorists will use any means possible to enter the United States. The United States must be vigilant during the visa-issuance process to ensure that those approved for admission do not intend to harm Americans and that they have no ties to terrorism.

[Dkt. 31-1] § 1. Section 2 goes on to declare it to be “the policy of the United States to protect its citizens from foreign nationals who intend to commit terrorist attacks in the United States;

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<sup>1</sup> The “G” series of visas are available to qualifying representatives of foreign governments and international organizations.

and to prevent the admission of foreign nationals who intend to exploit United States immigration laws for malevolent purposes.” Id. § 2.

The EO was initially applied to LPRs, and the defendants have since conceded that Customs and Border Patrol (“CBP”) initially stopped several LPRs at the border in the 24 to 48 hours after the EO was signed, although they represent that all such persons have since been permitted to enter the United States. After initial confusion within the executive branch, [Dkt. 61-17], Homeland Security Secretary John Kelly released a statement on Sunday, January 29, announcing that he “deem[ed] the entry of lawful permanent residents to be in the national interest” and that “lawful permanent resident status will be a dispositive factor in our case-by-case determinations,” [Dkt. 61-1].

The next day, White House Counsel Donald F. McGahn II issued a memorandum stating that “there has been reasonable uncertainty about whether [Section 3 of the EO] appl[ies] to lawful permanent residents of the United States. Accordingly, to remove any confusion, I now clarify that Section 3(c) . . . do[es] not apply to such individuals.” [Dkt. 34-1]. Defendants have argued that in light of this memorandum, the EO cannot be interpreted to apply to LPRs; however, a voluntary change of policy cannot be taken as binding unless it is “absolutely clear” that the government will not revert to its original position. Friends of the Earth, Inc. v. Laidlaw Evt’l Servs. (TOC), Inc., 528 U.S. 167, 189 (2000). As the Ninth Circuit observed in related litigation, defendants have “offered no authority establishing that the White House counsel is empowered to issue an amended order superseding the Executive Order signed by the president . . . and that proposition seems unlikely,” nor have they “established that the White House counsel’s interpretation of the Executive Order is binding on all executive branch officials responsible for enforcing” it. Washington v. Trump, \_\_ F.3d \_\_, 2017 WL 526497, at \*8 (9th

Cir. 2017). Accordingly, the Court finds that the EO presents an ongoing risk to the status of LPRs from the seven countries covered by the EO.

### **B. Injuries to the Commonwealth and its Residents**

The Commonwealth has produced evidence of the EO being disruptive to the operation of its public colleges and universities. As the declaration of W. Taylor Reveley III (“Reveley”), who is president of the College of William & Mary and the chair of the Council of Presidents, a group consisting of the presidents and chancellors of Virginia’s 14 public universities and colleges and 23 community colleges, [Dkt. 32] at ¶¶ 1–2, explains, the EO affects international travel of at least 350 students attending Virginia Commonwealth University, Virginia Tech, George Mason University, the University of Virginia, and William & Mary combined.<sup>2</sup> [Dkt. 32] at ¶ 5. That number includes at least two students who were abroad when the EO was issued and were denied reentry to the United States on its authority. *Id.* at ¶ 6.<sup>3</sup> At one university, Iranian-born faculty and students “have had to cancel their plans to present their work at an international conference on engineering” because they believe they are likely to be denied reentry to the United States. *Id.* at ¶ 7. The EO is also disrupting the process by which medical students “match” with academic hospitals for their residency, which takes place this month. *Id.* at ¶ 8. At least two Virginia universities have already had to cancel appearances by foreign scholars as a result of the EO. *Id.* at ¶ 9. Students have also begun withdrawing applications to attend Virginia schools as a result of the travel ban, and at least two students who had already announced an intention to enroll in Virginia schools have now abandoned those plans. *Id.* at

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<sup>2</sup> At oral argument, the Commonwealth represented that across all of its schools its estimate of affected persons has grown to 1,000 students and 66 faculty and staff members.

<sup>3</sup> One of these students, Najwa Elyazgi, has since entered the United States, but only as a result of the District of Washington’s order staying enforcement of the EO. [Dkt. 54] ¶ 11.

¶ 11. The affected students and faculty “must refrain from leaving the United States for fear of not being able to return,” id. at ¶ 7, and “are unsure whether they should take the trips they had planned to visit family and fulfill research obligations, whether future trips should be planned, and whether members of their family or research partners will be able to visit the United States,” id. at ¶ 14. The defendants provided no evidence to counter these representations.

The Commonwealth has also presented evidence that enforcement of § 3(c) of the EO will have a financial impact on its colleges and universities. Most concretely, the EO will result in reduced revenue from tuition money from students who cannot return to continue their studies or who are unable to enroll. [Dkt. 32] at ¶ 11. Department of Homeland Security data from 2015, the most recent year available, shows that 465 student visa holders from the affected countries were enrolled in Virginia schools. [Dkt. 61-15] at 4. College Factual, a company that specializes in higher education analytics, estimates that this could result in up to \$20.8 million in lost tuition and fees. Id.; [Dkt. 61-16] at 1. Although the Commonwealth has not identified any specific grants or contracts that are in immediate jeopardy, it also argues that the EO may inhibit the ability of research universities to fulfill the terms of various grants and contracts. [Dkt. 32] at ¶ 12.

Reveley also avers that university personnel are experiencing “anxiety, confusion, and distress” because of the uncertainty introduced by the EO, such that some universities “have experienced an uptick in students, employees, and faculty using their counseling services.” Id. at ¶ 14. Finally, Reveley and other administrators are concerned that the EO could imperil Virginia students who are studying abroad, by inflaming “anti-American sentiment[.]” Id. at ¶ 15. Again, defendants have not tendered any evidence to refute these concerns.

### C. The Government's Asserted Rationale for the EO

Defendants have maintained that the EO is necessary to protect the United States from terrorist attacks to be carried out by nationals of the seven affected countries [Dkts. 31-1, 80]; however, they have not offered any evidence to identify the national security concerns that allegedly prompted this EO, or even described the process by which the president concluded that this action was necessary.<sup>4</sup>

And contrary to the national security concerns recited in the EO, the only evidence in the record on this subject is a declaration of 10 national security professionals who have served at the highest levels of the Department of State, the Department of Homeland Security, the Central Intelligence Agency, and the National Security Council through both Republican and Democratic administrations, [Dkt. 57], and at least four of whom “were current on active intelligence regarding all credible terrorist threat streams directed against the [United States] as recently as one week before the issuance of the” EO. *Id.* at ¶ 2. They write

We all agree that the United States faces real threats from terrorist networks and must take all prudent and effective steps to combat them, including the appropriate vetting of travelers to the United States. We all are nevertheless unaware of any specific threat that would justify the travel ban established by the Executive Order issued on January 27, 2017. We view the Order as one that ultimately undermines the national security of the United States, rather than making us safer. In our professional opinion, this Order cannot be justified on national security or foreign policy grounds.

*Id.* at ¶ 3. They also observe that since September 11, 2011, “not a single terrorist attack in the United States has been perpetrated by aliens from the countries named in the Order.” *Id.* at ¶ 4.

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<sup>4</sup> To the extent that such evidence might be classified, “the Government may provide a court with classified information. Courts regularly receive classified information under seal and maintain its confidentiality. Regulations and rules have long been in place for that.” *Washington*, 2017 WL 526497, at \*10 n.8.



#### **D. The President's Public Comments**

The Commonwealth's evidence also contains several statements by the president and his senior advisors on the subject of immigration to the United States by Muslims. Although defendants dispute the relevance of these statements, as discussed below, they have not contested their accuracy.

On December 7, 2015, then-candidate Trump issued a press released titled "Donald J. Trump's Statement on Preventing Muslim Immigration." [Dkt. 61-12]. In the statement, he called "for a total and complete shutdown of Muslims entering the United States until our country's representatives can figure out what is going on." Id.

The latter statement is consistent with views that the president has expressed on various occasions over the last six years. A representative example<sup>5</sup> can be found in a 2011 interview with Fox News's Bill O'Reilly ("O'Reilly"). A portion of that interview reads:

O'Reilly: Is there a Muslim problem in the world?

Trump: Absolutely. Absolutely. I don't notice Swedish people knocking down the World Trade Center.

...

O'Reilly: But you do believe overall there is a Muslim problem in the world.

Trump: Well, there is a Muslim problem. Absolutely. You just have to turn on your television set.

O'Reilly: And do you think it encompasses all Muslims?

Trump: No. And that's the sad part about life. Because you have fabulous Muslims. I know many Muslims and they're fabulous people. They're smart. They're industrious. They're great. Unfortunately, at this moment in time, there is a Muslim problem in the world. And by the way, and you know it and I [sic] and I know it and some people don't like saying it because they think it's not politically correct.

[Dkt. 61-19] at 5.

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<sup>5</sup> The attachments to the Declaration of Mona Siddiqui [Dkt. 61] collect several other examples, although the Court does not consider every document in the Siddiqui declaration to be relevant.

As the campaign proceeded, there were fewer references to an outright ban on Muslim immigration, with the focus switched to a ban on persons from territories that have a Muslim majority. Mr. Trump and then-vice-presidential candidate Mike Pence (“Pence”) were asked about this evolution in an interview with Lesley Stahl (“Stahl”) on July 17, 2016. The relevant portion reads:

Stahl: [I]n December, you [i.e., Pence] tweeted, and I quote you, “Calls to ban Muslims from entering the U.S. are offensive and unconstitutional.”

Trump: So you call it territories. OK? We’re gonna do territories. We’re not gonna let people come in from Syria that nobody knows who they are.

...

Stahl: [S]o you’re changing . . . your position.

Trump: --No, I—call it whatever you want. We’ll call it territories, OK?

Stahl: So not Muslims?

Trump: You know—the Constitution—there’s nothing like it. But it doesn’t necessarily give us the right to commit suicide, as a country, OK? And I’ll tell you this. Call it whatever you want, change territories [sic], but there are territories and terror states and terror nations that we’re not gonna allow the people to come into our country.

[Dkt. 61-22] at 9–10.

On the morning of Friday, January 27, 2017, the president gave an interview with the Christian Broadcasting Network’s David Brody (“Brody”):

Brody: Persecuted Christians, we’ve talked about this, the refugees overseas. The refugee program, or the refugee changes you’re looking to make. As it relates to persecuted Christians, do you see them as kind of a priority here?

Trump: Yes.

Brody: You do?

Trump: They’ve been horribly treated. Do you know if you were a Christian in Syria it was impossible, at least very tough to get into the United States? If you were a Muslim you could come in, but if you were a Christian, it was almost impossible and the reason that was so unfair [sic], everybody was persecuted in all fairness, but they were chopping off the heads of everybody but more so the Christians. And I thought it was very, very unfair. So we are going to help them.

[Dkt. 61-6] at 2. That evening, the EO was signed.

On Sunday, January 29, 2017, two days after the EO was signed, former Mayor of New York City Rudolph Giuliani (“Giuliani”) said in an interview on Fox News, “‘I’ll tell you the whole history of it[.]’ . . . ‘So when [Trump] first announced it, he said ‘Muslim ban.’ He called me up. He said, ‘Put a commission together. Show me the right way to do it legally.’ . . . ‘And what we did was, we focused on, instead of religion, danger—the areas of the world that create danger for us[.]’ . . . ‘Which is a factual basis, not a religious basis. Perfectly legal, perfectly sensible. And that’s what the ban is based on. It’s not based on religion. It’s based on places where there are [sic] substantial evidence that people are sending terrorists into our country.’” [Dkt. 61-4] at 1–2 (emphasis in original).

The president and his advisors deny that the EO represents the Muslim ban that the president spoke about during his campaign. Secretary Kelly said in an interview on Tuesday, January 31, 2017, “‘This is not, I repeat not, a ban on Muslims.’ . . . ‘We cannot gamble with American lives. I will not gamble with American lives. These orders are a matter of national security, and it is my sworn responsibility as secretary of homeland security to protect and defend the American people.’” [Dkt. 61-17] at 3.

## II. CONCLUSIONS OF LAW

### A. Justiciability

As a threshold matter, defendants argue that courts “lack jurisdiction to review the Executive Branch’s decisions concerning visa revocation and entry,” at least in part because those decisions involve national security judgments. [Dkt. 80] at 14.

The word “jurisdiction” was once a “word of many, too many, meanings.” Steel Co. v. Citizens for a Better Environment, 523 U.S. 83, 90 (1998) (internal citation and quotation marks omitted). Accordingly, the Supreme Court “has endeavored in recent years to ‘bring some

discipline’ to the use of the term ‘jurisdictional.’” Gonzalez v. Thaler, 132 S. Ct. 641, 648 (2012) (quoting Henderson v. Shinseki, 562 U.S. 428, 435 (2011)). Because the modern concept addresses “a court’s adjudicatory capacity,” it refers to either “subject matter jurisdiction” or “personal jurisdiction.” Henderson, 562 U.S. at 435.

Defendants have argued that exercising jurisdiction in this case would be “an impermissible intrusion on the political branches’ plenary constitutional authority over foreign affairs, national security, and immigration.” [Dkt. 80] at 14. By advancing this argument, defendants appear to be invoking the political question doctrine, under which a court lacks subject matter jurisdiction over “a controversy . . . where there is a textually demonstrable constitutional commitment of the issue to a coordinate political department; or a lack of judicially discoverable and manageable standards for resolving it[.]” Zivotofsky v. Clinton, 566 U.S. 189, 195 (2012) (internal quotation marks and citations omitted).

The issues in this case are not textually committed to another department by the Constitution. To the contrary, the Commonwealth argues that the EO is in violation of constitutional and statutory law, and that resolving these claims requires interpreting the EO, the Immigration and Nationality Act, and the Constitution. “This is a familiar judicial exercise.” Zivotofsky, 566 U.S. at 196. “At least since Marbury v. Madison, [the Supreme Court has] recognized that when” government action “is alleged to conflict with the Constitution, ‘it is emphatically the province and duty of the judicial department to say what the law is.’” Id. (quoting Marbury, 1 Cranch 137, 177 (1803)). “That duty will sometimes involve the ‘[r]esolution of litigation challenging the constitutional authority of one of the three branches,’ but courts cannot avoid their responsibility merely ‘because the issues have political implications.’” Id. (quoting INS v. Chadha, 462 U.S. 919, 943 (1983)).

At oral argument, defendants suggested that their justiciability arguments were limited to the context of 8 U.S.C. § 1182(f), which is the statutory authority that the president invokes for the EO. Section 1182(f) provides that “[w]hen 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[.]” Defendants urge that this statutory grant of authority places the president at the zenith of his power, citing the framework first articulated by Justice Jackson in his concurrence in Youngstown Sheet & Tube Co. v. Sawyer, 343 U.S. 579 (1952). Under Youngstown Sheet & Tube, “[w]hen the President acts pursuant to an express . . . authorization of Congress, his authority is at its maximum, for it includes all that he possesses in his own right plus all that Congress can delegate.” 343 U.S. at 635.

Maximum power does not mean absolute power. Every presidential action must still comply with the limits set by Congress’ delegation of power and the constraints of the Constitution, including the Bill of Rights.<sup>6</sup> It is a bedrock principle of this nation’s legal system that “the Constitution ought to be the standard of construction for the laws, and that wherever there is evident opposition, the laws ought to give place to the Constitution.” The Federalist No. 81, at 481 (Alexander Hamilton) (Clinton Rossiter ed., 1999). Defendants have cited no authority for the proposition that Congress can delegate to the president the power to violate the

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<sup>6</sup> Youngstown Sheet & Tube is better known as the Steel Seizure Case. In that case, President Truman ordered the Secretary of Commerce to seize control of most of the country’s steel mills because he felt that an impending strike would jeopardize the military’s ability to wage the Korean War. The Supreme Court struck the order, holding that although “[t]he power of Congress to . . . authorize the taking of private property for public use” was beyond question, the president did not have power to do so without Congress’ approval, even in wartime. Id. at 588.

Constitution and its amendments and the Supreme Court has made it clear that even in the context of immigration law, congressional and executive power “is subject to important constitutional limitations.” Zadvydas v. Davis, 533 U.S. 678, 695 (2001).

Indeed, the Supreme Court has refused to hold that the president is exempt from compliance with the Due Process Clause even when he is exercising a pure Article II power, such as the detention of persons deemed “enemy combatants.” In Hamdi v. Rumsfeld, 542 U.S. 507, 509 (2004), for example, the Supreme Court was confronted with the constitutional claims of an “enemy combatant.” The Court recognized the government’s “critical . . . interest in detaining those who actually pose an immediate threat to the national security of the United States during ongoing international conflict,” id., but still held that the president must comply with the Fifth Amendment, id. at 524. If the president’s actions can be subject to judicial review when he is exercising his core Article II powers, as in Hamdi, it follows that his actions are also subject to such review when he exercises Article I powers delegated to him by Congress. As the Ninth Circuit has explained, “the Supreme Court has repeatedly and explicitly rejected the notion that the political branches . . . are not subject to the Constitution when policymaking in [the immigration] context.” Washington, 2017 WL 526497, at \*5.

The defendants also continue to dispute the Commonwealth’s Article III standing to challenge the EO. The Court has already held that the Commonwealth has pleaded facts sufficient to establish standing under both a parens patriae theory and proprietary theory. See Mem. Op., [Dkt. 42] at 11. Because the pending motion is for a preliminary injunction, the Commonwealth may no longer rest on its pleadings but must “set forth by affidavit or other evidence specific facts, which for purposes of the [preliminary injunction] will be taken to be true.” Cacchillo v. Insmmed, Inc., 638 F.3d 401, 404 (2d Cir. 2011) (internal quotation marks and

citations omitted). As discussed above, the Commonwealth has submitted sufficient evidence in the form of Reveley's declaration to establish at this early point in the litigation standing under the standards articulated in this Court's memorandum opinion dated February 3, 2017. See Mem. Op., [Dkt. 42] at 11.

### **B. Preliminary Injunction**

"A plaintiff seeking a preliminary injunction must establish that he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of the equities tips in his favor, and that an injunction is in the public interest." Winter v. Nat. Res. Def. Council, Inc., 555 U.S. 7, 20 (2008). "While plaintiffs seeking preliminary injunctions must demonstrate that they are likely to succeed on the merits, they 'need not show a certainty of success.'" League of Women Voters of N.C. v. North Carolina, 769 F.3d 224, 247 (4th Cir. 2014) (internal quotation marks and citation omitted).

### **C. Likelihood of Success on the Merits**

The First Amendment to the United States Constitution provides that "Congress shall make no law respecting an establishment of religion." U.S. Const. amend. I.<sup>7</sup> "The clearest command of the Establishment Clause is that one religious denomination cannot be officially preferred over another." Larson v. Valente, 456 U.S. 228, 244 (1982). The Supreme Court has articulated various tests for determining whether that command has been violated. The first such test is that the law "must have a secular . . . purpose." Lemon v. Kurtzman, 403 U.S. 602, 612 (1971).

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<sup>7</sup> Although the First Amendment only addresses Congress by its terms, it has long been held to apply to executive action as well. See, e.g., New York Times Co. v. United States, 403 U.S. 713, 714 (1971).



“In the past, [this] test has not been fatal very often, presumably because government does not generally act unconstitutionally, with the predominant purpose of advancing” one religion over another. McCreary County v. Am. Civil Liberties Union of Ky., 545 U.S. 844, 863 (2005). The secular purpose requirement ““nevertheless serves an important function,” id. at 859 (quoting Wallace v. Jaffree, 472 U.S. 38, 75 (1985) (O’Connor, J., concurring in the judgment)), because “[b]y showing a purpose to favor religion, the government sends the . . . message to . . . nonadherents that they are outsiders, not full members of the political community, and an accompanying message to adherents that they are insiders, favored members,” id. at 860 (internal citations and quotation marks omitted). This message of exclusion from the political community is all the more conspicuous when the government acts with a specific purpose to disfavor a particular religion.

Defendants have argued that the Court may not go beyond the text of the EO in assessing its purpose, or look behind its proffered national security rationale,<sup>8</sup> but the Supreme Court has rejected that position. Although courts “often . . . accept governmental statements of purpose, in keeping with the respect owed in the first instance to such official claims, . . . in those unusual cases where the claim was an apparent sham, or the secular purpose secondary, the unsurprising results have been findings of no adequate secular object.” McCreary, 545 U.S. at 865. When determining what purpose motivates governmental action, “an understanding of official objective emerges from readily discoverable fact, without any judicial psychoanalysis of a drafter’s heart of hearts.” McCreary, 545 U.S. at 862. In other words, what matters is what an “objective observer” would draw from the text of the policy, enlightened by historical context and “the

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<sup>8</sup> The District of Massachusetts apparently agreed in Louhghalam v. Trump, as it referred only to the text of the EO, but the court did not explain why it did not consider any other evidence. See \_\_ F. Supp. 3d \_\_, 2017 WL 479779, at \*4–\*5 (D. Mass 2017).



specific sequence of events leading to” its adoption. Id. (internal citations and quotation marks omitted). This historical context can include statements by relevant policymakers. Id. at 870 (considering resolutions authorizing a Ten Commandments display by county boards); see also Washington, 2017 WL 526497 at \*10 (sanctioning the consideration of “statements by decisionmakers”).

Defendants argue that an elected official’s statements before he took the oath of office are irrelevant, but that position also runs counter to McCreary. 545 U.S. at 866. Just as the Supreme Court has held that “the world is not made brand new every morning[.]” id., a person is not made brand new simply by taking the oath of office. Limiting the temporal scope of the purpose inquiry “bucks common sense: reasonable observers have reasonable memories, and [Supreme Court] precedents sensibly forbid an observer ‘to turn a blind eye to the context in which [the] policy arose.’” Id. (quoting Santa Fe Ind. Sch. Dist. v. Doe, 530 U.S. 290, 315 (2000)). For example, in McCreary, the American Civil Liberties Union (“ACLU”) sought to enjoin a display including the Ten Commandments in two counties’ courthouses. Id. at 855. The Supreme Court examined the history of interactions between county executives, the ACLU, and the federal district court for a one-year period before the challenged display was erected, id. at 851–57, and determined from that history that “the [c]ounties were simply reaching for any way to keep a religious document on the walls of courthouses constitutionally required to embody religious neutrality,” id. at 873. Further, in Santa Fe, the Court examined over a year’s worth of events leading up to a school district’s adoption of the challenged “Prayer at Football Games” policy to conclude that it “unquestionably ha[d] the purpose and create[d] the perception of encouraging the delivery of prayer at a series of important school events.” Santa Fe, 530 U.S. at 294–98, 317.

This Court is similarly not free to “ignore perfectly probative evidence” from statements made by the president before he took office. See McCreary, 545 U.S. at 866.

Defendants have repeatedly cited Kleindienst v. Mandel, 408 U.S. 753 (1972), arguing that when facing constitutional scrutiny in an immigration context, the government must only supply a “facially legitimate and bona fide reason” for its action, but Mandel is inapplicable to this litigation. By its terms, Mandel does not apply to the persons who have already been granted visas because it involved an as-applied challenge to executive action by a person who had not been granted a visa. Id. at 758–60. Here, by contrast, the allegations involve persons who have passed through extensive vetting requirements and been granted visas. Accordingly, the limitation Mandel imposes on constitutional review of executive action does not apply to the class of persons relevant to this action. Moreover, even if Mandel did apply, it requires that the proffered executive reason be “bona fide.” Id. at 770. As the Second and Ninth Circuits have persuasively held, if the proffered “facially legitimate” reason has been given in “bad faith,” it is not “bona fide.” Am. Academy of Religion v. Napolitano, 573 F.3d 115, 126 (2d Cir. 2009); Bustamante v. Mukasey, 531 F.3d 1059, 1062 (9th Cir. 2008). That leaves the Court in the same position as in an ordinary secular purpose case: determining whether the proffered reason for the EO is the real reason.

Defendants argue that permitting a court to “look behind” the president’s national security judgments will result in a trial de novo of the president’s national security determinations.<sup>9</sup> No party has asked the Court to engage in such an exercise, nor would

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<sup>9</sup> Similar concerns were raised in one of the wartime detention cases, Boumediene v. Bush, 553 U.S. 723, 831 (2008) (Scalia, J., dissenting), but lower courts have proven capable of conducting the required due process analysis without supplanting the executive branch, see e.g., Bensayah v. Obama, 610 F.3d 718, 723–27 (D.C. Cir. 2010).

precedent permit it to do so. As in the Ninth Circuit, this court’s “jurisprudence has long counseled deference to the political branches on matters of immigration and national security[.]” Washington, 2017 WL 526497, at \*5. The Establishment Clause concerns discussed above do not involve an assessment of the merits of the president’s national security judgment. Instead, the question is whether the EO was animated by national security concerns at all, as opposed to the impermissible motive of, in the context of entry, disfavoring one religious group and, in the area of refugees, favoring another religious group.

The Commonwealth has produced un rebutted evidence supporting its position that it is likely to succeed on an Establishment Clause claim. The “Muslim ban” was a centerpiece of the president’s campaign for months, and the press release calling for it was still available on his website as of the day this Memorandum Opinion is being entered. See [Dkt. 61-12]. The president connected that policy to this EO when, asked last July if he had abandoned his plan for a Muslim ban, he responded “Call it whatever you want. We’ll call it territories, OK?” [Dkt. 61-22] at 10. Giuliani said two days after the EO was signed that Trump’s desire for a Muslim ban was the impetus for this policy. [Dkt. 61-4] at 1. And on the same day that the president signed the EO, he lamented that under the old policy, “If you were a Muslim you could come in, but if you were a Christian, it was almost impossible,” and said his administration was “going to help” make persecuted Christians a priority. [Dkt. 61-6] at 2. Defendants have not denied any of these statements or produced any evidence, beyond the text of the EO itself, to support their contention that the EO was primarily motivated by national security concerns.<sup>10</sup>

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<sup>10</sup> The Court gives little weight to the post hoc statements by Secretary Kelly and other administration officials that this is not a Muslim ban. See [Dkt. 61-17] at 3. Such rationalizations, coming after the litigation had already been challenged on First Amendment and other legal grounds, are typically afforded little weight in an intent inquiry. See Peacock v. Duval, 694 F.2d 644, 646 (9th Cir. 1982).

The “specific sequence of events” leading to the adoption of the EO bolsters the Commonwealth’s argument that the EO was not motivated by rational national security concerns. As the declaration from the national security experts states, ordinarily an executive order prioritizing national security is based “on cleared views from expert agencies with broad experience on the matters presented to [the president].” [Dkt. 57] at ¶ 7. But here there is no evidence that such a deliberative process took place. Id. To the contrary, there is evidence that the president’s senior national security officials were taken by surprise. See [Dkt. 61-17]. Although Giuliani suggested that the EO was formulated by a “whole group of very expert lawyers” and at least two members of Congress, this process appears to have taken place during the campaign and there is no evidence that this commission was privy to any national security information when developing the policy. See [Dkt. 61-4]. Once again, defendants have offered no evidence to the contrary.

Defendants argue that the list of countries affected by the EO was singled out by Congress and the previous administration for special scrutiny and therefore cannot reflect religious prejudice. Giuliani advanced a similar argument in his interview after the EO was signed—that as long as the policy was given an outwardly legal form, it is constitutional. [Dkt. 61-4] at 1–2. Once again, McCreary is to the contrary:

One consequence of taking account of the purpose underlying past actions is that the same government action may be constitutional if taken in the first instance and unconstitutional if it has a sectarian heritage. This presents no incongruity, however, because purpose matters.

545 U.S. at 866 n.14. Absent the direct evidence of animus presented by the Commonwealth, singling out these countries for additional scrutiny might not raise Establishment Clause concerns; however, with that direct evidence, a different picture emerges. In Giuliani’s own account, the origin of this EO was a statement by the president that he wanted a legal way to

impose a ban on Muslims entering the United States. [Dkt. 61-4] at 1. The president himself acknowledged the conceptual link between a Muslim ban and the EO when, asked if he had changed his position, he said “Call it whatever you want. We’ll call it territories, OK?” [Dkt. 61-22] at 10. That the same list might have been created by constitutionally legitimate concerns does not alter the legal analysis under McCreary.

The argument has also been made that the Court cannot infer an anti-Muslim animus because the EO does not affect all, or even most, Muslims. The major premise of that argument—that one can only demonstrate animus toward a group of people by targeting all of them at once—is flawed. For example, it is highly unlikely that the Supreme Court considered the displays of the Ten Commandments erected by the Kentucky counties in McCreary, which had a localized impact, to be targeted at all persons outside the Judeo-Christian traditions. See 545 U.S. at 851. Moreover, the Supreme Court has never reduced its Establishment Clause jurisprudence to a mathematical exercise. It is a discriminatory purpose that matters, no matter how inefficient the execution. See id. at 860.

Finally, defendants argue that the evidence on which the Commonwealth relies proves too much, because it would render every policy that the president makes related to Muslim-majority countries open to challenge. This fear is exaggerated. The Court’s conclusion rests on the highly particular “sequence of events” leading to this specific EO and the dearth of evidence indicating a national security purpose. See McCreary, 545 U.S. at 862. The evidence in this record focuses on the president’s statements about a “Muslim ban” and the link Giuliani established between those statements and the EO. Based on that evidence, at this preliminary

of the litigation, the Court finds that the Commonwealth has established a likelihood of success on the merits.<sup>11</sup>

#### **D. Irreparable Harm**

As a matter of law, the threat of an Establishment Clause violation in and of itself constitutes irreparable harm. Newsom v. Albemarle Cnty. Sch. Bd., 354 F.3d 249, 261 (4th Cir. 2003) (citing Elrod v. Burns, 427 U.S. 347, 373 (1976)). But it is not the only irreparable harm that the Commonwealth is experiencing. As discussed above, the travel ban applies to hundreds of students at the Commonwealth's universities, and is already preventing the exchange of faculty on which such universities thrive, by significantly straining freedom of movement. Moreover, Virginia's schools have begun to lose students, and have credibly stated that they expect to continue losing students and medical residents in the coming months if the travel ban is not lifted. Students are not fungible, thus these losses cannot be compensated by money damages, even if money damages were available in this civil action, which they are not. In light of the likelihood of an Establishment Clause violation and the restraint on liberty imposed by the travel ban, the Commonwealth has established irreparable harm.

#### **E. Balance of the Equities**

As the Fourth Circuit has held, "a state is in no way harmed by the issuance of a preliminary injunction which prevents the state from enforcing restrictions likely to be found unconstitutional[.]" Giovani Carandola, Ltd. v. Bason, 303 F.3d 507, 521 (4th Cir. 2002) (internal quotation marks and citation omitted). Moreover, in contrast to the evidence of irreparable harm to the Commonwealth from the EO, the defendants have failed to present any

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<sup>11</sup> Because the Commonwealth has established a likelihood of success on its Establishment Clause claim, the Court does not need to address its equal protection, due process, or statutory claims at this stage.

evidence of harm they or the nation will suffer if enforcement of § 3(c) of the EO is preliminarily enjoined beyond bare assertions that the EO is necessary for national security. Although there is no interest more weighty than a bona fide national security concern, the defendants have presented no evidence to support their contention that the EO is necessary to national security. And as the Ninth Circuit observed, there is no evidence that the procedures in place before the EO was signed were inadequate, as the government has not pointed to any attacks perpetrated by nationals of the affected countries since September 11, 2001. Washington, 2017 WL 526497 at \*10. Ironically, the only evidence in this record concerning national security indicates that the EO may actually make the country less safe. As the former national security officials have stated: “[The EO] ultimately undermines the national security of the United States, rather than mak[ing] us safer. In our professional opinion, this Order cannot be justified on national security or foreign policy grounds.” [Dkt. 57] at ¶ 3. The Commonwealth therefore prevails on the balance of the equities.

#### **F. Public Interest**

The Fourth Circuit has held that “upholding constitutional rights surely serves the public interest.” Giovani Carandola, 303 F.3d at 521 (internal quotation marks and citation omitted). The Court therefore finds that enjoining an action that is likely a violation of the Establishment Clause serves the public interest, particularly in the absence of evidence to support the government’s asserted national security interest as discussed above.

#### **G. Scope of Relief**

The Commonwealth originally sought an order enjoining enforcement of § 3(c) of the EO at any port of entry against Virginia residents who lawfully held either LPR status, a valid student visa, or a valid work visa at the time that the EO was signed. At oral argument, it



amended its request to include a request for a nationwide injunction applying to all persons, not just Virginia residents. Although “[n]ationwide injunctions are appropriate if necessary to afford relief to the prevailing party,” Va. Soc’y for Human Life v. Fed. Election Comm’n, 263 F.3d 379, 393 (2001), injunctive relief must be no broader than necessary to avoid encroaching “on the ability of other circuits to consider the” questions raised. Id. The relief originally requested by the Commonwealth is appropriately tailored to the basis for the Commonwealth’s standing and its claims relating to its residents, colleges, and universities. Moreover, the nationwide temporary restraining order entered in the District of Washington provides the broader protection sought by the Commonwealth. To avoid any claim that the preliminary injunction to be entered in this litigation is defective because of overbreadth, this Court declines the Commonwealth’s invitation to impose broader relief.

### III. CONCLUSION

For the reasons discussed in this Memorandum Opinion, the Court holds that the unrefuted evidence presented by the Commonwealth establishes that there is a likelihood the Commonwealth will prevail on the merits of its Establishment Clause claim; that it will suffer irreparable injury if the enforcement of § 3(c) of the EO is not enjoined as it relates to Virginia residents, Virginia institutions, and persons connected to those persons and institutions; that the defendants will not suffer any harm from imposing the injunction; and that enjoining unconstitutional action by the Executive Branch is always in the public’s interest. Accordingly, the Court will enter a separate order granting a modified version of the injunction sought by the Commonwealth.

Entered this <sup>th</sup> 13 day of February, 2017.

Alexandria, Virginia

/s/ [Signature]  
Leonie M. Brinkema  
United States District Judge



## EXHIBIT B

IN THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

No. 17-35105

STATE OF WASHINGTON, et al.	)	
	)	
Plaintiffs-Appellees,	)	
	)	<b>JOINT DECLARATION OF</b>
vs.	)	<b>MADELEINE K. ALBRIGHT,</b>
	)	<b>AVRIL D. HAINES</b>
	)	<b>MICHAEL V. HAYDEN</b>
	)	<b>JOHN F. KERRY</b>
	)	<b>JOHN E. McLAUGHLIN</b>
DONALD J. TRUMP, President of the	)	<b>LISA O. MONACO</b>
United States, et al.,	)	<b>MICHAEL J. MORELL</b>
	)	<b>JANET A. NAPOLITANO</b>
Defendants-Appellants.	)	<b>LEON E. PANETTA</b>
	)	<b>SUSAN E. RICE</b>
	)	
	)	
	)	

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We, Madeleine K. Albright, Avril D. Haines, Michael V. Hayden, John F. Kerry, John E. McLaughlin, Lisa O. Monaco, Michael J. Morell, Janet A. Napolitano, Leon E. Panetta, and Susan E. Rice declare as follows:

1. We are former national security, foreign policy, and intelligence officials in the United States Government:
  - a. Madeleine K. Albright served as Secretary of State from 1997 to 2001. A refugee and naturalized American citizen, she served as U.S. Permanent Representative to the United Nations from 1993 to 1997 and has been a member of the Central Intelligence Agency External Advisory Board since 2009 and the Defense Policy Board since 2011, in which capacities she has received assessments of threats facing the United States.
  - b. Avril D. Haines served as Deputy Director of the Central Intelligence Agency from 2013 to 2015, and as Deputy National Security Advisor from 2015 to January 20, 2017.
  - c. Michael V. Hayden served as Director of the National Security Agency from 1999 to 2005, and Director of the Central Intelligence Agency from 2006 to 2009.
  - d. John F. Kerry served as Secretary of State from 2013 to January 20, 2017.

- e. John E. McLaughlin served as Deputy Director of the Central Intelligence Agency from 2000-2004 and Acting Director of CIA in 2004. His duties included briefing President-elect Bill Clinton and President George W. Bush.
- f. Lisa O. Monaco served as Assistant to the President for Homeland Security and Counterterrorism and Deputy National Security Advisor from 2013 to January 20, 2017.
- g. Michael J. Morell served as Acting Director of the Central Intelligence Agency in 2011 and from 2012 to 2013, Deputy Director from 2010 to 2013, and as a career official of the CIA from 1980. His duties included briefing President George W. Bush on September 11, 2001, and briefing President Barack Obama regarding the May 2011 raid on Osama bin Laden.
- h. Janet A. Napolitano served as Secretary of Homeland Security from 2009 to 2013.
- i. Leon E. Panetta served as Director of the Central Intelligence Agency from 2009-11 and as Secretary of Defense from 2011-13.
- j. Susan E. Rice served as U.S. Permanent Representative to the United Nations from 2009-13 and as National Security Advisor from 2013 to January 20, 2017.

2. We have collectively devoted decades to combatting the various terrorist threats that the United States faces in a dynamic and dangerous world. We have all held the highest security clearances. A number of us have worked at senior levels in administrations of both political parties. Four of us (Haines, Kerry, Monaco and Rice) were current on active intelligence regarding all credible terrorist threat streams directed against the U.S. as recently as one week before the issuance of the Jan. 27, 2017 Executive Order on “Protecting the Nation from Foreign Terrorist Entry into the United States” (“Order”).

3. We all agree that the United States faces real threats from terrorist networks and must take all prudent and effective steps to combat them, including the appropriate vetting of travelers to the United States. We all are nevertheless unaware of any specific threat that would justify the travel ban established by the Executive Order issued on January 27, 2017. We view the Order as one that ultimately undermines the national security of the United States, rather than making us safer. In our professional opinion, this Order cannot be justified on national security or foreign policy grounds. It does not perform its declared task of “protecting the nation from foreign terrorist entry into the United States.” To the contrary, the Order disrupts thousands of lives, including those of refugees and visa holders all previously vetted by standing procedures that the Administration has not shown to be inadequate. It could do long-term damage to our national security and foreign policy interests, endangering U.S. troops in the field and disrupting counterterrorism and national security partnerships. It will aid ISIL’s propaganda effort and serve its recruitment message by feeding into the narrative that the United States is at war with Islam. It will hinder relationships with the very communities that law enforcement professionals need to address the threat. It will have a damaging humanitarian and economic impact on the lives and jobs of American citizens and residents. And apart from all of these concerns, the Order offends our nation’s laws and values.

4. There is no national security purpose for a total bar on entry for aliens from the seven named countries. Since September 11, 2001, not a single terrorist attack in the United States has been perpetrated by aliens from the countries named in the Order. Very few attacks on U.S. soil since September 11, 2001 have been traced to foreign nationals at all. The overwhelming majority of attacks have been committed by U.S. citizens. The Administration has identified no information or basis for believing there is now a heightened or particularized future threat from the seven named countries. Nor is there any rational basis for exempting from the ban particular religious minorities (e.g., Christians), suggesting that the real target of the ban remains one religious group (Muslims). In short, the Administration offers no reason why it abruptly shifted to group-based bans when we have a tested individualized vetting system developed and implemented by national security professionals across the government to guard the homeland, which is continually re-evaluated to ensure that it is effective.

5. In our professional opinion, the Order will harm the interests of the United States in many respects:

- a. The Order will endanger U.S. troops in the field. Every day, American soldiers work and fight alongside allies in some of the named countries who put their lives on the line to protect Americans. For example, allies who would be barred by the Order work alongside our men and women in Iraq fighting against ISIL. To the extent that the Order bans travel by individuals cooperating against ISIL, we risk placing our military efforts at risk by sending an insulting message to those citizens and all Muslims.
- b. The Order will disrupt key counterterrorism, foreign policy, and national security partnerships that are critical to our obtaining the necessary information sharing and collaboration in intelligence, law enforcement, military, and diplomatic channels to address the threat posed by terrorist groups such as ISIL. The international criticism of the Order has been intense, and it has alienated U.S. allies. It will strain our relationships with partner countries in Europe and the Middle East, on whom we rely for vital counterterrorism cooperation, undermining years of effort to bring them closer. By alienating these partners, we could lose access to the intelligence and resources necessary to fight the root causes of terror or disrupt attacks launched from abroad, before an attack occurs within our borders.
- c. The Order will endanger intelligence sources in the field. For current information, our intelligence officers may rely on human sources in some of the countries listed. The Order breaches faith with those very sources, who have risked much or all to keep Americans safe – and whom our officers had promised always to protect with the full might of our government and our people.
- d. Left in place, the Executive Order will likely feed the recruitment narrative of ISIL and other extremists that portray the United States as at war with Islam. As government officials, we took every step we could to counter violent extremism. Because of the Order's disparate impact against Muslim travelers and immigrants, it feeds ISIL's narrative and sends the wrong message to the Muslim community here at home and all over the world: that

the U.S. government is at war with them based on their religion. The Order may even endanger Christian communities, by handing ISIL a recruiting tool and propaganda victory that spreads their message that the United States is engaged in a religious war.

- e. The Order will disrupt ongoing law enforcement efforts. By alienating Muslim-American communities in the United States, it will harm our efforts to enlist their aid in identifying radicalized individuals who might launch attacks of the kind recently seen in San Bernardino and Orlando.
- f. The Order will have a devastating humanitarian impact. When the Order issued, those disrupted included women and children who had been victimized by actual terrorists. Tens of thousands of travelers today face deep uncertainty about whether they may travel to or from the United States: for medical treatment, study or scholarly exchange, funerals or other pressing family reasons. While the Order allows for the Secretaries of State and Homeland Security to agree to admit travelers from these countries on a case-by-case basis, in our experience it would be unrealistic for these overburdened agencies to apply such procedures to every one of the thousands of affected individuals with urgent and compelling needs to travel.
- g. The Order will cause economic damage to American citizens and residents. The Order will affect many foreign travelers, particularly students, who annually inject hundreds of billions into the U.S. economy, supporting well over a million U.S. jobs. Since the Order issued, affected companies have noted its adverse impacts on many strategic economic sectors, including defense, technology, medicine, culture and others.

6. As a national security measure, the Order is unnecessary. National security-based immigration restrictions have consistently been tailored to respond to: (1) specific, credible threats based on individualized information, (2) the best available intelligence and (3) thorough interagency legal and policy review. This Order rests not on such tailored grounds, but rather, on (1) general bans (2) not supported by any new intelligence that the Administration has claimed, or of which we are aware, and (3) not vetted through careful interagency legal and policy review. Since the 9/11 attacks, the United States has developed a rigorous system of security vetting, leveraging the full capabilities of the law enforcement and intelligence communities. This vetting is applied to travelers not once, but multiple times. Refugees receive the most thorough vetting of any traveler to the United States, taking on the average more than a year. Successive administrations have continually worked to improve this vetting through robust information-sharing and data integration to identify potential terrorists without resorting to a blanket ban on all aliens and refugees. Because various threat streams are constantly mutating, as government officials, we sought continually to improve that vetting, as was done in response to particular threats identified by U.S. intelligence in 2011 and 2015. Placing additional restrictions on individuals from certain countries in the visa waiver program –as has been done on occasion in the past – merely allows for more individualized vettings before individuals with particular passports are permitted to travel to the United States.

7. In our professional opinion, the Order was ill-conceived, poorly implemented and ill-explained. The “considered judgment” of the President in the prior cases where courts have

deferred was based upon administrative records showing that the President's decision rested on cleared views from expert agencies with broad experience on the matters presented to him. Here, there is little evidence that the Order underwent a thorough interagency legal and policy processes designed to address current terrorist threats, which would ordinarily include a review by the career professionals charged with implementing and carrying out the Order, an interagency legal review, and a careful policy analysis by Deputies and Principals (at the cabinet level) before policy recommendations are submitted to the President. We know of no interagency process underway before January 20, 2017 to change current vetting procedures, and the repeated need for the Administration to clarify confusion after the Order issued suggest that that Order received little, if any advance scrutiny by the Departments of State, Justice, Homeland Security or the Intelligence Community. Nor have we seen any evidence that the Order resulted from experienced intelligence and security professionals recommending changes in response to identified threats.

8. The Order is of unprecedented scope. We know of no case where a President has invoked his statutory authority to suspend admission for such a broad class of people. Even after 9/11, the U.S. Government did not invoke the provisions of law cited by the Administration to broadly bar entrants based on nationality, national origin, or religious affiliation. In past cases, suspensions were limited to particular individuals or subclasses of nationals who posed a specific, articulable threat based on their known actions and affiliations. In adopting this Order, the Administration alleges no specific derogatory factual information about any particular recipient of a visa or green card or any vetting step omitted by current procedures.

9. Maintaining the district court's temporary restraining order while the underlying legal issues are being adjudicated would not jeopardize national security. It would simply preserve the status quo ante, still requiring that individuals be subjected to all the rigorous legal vetting processes that are currently in place. Reinstating the Executive Order would wreak havoc on innocent lives and deeply held American values. Ours is a nation of immigrants, committed to the faith that we are all equal under the law and abhor discrimination, whether based on race, religion, sex, or national origin. As government officials, we sought diligently to protect our country, even while maintaining an immigration system free from intentional discrimination, that applies no religious tests, and that measures individuals by their merits, not stereotypes of their countries or groups. Blanket bans of certain countries or classes of people are beneath the dignity of the nation and Constitution that we each took oaths to protect. Rebranding a proposal first advertised as a "Muslim Ban" as "Protecting the Nation from Foreign Terrorist Entry into the United States" does not disguise the Order's discriminatory intent, or make it necessary, effective, or faithful to America's Constitution, laws, or values.

10. For all of the foregoing reasons, in our professional opinion, the January 27 Executive Order does not further – but instead harms – sound U.S. national security and foreign policy.

Respectfully submitted,

**s/MADELEINE K. ALBRIGHT\***

**s/AVRIL D. HAINES**

**s/MICHAEL V. HAYDEN**

**s/JOHN F. KERRY**

**s/JOHN E. McLAUGHLIN**

**s/LISA O. MONACO**

**s/MICHAEL J. MORELL**

**s/JANET A. NAPOLITANO**

**s/LEON E. PANETTA**

**s/SUSAN E. RICE**

\*All original signatures are on file with Harold Hongju Koh, Rule of Law Clinic, Yale Law School, New Haven, CT. 06520-8215 203-432-4932

We declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. [Individual signature pages follow]

EXECUTED this 5th day of February, 2017

*Madeline Albright*

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MADELEINE K. ALBRIGHT



EXECUTED this 5th day of February, 2017

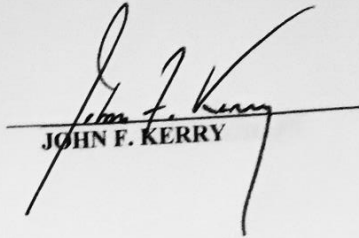


AVRIL D. HAINES

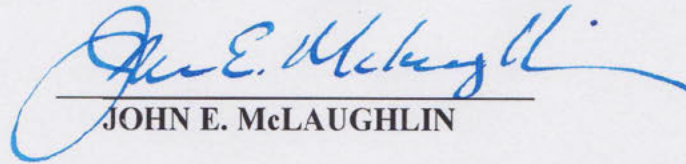
EXECUTED this 5<sup>th</sup> day of February, 2017

  
MICHAEL V. HAYDEN

EXECUTED this 5<sup>th</sup> day of February, 2017

  
JOHN F. KERRY

EXECUTED this 9<sup>th</sup> day of February, 2017.



JOHN E. McLAUGHLIN

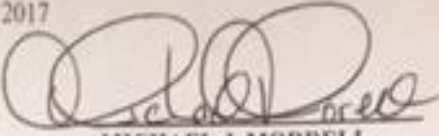
EXECUTED this 5<sup>th</sup> day of February, 2017

A handwritten signature in dark ink, appearing to read "Lisa Monaco". The signature is fluid and cursive, with the first name "Lisa" and last name "Monaco" clearly distinguishable.

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LISA O. MONACO

EXECUTED this 5<sup>th</sup> day of February, 2017

  
MICHAEL J. MORRELL

MORELL 

EXECUTED this 5<sup>th</sup> day of February, 2017

\_\_\_\_\_  
/s/  
**JANET A. NAPOLITANO**

13

EXECUTED this 5<sup>th</sup> day of February, 2017

  
**LEONE. PANETTA**



EXECUTED this 5<sup>th</sup> day of February, 2017

\_\_\_\_\_  
/s/  
**SUSAN E. RICE**

## EXHIBIT C

## NewsRoom

2/3/17 WashingtonPost.com (Pg. Unavail. Online)  
2017 WLNR 3564726

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February 3, 2017

Section: /local/public-safety

Justice Dept. lawyer says 100,000 visas revoked under travel ban; State Dept. says about 60,000  
The revelation, disputed by another agency, came in a court case  
involving Yemeni brothers turned away from Dulles Airport in Virginia.

Justin Jouvenal;Rachel Weiner;Ann E. Marimow

More than 100,000 visas have been revoked as a result of President Trump's ban on travel from seven predominantly Muslim countries, an attorney for the government asserted Friday in federal court in Alexandria, Va.

The number came out during a hearing in a lawsuit by two Yemeni brothers who arrived at Dulles International Airport last Saturday and were quickly put on a return flight to Ethiopia because of the new restrictions. While the government is working to resolve that case and return the brothers to the United States, lawyers at the hearing addressed the broader impact of the ban.

The 100,000 figure was immediately disputed by the State Department, which said the number of visas revoked was roughly 60,000. A spokeswoman said the revocations have no impact on the legal status of people already in the United States. If those people leave the United States, though, their visas will no longer be valid.

Immigrant advocates, attorneys and the media have been pushing the Trump administration to offer an accounting of how many people were affected by the controversial executive order.

In response to a question from a judge, Erez Reuveni, of the Justice Department's Office of Immigration Litigation, told the U.S. District Court that there were tens of thousands abroad holding visas when Trump signed his order a week ago.

"Over 100,000 visas were revoked on Friday at 6:30 p.m.," Reuveni told the court, speaking of Jan. 27.

Reuveni offered no other details about the group of people. He said that he did not know how many people had been detained at the nation's airports because of the order but that it could be 100 to 200. It was not immediately clear how the Justice Department and State Department arrived at such different tallies for the broader number of people affected.

"The number 100,000 sucked the air out of my lungs," said Simon Sandoval-Moshenberg of the Legal Aid Justice Center, who represents the Yemeni brothers.

During the hearing, U.S. District Court Judge Leonie M. Brinkema said she was heartened to see that the government was working to return the brothers, Tareq and Ammar Aqel Mohammed Aziz, to the United States and reinstate their visas in exchange for dropping their case. The government appears to be attempting similar case-by-case reprieves across the nation.

But Brinkema offered a stern rebuke to the Trump administration in its overall handling of the travel ban. Brinkema said the case had drawn an even larger public outpouring than another high profile one she handled: the trial of 9/11 conspirator Zacarias Moussaoui.

"This order was issued quite quickly. It's quite clear that not all the thought went into it that should have gone into it," Brinkema said. "It was chaos."

She said people had relied on their visas as valid and families had expected to be reunited with loved ones. Brinkema said there was no evidence that the travel restrictions were necessary.

She urged the government to work "globally" to resolve all the cases of those affected by the travel ban. Lawsuits have been playing out over individual cases in at least 10 courts across the country.

The Trump administration has argued that the travel ban is necessary to keep Americans safe from terrorism as it institutes more restrictive vetting of visitors and refugees, but it has drawn protests at airport's nationwide and condemnation from Democrats, many of whom call the executive action a "Muslim ban."

Brinkema on Friday extended a temporary restraining order she had issued blocking the removal of any green-card holders being detained at Dulles and requiring that people held there because of the ban have access to lawyers.

The judge also allowed the state of Virginia to join the lawsuit. State officials argued in court that more than 350 students from a handful of state universities had been affected by the travel ban, along with professors and other workers.

The officials said they include a Libyan woman from George Mason University who was stuck in Turkey and an Iranian doctoral student who is unable to travel to the United States to defend his dissertation. In addition, Brinkema ordered the government to turn over a list of the state's lawful permanent residents and visa holders who were affected by the ban.

Outside the courthouse, Virginia Attorney General Mark R. Herring (D) said he was "really pleased the judge recognized real harm is happening in Virginia."

Herring's office had also been seeking to hold government officials in contempt for the way they handled travelers from the seven countries over the weekend, but Brinkema declined, saying she did not know enough Friday to make that determination.

Virginia officials had cited news reports and affidavits from lawmakers saying that, contrary to the order Brinkema issued last weekend, Customs and Border Patrol officers had denied immigrants access to lawyers.

"There were so many lawyers there willing to help, and not a single one got access," Virginia Solicitor General Stuart A. Raphael said during the hearing.

Reuveni said that security at Dulles bars lawyers from anything but telephone access to people who are in screening. Separately, affiliates of the American Civil Liberties Union in all 50 states have filed freedom-of-information requests to gain a greater understanding of how customs officials are implementing Trump's order.

Brinkema also allowed a Sudanese woman to join the lawsuit. Sahar Kamal Ahmed Fadul was traveling on the same flight as the Aziz brothers and was sent on a return flight to Ethiopia by customs officials. She had plans to meet her fiancé in Colorado and get married.

"Too suddenly, at the stroke of a pen, that dream was dashed," said her attorney, Timothy Heaphy. "It's tremendously traumatic."

justin.jouvenal@washpost.com

rachel.weiner@washpost.com

ann.marimow@washpost.com

--- Index References ---

News Subject: (Government Litigation (1GO18); Immigration & Naturalization (1IM88); Judicial Cases & Rulings (1JU36); Legal (1LE33); Social Issues (1SO05))

Industry: (Air Transportation (1AI53); Airports (1AI61); Transportation (1TR48))

Region: (Americas (1AM92); Arab States (1AR46); Middle East (1MI23); North America (1NO39); Yemen (1YE36))

Language: EN

Other Indexing: (Virginia Attorney General Mark R.) (Virginia Solicitor; Tareq Aqel Mohammed Aziz; Trump; Stuart Raphael; Simon Sandoval-Moshenberg; Ammar Aqel Mohammed Aziz; Leonie Brinkema; Timothy Heaphy; Sahar Kamal Ahmed Fadul; Erez Reuveni; Zacarias Moussaoui)

Word Count: 954

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**NewsRoom**

## EXHIBIT D



Executive Order—Protecting the Nation from Terrorist Attacks by Foreign Nationals

EXECUTIVE ORDER

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PROTECTING THE NATION FROM TERRORIST ATTACKS BY FOREIGN  
NATIONALS

By the authority vested in me as President by the Constitution and laws of the United States of America, including the Immigration and Nationality Act (8 U.S.C. 1001 et seq.) (INA), and section 301 of title 3, United States Code, and to protect the American people from terrorist attacks by foreign nationals admitted to the United States, it is hereby ordered as follows:

**Section 1.** *Purpose.* 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 with 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. And while the visa-issuance process was reviewed and amended after the September 11 attacks to better detect would-be terrorists from receiving visas, these measures did not stop attacks by foreign nationals who were admitted to the United States.

Hundreds of foreign-born individuals have been convicted or implicated in terrorism-related crimes since September 11, 2001, including foreign nationals who entered the United States after claiming asylum; after receiving visitor, student, or employment visas; or through the U.S. refugee resettlement program. Deteriorating conditions in certain countries due to war, strife, disaster, and civil unrest increase the likelihood that terrorists will use any means possible to enter our country. The United States must be vigilant during the visa-issuance process to ensure that those approved for admission do not intend to harm Americans and that they have no ties to terrorism.

In order to protect Americans, we must ensure that those admitted to this country do not bear hostile attitudes toward our country and its founding principles. We cannot, and should not, admit into our country those who do not support the U.S. Constitution, or those who would place violent religious edicts over American law. In addition, the United States should not admit those who engage in acts of bigotry and hatred (including “honor” killings, other forms of violence against women, or the persecution of those who practice other religions) or those who would oppress members of one race, one gender, or sexual orientation.

**Sec. 2.** *Policy.* It is the policy of the United States to: (a) protect our citizens from foreign nationals who intend to commit terrorist attacks in the United States; and

(b) prevent the admission of foreign nationals who intend to exploit United States immigration laws for malevolent purposes.

**Sec. 3.** *Suspension of Issuance of Visas and Other Immigration Benefits to Nationals of Countries of Particular Concern.* (a) The Secretary of Homeland Security, in consultation with the Secretary of State and the Director of National Intelligence, shall immediately conduct a review to determine the information needed from any country for adjudication of any visa, admission, or other benefit under the INA (adjudications) adequate to determine that the individual seeking the benefit is who the individual claims to be and is not a security or public-safety threat.

(b) The Secretary of Homeland Security, in consultation with the Secretary of State and the Director of National Intelligence, shall submit to the President a report on the results of the review described in subsection (a), including the Secretary of Homeland Security's determination of the information needed for adjudications and a list of countries that do not provide adequate information, within 30 days of the date of this order (excluding those foreign nationals traveling on diplomatic visas, North Atlantic Treaty Organization visas, and C-2 visas for travel to the United Nations). The Secretary of Homeland Security shall provide a copy of the report to the Secretary of State and Director of National Intelligence.

(c) To temporarily reduce investigative burdens to 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 the terrorist or criminal infiltration of foreign nationals, pursuant to section 212(f) of the INA I hereby find that the immigrant and nonimmigrant entry into the United States of aliens from countries designated pursuant to Division O, Title II, Section 203 of the 2016 consolidated Appropriations Act (H.R. 2029, P.L. 114-113), 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 30 days from the date of this order.

(d) Immediately upon receipt of the report described in subsection (b) of this section regarding the information needed for adjudications, the Secretary of State shall request all foreign governments that do not supply such information to start providing such information regarding their nationals within 60 days of notification.

(e) After the 60-day period described in subsection (d) of this section expires, 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 (excluding those foreign nationals traveling on diplomatic visas, North Atlantic Treaty Organization visas, and C-2 visas for travel to the United Nations) from countries that do not provide the information requested pursuant to subsection (d) of this order until compliance occurs.



(f) At any point after submitting the list described in subsection (e) of this section, the Secretary of State or the Secretary of Homeland Security may submit to the President the names of any additional countries recommended for similar treatment.

(g) Notwithstanding a suspension pursuant to subsection (c) of this section or pursuant to a Presidential proclamation described in subsection (e) of this section, the Secretaries of State and Homeland Security may, on a case-by-case basis, and when in the national interest, issue visas or other immigration benefits to nationals of countries for which visas and benefits are otherwise blocked.

(h) The Secretaries of State and Homeland Security shall submit to the President a joint report on the progress in implementing this order within 30 days of the date of this order, a second report within 60 days of the date of this order, a third report within 90 days of the date of this order, and a fourth report within 120 days of the date of this order.

**Sec. 4.** *Implementing Uniform Screening Standards for all Immigration Programs.* (a) The Secretary of State, the Secretary of Homeland Security, the Director of National Intelligence, and the Director of the Federal Bureau of Investigation shall implement a program during the adjudication process for immigration benefits to identify individuals seeking to enter the United States on a fraudulent basis, with the intent to cause harm, or who are at risk of causing harm subsequent to their admission. This program will include the development of uniform screening standards and procedures, such as in-person interviews; the creation of a database of identity documents proffered by applicants to ensure that duplicate documents are not used by multiple applicants; amended application forms that include questions aimed at identifying fraudulent answers and malicious intent; a mechanism to ensure that the applicant is who the applicant claims to be; a process to evaluate the applicant's likelihood of becoming a positive contributing member of society, and the applicant's ability to make contributions to the national interest; and, a mechanism to assess whether or not the applicant has the intent to commit criminal or terrorist acts after entering the United States.

(b) The Secretary of Homeland Security, in conjunction with the Secretary of State, Director of National Intelligence, and the Director of the Federal Bureau of Investigation, shall submit to the President an initial report on the progress of this directive within 60 days of the date of this order, a second report within 100 days of the date of this order, and a third report within 200 days of the date of this order.

**Sec. 5.** *Realignment of the U.S. Refugee Admissions Program for Fiscal Year 2017.* (a) The Secretary of State shall suspend the U.S. Refugee Admissions Program (USRAP) for 120 days. During the 120-day period, the Secretary of State, in conjunction with the Secretary of Homeland Security, shall review the USRAP application and adjudication process to determine what additional procedures can be taken to ensure that those approved for refugee admission do not pose a threat to the security and welfare of the United States, and shall implement such additional procedures. Refugee applicants who are already in the USRAP process may be admitted upon the initiation and completion of these revised procedures. Upon the date that is 120 days after this order, the Secretary of



State shall resume USRAP admissions only for nationals of countries for whom the Secretary of Homeland Security, the Secretary of State, and the Director of National Intelligence have jointly determined that sufficient safeguards are in place to ensure the security and welfare of the United States.

(b) 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. Where necessary and appropriate, the Secretaries of State and Homeland Security shall recommend legislation to the President to assist with such prioritization.

(c) The Secretaries of State and Homeland Security, as appropriate, shall cease refugee processing of and the admittance of nationals of Syria as refugees until such time as I have determined that sufficient changes have been made to the USRAP to ensure its alignment with the national interest.

(d) Notwithstanding any previous Presidential determination regarding the number of refugee admissions for Fiscal Year 2017, the Secretaries of State and Homeland Security may only process and admit a total of 50,000 refugees during Fiscal Year 2017. During the 120-day suspension provided by section 5(a), the Secretary of State and the Secretary of Homeland Security shall initiate appropriate consultations in connection with this determination, including with respect to the allocation among refugees of special humanitarian concern to the United States.

(f) Notwithstanding the temporary suspension imposed pursuant to subsection (a) of this section, the Secretaries of State and Homeland Security may admit individuals to the United States as refugees on a case-by-case basis when in the national interest. Further, during the temporary suspension period described in subsection (a), the Secretaries of State and Homeland Security may continue to process as refugees those 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.

(g) The Secretary of State shall submit to the President an initial report on the progress of the directive in subsection (b) of this section regarding prioritization of claims made by individuals on the basis of religious-based persecution within 100 days of the date of this order and shall submit a second report within 200 days of the date of this order.

**Sec. 6.** *Establishment of Safe Zones to Protect Vulnerable Syrian Populations.* Pursuant to the cessation of refugee processing for Syrian nationals, the Secretary of State, in conjunction with the Secretary of Defense, is directed within 90 days of the date of this order to produce a plan to provide safe areas in Syria and in the surrounding region in which Syrian nationals displaced from their homeland can await firm settlement, such as repatriation or potential third-country resettlement.

**Sec. 7.** *Rescission of Exercise of Authority Relating to the Terrorism Grounds of Inadmissibility.* The Secretaries of State and Homeland Security shall, in consultation with the Attorney General, consider rescinding the exercises of authority in section 212 of the INA relating to the terrorism grounds of inadmissibility, as well as any related implementing memoranda. .

**Sec. 8.** *Expedited Completion of the Biometric Entry-Exit Tracking System.* (a) The Secretary of Homeland Security shall expedite the completion and implementation of a biometric entry-exit tracking system for all travelers to the United States, as recommended by the National Commission on Terrorist Attacks Upon the United States.

(b) The Secretary of Homeland Security shall submit to the President periodic reports on the progress of the directive contained in subsection (a) of this section. The initial report shall be submitted within 100 days of the date of this order, a second report shall be submitted within 200 days of the date of this order, and a third report shall be submitted within 365 days of the date of this order. Further, the Secretary shall submit a report every 180 days thereafter until the system is fully deployed and operational.

**Sec. 9.** *Visa Interview Security.* (a) The Secretary of State shall immediately suspend the Visa Interview Waiver Program and ensure compliance with section 222 of the INA, which requires that all individuals seeking a nonimmigrant visa, undergo an in-person interview, subject to specific statutory exceptions.

(b) To the extent permitted by law and subject to the availability of appropriations, the Secretary of State shall immediately expand the Consular Fellows Program, including by substantially increasing the number of Fellows, lengthening or making permanent the period of service, and making language training at the Foreign Service Institute available to Fellows for assignment to posts outside of their area of core linguistic ability, to ensure that non-immigrant visa interview wait times are not unduly affected.

**Sec. 10.** *Visa Validity Reciprocity.* The Secretary of State shall review all nonimmigrant visa reciprocity agreements to ensure that they are, with respect to each visa classification, truly reciprocal insofar as practicable with respect to validity period and fees, as urged by sections 221(c) and 281 of the INA, and other treatment. If a country does not treat U.S. nationals seeking nonimmigrant visas in a reciprocal manner, the Secretary of State shall adjust the visa validity period, fee schedule, or other treatment to match the treatment of U.S. nationals by the foreign country, to the extent practicable.

**Sec. 11.** *Transparency and Data Collection.* To be more transparent with the American people, and in order to more effectively implement policies and practices that serve the national interest, the Secretary of Homeland Security shall, consistent with applicable law, collect and make publicly available within 180 days, and every 180 days thereafter:

(a) information regarding the number of foreign-born individuals in the United States who have been charged with terrorism-related offenses; convicted of terrorism-related offenses; or removed from the United States based on terrorism-related activity,



affiliation, or material support to a terrorism-related organization, or any other national security reasons;

(b) information regarding the number of foreign-born individuals in the United States who have been radicalized after entry into the United States and engaged in terrorism-related acts, or who have provided material support to terrorism-related organizations in countries that pose a threat to the United States; and

(c) information regarding the number and types of acts of gender-based violence against women or honor killings by foreign-born individuals in the United States.

**Sec. 12.** *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department, agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

## EXHIBIT E



CENTRAL  
INTELLIGENCE  
AGENCY

Contact (/contact-cia)

(/)

## Library

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THE WORLD FACTBOOK

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### FIELD LISTING :: RELIGIONS

COUNTRY	RELIGIONS(%)
<b><u><a href="#">Afghanistan</a></u></b> <b><u><a href="#">(..../qeos/af.html)</a></u></b>	Muslim 99.7% (Sunni 84.7 - 89.7%, Shia 10 - 15%), other 0.3% (2009 est.)
<b><u><a href="#">Albania</a></u></b> <b><u><a href="#">(..../qeos/al.html)</a></u></b>	Muslim 56.7%, Roman Catholic 10%, Orthodox 6.8%, atheist 2.5%, Bektashi (a Sufi order) 2.1%, other 5.7%, unspecified 16.2% <b>note:</b> all mosques and churches were closed in 1967 and religious observances prohibited; in November 1990, Albania began allowing private religious practice (2011 est.)
<b><u><a href="#">Algeria</a></u></b> <b><u><a href="#">(..../qeos/aq.html)</a></u></b>	Muslim (official; predominantly Sunni) 99%, other (includes Christian and Jewish) <1% (2012 est.)
<b><u><a href="#">American Samoa</a></u></b> <b><u><a href="#">(..../qeos/aq.html)</a></u></b>	Christian 98.3%, other 1%, unaffiliated 0.7% (2010 est.)
<b><u><a href="#">Andorra</a></u></b> <b><u><a href="#">(..../qeos/an.html)</a></u></b>	Roman Catholic (predominant)
<b><u><a href="#">Angola</a></u></b> <b><u><a href="#">(..../qeos/ao.html)</a></u></b>	Roman Catholic 41.1%, Protestant 38.1%, other 8.6%, none 12.3% (2014 est.)
<b><u><a href="#">Anquilla</a></u></b> <b><u><a href="#">(..../qeos/av.html)</a></u></b>	Protestant 73.2% (includes Anglican 22.7%, Methodist 19.4%, Pentecostal 10.5%, Seventh Day Adventist 8.3%, Baptist 7.1%, Church of God 4.9%, Presbyterian 0.2%, Brethren 0.1%), Roman Catholic 6.8%, Jehovah's Witness 1.1%, other Christian 10.9%, other 3.2%, unspecified 0.3%, none 4.5% (2011 est.)
<b><u><a href="#">Antigua and Barbuda</a></u></b> <b><u><a href="#">(..../qeos/ac.html)</a></u></b>	Protestant 68.3% (Anglican 17.6%, Seventh Day Adventist 12.4%, Pentecostal 12.2%, Moravian 8.3%, Methodist 5.6%, Wesleyan Holiness 4.5%, Church of God 4.1%, Baptist 3.6%), Roman Catholic 8.2%, other 12.2%, unspecified 5.5%, none 5.9% (2011 est.)
<b><u><a href="#">Argentina</a></u></b> <b><u><a href="#">(..../qeos/ar.html)</a></u></b>	nominally Roman Catholic 92% (less than 20% practicing), Protestant 2%, Jewish 2%, other 4%

<b><u>Armenia</u></b> <b><u>(../geos/am.html)</u></b>	Armenian Apostolic 92.6%, Evangelical 1%, other 2.4%, none 1.1%, unspecified 2.9% (2011 est.)
<b><u>Aruba (../geos/aa.html)</u></b>	Roman Catholic 75.3%, Protestant 4.9% (includes Methodist 0.9%, Adventist 0.9%, Anglican 0.4%, other Protestant 2.7%), Jehovah's Witness 1.7%, other 12%, none 5.5%, unspecified 0.5% (2010 est.)
<b><u>Australia</u></b> <b><u>(../geos/as.html)</u></b>	Protestant 30.1% (Anglican 17.1%, Uniting Church 5.0%, Presbyterian and Reformed 2.8%, Baptist, 1.6%, Lutheran 1.2%, Pentecostal 1.1%, other Protestant 1.3%), Catholic 25.3% (Roman Catholic 25.1%, other Catholic 0.2%), other Christian 2.9%, Orthodox 2.8%, Buddhist 2.5%, Muslim 2.2%, Hindu 1.3%, other 1.3%, none 22.3%, unspecified 9.3% (2011 est.)
<b><u>Austria (../geos/au.html)</u></b>	Catholic 73.8% (includes Roman Catholic 73.6%, other Catholic 0.2%), Protestant 4.9%, Muslim 4.2%, Orthodox 2.2%, other 0.8% (includes other Christian), none 12%, unspecified 2% (2001 est.)
<b><u>Azerbaijan</u></b> <b><u>(../geos/aj.html)</u></b>	Muslim 96.9% (predominantly Shia), Christian 3%, other <0.1, unaffiliated <0.1 (2010 est.) <b>note:</b> religious affiliation is still nominal in Azerbaijan; percentages for actual practicing adherents are much lower
<b><u>Bahamas, The</u></b> <b><u>(../geos/bf.html)</u></b>	Protestant 69.9% (includes Baptist 34.9%, Anglican 13.7%, Pentecostal 8.9% Seventh Day Adventist 4.4%, Methodist 3.6%, Church of God 1.9%, Brethren 1.6%), Roman Catholic 12%, other Christian 13% (includes Jehovah's Witness 1.1%), other 0.6%, none 1.9%, unspecified 2.6% (2010 est.)
<b><u>Bahrain (../geos/ba.html)</u></b>	Muslim 70.3%, Christian 14.5%, Hindu 9.8%, Buddhist 2.5%, Jewish 0.6%, folk religion <.1, unaffiliated 1.9%, other 0.2% (2010 est.)
<b><u>Bangladesh</u></b> <b><u>(../geos/bg.html)</u></b>	Muslim 89.1%, Hindu 10%, other 0.9% (includes Buddhist, Christian) (2013 est.)
<b><u>Barbados</u></b> <b><u>(../geos/bb.html)</u></b>	Protestant 66.4% (includes Anglican 23.9%, other Pentecostal 19.5%, Adventist 5.9%, Methodist 4.2%, Wesleyan 3.4%, Nazarene 3.2%, Church of God 2.4%, Baptist 1.8%, Moravian 1.2%, other Protestant 0.9%), Roman Catholic 3.8%, other Christian 5.4% (includes Jehovah's Witness 2.0%, other 3.4%), Rastafarian 1%, other 1.5%, none 20.6%, unspecified 1.2% (2010 est.)
<b><u>Belarus (../geos/bo.html)</u></b>	Orthodox 48.3%, Catholic 7.1%, other 3.5%, non-believers 41.1% (2011 est.)
<b><u>Belgium</u></b> <b><u>(../geos/be.html)</u></b>	Roman Catholic 75%, other (includes Protestant) 25%
<b><u>Belize (../geos/bh.html)</u></b>	Roman Catholic 40.1%, Protestant 31.5% (includes Pentecostal 8.4%, Seventh Day Adventist 5.4%, Anglican 4.7%, Mennonite 3.7%, Baptist 3.6%, Methodist 2.9%, Nazarene 2.8%), Jehovah's Witness 1.7%, other 10.5% (includes Baha'i, Buddhist, Hindu, Mormon, Muslim, Rastafarian), unknown 0.6%, none 15.5% (2010 est.)
<b><u>Benin (../geos/bn.html)</u></b>	Muslim 27.7%, Catholic 25.5%, Protestant 13.5% (Celestial 6.7%, Methodist 3.4%, other Protestant 3.4%), Vodoun 11.6%, other Christian 9.5%, other traditional religions 2.6%, other 2.6%, none 5.8% (2013 est.)
<b><u>Bermuda</u></b> <b><u>(../geos/bd.html)</u></b>	Protestant 46.2% (includes Anglican 15.8%, African Methodist Episcopal 8.6%, Seventh Day Adventist 6.7, Pentecostal 3.5%, Methodist 2.7%, Presbyterian 2.0 %, Church of God 1.6%, Baptist 1.2%, Salvation Army 1.1%, Brethren 1.0%, other Protestant 2.0%), Roman Catholic 14.5%, Jehovah's Witness 1.3%, other Christian 9.1%, Muslim 1%, other 3.9%, none 17.8%, unspecified 6.2% (2010 est.)
<b><u>Bhutan (../geos/bt.html)</u></b>	Lamaistic Buddhist 75.3%, Indian- and Nepalese-influenced Hinduism 22.1%, other 2.6% (2005 est.)

<b><u>Bolivia (../geos/bl.html)</u></b>	Roman Catholic 76.8%, Evangelical and Pentecostal 8.1%, Protestant 7.9%, other 1.7%, none 5.5% (2012 est.)
<b><u>Bosnia and Herzegovina (../geos/bk.html)</u></b>	Muslim 50.7%, Orthodox 30.7%, Roman Catholic 15.2%, atheist 0.8%, agnostic 0.3%, other 1.2%, undeclared/no answer 1.1% (2013 est.)
<b><u>Botswana (../geos/bc.html)</u></b>	Christian 79.1%, Badimo 4.1%, other 1.4% (includes Baha'i, Hindu, Muslim, Rastafarian), none 15.2%, unspecified 0.3% (2011 est.)
<b><u>Brazil (../geos/br.html)</u></b>	Roman Catholic 64.6%, other Catholic 0.4%, Protestant 22.2% (includes Adventist 6.5%, Assembly of God 2.0%, Christian Congregation of Brazil 1.2%, Universal Kingdom of God 1.0%, other Protestant 11.5%), other Christian 0.7%, Spiritist 2.2%, other 1.4%, none 8%, unspecified 0.4% (2010 est.)
<b><u>British Virgin Islands (../geos/vi.html)</u></b>	Protestant 70.2% (Methodist 17.6%, Church of God 10.4%, Anglican 9.5%, Seventh Day Adventist 9.0%, Pentecostal 8.2%, Baptist 7.4%, New Testament Church of God 6.9%, other Protestant 1.2%), Roman Catholic 8.9%, Jehovah's Witness 2.5%, Hindu 1.9%, other 6.2%, none 7.9%, unspecified 2.4% (2010 est.)
<b><u>Brunei (../geos/bx.html)</u></b>	Muslim (official) 78.8%, Christian 8.7%, Buddhist 7.8%, other (includes indigenous beliefs) 4.7% (2011 est.)
<b><u>Bulgaria (../geos/bu.html)</u></b>	Eastern Orthodox 59.4%, Muslim 7.8%, other (including Catholic, Protestant, Armenian Apostolic Orthodox, and Jewish) 1.7%, none 3.7%, unspecified 27.4% (2011 est.)
<b><u>Burkina Faso (../geos/uv.html)</u></b>	Muslim 61.6%, Catholic 23.2%, traditional/animist 7.3%, Protestant 6.7%, other/no answer 0.2%, none 0.9% (2010 est.)
<b><u>Burma (../geos/bm.html)</u></b>	Buddhist 87.9%, Christian 6.2%, Muslim 4.3%, Animist 0.8%, Hindu 0.5%, other 0.2%, none 0.1% <b>note:</b> religion estimate is based on the 2014 national census, including an estimate for the non-enumerated population of Rakhine State, which is assumed to mainly affiliate with the Islamic faith (2014 est.)
<b><u>Burundi (../geos/by.html)</u></b>	Catholic 62.1%, Protestant 23.9% (includes Adventist 2.3% and other Protestant 21.6%), Muslim 2.5%, other 3.6%, unspecified 7.9% (2008 est.)
<b><u>Cabo Verde (../geos/cv.html)</u></b>	Roman Catholic 77.3%, Protestant 4.6% (includes Church of the Nazarene 1.7%, Adventist 1.5%, Assembly of God 0.9%, Universal Kingdom of God 0.4%, and God and Love 0.1%), other Christian 3.4% (includes Christian Rationalism 1.9%, Jehovah's Witness 1%, and New Apostolic 0.5%), Muslim 1.8%, other 1.3%, none 10.8%, unspecified 0.7% (2010 est.)
<b><u>Cambodia (../geos/cb.html)</u></b>	Buddhist (official) 96.9%, Muslim 1.9%, Christian 0.4%, other 0.8% (2008 est.)
<b><u>Cameroon (../geos/cm.html)</u></b>	Catholic 38.4%, Protestant 26.3%, other Christian 4.5%, Muslim 20.9%, animist 5.6%, other 1%, non-believer 3.2% (2005 est.)
<b><u>Canada (../geos/ca.html)</u></b>	Catholic 39% (includes Roman Catholic 38.8%, other Catholic .2%), Protestant 20.3% (includes United Church 6.1%, Anglican 5%, Baptist 1.9%, Lutheran 1.5%, Pentecostal 1.5%, Presbyterian 1.4%, other Protestant 2.9%), Orthodox 1.6%, other Christian 6.3%, Muslim 3.2%, Hindu 1.5%, Sikh 1.4%, Buddhist 1.1%, Jewish 1%, other 0.6%, none 23.9% (2011 est.)
<b><u>Cayman Islands (../geos/cj.html)</u></b>	Protestant 67.8% (includes Church of God 22.6%, Seventh Day Adventist 9.4%, Presbyterian/United Church 8.6%, Baptist 8.3%, Pentecostal 7.1%, non-denominational 5.3%, Anglican 4.1%, Wesleyan Holiness 2.4%), Roman Catholic 14.1%, Jehovah's Witness 1.1%, other 7%, none 9.3%, unspecified 0.7% (2010 est.)
<b><u>Central African Republic (../geos/ct.html)</u></b>	indigenous beliefs 35%, Protestant 25%, Roman Catholic 25%, Muslim 15% <b>note:</b> animistic beliefs and practices strongly influence the Christian majority



<b><u>Chad (../geos/cd.html)</u></b>	Muslim 58.4%, Catholic 18.5%, Protestant 16.1%, animist 4%, other 0.5%, none 2.4% (2009 est.)
<b><u>Chile (../geos/ci.html)</u></b>	Roman Catholic 66.7%, Evangelical or Protestant 16.4%, Jehovah's Witnesses 1%, other 3.4%, none 11.5%, unspecified 1.1% (2012 est.)
<b><u>China (../geos/ch.html)</u></b>	Buddhist 18.2%, Christian 5.1%, Muslim 1.8%, folk religion 21.9%, Hindu < 0.1%, Jewish < 0.1%, other 0.7% (includes Daoist (Taoist)), unaffiliated 52.2% <b>note:</b> officially atheist (2010 est.)
<b><u>Christmas Island (../geos/kt.html)</u></b>	Buddhist 16.9%, Christian 16.4%, Muslim 14.8%, other 1.3%, none 9.2%, unspecified 41.5% (2011 est.)
<b><u>Cocos (Keeling) Islands (../geos/ck.html)</u></b>	Sunni Muslim 80%, other 20% (2002 est.)
<b><u>Colombia (../geos/co.html)</u></b>	Roman Catholic 90%, other 10%
<b><u>Comoros (../geos/cn.html)</u></b>	Sunni Muslim 98%, Roman Catholic 2% <b>note:</b> Islam is the state religion
<b><u>Congo, Democratic Republic of the (../geos/cg.html)</u></b>	Roman Catholic 50%, Protestant 20%, Kimbanguist 10%, Muslim 10%, other (includes syncretic sects and indigenous beliefs) 10%
<b><u>Congo, Republic of the (../geos/cf.html)</u></b>	Roman Catholic 33.1%, Awakening Churches/Christian Revival 22.3%, Protestant 19.9%, Salustiste 2.2%, Muslim 1.6%, Kimbanguiste 1.5%, other 8.1%, none 11.3% (2010 est.)
<b><u>Cook Islands (../geos/cw.html)</u></b>	Protestant 62.8% (Cook Islands Christian Church 49.1%, Seventh Day Adventist 7.9%, Assemblies of God 3.7%, Apostolic Church 2.1%), Roman Catholic 17%, Mormon 4.4%, other 8%, none 5.6%, no response 2.2% (2011 est.)
<b><u>Costa Rica (../geos/cs.html)</u></b>	Roman Catholic 76.3%, Evangelical 13.7%, Jehovah's Witness 1.3%, other Protestant 0.7%, other 4.8%, none 3.2%
<b><u>Cote d'Ivoire (../geos/iv.html)</u></b>	Muslim 40.2%, Catholic 19.4%, Evangelical 19.3%, Methodist 2.5%, other Christian 4.5%, animist or no religion 12.8%, other religion/unspecified 1.4% (2011-12 est.) <b>note:</b> the majority of foreign migrant workers are Muslim (72%) and Christian (18%) (2014 est.)
<b><u>Croatia (../geos/hr.html)</u></b>	Roman Catholic 86.3%, Orthodox 4.4%, Muslim 1.5%, other 1.5%, unspecified 2.5%, not religious or atheist 3.8% (2011 est.)
<b><u>Cuba (../geos/cu.html)</u></b>	nominally Roman Catholic 85%, Protestant, Jehovah's Witnesses, Jewish, Santeria <b>note:</b> prior to CASTRO assuming power
<b><u>Curacao (../geos/cc.html)</u></b>	Roman Catholic 72.8%, Pentecostal 6.6%, Protestant 3.2%, Adventist 3%, Jehovah's Witness 2%, Evangelical 1.9%, other 3.8%, none 6%, unspecified 0.6% (2011 est.)
<b><u>Cyprus (../geos/cy.html)</u></b>	Orthodox Christian 89.1%, Roman Catholic 2.9%, Protestant/Anglican 2%, Muslim 1.8%, Buddhist 1%, other (includes Maronite, Armenian Church, Hindu) 1.4%, unknown 1.1%, none/atheist 0.6% <b>note:</b> data represent only the government-controlled area of Cyprus (2011 est.)
<b><u>Czechia (../geos/ez.html)</u></b>	Roman Catholic 10.4%, Protestant (includes Czech Brethren and Hussite) 1.1%, other and unspecified 54%, none 34.5% (2011 est.)
<b><u>Denmark (../geos/da.html)</u></b>	Evangelical Lutheran (official) 80%, Muslim 4%, other (denominations of less than 1% each, includes Roman Catholic, Jehovah's Witness, Serbian Orthodox Christian, Jewish, Baptist, and Buddhist) 16% (2012 est.)
<b><u>Djibouti (../geos/dj.html)</u></b>	Muslim 94%, Christian 6%

**Dominica**  
**(../geos/do.html)**

Roman Catholic 61.4%, Protestant 28.6% (includes Evangelical 6.7%, Seventh Day Adventist 6.1%, Pentecostal 5.6%, Baptist 4.1%, Methodist 3.7%, Church of God 1.2%, other 1.2%), Rastafarian 1.3%, Jehovah's Witness 1.2%, other 0.3%, none 6.1%, unspecified 1.1% (2001 est.)

**Dominican Republic**  
**(../geos/dr.html)**

Roman Catholic 95%, other 5%

**Ecuador (../geos/ec.html)**

Roman Catholic 74%, Evangelical 10.4%, Jehovah's Witness 1.2%, other 6.4% (includes Mormon Buddhist, Jewish, Spiritualist, Muslim, Hindu, indigenous religions, African American religions, Pentecostal), atheist 7.9%, agnostic 0.1%  
**note:** data represents persons at least 16 years of age from five Ecuadoran cities (2012 est.)

**Egypt (../geos/eg.html)**

Muslim (predominantly Sunni) 90%, Christian (majority Coptic Orthodox, other Christians include Armenian Apostolic, Catholic, Maronite, Orthodox, and Anglican) 10% (2012 est.)

**El Salvador**  
**(../geos/es.html)**

Roman Catholic 57.1%, Protestant 21.2%, Jehovah's Witnesses 1.9%, Mormon 0.7%, other religions 2.3%, none 16.8% (2003 est.)

**Equatorial Guinea**  
**(../geos/ek.html)**

nominally Christian and predominantly Roman Catholic, pagan practices

**Eritrea (../geos/er.html)**

Muslim, Coptic Christian, Roman Catholic, Protestant

**Estonia (../geos/en.html)**

Lutheran 9.9%, Orthodox 16.2%, other Christian (including Methodist, Seventh-Day Adventist, Roman Catholic, Pentecostal) 2.2%, other 0.9%, none 54.1%, unspecified 16.7% (2011 est.)

**Ethiopia (../geos/et.html)**

Ethiopian Orthodox 43.5%, Muslim 33.9%, Protestant 18.5%, traditional 2.7%, Catholic 0.7%, other 0.6% (2007 est.)

**European Union**  
**(../geos/ee.html)**

Roman Catholic 48%, Protestant 12%, Orthodox 8%, other Christian 4%, Muslim 2%, other 1% (includes Jewish, Sikh, Buddhist, Hindu), atheist 7%, non-believer/agnostic 16%, unspecified 2% (2012 est.)

**Falkland Islands (Islas Malvinas)**  
**(../geos/fk.html)**

Christian 66%, none 32%, other 2% (2012 est.)

**Faroe Islands**  
**(../geos/fo.html)**

Christian 89.3% (predominantly Evangelical Lutheran), other 0.7%, more than one religion 0.2%, none 3.8%, unspecified 6% (2011 est.)

**Fiji (../geos/fi.html)**

Protestant 45% (Methodist 34.6%, Assembly of God 5.7%, Seventh Day Adventist 3.9%, and Anglican 0.8%), Hindu 27.9%, other Christian 10.4%, Roman Catholic 9.1%, Muslim 6.3%, Sikh 0.3%, other 0.3%, none 0.8% (2007 est.)

**Finland (../geos/fi.html)**

Lutheran 73.8%, Orthodox 1.1%, other or none 25.1% (2014 est.)

**France (../geos/fr.html)**

Christian (overwhelmingly Roman Catholic) 63-66%, Muslim 7-9%, Buddhist 0.5-0.75%, Jewish 0.5-0.75%, other 0.5-1.0%, none 23-28%  
**note:** France maintains a tradition of secularism and has not officially collected data on religious affiliation since the 1872 national census, which complicates assessments of France's religious composition; an 1872 law prohibiting state authorities from collecting data on individuals' ethnicity or religious beliefs was reaffirmed by a 1978 law emphasizing the prohibition of the collection or exploitation of personal data revealing an individual's race, ethnicity, or political, philosophical, or religious opinions; a 1905 law codified France's separation of church and state (2015 est.)

**French Polynesia**  
**(../geos/fp.html)**

Protestant 54%, Roman Catholic 30%, other 10%, no religion 6%

<b><u>Gabon (../geos/gb.html)</u></b>	Catholic 41.9%, Protestant 13.7%, other Christian 32.4%, Muslim 6.4%, animist 0.3%, other 0.3%, none/no answer 5% (2012 est.)
<b><u>Gambia, The (../geos/ga.html)</u></b>	Muslim 95.7%, Christian 4.2%, none 0.1%, no answer 0.1% (2013 est.)
<b><u>Gaza Strip (../geos/qz.html)</u></b>	Muslim 98.0 - 99.0% (predominantly Sunni), Christian <1.0%, other, unaffiliated, unspecified <1.0% <b>note:</b> dismantlement of Israeli settlements was completed in September 2005; Gaza has had no Jewish population since then (2012 est.)
<b><u>Georgia (../geos/gg.html)</u></b>	Orthodox (official) 83.4%, Muslim 10.7%, Armenian Apostolic 2.9%, other 1.2% (includes Catholic, Jehovah's Witness, Yazidi, Protestant, Jewish), none 0.5%, unspecified/no answer 1.2% (2014 est.)
<b><u>Germany (../geos/gm.html)</u></b>	Protestant 34%, Roman Catholic 34%, Muslim 3.7%, unaffiliated or other 28.3%
<b><u>Ghana (../geos/gh.html)</u></b>	Christian 71.2% (Pentecostal/Charismatic 28.3%, Protestant 18.4%, Catholic 13.1%, other 11.4%), Muslim 17.6%, traditional 5.2%, other 0.8%, none 5.2% (2010 est.)
<b><u>Gibraltar (../geos/gi.html)</u></b>	Roman Catholic 78.1%, Church of England 7%, Muslim 4%, other Christian 3.2%, Jewish 2.1%, Hindu 1.8%, other 0.9%, none 2.9% (2001 est.)
<b><u>Greece (../geos/gr.html)</u></b>	Greek Orthodox (official) 98%, Muslim 1.3%, other 0.7%
<b><u>Greenland (../geos/gl.html)</u></b>	Evangelical Lutheran, traditional Inuit spiritual beliefs
<b><u>Grenada (../geos/gj.html)</u></b>	Roman Catholic 44.6%, Protestant 43.5% (includes Anglican 11.5%, Pentecostal 11.3%, Seventh Day Adventist 10.5%, Baptist 2.9%, Church of God 2.6%, Methodist 1.8%, Evangelical 1.6%, other 1.3%), Jehovah's Witness 1.1%, Rastafarian 1.1%, other 6.2%, none 3.6%
<b><u>Guam (../geos/gq.html)</u></b>	Roman Catholic 85%, other 15% (1999 est.)
<b><u>Guatemala (../geos/gt.html)</u></b>	Roman Catholic, Protestant, indigenous Mayan beliefs
<b><u>Guernsey (../geos/gk.html)</u></b>	Protestant (Anglican, Presbyterian, Baptist, Congregational, Methodist), Roman Catholic
<b><u>Guinea-Bissau (../geos/pu.html)</u></b>	Muslim 45.1%, Christian 22.1%, animist 14.9%, none 2%, unspecified 15.9% (2008 est.)
<b><u>Guinea (../geos/gv.html)</u></b>	Muslim 86.7%, Christian 8.9%, animist/other/none 4.4% (2012 est.)
<b><u>Guyana (../geos/gy.html)</u></b>	Protestant 30.5% (Pentecostal 16.9%, Anglican 6.9%, Seventh Day Adventist 5%, Methodist 1.7%), Hindu 28.4%, Roman Catholic 8.1%, Muslim 7.2%, Jehovah's Witness 1.1%, other Christian 17.7%, other 1.9%, none 4.3%, unspecified 0.9% (2002 est.)
<b><u>Haiti (../geos/ha.html)</u></b>	Roman Catholic (official) 54.7%, Protestant 28.5% (Baptist 15.4%, Pentecostal 7.9%, Adventist 3%, Methodist 1.5%, other 0.7%), voodoo (official) 2.1%, other 4.6%, none 10.2% <b>note:</b> many Haitians practice elements of voodoo in addition to another religion, most often Roman Catholicism; voodoo was recognized as an official religion in 2003
<b><u>Holy See (Vatican City) (../geos/vt.html)</u></b>	Roman Catholic
<b><u>Honduras (../geos/ho.html)</u></b>	Roman Catholic 97%, Protestant 3%
<b><u>Hong Kong (../geos/hk.html)</u></b>	eclectic mixture of local religions 90%, Christian 10%

<b><u>Hungary</u></b> <b><u>(../geos/hu.html)</u></b>	Roman Catholic 37.2%, Calvinist 11.6%, Lutheran 2.2%, Greek Catholic 1.8%, other 1.9%, none 18.2%, unspecified 27.2% (2011 est.)
<b><u>Iceland (../geos/ic.html)</u></b>	Evangelical Lutheran Church of Iceland (official) 73.8%, Roman Catholic 3.6%, Reykjavik Free Church 2.9%, Hafnarfjorour Free Church 2%, The Independent Congregation 1%, other religions 3.9% (includes Pentecostal and Asatru Association), none 5.6%, other or unspecified 7.2% (2015 est.)
<b><u>India (../geos/in.html)</u></b>	Hindu 79.8%, Muslim 14.2%, Christian 2.3%, Sikh 1.7%, other and unspecified 2% (2011 est.)
<b><u>Indonesia</u></b> <b><u>(../geos/id.html)</u></b>	Muslim 87.2%, Christian 7%, Roman Catholic 2.9%, Hindu 1.7%, other 0.9% (includes Buddhist and Confucian), unspecified 0.4% (2010 est.)
<b><u>Iran (../geos/ir.html)</u></b>	Muslim (official) 99.4% (Shia 90-95%, Sunni 5-10%), other (includes Zoroastrian, Jewish, and Christian) 0.3%, unspecified 0.4% (2011 est.)
<b><u>Iraq (../geos/iz.html)</u></b>	Muslim (official) 99% (Shia 60%-65%, Sunni 32%-37%), Christian 0.8%, Hindu <0.1, Buddhist <0.1, Jewish <0.1, folk religion <0.1, unaffiliated 0.1, other <0.1 <b>note:</b> while there has been voluntary relocation of many Christian families to northern Iraq, recent reporting indicates that the overall Christian population may have dropped by as much as 50 percent since the fall of the SADDAM Husayn regime in 2003, with many fleeing to Syria, Jordan, and Lebanon (2010 est.)
<b><u>Ireland (../geos/ei.html)</u></b>	Roman Catholic 84.7%, Church of Ireland 2.7%, other Christian 2.7%, Muslim 1.1%, other 1.7%, unspecified 1.5%, none 5.7% (2011 est.)
<b><u>Isle of Man</u></b> <b><u>(../geos/im.html)</u></b>	Protestant (Anglican, Methodist, Baptist, Presbyterian, Society of Friends), Roman Catholic
<b><u>Israel (../geos/is.html)</u></b>	Jewish 74.8%, Muslim 17.6%, Christian 2%, Druze 1.6%, other 4% (2015 est.)
<b><u>Italy (../geos/it.html)</u></b>	Christian 80% (overwhelmingly Roman Catholic with very small groups of Jehovah's Witnesses and Protestants), Muslim (about 800,000 to 1 million), atheist and agnostic 20%
<b><u>Jamaica</u></b> <b><u>(../geos/jm.html)</u></b>	Protestant 64.8% (includes Seventh Day Adventist 12.0%, Pentecostal 11.0%, Other Church of God 9.2%, New Testament Church of God 7.2%, Baptist 6.7%, Church of God in Jamaica 4.8%, Church of God of Prophecy 4.5%, Anglican 2.8%, United Church 2.1%, Methodist 1.6%, Revived 1.4%, Brethren 0.9%, and Moravian 0.7%), Roman Catholic 2.2%, Jehovah's Witness 1.9%, Rastafarian 1.1%, other 6.5%, none 21.3%, unspecified 2.3% (2011 est.)
<b><u>Japan (../geos/ja.html)</u></b>	Shintoism 79.2%, Buddhism 66.8%, Christianity 1.5%, other 7.1% <b>note:</b> total adherents exceeds 100% because many people practice both Shintoism and Buddhism (2012 est.)
<b><u>Jersey (../geos/je.html)</u></b>	Protestant (Anglican, Baptist, Congregational New Church, Methodist, Presbyterian), Roman Catholic
<b><u>Jordan (../geos/jo.html)</u></b>	Muslim 97.2% (official; predominantly Sunni), Christian 2.2% (majority Greek Orthodox, but some Greek and Roman Catholics, Syrian Orthodox, Coptic Orthodox, Armenian Orthodox, and Protestant denominations), Buddhist 0.4%, Hindu 0.1%, Jewish <0.1, folk religionist <0.1, unaffiliated <0.1, other <0.1 (2010 est.)
<b><u>Kazakhstan</u></b> <b><u>(../geos/kz.html)</u></b>	Muslim 70.2%, Christian 26.2% (mainly Russian Orthodox), other 0.2%, atheist 2.8%, unspecified 0.5% (2009 est.)
<b><u>Kenya (../geos/ke.html)</u></b>	Christian 83% (Protestant 47.7%, Catholic 23.4%, other Christian 11.9%), Muslim 11.2%, Traditionalists 1.7%, other 1.6%, none 2.4%, unspecified 0.2% (2009 est.)

<b><u>Kiribati (../geos/kr.html)</u></b>	Roman Catholic 55.8%, Kempsville Presbyterian Church 33.5%, Mormon 4.7%, Baha'i 2.3%, Seventh Day Adventist 2%, other 1.5%, none 0.2%, unspecified 0.05% (2010 est.)
<b><u>Korea, North (../geos/kn.html)</u></b>	traditionally Buddhist and Confucianist, some Christian and syncretic Chondogyo (Religion of the Heavenly Way) <b>note:</b> autonomous religious activities now almost nonexistent; government-sponsored religious groups exist to provide illusion of religious freedom
<b><u>Korea, South (../geos/ks.html)</u></b>	Christian 31.6% (Protestant 24.0%, Catholic 7.6%), Buddhist 24.2%, other or unknown 0.9%, none 43.3% (2010 est.)
<b><u>Kosovo (../geos/kv.html)</u></b>	Muslim 95.6%, Roman Catholic 2.2%, Orthodox 1.5%, other 0.07%, none 0.07%, unspecified 0.6% (2011 est.)
<b><u>Kuwait (../geos/ku.html)</u></b>	Muslim (official) 76.7%, Christian 17.3%, other and unspecified 5.9% <b>note:</b> represents the total population; about 69% of the population consists of immigrants (2013 est.)
<b><u>Kyrgyzstan (../geos/kg.html)</u></b>	Muslim 75%, Russian Orthodox 20%, other 5%
<b><u>Laos (../geos/la.html)</u></b>	Buddhist 66.8%, Christian 1.5%, other 31%, unspecified 0.7% (2005 est.)
<b><u>Latvia (../geos/lg.html)</u></b>	Lutheran 19.6%, Orthodox 15.3%, other Christian 1%, other 0.4%, unspecified 63.7% (2006)
<b><u>Lebanon (../geos/le.html)</u></b>	Muslim 54% (27% Sunni, 27% Shia), Christian 40.5% (includes 21% Maronite Catholic, 8% Greek Orthodox, 5% Greek Catholic, 6.5% other Christian), Druze 5.6%, very small numbers of Jews, Baha'is, Buddhists, Hindus, and Mormons <b>note:</b> 18 religious sects recognized (2012 est.)
<b><u>Lesotho (../geos/lt.html)</u></b>	Christian 80%, indigenous beliefs 20%
<b><u>Liberia (../geos/li.html)</u></b>	Christian 85.6%, Muslim 12.2%, Traditional 0.6%, other 0.2%, none 1.4% (2008 Census)
<b><u>Libya (../geos/ly.html)</u></b>	Muslim (official; virtually all Sunni) 96.6%, Christian 2.7%, Buddhist 0.3%, Hindu <0.1, Jewish <0.1, folk religion <0.1, unaffiliated 0.2%, other <0.1 <b>note:</b> non-Sunni Muslims include native Ibadhi Muslims (<1% of the population) and foreign Muslims (2010 est.)
<b><u>Liechtenstein (../geos/ls.html)</u></b>	Roman Catholic (official) 75.9%, Protestant Reformed 6.5%, Muslim 5.4%, Lutheran 1.3%, other 2.9%, none 5.4%, unspecified 2.6% (2010 est.)
<b><u>Lithuania (../geos/lh.html)</u></b>	Roman Catholic 77.2%, Russian Orthodox 4.1%, Old Believer 0.8%, Evangelical Lutheran 0.6%, Evangelical Reformist 0.2%, other (including Sunni Muslim, Jewish, Greek Catholic, and Karaite) 0.8%, none 6.1%, unspecified 10.1% (2011 est.)
<b><u>Luxembourg (../geos/lu.html)</u></b>	Roman Catholic 87%, other (includes Protestant, Jewish, and Muslim) 13% (2000)
<b><u>Macau (../geos/mc.html)</u></b>	Buddhist 50%, Roman Catholic 15%, none or other 35% (1997 est.)
<b><u>Macedonia (../geos/mk.html)</u></b>	Macedonian Orthodox 64.8%, Muslim 33.3%, other Christian 0.4%, other and unspecified 1.5% (2002 est.)
<b><u>Madagascar (../geos/ma.html)</u></b>	Christian, indigenous believer, Muslim <b>note:</b> population largely practices Christianity or an indigenous religion; small share of population is Muslim
<b><u>Malawi (../geos/mi.html)</u></b>	Christian 82.6%, Muslim 13%, other 1.9%, none 2.5% (2008 est.)

<b><u>Malaysia</u></b> <b><u>(../geos/my.html)</u></b>	Muslim (official) 61.3%, Buddhist 19.8%, Christian 9.2%, Hindu 6.3%, Confucianism, Taoism, other traditional Chinese religions 1.3%, other 0.4%, none 0.8%, unspecified 1% (2010 est.)
<b><u>Maldives</u></b> <b><u>(../geos/mv.html)</u></b>	Sunni Muslim (official)
<b><u>Mali</u></b> <b><u>(../geos/ml.html)</u></b>	Muslim 94.8%, Christian 2.4%, Animist 2%, none 0.5%, unspecified 0.3% (2009 est.)
<b><u>Malta</u></b> <b><u>(../geos/mt.html)</u></b>	Roman Catholic (official) more than 90% (2011 est.)
<b><u>Marshall Islands</u></b> <b><u>(../geos/rm.html)</u></b>	Protestant 54.8%, Assembly of God 25.8%, Roman Catholic 8.4%, Bukot nan Jesus 2.8%, Mormon 2.1%, other Christian 3.6%, other 1%, none 1.5% (1999 census)
<b><u>Mauritania</u></b> <b><u>(../geos/mr.html)</u></b>	Muslim (official) 100%
<b><u>Mauritius</u></b> <b><u>(../geos/mp.html)</u></b>	Hindu 48.5%, Roman Catholic 26.3%, Muslim 17.3%, other Christian 6.4%, other 0.6%, none 0.7%, unspecified 0.1% (2011 est.)
<b><u>Mexico</u></b> <b><u>(../geos/mx.html)</u></b>	Roman Catholic 82.7%, Pentecostal 1.6%, Jehovah's Witness 1.4%, other Evangelical Churches 5%, other 1.9%, none 4.7%, unspecified 2.7% (2010 est.)
<b><u>Micronesia, Federated States of</u></b> <b><u>(../geos/fm.html)</u></b>	Roman Catholic 54.7%, Protestant 41.1% (includes Congregational 38.5%, Baptist 1.1%, Seventh Day Adventist 0.8%, Assembly of God 0.7%), Mormon 1.5%, other 1.9%, none 0.7%, unspecified 0.1% (2010 est.)
<b><u>Moldova</u></b> <b><u>(../geos/md.html)</u></b>	Orthodox 93.3%, Baptist 1%, other Christian 1.2%, other 0.9%, atheist 0.4%, none 1%, unspecified 2.2% (2004 est.)
<b><u>Monaco</u></b> <b><u>(../geos/mn.html)</u></b>	Roman Catholic 90% (official), other 10%
<b><u>Mongolia</u></b> <b><u>(../geos/mg.html)</u></b>	Buddhist 53%, Muslim 3%, Christian 2.2%, Shamanist 2.9%, other 0.4%, none 38.6% (2010 est.)
<b><u>Montenegro</u></b> <b><u>(../geos/mj.html)</u></b>	Orthodox 72.1%, Muslim 19.1%, Catholic 3.4%, atheist 1.2%, other 1.5%, unspecified 2.6% (2011 est.)
<b><u>Montserrat</u></b> <b><u>(../geos/mh.html)</u></b>	Protestant 67.1% (includes Anglican 21.8%, Methodist 17%, Pentecostal 14.1%, Seventh Day Adventist 10.5%, and Church of God 3.7%), Roman Catholic 11.6%, Rastafarian 1.4%, other 6.5%, none 2.6%, unspecified 10.8% (2001 est.)
<b><u>Morocco</u></b> <b><u>(../geos/mo.html)</u></b>	Muslim 99% (official; virtually all Sunni, <0.1% Shia), other 1% (includes Christian, Jewish, and Baha'i); note - Jewish about 6,000 (2010 est.)
<b><u>Mozambique</u></b> <b><u>(../geos/mz.html)</u></b>	Roman Catholic 28.4%, Muslim 17.9%, Zionist Christian 15.5%, Protestant 12.2% (includes Pentecostal 10.9% and Anglican 1.3%), other 6.7%, none 18.7%, unspecified 0.7% (2007 est.)
<b><u>Namibia</u></b> <b><u>(../geos/wa.html)</u></b>	Christian 80% to 90% (at least 50% Lutheran), indigenous beliefs 10% to 20%
<b><u>Nauru</u></b> <b><u>(../geos/nr.html)</u></b>	Protestant 60.4% (includes Nauru Congregational 35.7%, Assembly of God 13%, Nauru Independent Church 9.5%, Baptist 1.5%, and Seventh Day Adventist 0.7%), Roman Catholic 33%, other 3.7%, none 1.8%, unspecified 1.1% (2011 est.)
<b><u>Nepal</u></b> <b><u>(../geos/np.html)</u></b>	Hindu 81.3%, Buddhist 9%, Muslim 4.4%, Kirant 3.1%, Christian 1.4%, other 0.5%, unspecified 0.2% (2011 est.)
<b><u>Netherlands</u></b> <b><u>(../geos/nl.html)</u></b>	Roman Catholic 28%, Protestant 19% (includes Dutch Reformed 9%, Protestant Church of The Netherlands, 7%, Calvinist 3%), other 11% (includes about 5% Muslim and fewer numbers of Hindu, Buddhist, Jehovah's Witness, and Orthodox), none 42% (2009 est.)



**New Caledonia**  
**(../geos/nc.html)**

Roman Catholic 60%, Protestant 30%, other 10%

**New Zealand**  
**(../geos/nz.html)**

Christian 44.3% (Catholic 11.6%, Anglican 10.8%, Presbyterian and Congregational 7.8%, Methodist, 2.4%, Pentecostal 1.8%, other 9.9%), Hindu 2.1%, Buddhist 1.4%, Maori Christian 1.3%, Islam 1.1%, other religion 1.4% (includes Judaism, Spiritualism and New Age religions, Baha'i, Asian religions other than Buddhism), no religion 38.5%, not stated or unidentified 8.2%, objected to answering 4.1%

**note:** based on the 2013 census of the usually resident population; percentages add up to more than 100% because people were able to identify more than one religion (2013 est.)

**Nicaragua**  
**(../geos/nu.html)**

Roman Catholic 58.5%, Protestant 23.2% (Evangelical 21.6%, Moravian 1.6%), Jehovah's Witnesses 0.9%, other 1.6%, none 15.7% (2005 est.)

**Nigeria (../geos/ni.html)**

Muslim 50%, Christian 40%, indigenous beliefs 10%

**Niger (../geos/ng.html)**

Muslim 80%, other (includes indigenous beliefs and Christian) 20%

**Niue (../geos/ne.html)**

Ekalesia Niue (Congregational Christian Church of Niue - a Protestant church founded by missionaries from the London Missionary Society) 67%, other Protestant 3% (includes Seventh Day Adventist 1%, Presbyterian 1%, and Methodist 1%), Mormon 10%, Roman Catholic 10%, Jehovah's Witnesses 2%, other 6%, none 2% (2011 est.)

**Norfolk Island**  
**(../geos/nf.html)**

Protestant 49.6% (Anglican 31.8%, Uniting Church in Australia 10.6%, Seventh Day Adventist 3.2%), Roman Catholic 11.7%, other 8.6%, none 23.5%, unspecified 6.6% (2011 est.)

**Northern Mariana Islands**  
**(../geos/cq.html)**

Christian (Roman Catholic majority, although traditional beliefs and taboos may still be found)

**Norway (../geos/no.html)**

Church of Norway (Evangelical Lutheran - official) 82.1%, other Christian 3.9%, Muslim 2.3%, Roman Catholic 1.8%, other 2.4%, unspecified 7.5% (2011 est.)

**Oman (../geos/mu.html)**

Muslim (official; majority are Ibadhi, lesser numbers of Sunni and Shia) 85.9%, Christian 6.5%, Hindu 5.5%, Buddhist 0.8%, Jewish <0.1%, other 1%, unaffiliated 0.2% (2010 est.)

**note:** approximately 75% of Omani citizens, who compose almost 70% of the country's total population, are Ibadhi Muslims; the Omani government does not keep statistics on religious affiliation (2013)

**Pakistan**  
**(../geos/pk.html)**

Muslim (official) 96.4% (Sunni 85-90%, Shia 10-15%), other (includes Christian and Hindu) 3.6% (2010 est.)

**Palau (../geos/ps.html)**

Roman Catholic 49.4%, Protestant 30.9% (includes Protestant (general) 23.1%, Seventh Day Adventist 5.3%, and other Protestant 2.5%), Modekngei 8.7% (indigenous to Palau), Jehovah's Witnesses 1.1%, other 8.8%, none or unspecified 1.1% (2005 est.)

**Panama**  
**(../geos/pm.html)**

Roman Catholic 85%, Protestant 15%

**Papua New Guinea**  
**(../geos/pp.html)**

Roman Catholic 27%, Protestant 69.4% (Evangelical Lutheran 19.5%, United Church 11.5%, Seventh-Day Adventist 10%, Pentecostal 8.6%, Evangelical Alliance 5.2%, Anglican 3.2%, Baptist 2.5%, other Protestant 8.9%), Baha'i 0.3%, indigenous beliefs and other 3.3% (2000 census)

**Paraguay**  
**(../geos/pa.html)**

Roman Catholic 89.6%, Protestant 6.2%, other Christian 1.1%, other or unspecified 1.9%, none 1.1% (2002 census)

**Peru (../geos/pe.html)**

Roman Catholic 81.3%, Evangelical 12.5%, other 3.3%, none 2.9% (2007 est.)

<b><u>Philippines</u></b> <b><u>(../geos/rp.html)</u></b>	Catholic 82.9% (Roman Catholic 80.9%, Aglipayan 2%), Muslim 5%, Evangelical 2.8%, Iglesia ni Kristo 2.3%, other Christian 4.5%, other 1.8%, unspecified 0.6%, none 0.1% (2000 census)
<b><u>Pitcairn Islands</u></b> <b><u>(../geos/pc.html)</u></b>	Seventh-Day Adventist 100%
<b><u>Poland (../geos/pl.html)</u></b>	Catholic 87.2% (includes Roman Catholic 86.9% and Greek Catholic, Armenian Catholic, and Byzantine-Slavic Catholic .3%), Orthodox 1.3% (almost all are Polish Autocephalous Orthodox), Protestant 0.4% (mainly Augsburg Evangelical and Pentacostal), other 0.4% (includes Jehovah's Witness, Buddhist, Hare Krishna, Gaudiya Vaishnavism, Muslim, Jewish, Mormon), unspecified 10.8% (2012 est.)
<b><u>Portugal</u></b> <b><u>(../geos/po.html)</u></b>	Roman Catholic 81%, other Christian 3.3%, other (includes Jewish, Muslim, other) 0.6%, none 6.8%, unspecified 8.3% <b>note:</b> represents population 15 years of age and older (2011 est.)
<b><u>Puerto Rico</u></b> <b><u>(../geos/rq.html)</u></b>	Roman Catholic 85%, Protestant and other 15%
<b><u>Qatar (../geos/qa.html)</u></b>	Muslim 77.5%, Christian 8.5%, other (includes mainly Hindu and other Indian religions) 14% (2004 est.)
<b><u>Romania</u></b> <b><u>(../geos/ro.html)</u></b>	Eastern Orthodox (including all sub-denominations) 81.9%, Protestant (various denominations including Reformed and Pentecostal) 6.4%, Roman Catholic 4.3%, other (includes Muslim) 0.9%, none or atheist 0.2%, unspecified 6.3% (2011 est.)
<b><u>Russia (../geos/rs.html)</u></b>	Russian Orthodox 15-20%, Muslim 10-15%, other Christian 2% (2006 est.) <b>note:</b> estimates are of practicing worshipers; Russia has large populations of non-practicing believers and non-believers, a legacy of over seven decades of Soviet rule; Russia officially recognizes Orthodox Christianity, Islam, Judaism, and Buddhism as traditional religions
<b><u>Rwanda (../geos/rw.html)</u></b>	Roman Catholic 49.5%, Protestant 39.4% (includes Adventist 12.2% and other Protestant 27.2%), other Christian 4.5%, Muslim 1.8%, animist 0.1%, other 0.6%, none 3.6% (2001), unspecified 0.5% (2002 est.)
<b><u>Saint Barthelemy</u></b> <b><u>(../geos/tb.html)</u></b>	Roman Catholic, Protestant, Jehovah's Witnesses
<b><u>Saint Helena, Ascension, and Tristan da Cunha</u></b> <b><u>(../geos/sh.html)</u></b>	Protestant 75.9% (includes Anglican 68.9, Baptist 2.1%, Seventh Day Adventist 1.8%, Salvation Army 1.7%, New Apostolic 1.4%), Jehovah's Witness 4.1%, Roman Catholic 1.2%, other 2.5% (includes Baha'i), unspecified 0.8%, none 6.1%, no response 9.4% <b>note:</b> data represent Saint Helena only (2016 est.)
<b><u>Saint Kitts and Nevis</u></b> <b><u>(../geos/sc.html)</u></b>	Anglican, other Protestant, Roman Catholic
<b><u>Saint Lucia</u></b> <b><u>(../geos/st.html)</u></b>	Roman Catholic 61.5%, Protestant 25.5% (includes Seventh Day Adventist 10.4%, Pentecostal 8.9%, Baptist 2.2%, Anglican 1.6%, Church of God 1.5%, other Protestant 0.9%), other Christian 3.4% (includes Evangelical 2.3% and Jehovah's Witness 1.1%), Rastafarian 1.9%, other 0.4%, none 5.9%, unspecified 1.4% (2010 est.)
<b><u>Saint Martin</u></b> <b><u>(../geos/rn.html)</u></b>	Roman Catholic, Jehovah's Witnesses, Protestant, Hindu
<b><u>Saint Pierre and Miquelon</u></b> <b><u>(../geos/sb.html)</u></b>	Roman Catholic 99%, other 1%
<b><u>Saint Vincent and the Grenadines</u></b> <b><u>(../geos/vc.html)</u></b>	Protestant 75% (Anglican 47%, Methodist 28%), Roman Catholic 13%, other (includes Hindu, Seventh-Day Adventist, other Protestant) 12%



<b><u>Samoa (../geos/ws.html)</u></b>	Protestant 57.4% (Congregationalist 31.8%, Methodist 13.7%, Assembly of God 8%, Seventh-Day Adventist 3.9%), Roman Catholic 19.4%, Mormon 15.2%, Worship Centre 1.7%, other Christian 5.5%, other 0.7%, none 0.1%, unspecified 0.1% (2011 est.)
<b><u>San Marino (../geos/sm.html)</u></b>	Roman Catholic
<b><u>Sao Tome and Principe (../geos/tp.html)</u></b>	Catholic 55.7%, Adventist 4.1%, Assembly of God 3.4%, New Apostolic 2.9%, Mana 2.3%, Universal Kingdom of God 2%, Jehovah's Witness 1.2%, other 6.2%, none 21.2%, unspecified 1% (2012 est.)
<b><u>Saudi Arabia (../geos/sa.html)</u></b>	Muslim (official; citizens are 85-90% Sunni and 10-15% Shia), other (includes Eastern Orthodox, Protestant, Roman Catholic, Jewish, Hindu, Buddhist, and Sikh) (2012 est.) <b>note:</b> despite having a large expatriate community of various faiths (more than 30% of the population), most forms of public religious expression inconsistent with the government-sanctioned interpretation of Sunni Islam are restricted; non-Muslims are not allowed to have Saudi citizenship and non-Muslim places of worship are not permitted (2013)
<b><u>Senegal (../geos/sq.html)</u></b>	Muslim 95.4% (most adhere to one of the four main Sufi brotherhoods), Christian 4.2% (mostly Roman Catholic), animist 0.4% (2010-11 est.)
<b><u>Serbia (../geos/ri.html)</u></b>	Serbian Orthodox 84.6%, Catholic 5%, Muslim 3.1%, Protestant 1%, atheist 1.1%, other 0.8%, undeclared or unknown 4.5% (2011 est.)
<b><u>Seychelles (../geos/se.html)</u></b>	Roman Catholic 76.2%, Protestant 10.6% (Anglican 6.1%, Pentecostal Assembly 1.5%, Seventh-Day Adventist 1.2%, other Protestant 1.6), other Christian 2.4%, Hindu 2.4%, Muslim 1.6%, other non-Christian 1.1%, unspecified 4.8%, none 0.9% (2010 est.)
<b><u>Sierra Leone (../geos/sl.html)</u></b>	Muslim 60%, Christian 10%, indigenous beliefs 30%
<b><u>Singapore (../geos/sn.html)</u></b>	Buddhist 33.9%, Muslim 14.3%, Taoist 11.3%, Catholic 7.1%, Hindu 5.2%, other Christian 11%, other 0.7%, none 16.4% (2010 est.)
<b><u>Sint Maarten (../geos/sk.html)</u></b>	Protestant 41.9% (Pentecostal 14.7%, Methodist 10.0%, Seventh Day Adventist 6.6%, Baptist 4.7%, Anglican 3.1%, other Protestant 2.8%), Roman Catholic 33.1%, Hindu 5.2%, Christian 4.1%, Jehovah's Witness 1.7%, Evangelical 1.4%, Muslim/Jewish 1.1%, other 1.3% (includes Buddhist, Sikh, Rastafarian), none 7.9%, no response 2.4% (2011 est.)
<b><u>Slovakia (../geos/lo.html)</u></b>	Roman Catholic 62%, Protestant 8.2%, Greek Catholic 3.8%, other or unspecified 12.5%, none 13.4% (2011 est.)
<b><u>Slovenia (../geos/si.html)</u></b>	Catholic 57.8%, Muslim 2.4%, Orthodox 2.3%, other Christian 0.9%, unaffiliated 3.5%, other or unspecified 23%, none 10.1% (2002 census)
<b><u>Solomon Islands (../geos/bp.html)</u></b>	Protestant 73.4% (Church of Melanesia 31.9%, South Sea Evangelical 17.1%, Seventh Day Adventist 11.7%, United Church 10.1%, Christian Fellowship Church 2.5%), Roman Catholic 19.6%, other Christian 2.9%, other 4%, none 0.03%, unspecified 0.1% (2009 est.)
<b><u>Somalia (../geos/so.html)</u></b>	Sunni Muslim (Islam) (official, according to the Transitional Federal Charter)
<b><u>South Africa (../geos/sf.html)</u></b>	Protestant 36.6% (Zionist Christian 11.1%, Pentecostal/Charismatic 8.2%, Methodist 6.8%, Dutch Reformed 6.7%, Anglican 3.8%), Catholic 7.1%, Muslim 1.5%, other Christian 36%, other 2.3%, unspecified 1.4%, none 15.1% (2001 census)
<b><u>South Sudan (../geos/od.html)</u></b>	animist, Christian
<b><u>Spain (../geos/sp.html)</u></b>	Roman Catholic 94%, other 6%

<b><u>Sri Lanka</u></b> <b><u>(../geos/ce.html)</u></b>	Buddhist (official) 70.2%, Hindu 12.6%, Muslim 9.7%, Roman Catholic 6.1%, other Christian 1.3%, other 0.05% (2012 est.)
<b><u>Sudan (../geos/su.html)</u></b>	Sunni Muslim, small Christian minority
<b><u>Suriname</u></b> <b><u>(../geos/ns.html)</u></b>	Hindu 27.4%, Protestant 25.2% (predominantly Moravian), Roman Catholic 22.8%, Muslim 19.6%, indigenous beliefs 5%
<b><u>Swaziland</u></b> <b><u>(../geos/wz.html)</u></b>	Zionist 40% (a blend of Christianity and indigenous ancestral worship), Roman Catholic 20%, Muslim 10%, other 30% (includes Anglican, Baha'i, Methodist, Mormon, Jewish)
<b><u>Sweden</u></b> <b><u>(../geos/sw.html)</u></b>	Lutheran 87%, other (includes Roman Catholic, Orthodox, Baptist, Muslim, Jewish, and Buddhist) 13%
<b><u>Switzerland</u></b> <b><u>(../geos/sz.html)</u></b>	Roman Catholic 38.2%, Protestant 26.9%, other Christian 5.6%, Muslim 5%, other 1.6%, none 21.4%, unspecified 1.3% (2013 est.)
<b><u>Syria (../geos/sy.html)</u></b>	Muslim 87% (official; includes Sunni 74% and Alawi, Ismaili, and Shia 13%), Christian 10% (includes Orthodox, Uniate, and Nestorian), Druze 3%, Jewish (few remaining in Damascus and Aleppo)
<b><u>Taiwan (../geos/tw.html)</u></b>	mixture of Buddhist and Taoist 93%, Christian 4.5%, other 2.5%
<b><u>Tajikistan</u></b> <b><u>(../geos/ti.html)</u></b>	Sunni Muslim 85%, Shia Muslim 5%, other 10% (2003 est.)
<b><u>Tanzania</u></b> <b><u>(../geos/tz.html)</u></b>	Christian 61.4%, Muslim 35.2%, folk religion 1.8%, other 0.2%, unaffiliated 1.4% <b>note:</b> Zanzibar is almost entirely Muslim (2010 est.)
<b><u>Thailand</u></b> <b><u>(../geos/th.html)</u></b>	Buddhist (official) 93.6%, Muslim 4.9%, Christian 1.2%, other 0.2%, none 0.1% (2010 est.)
<b><u>Timor-Leste</u></b> <b><u>(../geos/tt.html)</u></b>	Roman Catholic 96.9%, Protestant/Evangelical 2.2%, Muslim 0.3%, other 0.6% (2005)
<b><u>Togo (../geos/to.html)</u></b>	Christian 29%, Muslim 20%, indigenous beliefs 51%
<b><u>Tokelau (../geos/tl.html)</u></b>	Congregational Christian Church 58.2%, Roman Catholic 36.6%, Presbyterian 1.8%, other Christian 2.8%, Spiritualism and New Age 0.1%, unspecified 0.5% (2011 est.)
<b><u>Tonga (../geos/tn.html)</u></b>	Protestant 64.9% (includes Free Wesleyan Church 37.3%, Free Church of Tonga 11.4%, Church of Tonga 7.2%, Tokaikolo Christian Church 2.6%, Assembly of God 2.3%, Seventh Day Adventist 2.2%, Constitutional Church of Tonga 0.9%, Anglican 0.8% and Full Gospel Church 0.2%), Mormon 16.8%, Roman Catholic 15.6%, other 1.1%, none 0.03%, unspecified 1.7% (2006 est.)
<b><u>Trinidad and Tobago</u></b> <b><u>(../geos/td.html)</u></b>	Protestant 32.1% (Pentecostal/Evangelical/Full Gospel 12%, Baptist 6.9%, Anglican 5.7%, Seventh-Day Adventist 4.1%, Presbyterian/Congregational 2.5%, other Protestant 0.9%), Roman Catholic 21.6%, Hindu 18.2%, Muslim 5%, Jehovah's Witness 1.5%, other 8.4%, none 2.2%, unspecified 11.1% (2011 est.)
<b><u>Tunisia (../geos/ts.html)</u></b>	Muslim (official; Sunni) 99.1%, other (includes Christian, Jewish, Shia Muslim, and Baha'i) 1%
<b><u>Turkey (../geos/tu.html)</u></b>	Muslim 99.8% (mostly Sunni), other 0.2% (mostly Christians and Jews)
<b><u>Turkmenistan</u></b> <b><u>(../geos/tx.html)</u></b>	Muslim 89%, Eastern Orthodox 9%, unknown 2%
<b><u>Turks and Caicos Islands</u></b> <b><u>(../geos/tk.html)</u></b>	Protestant 72.8% (Baptist 35.8%, Church of God 11.7%, Anglican 10%, Methodist 9.3%, Seventh-Day Adventist 6%), Roman Catholic 11.4%, Jehovah's Witnesses 1.8%, other 14%
<b><u>Tuvalu (../geos/tv.html)</u></b>	Protestant 98.4% (Church of Tuvalu (Congregationalist) 97%, Seventh-Day Adventist 1.4%), Baha'i 1%, other 0.6%

<b><u>Uganda (../geos/ug.html)</u></b>	Protestant 45.1% (Anglican 32.0%, Pentecostal/Born Again/Evangelical 11.1%, Seventh Day Adventist 1.7%, Baptist .3%), Roman Catholic 39.3%, Muslim 13.7%, other 1.6%, none 0.2% (2014 est.)
<b><u>Ukraine (../geos/up.html)</u></b>	Orthodox (includes Ukrainian Autocephalous Orthodox (UAOC), Ukrainian Orthodox - Kyiv Patriarchate (UOC-KP), Ukrainian Orthodox - Moscow Patriarchate (UOC-MP), Ukrainian Greek Catholic, Roman Catholic, Protestant, Muslim, Jewish <b>note:</b> Ukraine's population is overwhelmingly Christian; the vast majority - up to two-thirds - identify themselves as Orthodox, but many do not specify a particular branch; the UOC-KP and the UOC-MP each represent less than a quarter of the country's population, the Ukrainian Greek Catholic Church accounts for 8-10%, and the UAOC accounts for 1-2%; Muslim and Jewish adherents each compose less than 1% of the total population (2013 est.)
<b><u>United Arab Emirates (../geos/ae.html)</u></b>	Muslim (official) 76%, Christian 9%, other (primarily Hindu and Buddhist, less than 5% of the population consists of Parsi, Baha'i, Druze, Sikh, Ahmadi, Ismaili, Dawoodi Bohra Muslim, and Jewish) 15% <b>note:</b> represents the total population; about 85% of the population consists of noncitizens (2005 est.)
<b><u>United Kingdom (../geos/uk.html)</u></b>	Christian (includes Anglican, Roman Catholic, Presbyterian, Methodist) 59.5%, Muslim 4.4%, Hindu 1.3%, other 2%, unspecified 7.2%, none 25.7% (2011 est.)
<b><u>United States (../geos/us.html)</u></b>	Protestant 46.5%, Roman Catholic 20.8%, Mormon 1.6%, Jehovah's Witness 0.8%, other Christian 0.9%, Jewish 1.9%, Muslim 0.9%, Buddhist 0.7%, Hindu 0.7%, other 1.8%, unaffiliated 22.8%, don't know/refused 0.6% (2014 est.)
<b><u>Uruguay (../geos/uy.html)</u></b>	Roman Catholic 47.1%, non-Catholic Christians 11.1%, nondenominational 23.2%, Jewish 0.3%, atheist or agnostic 17.2%, other 1.1% (2006)
<b><u>Uzbekistan (../geos/uz.html)</u></b>	Muslim 88% (mostly Sunni), Eastern Orthodox 9%, other 3%
<b><u>Vanuatu (../geos/nh.html)</u></b>	Protestant 70% (includes Presbyterian 27.9%, Anglican 15.1%, Seventh Day Adventist 12.5%, Assemblies of God 4.7%, Church of Christ 4.5%, Neil Thomas Ministry 3.1%, and Apostolic 2.2%), Roman Catholic 12.4%, customary beliefs 3.7% (including Jon Frum cargo cult), other 12.6%, none 1.1%, unspecified 0.2% (2009 est.)
<b><u>Venezuela (../geos/ve.html)</u></b>	nominally Roman Catholic 96%, Protestant 2%, other 2%
<b><u>Vietnam (../geos/vm.html)</u></b>	Buddhist 7.9%, Catholic 6.6%, Hoa Hao 1.7%, Cao Dai 0.9%, Protestant 0.9%, Muslim 0.1%, none 81.8% (2009 est.)
<b><u>Virgin Islands (../geos/vq.html)</u></b>	Protestant 59% (Baptist 42%, Episcopalian 17%), Roman Catholic 34%, other 7%
<b><u>Wallis and Futuna (../geos/wf.html)</u></b>	Roman Catholic 99%, other 1%
<b><u>West Bank (../geos/we.html)</u></b>	Muslim 80-85% (predominantly Sunni), Jewish 12-14%, Christian 1-2.5% (mainly Greek Orthodox), other, unaffiliated, unspecified <1% <b>note:</b> the proportion of Christians continues to fall mainly as a result of the growth of the Muslim population but also because of migration and the declining birth rate of the Christian population (2012 est.)
<b><u>Western Sahara (../geos/wi.html)</u></b>	Muslim
<b><u>World (../geos/xx.html)</u></b>	Christian 31.4%, Muslim 23.2%, Hindu 15%, Buddhist 7.1%, folk religions 5.9%, Jewish 0.2%, other 0.8%, unaffiliated 16.4% (2010 est.)

**[Yemen \(../geos/ym.html\)](#)** Muslim 99.1% (official; virtually all are citizens, an estimated 65% are Sunni and 35% are Shia), other 0.9% (includes Jewish, Baha'i, Hindu, and Christian; many are refugees or temporary foreign residents) (2010 est.)

**[Zambia \(../geos/za.html\)](#)** Protestant 75.3%, Roman Catholic 20.2%, other 2.7% (includes Muslim Buddhist, Hindu, and Baha'i), none 1.8% (2010 est.)

**[Zimbabwe \(../geos/zi.html\)](#)** Protestant 75.9% (includes Apostolic 38%, Pentecostal 21.1%, other 16.8%), Roman Catholic 8.4%, other Christian 8.4%, other 1.2% (includes traditional, Muslim), none 6.1% (2011 est.)

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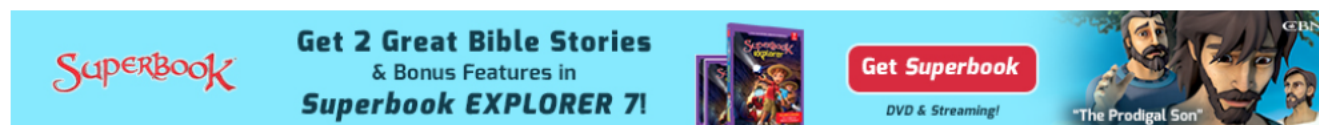
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## EXHIBIT F



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## Brody File Exclusive: President Trump Says Persecuted Christians Will Be Given Priority As Refugees



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## Brody File Exclusive: President Trump Says Persecuted Christians Will Be Given Priority As Refugees

01-27-2017

[David Brody](#)

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In an exclusive interview with The Brody File, President Donald Trump says persecuted Christians will be given priority when it comes to applying for refugee status in the United States. "We are going to help them," President Trump tells CBN News. "They've been horribly treated. Do you know if you were a Christian in Syria it was impossible, at least very tough to get into the United States? If you were a Muslim you could come in, but if you were a Christian, it was almost impossible and the reason that was so unfair, everybody was persecuted in all fairness, but they were chopping off the heads of everybody but more so the Christians. And I thought it was very, very unfair."

The Brody File conducted the interview Friday morning in the Blue Room at The White House. More newsworthy clips are coming soon. The entire interview can be seen this Sunday at 11pm on Freeform (cable TV, formerly ABC Family Channel) during our special CBN News show. This is just the third interview President Trump has done from The White House and it will be the only interview that will air in its' entirety this weekend.

#### MANDATORY VIDEO AND COURTESY: CBN NEWS/THE BRODY FILE

**DAVID BRODY:** "Persecuted Christians, we've talked about this, the refugees overseas. The refugee program, or the refugee changes you're looking to make. As it relates to persecuted Christians, do you see them as kind of a priority here?"

**PRESIDENT TRUMP:** "Yes."

**DAVID BRODY:** "You do?"

**PRESIDENT TRUMP:** "They've been horribly treated. Do you know if you were a Christian in Syria it was impossible, at least very tough to get into the United States? If you were a Muslim you could come in, but if you were a Christian, it was almost impossible and the reason that was so unfair, everybody was persecuted in all fairness, but they were chopping off the heads of everybody but more so the Christians. And I thought it was very, very unfair. So we are going to help them."

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**Steve**

12 days ago

Christian persecution is running at about 100,000 deaths per month. I'm so glad that our President is cognizant of this and willing to alleviate some of the pain and suffering of these people.

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**Israel Friend Di**

13 days ago

Our President Donald Trump is doing his Christian duty by banning terrorists Muslims and illegals into the USA that want to promote Sharia laws upon us and terrorize this country. Isis and Hamas chop off the heads of their own people if they are found to be worshipping the GOD OF ISRAEL, our GOD, KING JESUS. This has to be stopped before they completely destroy the entire USA and all Christians and Jews, including ISRAEL. The Muslim religion is a hate religion unlike our Judea, Christianity. We love all people of every race and don't kill to please our GOD. Our GOD died, shed HIS innocent blood as the final Lamb of GOD sacrifice and was resurrected to save us from our sins.

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## EXHIBIT G



The Washington Post

Acts of Faith

# Trump signs order limiting refugee entry, says he will prioritize Christian refugees

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By Sarah Pulliam Bailey January 27

President Trump signed an executive order Friday instituting “extreme vetting” of refugees, aimed at keeping out “radical Islamic terrorists.”

“I’m establishing a new vetting measure to keep radical Islamic terrorists out of the United States of America,” Trump said during his signing of the order. “We don’t want them here. We want to make sure we are not admitting into our country the very threats our soldiers are fighting overseas.”

According to drafts of the executive action, the order bars people from the Muslim-majority countries of Iraq, Syria, Iran, Sudan, Libya, Somalia or Yemen from entering the United States for 30 days and suspends the U.S. Refugee Admissions Program for 120 days. The program will be reinstated “only for nationals of countries for whom” members are vetted by Trump’s administration.

In an interview Friday with the Christian Broadcast Network, Trump said he plans to help persecuted Christians.

“Do you know if you were a Christian in Syria it was impossible, at least very tough, to get into the United States?” Trump said. “If you were a Muslim you could come in, but if you were a Christian, it was almost impossible and the reason that was so unfair, everybody was persecuted in all fairness, but they were chopping off the heads of everybody but more so the Christians. And I thought it was very, very unfair.”

In a statement, the American Civil Liberties Union declared Trump's action "just a euphemism for discrimination against Muslims."

From both legal and historical perspectives, the plan to ban refugees from specific countries is within the powers granted to the president under current law and historical precedent, according to Charles Haynes, vice president of the Newseum Institute's Religious Freedom Center. However, whether the president can limit the ban to one religious group is another question.

Many Muslims, especially Shiites, are among the religious minorities under attack, Haynes said. This "raises moral and humanitarian concerns about excluding them from entrance to the U.S. while permitting people of other faiths," he said. "Whether this policy rises to the level of a constitutional violation is uncertain and will be debated by constitutional scholars in the coming weeks."

Issues related to the Constitution and religion are usually associated with matters of sex, such as contraceptives and LGBT discrimination, but some observers said they expect Trump's actions on immigration to raise new challenges for religious freedom, according to Chelsea Langston Bombino of the Institutional Religious Freedom Alliance at the Center for Public Justice. Several organizations, she noted, are speaking out against orders that "will hurt the very people that their organizations were established, out of a religious calling, to serve," she said.

Trump's actions have been decried by several religious groups this week. "The expected cutbacks to U.S. refugee programs and funding will compromise our ability to do this work and the infrastructure needed to serve refugees in the years to come," evangelical ministry World Relief said in a statement.

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## Acts of Faith newsletter

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Conversations about faith and values.

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And in a strongly worded statement, Rabbi Jack Moline, the Interfaith Alliance president, noted that this decision was announced on International Holocaust Remembrance Day.

"For decades, the United States has prided itself as a safe bastion for refugees around the globe escaping war and persecution," he said. "President Trump is poised to trample upon that great legacy with a de facto Muslim ban."

The Council on American-Islamic Relations will on Monday announce a federal lawsuit on behalf of more than 20 people challenging the constitutionality of the executive order.

“There is no evidence that refugees – the most thoroughly vetted of all people entering our nation – are a threat to national security,” said CAIR national litigation director Lena F. Masri. “This is an order that is based on bigotry, not reality.”

*This post has been updated.*

Sarah Pulliam Bailey is a religion reporter, covering how faith intersects with politics, culture and...everything. 🐦 Follow @spulliam

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## **Facing criticism, Trump administration has no regrets about leaving out Jews in Holocaust statement**

What might have been seen as an oversight was confirmed by White House spokeswoman Hope Hicks to have been an intentional decision.

## **Trump orders Pentagon to draft ISIS strategy, restructuring of security council**

New rules concerning lobbying are also among executive orders signed Saturday.

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## EXHIBIT H



- DECEMBER 07, 2015 -

★ ★ ★ **CATEGORIES**  
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## DONALD J. TRUMP STATEMENT ON PREVENTING MUSLIM IMMIGRATION

(New York, NY) December 7th, 2015, -- Donald J. Trump is calling for a total and complete shutdown of Muslims entering the United States until our country's representatives can figure out what is going on. According to Pew Research, among others, there is great hatred towards Americans by large segments of the Muslim population. Most recently, a poll from the [Center for Security Policy](#) released data showing "25% of those polled agreed that violence against Americans here in the United States is justified as a part of the global jihad" and 51% of those polled, "agreed that Muslims in America should have the choice of being governed according to Shariah." Shariah authorizes such atrocities as murder against non-believers who won't convert, beheadings and more unthinkable acts that pose great harm to Americans, especially women.

Mr. Trump stated, "Without looking at the various polling data, it is obvious to anybody the hatred is beyond comprehension. Where this hatred comes from and why we will have to determine. Until we are able to determine and understand this problem and the dangerous threat it poses, our country cannot be the victims of horrendous attacks by people that believe only in Jihad, and have no sense of reason or respect for human life. If I win the election for President, we are going to Make America Great Again." - *Donald J. Trump*

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# EXHIBIT I



**Donald J. Trump**   
@realDonaldTrump

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Just put out a very important policy statement on the extraordinary influx of hatred & danger coming into our country. We must be vigilant!

RETWEETS  
2,460

LIKES  
5,679



1:47 PM - 7 Dec 2015



2.0K



2.5K

5.7K

## EXHIBIT J



## NewsRoom

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December 7, 2015

Section: post-politics

Trump calls for 'total and complete shutdown of Muslims entering the United States'  
"We have no choice. We have no choice," Trump said Monday. "We have no choice."

Jenna Johnson

Updated at 7:43 p.m.

Donald Trump called Monday for a "total and complete shutdown" of the entry of Muslims to the United States "until our country's representatives can figure out what is going on."

In a statement released by his campaign Monday afternoon, Trump included recent poll findings that he says show that a sizable segment of the Muslim population has "great hatred towards Americans."

"Without looking at the various polling data, it is obvious to anybody the hatred is beyond comprehension," Trump is quoted as saying in the statement. "Where this hatred comes from and why we will have to determine. Until we are able to determine and understand this problem and the dangerous threat it poses, our country cannot be the victims of horrendous attacks by people that believe only in Jihad, and have no sense of reason or respect for human life."

At a rally in Mount Pleasant, South Carolina on Monday evening, Trump pointed to the statement he released earlier in the day.

"Should I read you the statement?" he asked.

The crowd enthusiastically agreed that he should.

"Donald J. Trump is calling for a total and complete shutdown of Muslims entering the United States until our country's representatives can figure out what the hell is going on," he said, adding the word "hell" for emphasis this time.

Supporters erupted in applause.

"We have no choice. We have no choice," Trump said. "We have no choice."

Earlier in the rally, which was interrupted by protests, Trump said, "I have friends that are Muslims. They are great people -- but they know we have a problem."

Trump campaign manager Corey Lewandowski told the Associated Press that the ban would apply to "everybody," including both immigrants and tourists. Soon after the statement was released, Trump tweeted that he had "just put out a very important policy statement on the extraordinary influx of hatred and danger coming into our country." He added in the tweet: "We must be vigilant!"

In an interview on Fox News Channel shortly ahead of his campaign rally, Trump was asked whether his policy would apply to Muslim military personnel stationed overseas who want to come home.

"They will come home. We have to be vigilant," he responded. "We have to take care of the Muslims that are living here. But we have to be vigilant."

He later added: "Anybody here stays, but we have to be very vigilant... This does not apply to people living in the country except that we have to be vigilant."

In the past month, particularly following the recent mass shooting in Southern California that is believed to have been inspired by the Islamic State terrorist group, Trump has called for greater scrutiny of Muslims -- including Muslim Americans who are legal residents of the country. He has said he would support heavy surveillance of mosques, bar Syrian refugees of all religions from entering the country and would consider establishing a database to track all Muslims in the country. But Trump's statement on Monday was his most controversial proposal yet.

Trump typically announces major positions like this in media interviews or at rallies, rarely issuing formal statements. The statement immediately sparked rounds of questions about how such a policy would work, along with strong criticism.

"Oh, my goodness," said Ibrahim Hooper, national communications director at the Council on American-Islamic Relations. "One has to wonder what Donald Trump will say next as he ramps up his anti-Muslim bigotry. Where is there left for him to go? Are we talking internment camps? Are we talking the final solution to the Muslim question? I feel like I'm back in the 1930s."

What worried Hooper, he said, was the premeditated nature of Trump's statement.

"He feels perfectly okay saying this," said Hooper. "It's not an open mic moment, where he has to walk something back. This was a statement from his campaign. They had to believe that this would be well received by his supporters. We've always had anti-Muslim bigots, but they've always been at the fringes of society. Now they want to lead it. In saner times, his campaign would be over. In insane times, his campaign can gain support. And that's why he put it out."

David Weigel and Sean Sullivan contributed to this report.

#### ---- Index References ----

News Subject: (Civil Rights Law (1CI34); Intellectual Freedoms & Civil Liberties (1IN08); International Terrorism (1IN37); Legal (1LE33); Minority & Ethnic Groups (1MI43); Race Relations (1RA49); Social Issues (1SO05); Top World News (1WO62))

Industry: (Celebrities (1CE65); Entertainment (1EN08))

Region: (Americas (1AM92); North America (1NO39))

Language: EN

Other Indexing: (Donald Trump; Ibrahim Hooper; David Weigel; Sean Sullivan; Donald Trump; Corey Lewandowski)

Word Count: 719

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**NewsRoom**

## EXHIBIT K

MEET THE PRESS JUL 24 2016, 11:47 AM ET

# Meet the Press - July 24, 2016

Meet the Press - July 24, 2016

CHUCK TODD:

This Sunday, the Democratic National Convention gets underway here in Philadelphia, after a raucous and unpredictable Republican convention. That ended with the nomination of Donald Trump.

DONALD TRUMP:

I am with you, I will fight for you, and I will win for you.

CHUCK TODD:

This morning, my sit-down with Donald Trump on his convention speech.

DONALD TRUMP:

The only negative reviews were a little dark.

CHUCK TODD:

On whether he's backing off on his Muslim ban.

DONALD TRUMP:

I actually don't think it's a pull-back. In fact, you could say it's an expansion.

CHUCK TODD:

And on Hillary Clinton's choice of Tim Kaine.

DONALD TRUMP:

Tim Kaine was a slap in the face to Bernie Sanders.

CHUCK TODD:

Plus Hillary Clinton and Tim Kaine hit the road in Florida.

HILLARY CLINTON:

Tim Kaine is everything Donald Trump and Mike Pence are not.

CHUCK TODD:

But some Bernie Sanders supporters are criticizing the Kaine pick as a sellout to moderates. I'll talk to Sanders and get his reaction to that and to the DNC Wikileaks e-mail release. Joining me for insight and analysis are MSNBC's Rachel Maddow, former chairman of the RNC, Michael Steele, NBC News Chief Foreign Affairs Correspondent, Andrea Mitchell, and host of Hardball and Philadelphia hometown boy, Chris Matthews. Trump, Sanders and reactions to the new Democratic ticket. Welcome to Sunday, in a special edition of Meet the Press at the Democratic National Convention.

CHUCK TODD:

Good Sunday morning. We are at the Wells Fargo Center here in South Philadelphia, home of the NBA 76ers and the NHL Broad Street Bullies, the Flyers. Democrats have begun to arrive, along with a pretty bad heat wave. And beginning tomorrow, they will gather to officially nominate Hillary Clinton as their presidential candidate.

Yesterday in Miami, Clinton was joined by her new running mate, Senator Tim Kaine of Virginia, in an upbeat event that was notable simply by the contrast to the disorganized rollout of Donald Trump's running mate a week earlier, Mike Pence.

(BEGIN TAPE)

SEN. TIM KAINE:

Hillary Clinton, she doesn't insult people, she listens to them. What a novel concept, right? She doesn't trash our allies, she respects them. And she'll always have our backs, that is something I am rock solid sure of.

(END TAPE)

CHUCK TODD:

We will get to reaction to the new Democratic ticket later in the show, including my interview with Senator Bernie Sanders of Vermont in a moment. But first, we're going to talk also about Sanders, about those Wikileaks emails and what they may say about DNC favoritism towards Hillary Clinton. But we begin with the man who has now taken control of the Republican Party. It's nominee Donald Trump.

I traveled to Trump National Golf Club in Bedminster, New Jersey, sort of his weekend getaway, last night for a face-to-face interview since dropping the word "presumptive," it's his first one, from the nominee title. We touched on so much: Tim Kaine, Trump's tax returns, his proposed restrictions on Muslim immigration and why he says he alone can fix the country's problems. But I began by asking him how it feels to be the Republican nominee for president of the United States.

(BEGIN TAPE)

DONALD TRUMP:

Well, it really feels great. And we really have a very unified party, other than a very small group of people that, frankly, lost. And we have a very unified party. You saw that the other night with the love in the room, and the enthusiasm in the room. The enthusiasm, there are people that say they have never seen anything like what was going on in that room, especially Thursday night.

CHUCK TODD:

Let me tell you, you bring up Thursday night, I've got to ask you about your entrance. Before we get serious here. That Monday night entrance was something else. I know you've gotten a lot of feedback on it. How'd you come up with it?

DONALD TRUMP:

I think I'm a little bit lucky, and a couple of people had that idea and I went along with the idea. And everything just worked right. And it was so good that they wanted to do it on Thursday night. I said, "Never in a million years, because you'll never get it that way again."

CHUCK TODD:

I don't think I've seen that even on WWE.

DONALD TRUMP:

Yeah, I know. Well, Vince is a good friend of mine. He called me, he said, "That was a very, very good entrance." But I didn't want to do it a second time, because, you know, it never works out the second time.

CHUCK TODD:

All right, let's go into the speech. I want to put some meat on the bones. But first, let's talk about, you've seen some of the positive reviews, some of the negative reviews. Some of the negative has been that it was a little dark--

DONALD TRUMP:

That's the only thing that--

CHUCK TODD:

--that there wasn't enough optimism in it. What would you say? It's not Morning in America.

DONALD TRUMP:

Yeah.

CHUCK TODD:

What would you say to that?

DONALD TRUMP:

Well, I think the only negativity, and, you know, the hate, I call them the haters, and that's fine. But the only negative reviews were, "A little dark." And the following day, they had another attack, and then today you see what happened in Afghanistan with many, many people killed.

They have no idea how many, so many killed. Yesterday it was Munich. And you know, I know they're saying, "Maybe it wasn't terrorism. Maybe it was just a crazy guy." But in the meantime he's screaming, "Allahu Akbar," as he's shooting people, so, you know, we'll see how that turns out. And all of a sudden people are saying, "Maybe it wasn't dark at all." But the only thing that some people said, "It was a little dark. It was a little bit tough."

CHUCK TODD:

Do you think it was a little dark?

DONALD TRUMP:

No, oh, I thought it was very optimistic. To me, it was an optimistic speech, because--

CHUCK TODD:

What makes it optimistic in your view?

DONALD TRUMP:

Because we're going to stop the problems. We're going to stop the problems. In other words, sure, I talk about the problems, but we're going to solve the problems.

CHUCK TODD:

One of the phrases you used, "I alone can fix it." And to some people, that sounded almost too strong-mannish for them. Do you understand that criticism and what do you make of it?

DONALD TRUMP:

I'll tell you, part of it was I'm comparing myself to Hillary. And we know Hillary, and we look at her record. Her record has been a disaster. And I am running against Hillary. It's not like I'm running against the rest of the world. I know people that are very, very capable that could do a very good job, but they could never get elected.

I can tell you right now. I can give you ten names of people that would do an extraordinary job, but there's no way they could ever get elected. They wouldn't know where to begin. It wouldn't be for them. But for governing, they would be good. I'm running and, you know, against one person.

CHUCK TODD:

You said there would be consequences for any company that tried to move a factory out. What--

DONALD TRUMP:

Absolutely, so simple--

CHUCK TODD:

--what is the consequence? Let's start with, you bring up Carrier a lot.

DONALD TRUMP:

It's so simple--

(OVERTALK)

CHUCK TODD:

Right, I understand that. But explain the consequences--

DONALD TRUMP:

Okay, here's the consequence--

CHUCK TODD:

What would it be?

DONALD TRUMP:

So Carrier comes in, they announce they're moving to Mexico, they fire all their people in Indiana, and they say, "Hi, well, here we are in Mexico, you know, enjoy your plant, enjoy the rest of your life," and you hire people from Mexico, okay? Now they make their product and they put it into the United States.

Well, we will have a very strong border, by the way, but they put it into the United States and we don't charge them tax. There will be a tax to be paid. If they're going to fire all their people, move their plant to Mexico, build air conditioners, and think they're going to sell those air conditioners to the United States, there's going to be a tax.

CHUCK TODD:

What kind of tax are you thinking?

DONALD TRUMP:

It could be 25 percent. It could be 35 percent. It could be 15 percent. I haven't determined. And it could be different for different companies. We have been working on trying to stop this government, because we don't know what we're doing. And not only Obama, they've been trying to stop this from before Obama. But they don't know. You know, they've done, they've tried lower interest loans, they've tried zero interest loans, these guys--

CHUCK TODD:

Well, some of these things aren't going to get through the World Trade Organization. There's--

DONALD TRUMP:

It doesn't matter. Then we're going to renegotiate or we're going to pull out. These trade deals are a disaster, Chuck. World Trade Organization is a disaster.

CHUCK TODD:

You know the concern on some of this--

DONALD TRUMP:

NAFTA is a disaster--



CHUCK TODD:

-- is that it would rattle the world economy. Look what Brexit did to the world economy. Investors got rattled.

DONALD TRUMP:

What did it do? What did it do?

CHUCK TODD:

Now you--

DONALD TRUMP:

The stock market's higher now than it was when it happened. And by the way, I'm the only one of all of these people at the higher level of the wonderful world of politics, I'm the only one that said, "Brexit's going to happen." Remember, I was asked the question. I said, "Yeah, I think they're going to approve it. I think they want independence. I don't think they want people pouring into their country." And I was--

CHUCK TODD:

You're not worried about, you think a fractured Europe is good for America?

DONALD TRUMP:

No, no. But we're spending a lot of money on Europe. Don't forget, Europe got together, why, primarily did they get together? So that they could beat the United States when it comes to making money, in other words, foreign trade--

CHUCK TODD:

Economic--

DONALD TRUMP:

Okay? And now we talk about Europe I ke it's so wonderful. Hey, I love Europe, I have property in Europe. I'm just saying, the reason that it got together was like a consortium so that it could compete with the United States--

CHUCK TODD:

So what you're saying is all this stuff is good for America, even if it's not good for Europe?

DONALD TRUMP:

Look, you take a look at Airbus. They make more planes now than Boeing, okay? They got together, all of these countries got together so that they could beat the United States. Okay, so we're in competition. So you know, we're in competition in one way, we're helping them in another way. It is so messed up.

CHUCK TODD:

The Muslim ban. I think you've pulled back from it, but you tell me.

(BEGIN TAPE)

DONALD TRUMP:

We must immediately suspend immigration from any nation that has been compromised by terrorism until such time as proven vetting mechanisms have been put in place.

(END TAPE)

CHUCK TODD:

This feels like a slight rollback--

DONALD TRUMP:

I don't think that's--

CHUCK TODD:

Should it be interpreted--

DONALD TRUMP:

I don't think so. I actually don't think it's a rollback. In fact, you could say it's an expansion. I'm looking now at territories. People were so upset when I used the word Muslim. Oh, you can't use the word Muslim. Remember this. And I'm okay with that, because I'm talking territory instead of Muslim.

But just remember this: Our Constitution is great. But it doesn't necessarily give us the right to commit suicide, okay? Now, we have a religious, you know, everybody wants to be protected. And that's great. And that's the wonderful part of our Constitution. I view it differently.

Why are we committing suicide? Why are we doing that? But you know what? I live with our Constitution. I love our Constitution. I cherish our Constitution. We're making it territorial. We have nations and we'll come out, I'm going to be coming out over the next few weeks with a number of the places. And it's very complex--

CHUCK TODD:

Well I was just going to say--

DONALD TRUMP:

--we have problems in Germany and we have problems with France--

CHUCK TODD:

I was just going to ask that. Will this limit--

DONALD TRUMP:

You know, so it's not just the countries with--

CHUCK TODD:

--would this limit immigration from France?

DONALD TRUMP:

What we're going to have is a thing called--

CHUCK TODD:

They've been compromised by terrorism.

DONALD TRUMP:

They have totally been. And you know why? It's their own fault. Because they allowed people to come into their territory--

CHUCK TODD:

So you would toughen up. You're basically saying, "Hey, if the French want to come over here, you've got to go through an extra check."

DONALD TRUMP:

It's their own fault, because they've allowed people over years to come into their territory. And that's why Brexit happened, okay? Because the U.K. is saying, "We're tired of this stuff, what's going on, we're tired of." But listen to this--

CHUCK TODD:

You could get to the point where you're not allowing a lot of people to come into this country from a lot of places.

DONALD TRUMP:

Maybe we get to that point. Chuck, look what's happening. Look at what just took place in Afghanistan, where they blow up a whole shopping center with people, they have no idea how many people were even killed. Happened today. So we have to be smart and we have to be vigilant and we have to be strong. We can't be the stupid people--

CHUCK TODD:

So France, Germany, Spain--

DONALD TRUMP:

Here's my plan--

CHUCK TODD:

--places that have been compromised?

DONALD TRUMP:

--here is what I want: Extreme vetting. Tough word. Extreme vetting.

CHUCK TODD:

What does that look like?

DONALD TRUMP:

Tough. We're going to have tough standards. And if a person can't prove--

CHUCK TODD:

Give me one.

DONALD TRUMP:

--that they're from an area, and if a person can't prove what they have to be able to prove, they're not coming into this country. And I would stop the Syrian migration and the Syrian from coming into this country in two seconds. Hillary Clinton wants to take 550 percent more people coming in from that area than Barack Obama. I think she's crazy. I think she's crazy. We have no idea who these people are for the most part, and you know, because I've seen them on different shows--

CHUCK TODD:

All right.

DONALD TRUMP:

--but more importantly, I've read about it. I study it. There is no way that you can vet some of these people. There is no way. Law enforcement officials, I've had them in my office. I've talked to them.

CHUCK TODD:

You realize some of these folks have nowhere to go? They're truly victims of this civil war, what do you do with them?

DONALD TRUMP:

We will help them and we will build safe havens over in Syria, and we will get Gulf States--

CHUCK TODD:

We, the United States are going to build these safe havens?

DONALD TRUMP:

We, the United States, we'll get Gulf States to pay for it, because we right now, we're going to have \$21 trillion very soon, trillion, in debt. We will do safe havens and safe zones in Syria and we will get nations that are so wealthy that are not doing anything. They're not doing much. They have nothing but money. And you know who I'm talking about, the Gulf States. And we will get them to pay for it. We would lead it. I don't want to pay because our country is going down the tubes. We owe too much money.

CHUCK TODD:

All right. Let me move to something with NATO. Mitch McConnell said this about your NATO remarks in the New York Times. He said it was a rookie mistake, and that once you, let me finish the comment here. "It's a rookie mistake, and it proves that Trump needs people like us around to help steer him in the right direction on some basic things."

DONALD TRUMP:

He's 100 percent wrong. Okay? He's 100 percent wrong if he said that. I didn't hear he said that--

CHUCK TODD:

He did say it.

DONALD TRUMP:

Okay, fine, fine--

CHUCK TODD:

New York Times--

DONALD TRUMP:

If he said that, he's 100 percent wrong. And frankly it's sad. We have NATO, and we have many countries that aren't paying for what they're supposed to be paying, which is already too little, but they're not paying anyway. And we're giving them a free ride or giving them a ride where they owe us tremendous amounts of money. And they have the money. But they're not paying it. You know why? Because they think we're stupid--

CHUCK TODD:

So Estonia is paying, and if they get invaded by Russia, you're there?

DONALD TRUMP:

I feel differently. I feel very differently--

CHUCK TODD:

But if a country's not doing -- Britain hasn't done the two percent.

DONALD TRUMP:

We have countries that aren't paying. Now, this goes beyond NATO, because we take care of-- we take care of Japan, we take care of Germany, we take care of South Korea, we take care of Saudi Arabia, and we lose on everything. We lose on everything. If Mitch McConnell says that, then he's wrong.

So all I'm saying is they have to pay. Now, a country gets invaded, they haven't paid, everyone says, "Oh, but we have a treaty." Well, they have a treaty too. They're supposed to be paying. We have countries within NATO that are taking advantage of us. With me, I believe they're going to pay. And when they pay, I'm a big believer in NATO.

But if they don't pay, we don't have, you know, Chuck, this isn't 40 years ago. This isn't 50 years ago. It's not 30 years ago. We're a different country today. We're much weaker, our military is depleted, we owe tremendous amounts of money. We have to be reimbursed. We can no longer be the stupid country.

(END TAPE)

CHUCK TODD:

When we come back, what Donald Trump says about David Duke, Bernie Sanders, and whether he really plans to spend millions for the sole purpose of defeating Ted Cruz and John Kasich. Sanders about Trump and about his reaction to Tim Kaine becoming Hillary Clinton's running mate. We're in Philadelphia, site of the Democratic National Convention. Stay with us.

\*\*\*COMMERCIAL BREAK\*\*\*

CHUCK TODD:

Such a beautiful city here. Welcome back. More now of my interview with Donald Trump at The Trump National Golf Club in Bedminster, New Jersey. And since we had a limited amount of time, I ended up speeding things up by asking Trump for some quick reaction to simply some very prominent names in the news.

(BEGIN TAPE)

CHUCK TODD:

I'm just going to literally throw out a name and you'll know the question I'm asking. Bernie Sanders.

DONALD TRUMP:

Great respect for what he's done. He is being taken advantage of, and frankly, the system was rigged, and I'm the first one to say it was rigged against him. And by the way--

CHUCK TODD:

You took after him. You took after him. You said for supporting Hillary Clinton, you think he needs to--

DONALD TRUMP:

Well, I'm not a fan of Bernie Sanders. But I am a fan of one thing that he talks about: Trade. He is the only one on that side that understands trade. Now, he can't do anything about it because that's not his thing. But he has been gamed. He has been, it's a rigged system against him. And what happened with the choice of Tim Kaine was a slap in the face to Bernie Sanders and everybody. I was shocked. I love it from my standpoint, I love--

CHUCK TODD:

Why do you love the Kaine pick?

DONALD TRUMP:

Well, first of all, he took over \$160,000 of gifts. And they said, "Well, they weren't really gifts, they were suits and trips and lots of different things," all for 160--

CHUCK TODD:

Legal, legal in the state of Virginia.

DONALD TRUMP:

Bob McDonnell-- I believe it was Bob McDonnell, in the meantime, he had to go to the United States Supreme Court to get out of going to jail--

CHUCK TODD:

Well, they proved to quid pro quo--

DONALD TRUMP:

--for taking a fraction of what--

CHUCK TODD:

They proved quid pro quo on that one.

DONALD TRUMP:

Excuse me, Bob McDonnell took a fraction of what Kaine took. And I think, to me, it's a big problem. Now, how do you take all these gifts? Hundreds of thousands of dollars. The other thing about him, he's bought and owned by the banks. And the third thing, he's in favor of TPP and every other trade deal that he's ever looked at. And that means he wants people not to work.

Now, he's going to change his tune. And I understand he's now going to say, "I'm against TPP." Hillary Clinton was totally in favor of TPP, which is the job killer, right? So was he. When she watched me on your show and other shows, all of a sudden she changed, because she knows she can't win that in a debate.

CHUCK TODD:

All right. Ted Cruz, I'm going to amend it, are you really going to fund a super PAC to help defeat him--

DONALD TRUMP:

Well, it's not the number one thing on my mind. Look, what's on my mind is beating Hillary Clinton. What's on my mind is winning for the Republican Party. With that being said, yeah, I'll probably do a super PAC, you know, when they run against Kasich, for \$10 million to \$20 million, against Ted Cruz. And maybe one other person that I'm thinking about--

CHUCK TODD:

Who's that other one person?

DONALD TRUMP:

--but I won't tell you that. I mean, he's actually such a small person, I hate to give him the publicity. But yes, I will probably do that at the appropriate at time. But I'm not going to do that until--

CHUCK TODD:

Oh, give me the small person here.

DONALD TRUMP:

No, no, don't worry about it. We'll give it to you another time.

CHUCK TODD:

All right, let me ask you about this one. David Duke announced his Senate candidacy claiming your agenda for his own, or essentially saying, "Glad that you spoke out."

DONALD TRUMP:

Are you ready, before you ask the question?

CHUCK TODD:

Newt Gingrich said, "Every Republican should repudiate this guy no matter what it takes"--

DONALD TRUMP:

I did. And I do. Are you ready? I want--

CHUCK TODD:

Would you support a Democrat over David Duke if that was what was necessary to defeat him?

DONALD TRUMP:

I guess, depending on who the Democrat, but the answer would be yes. Look, the answer is, as quick as you can say it. In fact, I went to answer you before you--

DONALD TRUMP:

Because last time with another person in your position, I did it very quickly. And they said, "He didn't do it fast enough." Rebuked. Is that okay? Rebuked, done--

CHUCK TODD:

Rebuked, done. Okay. Tax returns. A lot of conspiracy theories are being out there about why-- what's in your tax returns. You would get rid of all these conspiracy theories tomorrow--

DONALD TRUMP:

Let me tell you--

CHUCK TODD:

Probably make people look silly--

DONALD TRUMP:

Let me tell you. Let me give you a little lesson on tax returns. First of all, you don't learn very much from a tax return. I put in to the federal elections group 100 and some-odd pages of my financials. It showed, as you know, that I'm much wealthier than anybody even understood, okay? Tremendous cash, tremendous assets, tremendous all that stuff. Okay, that's it. I'm going through a routine audit. Just a routine audit, and I've had it for I think 14 years, 13 years--

CHUCK TODD:

Why?

DONALD TRUMP:

Every year they audit me. It's routine government. I would never give my tax returns until the audit's finished. But remember this: Mitt Romney, four years ago, was under tremendous pressure to give his tax returns. And he held it and held it and held it, and he fought it, and he, you know, he didn't do too well, okay? But he didn't do anything wrong on his taxes. When he gave his tax returns, people forget, not now. He gave them in September, before the election--

CHUCK TODD:

So you still might release them--



DONALD TRUMP:

No, wait a minute, wait a minute. When he did, and his tax returns are a tiny peanut compared to mine, they went through his tax returns. And they found one little sentence, another little-- there was nothing wrong. And they made him look bad. In fact I think he lost his election because of that.

CHUCK TODD:

Because of the tax returns?

DONALD TRUMP:

I think he lost. And I'll tell you why: He didn't do anything wrong. Mitt Romney did nothing wrong. But they would take out of, his weren't too big. Have you ever seen mine with the picture, they're like this high?

CHUCK TODD:

I have seen that picture, yes.

DONALD TRUMP:

Okay, so they took his tax return and they found a couple of little things. Nothing wrong, just standard. And they made him look very bad, very unfair. But with all that said, I'd love to give them, but I'm under audit. When the audit's finished I'll give them.

CHUCK TODD:

Finally, Roger Ailes. Is he helping you? Is he advising you?

DONALD TRUMP:

Well, I don't want to comment. But he's been a friend of mine for a long time, and I can tell you that some of the women that are complaining, I know how much he's helped them. And even recently, and when they write books that are fairly recently released, and they say wonderful things about him.

And now all of a sudden they're saying these horrible things about him. It's very sad. Because he's a very good person. I've always found him to be just a very, very good person. And by the way, a very, very talented person. Look what he's done. So I feel very badly. But a lot of people are thinking he's going to run my campaign.

CHUCK TODD:

Yeah, well--

DONALD TRUMP:

My campaign's doing pretty well.

CHUCK TODD:

Mr. Trump, until we meet again.

DONALD TRUMP:

Thank you very much--

CHUCK TODD:

Thank you for your time, sir, appreciate it.

(END TAPE)

CHUCK TODD:

Up next, the man who had hoped to be the candidate being nominated by Democrats right here in Philadelphia this week, Senator Bernie Sanders of Vermont. What does he think of those leaked DNC e-mails? We'll get his first comments since it happened. We're going to be right back in just a minute.

\*\*\*COMMERCIAL BREAK\*\*\*

(BEGIN TAPE)

CHUCK TODD:

Tremendous shots there of a beautiful city. Welcome back. It's not the kind of thing you want happening days before your convention. This weekend, Wikileaks released nearly 20,000 emails sent and received by members of the Democratic National Committee, some of which seem to confirm what a lot of people had suspected, that the DNC was playing favorites with Hillary Clinton over Bernie Sanders.

It appears Wikileaks either stole these emails or got them from a source. Remember, the DNC was hacked a few months ago. Among the emails was one from the DNC's Chief Financial Officer Brad Marshall that was looking ahead to the contests in Kentucky and West Virginia in early May. While not mentioning Sanders specifically by name, the email appeared to question Sanders' faith.

He wrote this, quote: "Does he believe in a god? I think I read he is an atheist. This could make several points difference with my peeps. My Southern Baptist peeps would draw a big difference between a Jew and an atheist." Well, Sanders has long believed that DNC Chair Debbie Wasserman Schultz was in Clinton's corner the whole campaign. Well, he joins me now. Senator Sanders, welcome back to Meet the Press.

And I should note that you talked about your belief in God last fall in an interview, I think, with your hometown paper there, so want to get that out of the way. So let me start with this question questioning your faith. Brad Marshall apologized on Facebook. Has anyone apologized to you personally? And what is your response to this entire discussion?

BERNIE SANDERS:

Well, no, nobody has apologized to me. And as you just mentioned, this really does not come as a shock to me or my supporters. There is no question but the DNC was on Secretary Clinton's side from day one. We all know that. And I think, as I have said a long time ago, that the time is now for Debbie Wasserman Schultz to step aside, not only for these issues.

We need a Democratic Party that is open, that's going to bring young people and working people into it, that is going to stand up and take on the big money interests and fight for working families. I don't think Debbie has been that type of leader. So I would hope, and I said this many months ago, that she would--

CHUCK TODD:

Right.

BERNIE SANDERS:

--step aside, we would have new leadership.

CHUCK TODD:

And do you think it needs to happen now, today, before the start of the convention?

BERNIE SANDERS:

Well--

CHUCK TODD:

Would that help calm some of your supporters down?

BERNIE SANDERS:

Well, I think what is already happening is that it's clear she is not going to be speaking to the convention. That is the right thing. I think right now what we have got to focus on as Democrats is defeating perhaps the worst Republican candidate that I have seen in my lifetime. Donald Trump would be a disaster for this country. He must be defeated.

We've got to elect Secretary Clinton on every single issue: fighting for the middle class on health care, on climate change, is a far, far superior candidate to Trump. That's where I think the focus has got to be.

CHUCK TODD:

Do you believe that the DNC's apparent favoritism cost you this race?

BERNIE SANDERS:

Well, I think you-- there are a lot of reasons why one loses. We started off 50 points behind Secretary Clinton. We had the opposition of virtually the entire Democratic leadership in every state in this country. And by the way, in terms of media, we did not get the kind of media attention that somebody like a Donald Trump got, because media is not necessarily interested in the issues facing the middle class, more interested in attacks in personality. So I think there were a lot of reasons.

But I will tell you this, Chuck, from the bottom of my heart, I am extraordinarily proud of the campaign that we ran. The issues that we raised, the fact that we got 13 million Americans to vote for a political revolution. People who know the economy is rigged in favor of big money, people who know that our middle class continues to decline and we have to go outside of establishment politics and economics, people who know that we need to reform a broken criminal justice system and we need comprehensive immigration reform.

The people-- what we did in our campaign is bring people together to say, "You know what? This country, our government, belongs to all of us and not just a few." So I am very proud of the campaign we ran and the supporters that came on board.

CHUCK TODD:

So just to sum up here, these leaks, these emails, it hasn't given you any pause about your support for Hillary Clinton?

BERNIE SANDERS:

No, no, no. We are going to do everything that we can to protect working families in this country. And again, Chuck, I know media is not necessarily focused on these things. But what a campaign is about is not Hillary Clinton, it's not Donald Trump. It is the people of this country, people who are working longer hours for lower wages, people who do not have health care or are underinsured.

Hillary Clinton and I have worked together on a higher education proposal which will guarantee free tuition in public colleges and universities for every family in this country making \$125,000 a year or less. We're going to fight for paid family and medical leave. Those are the issues that the American people want to hear discussed, and I'm going to go around the country discussing them and making sure that Hillary Clinton is elected president.

CHUCK TODD:

You know, The Green Party presumptive nominee, Jill Stein, put out a release yesterday about the emails. And she said this: "Democratic Party elites have been caught red-handed, sabotaging a grassroots campaign that tried to bring huge numbers of young people, independents and non-voters into their party. Instead, they have shown exactly why America needs a new major party, a truly democratic party for the people." Are you going to urge your supporters not to support Jill Stein and try to thwart her efforts to recruit your supporters?

BERNIE SANDERS:

Well, you know, let me just say this. As the longest serving Independent in the history of the United States Congress, as somebody who came into office by defeating an incumbent Democratic mayor in Burlington, Vermont, I know something about third party politics. And I respect Jill.

But right now, the focus, to my mind, is to make sure that Donald Trump does not become president of the United States. I think by temperament he is unqualified to be president. I think his views-- you have a guy who's running for president who rejects science, doesn't even believe climate change is real, let alone wants to do something about it, wants to give hundreds of billions of dollars in tax breaks to the top two-tenths of one percent.

CHUCK TODD:

Let me ask you--

BERNIE SANDERS:

So my job right now is to see that Donald Trump is defeated, Hillary Clinton is elected.

CHUCK TODD:

You know, he makes a big deal out of the fact that you and he agree on one big issue, and that is trade deals, that these trade deals have been bad for the country. And he basically says that Clinton and Kaine, as a ticket, aren't-- that their opposition, for instance, the TPP as sort of Johnny-come-lately, that it can't be trusted, and that Sanders supporters should support Trump if they care about trade. What do you say to that?

BERNIE SANDERS:

Well, I think in terms of who can be trusted, I think the evidence is clear that there has been no candidate that I have ever seen who lies more often than does Donald Trump. I mean and that's just not me saying it, that's what any independent media analysis has shown. So in terms of trust, you really can't trust a word, I think, that Mr. Trump has to say.

In terms of the TPP, it is no secret. I think our trade policies, for many, many years, have been a disaster. They have benefited corporate America at the expense of working people. Secretary Clinton has come out in opposition to the TPP, does not want to see it--

CHUCK TODD:

Right.

BERNIE SANDERS:

--appear in the lame duck Congress. That's my view, as well.

CHUCK TODD:

You know, some of your supporters are disappointed in the pick of Tim Kaine, that he's not progressive enough. I know Tim Kaine called you after he was picked. Do you consider Tim Kaine a progressive? And are you happy with this pick?

BERNIE SANDERS:

Look, you know, the pick is Secretary Clinton's. I've known Tim Kaine for a number of years. We've served in the Senate together, obviously. Tim is a very, very smart guy. He's a very nice guy. His political views are not my political views. He is more conservative than I am. Would I have preferred to see somebody like an Elizabeth Warren selected by Secretary Clinton? Yes, I would have.

CHUCK TODD:

And then finally, do you feel as if, that you, when you got Glass-Steagall, I wanted to ask about this, because it looks like the one thing that both parties may agree on in their platforms is putting-- is being in favor of reinstating Glass-Steagall. Does this mean we will see that happen in the next Congress?

BERNIE SANDERS:

Well, I'm going to do everything that I can to make it happen. You know, when we talk about our campaign, one of the things that we have been able to do, Chuck, is create the most progressive Democratic platform in the history of the Democratic Party, and that includes breaking up the large Wall Street banks and reestablishing Glass-Steagall.

I think the American people understand that we cannot continue to have a handful of reckless, irresponsible banks often acting illegally, that something has to happen. They have to be broken up.

CHUCK TODD:

All right, Senator Bernie Sanders. The big speech is tomorrow night. We'll be waiting for you here in a very, very hot Philadelphia, over 100 degrees.

BERNIE SANDERS:

Okay.

CHUCK TODD:

Senator Sanders, thanks for coming on. Good to see you, sir.

BERNIE SANDERS:

Thank you very much.

CHUCK TODD:

When we come back, reaction to Hillary Clinton's choice of Tim Kaine as a running mate, who showed why he might have appeal, unique appeal, to a very important voting bloc.

(BEGIN TAPE)

SEN. TIM KAINE:

Aprendilo valores de mi pueblo--faith, familia, y trabajo.

(END TAPE)

CHUCK TODD

And we'll be back in a moment from Philadelphia with this great panel. Rachel Maddow, Michael Steele, Andrea Mitchell, and Chris Matthews. Stay tuned.

(END TAPE)

CHUCK TODD:

And we'll be back in a moment from Philadelphia with this great panel, Rachel Maddow, Michael Steele, Andrea Mitchell, and Chris Matthews. Stay tuned.

\*\*\*COMMERCIAL TAPE\*\*\*

CHUCK TODD:

We are back. So much to talk about already. Our panel is here, Rachel Maddow, host of The Rachel Maddow Show on MSNBC, former chairman of the Republican National Committee, Michael Steele, he's sort of the fish out of water here in Philadelphia. Andrea Mitchell, NBC News, Chief Foreign Affairs Correspondent, host, of course, of Andrea Mitchell Reports on MSNBC. And a Philadelphia native himself, Mr. Brotherly Love Chris Matthews, host of Hardball--

RACHEL MADDOW:

Mr. Brotherly Love?

CHRIS MATTHEWS:

And sisterly affection.

CHUCK TODD:

--Sisterly affection here for the Penn grad.

CHUCK TODD:

And-- this morning by the way we have new pictures of Tim Kaine walking into church this morning in Richmond, Virginia. He now realizes, and now his parish is realizing, what it's like to have Secret Service following around a member of the parish there. All right.

RACHEL MADDOW:

Know what his Secret Service name is going to be yet?

CHUCK TODD:

What do we think the code name should be?

ANDREA MITCHELL:

But we're not sure--

RACHEL MADDOW:

Well, the big joke was that if you're boring enough, your Secret Service name is Tim Kaine.

CHUCK TODD:

Ooh.

RACHEL MADDOW:

Right? That--

CHUCK TODD:

Those are old Johnny Carson and Jay Leno, Al Gore jokes--

CHUCK TODD:

All right, you guys are having already too much fun.

RACHEL MADDOW:

Sorry, sorry.

CHUCK TODD:

Let me just throw it out here. We heard what Bernie Sanders said about Tim Kaine. It was, that was tougher than I expected.

RACHEL MADDOW:

"His politics are not my politics."

ANDREA MITCHELL:

That's really --

RACHEL MADDOW:

"He does not share my political views." That's an aggressive take from Bernie. I'm not surprised. Bernie's an aggressive politician. And I think when Senator Sanders speaks at the DNC, I think everybody's going to be on the edge of their seat. I think that he is not going to pull a Ted Cruz because he's already made an endorsement.

CHUCK TODD:

Well, he said, "I'm for Hillary," and he was tough on Trump.

RACHEL MADDOW:

Yeah. And but he doesn't relish going after Trump. He likes going after the Democratic Party to try to move the Democratic Party. That's his target, always has been.

MICHAEL STEELE:

It's still obvious, he's not 'Feeling the Bern' for Hillary. And that was very obvious. And when you asked about the trust question, he didn't say he trusted Hillary Clinton. He said he didn't trust Donald Trump. So the reality of it is there's still some tension there that Bernie is reflecting among his supporters. And it was evident there. I mean--

RACHEL MADDOW:

He's got a mission that's bigger than one election. He always has.

MICHAEL STEELE:

That's true.

ANDREA MITCHELL:

And in fact, he could quiet the march that is planned to go from the center of Center City, and Rittenhouse Square all the way down at Independence Hall. This march is going to disrupt the city today, no matter how peaceful, because this is a city, in 100-degree heat, that is planning for a convention. And it's going to be a very large outpouring. He also said--

CHUCK TODD:

And by the way, the hotter it is, the crankier people will be.

ANDREA MITCHELL:

Yeah. And he also says that Tim Kaine doesn't share his politics, not only that, but that he would have preferred Elizabeth Warren. He made it very clear; Tim Kaine is a nice guy, but he's not endorsing or embracing someone who Hillary Clinton --

CHUCK TODD:

There's a painful look in your face, Chris.

ANDREA MITCHELL:

--called Tim Kaine a progressive.

CHRIS MATTHEWS:

He didn't get to pick. Hillary Clinton did. And I've watched Hillary Clinton. I've watched a lot of politicians over the years. You can tell when they're actually happy, not when they fake the laugh or anything else. She looked delighted during his speech yesterday. And I haven't seen her that delighted in a long time. She had found her guy to be her running mate. I think she loved it.

And I think one thing we're getting all excited about, I understand why the progressives are upset. But one thing historically we all know is the selection of a vice president is a poor predictor of the direction of that administration.

RACHEL MADDOW:

Yeah.

CHRIS MATTHEWS:

FDR picked John Nance Garner--

RACHEL MADDOW:

It's not a policy pick.

CHRIS MATTHEWS:

Kennedy picked another conservative from the south, Lyndon Johnson, relatively conservative. And then we got the New Deal out of that and we got the Great Society we got the New Frontier. It's a poor predictor. Now, if this is about spoils, they've got an argument. They wanted a piece of the action. But there's differences between spoils and direction.

CHUCK TODD:

I want to throw out the one thing that Trump's trying to hit Kaine on, well, two things. But the one big one is the gifts in Virginia.

RACHEL MADDOW:

Yeah.

CHUCK TODD:

I only throw it out there is that I heard Ed Rendell ask to defend it. And he struggled, Andrea. He said, "Well, it's illegal in Pennsylvania."

ANDREA MITCHELL:

Virginia--

CHUCK TODD:

Okay. And it's legal in Virginia. That wasn't exactly a resounding defense.

ANDREA MITCHELL:

Yeah. Virginia has a very strange, let's face it, strange gift law. The difference with Bob McDonnell, who was convicted, and then the Supreme Court overturned it, is there was no quid pro quo. He declared it. That was the main thing. He declared everything, put it down, in fact, computed higher numbers to staying in friends' houses. He put everything down. He was meticulous about it.

So they don't think there's a big ethics thing. Just on his progressivity or lack of it, he has this civil rights background. I mean I was in the room. And what you saw on T.V. yesterday in Miami, in that largely Hispanic campus, that wonderful campus in Miami, it was extraordinary. The enthusiasm for him and the affection. And having watched her all of these years, you're absolutely right, Chris--

CHUCK TODD:

You know--

ANDREA MITCHELL:

--she found her guy. She was a happy camper.

RACHEL MADDOW:

He's not a progressive, but they will tell a very progressive story about his history. The party has moved to the left while he sort of always been a solid liberal.

CHUCK TODD:

Both of them are trying to--

ANDREA MITCHELL:



Yeah.

CHUCK TODD:

I feel like both Clinton and Kaine are trying to catch up to the party's movement.

CHRIS MATTHEWS:

That's so true.

ANDREA MITCHELL:

Well, on guns he was always there. He was heroic in Virginia on gun laws.

CHUCK TODD:

That they're moving-- and Michael, let me ask you this. The Trump campaign says, "We love the Kaine pick." And here's their reasoning. They love the Kaine pick because it reinforces that they're the political professionals, that here's Tim Kaine, and all he's done in life, is been in office for the last 25 years.

MICHAEL STEELE:

Right.

CHUCK TODD:

And the whole point of Trump is Trump's Mr. "I'm the total outsider." If they want to double down on that, fine, go ahead. What do you say?

RACHEL MADDOW:

Except Mike Pence

MICHAEL STEELE:

Right, right, right.

CHUCK TODD:

They pay no attention to that. I brought that brought to them. I said, "What about Pence?" And they're like, "Well, it's the top of the ticket."

MICHAEL STEELE:

"Ignore that man behind the curtain."

CHUCK TODD:

What do you say to that? Did they have a point or not?

MICHAEL STEELE:

Well, they'll have a-- I think the broader point, is an interesting one. Because what he's comparing himself-- he's comparing himself, Trump, to Kaine--

CHUCK TODD:

Right.

MICHAEL STEELE:

--and Clinton. So it's me and against them.

CHUCK TODD:

Yeah.

MICHAEL STEELE:

Pence is not a part of that equation, necessarily.

RACHEL MADDOW:

Yeah.

MICHAEL STEELE:

So when he's talking about the maverick, the outsider, he's-- he's assuming his ticket is total that.

ANDREA MITCHELL:

Well, Pence wasn't even a part of his own rollout.

MICHAEL STEELE:

Right.

ANDREA MITCHELL:

If you remember. And that was--

RACHEL MADDOW:

He couldn't get a word in edgewise.

ANDREA MITCHELL:

Hillary Clinton spoke about Tim Kaine--

MICHAEL STEELE:

I think their strength, Chuck, is gonna be on the argument-- this notion that Tim Kaine is progressive is just not believable. And for a whole host of reasons. I think that's an opening for a lot of folks on Trump's side.

RACHEL MADDOW:

You can, there are element of his record that are not progressive, but on balance, I would argue that he is.

ANDREA MITCHELL:

I would argue that too.

CHRIS MATTHEWS:

But one thing, the guy's two doors from you, if you're president. Look at the structure of the West Wing now. It's not some guy that goes back to Maine like Lincoln's first vice president. He or she is right with you.

MICHAEL STEELE:

Right.

CHRIS MATTHEWS:

You want a good person two doors for you, somebody who has values. And it's not just smart politics. I think what Hillary Clinton's going to love having is a guy who's a true blue good guy. And I think he is a progressive on all the moral issues--

CHUCK TODD:

Let's sneak in a break here. When we come back, I want to get into the DNC e-mail situation. And I also want to get your guys' reaction to some interesting comments from Donald Trump. Yeah, you know that guy that was at the start of the show. We'll be right back.

\*\*\*COMMERCIAL BREAK\*\*\*

CHUCK TODD:

Welcome back, panelists here. Before we jump to Trump, the DNC email leaks, Cleveland, we expected rowdiness, Never Trumpsters, and all that stuff. We expect order here. But I wonder, Rachel, if-- look, I'm hearing from the Bernie bros. I'm in one of the emails just-- I'm the complaint department here sometimes at NBC. Somebody was complaining about coverage. And I said, "Okay, let's talk on the phone," or whatever. But we didn't do anything about it, because I get complaints about coverage every hour, every day.

RACHEL MADDOW:

Yeah.

CHUCK TODD:

But I think Bernie supporters may like this place, at least outside. They may be upset, and they may do something about it.

RACHEL MADDOW:

Yeah. I mean and, you know, there will be that big protest that Andrea was talking about today, to start things off. And there will be a lot, there will be hundreds of Bernie delegates inside the room. Now honestly, from the top, down, he said, "We've got to elect Hillary Clinton." He's been unequivocal about that, that's the most important thing.

It'll be interesting to see whether the rules fights and the platform fights end up, in the end, when there's need to get nailed down with those votes, there is some dissent and chaos there. There might be.

CHRIS MATTHEWS:

One thing is--

CHUCK TODD:

Do you think Debbie Wasserman Schultz needs to get out now?

CHRIS MATTHEWS:

Well, look--

CHUCK TODD:

Not even gavel it in?

CHRIS MATTHEWS:

This is not a mystery story. This isn't Colombo.

CHUCK TODD:

Yeah.

CHRIS MATTHEWS:

We knew from the beginning, watching the debate schedule, put together by the DNC--

CHUCK TODD:

Sure.

CHRIS MATTHEWS:

--that they were tilting the scales to Hillary Clinton. Middle of the night debates, Sunday morning -- it was an absurd debate schedule. And it just said, "We're for Hillary, we don't want the new guy to get all the attention."

ANDREA MITCHELL:

And what Bernie said to you is that she's not going to be giving a speech. When does the party chair not give a speech at the convention? And apparently that is the case.

CHUCK TODD:

And then right now, though, they will gavel in.

RACHEL MADDOW:

Thank god we haven't-- her quitting right now before -- I mean, the DNC's gonna be running a big part of the ground game for the whole--

CHRIS MATTHEWS:

Yeah.

RACHEL MADDOW:

You know, you don't--

CHUCK TODD:

But I tell you, this--

RACHEL MADDOW:

It would be suicide for the chair to jump out now--

CHUCK TODD:

This doesn't help her own fight for reelection, which I still think she's going to be okay.

RACHEL MADDOW:

No, but--

CHUCK TODD:

It's a district that she knows very well. But--

ANDREA MITCHELL:

But Bernie endorsed her opponent.

RACHEL MADDOW:

But her reelection fight is in her district.

CHRIS MATTHEWS:

Right.

RACHEL MADDOW:

It's not to be the chair of the DNC, that's next year.

CHUCK TODD:

All right. Michael Steele, what'd you hear from Donald Trump? Did it make you feel better or worse about his chances?

MICHAEL STEELE:

Well, I think Donald Trump did a couple of things he needed to do. One was, and you could see it in the room that night, people began to say, "Okay, I can get there." The speech that he gave, when you read it, seemed a lot darker and harsher than when he delivered it. He delivered it in a way--

RACHEL MADDOW:

I thought the opposite.

MICHAEL STEELE:

Yeah, yeah.

RACHEL MADDOW:

When reading it, I wasn't freaked out.

MICHAEL STEELE:

Yeah.

RACHEL MADDOW:

And then, when I saw him give it, I pulled the covers up.

MICHAEL STEELE:

No, for me, it was the reverse. Because the reaction. I'm sitting in the room and I'm getting the reaction from the crowd.

RACHEL MADDOW:

Mmm.

MICHAEL STEELE:

And the reaction from the crowd was, "This guy is going to be a fighter." And I think that's a strong message for him coming out of this convention.

CHRIS MATTHEWS:

Rachel, you have never pulled the covers up.

RACHEL MADDOW: Oh no, I meant proverbially

CHUCK TODD: There's a lot of personal information here. Woah, it's Sunday morning, guys.

MICHAEL STEELE:

I thought he did what he needed to do, Chuck. I do.

RACHEL MADDOW:

Standing under those 15-foot-tall letters with Trump, and then his head comes up there. And then he spent 76 minutes screaming, red faced, about terrorism and death and destruction and "I'm the only one who can fix it"--

CHRIS MATTHEWS:

I think that was technical. I don't think he knew how to read a script like that. I don't think he had the ability to-- his daughter knew how to do it. It's tough to read a script in a conversational manner. So you end up doing this sort of scream thing.

RACHEL MADDOW:

But it takes an ego to turn a 30 minute script into a 78 minute rant.

ANDREA MITCHELL:

But he said that he was the person who would fix everything. And they're focusing on that. But, you know, Kaine was focusing on that. You know, it is the "we" not the I. They're comparing him to a dictator.

MICHAEL STEELE:

But the--

ANDREA MITCHELL:

It is the language and the delivery, Michael--

MICHAEL STEELE:

Don't lose sight of the fact that a lot of Americans out there are saying it is the "we" who screwed us up to this point.

CHRIS MATTHEWS:

Yeah.

MICHAEL STEELE:

It is the we who've gotten us into this mess.

ANDREA MITCHELL:

It's a different way of defining democracy, Michael.

MICHAEL STEELE:

So they're looking for the I, someone who's going to step forward as a leader, to get us through this mess. This is the bifurcation of the of the population, the voting population right now. And it's going to be interesting to see which one of these arguments win--

RACHEL MADDOW:

Is this about the hunger for a strong man, is that what you're talking about?

MICHAEL STEELE: Yeah no, there really is Rachel.

RACHEL MADDOW: We've seen this around the world, it's not supposed to be us.

CHRIS MATTHEWS:

I've heard Bernie make your point.

MICHAEL STEELE:

Yes!

CHRIS MATTHEWS:

It's that we have to reach outside the establishment to get the solution to these really bad economic problems affecting the working

people of this country.

MICHAEL STEELE:

Right.

CHRIS MATTHEWS:

Same message. Different sides.

MICHAEL STEELE: Same message.

RACHEL MADDOW:

Same message. The question is whether or not one man is supposed to deliver salvation for the country. We're not supposed to be that kind of country.

CHUCK TODD:

I want to throw one more. He seemed, at least in the interview with me, he goes after Mitch McConnell, goes after Ted Cruz, goes after John Kasich.

ANDREA MITCHELL:

He is fearless in that regard.

CHUCK TODD: He really is.

ANDREA MITCHELL:

He is not going to moderate himself.

RACHEL MADDOW:

You didn't even ask about Kasich. And he's bringing it up

CHUCK TODD:

No, exactly. He brought Kasich up himself.

ANDREA MITCHELL:

And another player to be named player, who, you know, remain -- could be one of the senators like Jeff Flake. Look, the fact is that he is not playing by anybody's ground rules except Donald Trump's. What he said about N.A.T.O. was extraordinary because he doubled down on that. And the whole system of collect your security in Europe, if you're in Poland today, you are not reassured--

CHUCK TODD:

What's amazing is the Trump campaign tried to walk it back all last week on the N.A.T.O. stuff. And he's basically saying, "Don't walk it back."

RACHEL MADDOW:

Even beyond N.A.T.O. to talk about Europe as a threat to America is what's good for Europe is bad for America and we have an interest in Europe being weak and divided, they only got together to screw us? Like, hold on a second.

CHRIS MATTHEWS:

Yeah, it'll play in Scranton. It'll play up there in the Eerie, Pennsylvania it'll play.

RACHEL MADDOW:

The European Union-- came out of the way to try to not have World War III.

CHRIS MATTHEWS:

Because people think we're being shoved around and exploited and he's saying, "I'm going to shove back."

ANDREA MITCHELL:

They are our markets-- markets, allies--

CHUCK TODD:

You guys great. I'm going to try to get another half hour. But let me sneak in this. We'll be back in a moment with our-- we'll call it halftime segment. No, it's Endgame Segment. And we'll look at Hillary Clinton's popularity compared to other Democratic nominees on the eve of their conventions.

\*\*\*COMMERCIAL BREAK\*\*\*

CHUCK TODD:

The panel never stops interacting here. Seriously we just went to a commercial break--

RACHEL MADDOW:

--wants more with France!

CHUCK TODD:

It's endgame time. Look, I want to show you here very quickly some numbers, because it will help us judge whether this is a successful convention for Hillary Clinton. These are favorable ratings, personal favorable ratings, whether you're right side up or upside down, from our NBC Wall Street Journal poll, for every Democrat going back to '92. And as you can see, Hillary Clinton in the worst shape of any presumptive nominee going into their convention.

Now, let me show you what everybody else came through after their convention. So successful convention for Bill Clinton, successful one for Al Gore. Flat for John Kerry, successful, Barack Obama. Obviously, we'll find out, for Hillary Clinton, what does she need to--

ANDREA MITCHELL:

Well, what they are going to do is they're going to have gauzy films, the same kind of films you saw in 1992, the same producers--

CHUCK TODD:

And JFK?

ANDREA MITCHELL:

They're going to have all of these films, biography, résumé. They know that her résumé is not resonating with millennials. People know what she did, they don't know-- they know the list of what she was. They don't know what she actually did, what she accomplished.

CHRIS MATTHEWS:

Yeah.

ANDREA MITCHELL:

They're going to do all of that. The balance is going to be very different.

RACHEL MADDOW:

--because T.V. networks don't always take the movies anymore--



ANDREA MITCHELL:

Well, they're going to have to validators.

RACHEL MADDOW:

Yeah.

ANDREA MITCHELL:

They're going to have people on that podium behind it who are going to talk about things she has done for them. And it's going to be very much all about her and much less about taking down Trump

CHRIS MATTHEWS:

I think the magic moment in this convention's going to be Thursday night. And a lot of women, and a lot of men, too, are going to see Hillary Clinton as the first party nominee, who's probably going to be like the president. She has the advantage right now. And there are going to be misty eyes all across the country.

And any men at that moment who make a wisecrack are going to be guaranteeing another vote for Hillary Clinton. I think it's a very emotional moment for people. They've haven't quite got to it because of all is mishegas that's gone on this year. I think it's going to be magical. And if Hillary Clinton just stands there with a little emotion, this is an amazing historic moment.

CHUCK TODD:

Michael was the Republican convention too anti-Clinton and not enough pro-Trump?

MICHAEL STEELE:

No. The Republican convention had to go anti-Clinton--

CHUCK TODD:

Had to do that?

MICHAEL STEELE:

--because of the Trump issues.

CHUCK TODD:

What about this one?

MICHAEL STEELE:

This one? I was thinking, as you guys were talking about Barack Obama and talking about Hillary Clinton being likable enough, this is going to be a convention in which they're going to showcase her so you can like her. Because people, those numbers show, don't like her. So it's going to be everything you just said, Chris, plus more. The problem is what happens afterwards. And that's where Hillary Clinton's going to have to continue .

CHUCK TODD:

Here's an out question for all of you. Besides Hillary Clinton's speech, what will be the other buzziest speech or speaker when we walk away from this convention?

RACHEL MADDOW:

We're going to have a huge one on night one. Bernie is a big deal.

MICHAEL STEELE:

Bernie.

RACHEL MADDOW:

The Democratic Party is going through a transformation. Liberals are having their moment. And this convention has to reflect it.

CHRIS MATTHEWS:

Every Democratic convention I can remember, going back to, God, '64, the best speech was never given by the nominee, whether it's Bobby Kennedy or it's Jesse Jackson, or it's Mario Cuomo.

MICHAEL STEELE:

Right.

CHRIS MATTHEWS:

The candidates never have been able to deliver the best speech. So I would bet on Bernie.

RACHEL MADDOW:

It was Trump Jr. last week.

CHRIS MATTHEWS:

Bernie or President Obama.

ANDREA MITCHELL:

Michelle Obama and Barack Obama on day two.

CHUCK TODD:

I think it's Barack Obama on Wednesday night. I think it's going to be to Hillary Clinton what Bill Clinton was to Barack Obama four years ago. All right. That's all for this Sunday morning.

CHRIS MATTHEWS:

We agree.

CHUCK TODD:

I'll be hosting a special edition of Meet the Press Daily tonight at 5:00 Eastern on MSNBC. I know that's what everybody on this table will be watching. And then, throughout the week, I'll be joined by my colleagues Lester Holt and Savannah Guthrie right here at The Wells Fargo Center for convention coverage on the network beginning at 10:00 Eastern, 7:00 Pacific. If you missed it last week, you should be regretting it. Watch us this week. And of course we'll be back next Sunday. Because if it is Sunday, Meet the Press.

\* \* \*END OF TRANSCRIPT\* \* \*

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## EXHIBIT L

DONALD TRUMP

## Donald Trump on Proposed Muslim Ban: 'You Know My Plans'

Katie Reilly

Dec 21, 2016



President-elect Donald Trump on Wednesday called the recent attacks in **Germany** and **Turkey** "terrible" and suggested that he does not intend to reevaluate his **plans to ban Muslims** from immigrating to the United States, boasting that he had been "proven to be right."

"You know my plans. All along, I've been proven to be right. 100% correct. What's happening is disgraceful," Trump told reporters Wednesday when asked whether the recent violence has influenced his **proposed Muslim ban**.

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Trump described the **attack at a Berlin Christmas market** as an "attack on humanity."

"That's what it is: an attack on humanity," he said. "And it's got to be stopped."

Trump said he had not spoken with President Obama since the attacks.

"Innocent civilians were murdered in the streets as they prepared to celebrate the Christmas holiday," Trump said in an initial statement about the attack on Monday. "ISIS and other Islamist terrorists continually slaughter Christians in their communities and places of worship as part of their global jihad."

*Zeke Miller contributed to this report.*



## EXHIBIT M

## NewsRoom

1/29/17 WashingtonPost.com (Pg. Unavail. Online)  
2017 WLNR 2956241

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January 29, 2017

Section: the-fix

Trump asked for a 'Muslim ban,' Giuliani says — and ordered a commission to do it 'legally'  
Giuliani claims Trump asked him how to create a Muslim ban: "He called me  
up. He said, 'Put a commission together. Show me the right way to do it l...

Amy B Wang

Giuliani claims Trump asked him how to create a Muslim ban: "He called me up. He said, 'Put a commission together. Show me the right way to do it legally.'"

Former New York mayor Rudy W. Giuliani said President Trump wanted a "Muslim ban" and requested he assemble a commission to show him "the right way to do it legally."

Giuliani, an early Trump supporter who once had been rumored for a Cabinet position in the new administration, appeared on Fox News late Saturday night to describe how Trump's executive order temporarily banning refugees came together.

Trump signed orders on Friday not only to suspend admission of all refugees into the United States for 120 days but also to implement "new vetting measures" to screen out "radical Islamic terrorists." Refugee entry from Syria, however, would be suspended indefinitely, and all travel from Syria and six other nations — Iran, Iraq, Libya, Somalia, Sudan and Yemen — is suspended for 90 days. Trump also said he would give priority to Christian refugees over those of other religions, according to the Christian Broadcasting Network.

Fox News host Jeanine Pirro asked Giuliani whether the ban had anything to do with religion.

"How did the president decide the seven countries?" she asked. "Okay, talk to me."

"I'll tell you the whole history of it," Giuliani responded eagerly. "So when [Trump] first announced it, he said, 'Muslim ban.' He called me up. He said, 'Put a commission together. Show me the right way to do it legally.'"

Giuliani said he assembled a "whole group of other very expert lawyers on this," including former U.S. attorney general Michael Mukasey, Rep. Mike McCaul (R-Tex.) and Rep. Peter T. King (R-N.Y.).

"And what we did was, we focused on, instead of religion, danger — the areas of the world that create danger for us," Giuliani told Pirro. "Which is a factual basis, not a religious basis. Perfectly legal, perfectly sensible. And that's what

the ban is based on. It's not based on religion. It's based on places where there are substantial evidence that people are sending terrorists into our country."

It was unclear when the phone call Giuliani took place and when the commission began working. An email to the White House press office was not immediately returned Sunday.

Clips of the exchange between Giuliani and Pirro quickly went viral Saturday night, with some claiming that Giuliani's statement amounted to admitting Trump's intent had been to institute a ban based on religion.

Others, including Trump senior adviser Kellyanne Conway and White House Chief of Staff Reince Priebus, have insisted it is not a ban on Muslims, but rather one based on countries from which travel was already restricted under Barack Obama's administration.

Priebus appeared on CBS's "Face the Nation" Sunday morning to say it was possible Trump would expand the list of countries included in the travel ban.

"You can point to other countries that have similar problems, like Pakistan and others," Priebus told host John Dickerson. "Perhaps we need to take it further."

Priebus also said there had been weeks of work and "plenty of communication" between the White House, the State Department and the Department of Homeland Security regarding the ban.

"We didn't just type this thing up in an office and sign up," he told Dickerson.

Later on the same program, Rep. Keith Ellison (D-Minn.) called out Giuliani's interview with Pirro from the night before.

"They can't deny that this is a Muslim ban," Ellison told Dickerson. "On the campaign trail, [Trump] said he wanted a Muslim ban. ... Rudolph W. Giuliani who helped him write it said that they started out with the intention of a Muslim ban and then they sort of 'language' it up so to try to avoid that label, but it is a religiously based ban."

Senate Democrats vowed to draft legislation to block the travel ban.

"We're demanding the president reverse these executive orders that go against what we are, everything we have always stood for," Senate Minority Leader Charles E. Schumer (D-N.Y.) said in a news conference Sunday morning, noting later that his middle name, Ellis, was originally inspired by Ellis Island.

"It was implemented in a way that created chaos and confusion across the country, and it will only serve to embolden and inspire those around the globe those that will do us harm," Schumer added of the ban. "It must be reversed immediately."

Trump's executive order sparked massive protests at airports around the country Friday and Saturday, as reports surfaced that dozens of travelers from the affected countries, including green-card holders, were being detained.

The American Civil Liberties Union filed a lawsuit Saturday morning challenging Trump's order after two Iraqi men with immigrant visas were barred from entering the United States at New York's John F. Kennedy International Airport.

As Giuliani was speaking, Fox News simultaneously aired an alert that noted federal judge Ann M. Donnelly had issued a stay to stop the deportations nationwide.



Donnelly wrote that there was a strong likelihood the order had violated the petitioners' rights to due process and equal protection by the Constitution.

"There is imminent danger that, absent the stay of removal, there will be substantial and irreparable injury to refugees, visa-holders, and other individuals from nations subject to the January 27, 2017 Executive Order," Donnelly wrote.

The ACLU hailed the victory.

"Clearly the judge understood the possibility for irreparable harm to hundreds of immigrants and lawful visitors to this country," ACLU executive director Anthony D. Romero said in a statement. "Our courts today worked as they should as bulwarks against government abuse or unconstitutional policies and orders. On week one, Donald Trump suffered his first loss in court."

On Sunday, the Department of Homeland Security issued a statement saying it did not plan to back off enforcing Trump's orders.

"President Trump's Executive Orders remain in place prohibited travel will remain prohibited, and the U.S. government retains its right to revoke visas at any time if required for national security or public safety," the statement read. "President Trump's Executive Order affects a minor portion of international travelers, and is a first step towards reestablishing control over America's borders and national security."

The department said that less than 1 percent of daily international air travelers to the United States had been "inconvenienced" on Saturday.

Matthew Kolken, an immigration attorney based in Buffalo said there has been "a systemic bias against individuals from Muslim countries in the U.S. immigration departments" for years, including under the Obama administration.

"This isn't unprecedented," Kolken told The Washington Post by phone Sunday. "The unfortunate reality is the executive branch does have vast discretionary authority to determine who they are going to [allow in or not]."

Still, Kolken said, he believes "Trump has gone a step further without a doubt" in including even people who are lawful permanent residents and suspending all immigration applications from people from the seven countries on the banned list.

If there was evidence of disparate treatment of individuals from the same country if there were anecdotal evidence of, for example, a Syrian family of one religious background allowed to enter over that of another religious background then that is where lawsuits could come into play, he said.

"The question becomes whether they're trying to do an end-around by couching the ban as a country-specific ban based on a security-related issues when in reality it's a religious ban," Kolken said.

Read more:

Fact Checker: What you need to know about terror threat from foreigners and Trump's executive order

'I am heartbroken': Malala criticizes Trump for 'closing the door on children' fleeing violence

A ship full of refugees fleeing the Nazis once begged the U.S. for entry. They were turned back.



Trump's travel ban could make Rex Tillerson's potential job harder, a former defense secretary says

---- **Index References** ----

News Subject: (Civil Rights Law (1CI34); Government (1GO80); Immigration & Naturalization (1IM88); Intellectual Freedoms & Civil Liberties (1IN08); Legal (1LE33); Legislation (1LE97); Social Issues (1SO05); U.S. Legislation (1US12))

Industry: (Homeland Security (1HO11); Security (1SE29))

Region: (Africa (1AF90); Americas (1AM92); Arab States (1AR46); Mediterranean (1ME20); Middle East (1MI23); New York (1NE72); North America (1NO39); Syria (1SY20); U.S. Mid-Atlantic Region (1MI18); USA (1US73))

Language: EN

Other Indexing: (Donald Trump; Ann Donnelly had; Jeanine Pirro; Rex Tillerson; Christian refugees; Anthony Romero; Ann Donnelly; Mike McCaul; Matthew Kolken; Kellyanne Conway; Rudolph Giuliani; Rudy Giuliani; Peter King; Michael Mukasey; John Dickerson; Reince Priebus; Charles Schumer; Keith Ellison)

Word Count: 1325

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**NewsRoom**

## EXHIBIT N

Trump then rattled off the numbers of some of the presidential proclamations Roosevelt issued "having to do with alien Germans, alien Italians, alien Japanese."

"They went through a whole list of things -- they couldn't go five miles from their homes, they weren't allowed to use radios, flashlights," Trump said. "Take a look at what FDR did many years ago, and he's one of the most highly respected presidents... They named highways after him."

Stephanopoulos responded: "You want to bring back policies like that?"

After a pause, Trump responded: "No, I don't to bring it back, George. At all. I don't like doing it at all. It's a temporary measure until our representatives, many of whom are grossly incompetent, until our representatives can figure out what's going on."

**---- Index References ----**

News Subject: (Islam (1IS02); Judaism (1JU93); Minority & Ethnic Groups (1MI43); Race Relations (1RA49); Religion (1RE60); Social Issues (1SO05))

Industry: (Celebrities (1CE65); Entertainment (1EN08))

Language: EN

Other Indexing: (Donald Trump; Franklin Delano Roosevelt; George Stephanopoulos; Hitler)

Word Count: 371

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**NewsRoom**

## EXHIBIT O



## Donald Trump: 'I think Islam hates us'



By **Theodore Schleifer**, CNN

🕒 Updated 5:56 PM ET, Thu March 10, 2016

### Story highlights

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"I think Islam hates us," Trump told CNN's Anderson Cooper, deploring the "tremendous hatred" that he said partly defined the religion

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Asked if the hatred was "in Islam itself," Trump would only say that was for the media to figure out

**Washington (CNN)** — Donald Trump said Wednesday that he thinks "Islam hates us," drawing little distinction between the religion and radical Islamic terrorism.

"I think Islam hates us," [Trump told CNN's Anderson Cooper](#), deploring the "tremendous hatred" that he said partly defined the religion. He maintained the war was against radical Islam, but said, "it's very hard to define. It's very hard to separate. Because you don't know who's who."



**Donald Trump CNN interview (part 1) 10:15**

[READ: Donald Trump: 'It's over' if I win Ohio and Florida](#)

Asked if the hate was "in Islam itself," Trump would only say that was for the media to figure out.

"You're gonna have to figure that out, OK?" he told Cooper. "We have to be very vigilant. We have to be very careful. And we can't allow people coming into this country who have this hatred of the United States."



### Donald Trump CNN interview (part 2) 10:59

Trump made headlines in December [when he called for a temporary ban on Muslims entering the U.S.](#), "until our country's representatives can figure out what is going on." Despite widespread condemnation of the remarks, Trump has stood by the proposal.

Speaking to CNN's Wolf Blitzer on "The Situation Room" Thursday, Trump spokeswoman Katrina Pierson said the real-estate magnate stood by the sentiment that many Muslims worldwide sympathize with ISIS, but said Trump should've used "radical Islam."

"It is radical Islamic extremists that do participate in these types of things," Pierson said, calling for a "broader perspective" of Muslims' ties to terror. "We've allowed this propaganda to spread all through the country that this is a religion of peace."

In speaking with Cooper, Trump added that "there can be no doctrine" when asked to outline how he would project power overseas.

Trump also tried to clarify his position on how far he would go in targeting the families of terrorists. He has said in the past that he is in favor of "expanding the laws" that govern how the U.S. can combat and deter terrorism, and Trump has called to bring back waterboarding, even vowing the U.S. ["should go a lot further than waterboarding."](#)





## Donald Trump talks about working with Democrats 00:51

[READ: Trump: My Muslim friends don't support my immigration ban](#)

But Trump on Wednesday declined to say what specific measures he would support.

"I'll work on it with the generals," he told Cooper. He added, "We have to play the game at a much tougher level than we're playing it now."



Obama photographer shades Trump over secure discussions



Pence's sphere of influence questioned in wake of Flynn fallout

Trump shows his true hand on LGBTQ rights

Feinstein, Grassley seek full briefing, transcripts of Flynn calls

## EXHIBIT P

## NewsRoom

3/22/16 Mediaite (Blog) (Pg. Unavail. Online)  
2016 WLNR 8849615

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March 22, 2016

Trump Responds to Brussels Attacks: 'We're Having Problems With the Muslims'  
- Trump on Brussels Attacks: 'We're Having Problems With the Muslims'

Alex Griswold

Mar 22, 2016

Republican presidential candidate Donald Trump reacted to the Brussels terror attack Tuesday morning, saying bluntly on Fox Business that "we're having problems with the Muslims."

"You called after the Paris attacks for a pause to stop Muslims from coming into the United States. That got a lot of criticism, as you know," noted Wall Street Journal editor-in-chief Jerry Baker

"And a lot of support, Jerry. It got tremendous support," Trump pushed back.

Please enable Javascript to watch.

"Frankly, look, we're having problems with the Muslims, and we're having problems with Muslims coming into the country," he said, citing the San Bernardino shooters, one of whom entered the country on a fiance visa.

"You need surveillance, you have to deal with the mosques whether you like it or not," Trump said. "These attacks aren't done by Swedish people, that I can tell you."

Watch above, via Fox Business.

[Image via screengrab] >>Follow Alex Griswold (@HashtagGriswold) on Twitter

### --- Index References ---

News Subject: (International Terrorism (1IN37); Islam (1IS02); Religion (1RE60); Social Issues (1SO05); Top World News (1WO62))

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**NewsRoom**

## EXHIBIT Q

Honorable James L. Robart

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

Juweiya Abdiaziz ALI; A.F.A., a minor; Reema  
Khaled DAHMAN; G.E., a minor; Ahmed  
Mohammed Ahmed ALI; E.A., a minor; on  
behalf of themselves as individuals and on  
behalf of others similarly situated,

Plaintiffs,

v.

Donald TRUMP, President of the United States  
of America; U.S. DEPARTMENT OF STATE;  
Tom SHANNON, Acting Secretary of State;  
U.S. DEPARTMENT OF HOMELAND  
SECURITY; John F. KELLY, Secretary of  
Homeland Security; U.S. CITIZENSHIP AND  
IMMIGRATION SERVICES; Lori  
SCIALABBA, Acting Director of USCIS;  
OFFICE OF THE DIRECTOR OF NATIONAL  
INTELLIGENCE; Michael DEMPSEY, Acting  
Director of National Intelligence,

Defendants.

Case No.: 2:17-cv-00135-JLR

**DECLARATION OF REEMA KHALED  
DAHMAN IN SUPPORT OF PLAINTIFFS**

DECLARATION OF  
REEMA KHALED DAHMAN  
Case No. 2:17-cv-00135-JLR

- 0

NORTHWEST IMMIGRANT RIGHTS PROJECT  
615 Second Ave., Ste. 400  
Seattle, WA 98104  
206-957-8611

1 I, Reema Khaled Dahman, declare under penalty of perjury as follows:

2  
3 1. I am over the age of eighteen, am competent to testify to the matters below, and make  
4 this declaration based on personal knowledge.

5  
6 2. I am a lawful permanent resident. I live in Seattle, Washington. I work as a caregiver.

7  
8 3. I came to the United States with an immigrant visa on September 18, 2012. I am from  
9 Syria.

10 4. My son G.E. was born on May 14, 2000 in Daara, Syria. I got separated from G.E.'s  
11 biological father when I was two months pregnant with G.E. He was an abusive person. After I  
12 got separated from G.E.'s father, I started living with my parents. After G.E. was born, we  
13 continued living with them. At the time, I was working as an agricultural engineer and I was able  
14 to provide for my family.

15 5. I got married to my second husband on January 6, 2007 in Daara, Syria. He is a U.S.  
16 citizen. We had two sons together while we were living in Syria, one born in October 2007 and  
17 the other in October 2008.

18 6. After the Syrian conflict started in 2011, my husband wanted to come back to the United  
19 States. He filed a petition for me and for our two sons, but he did not file one for my son G.E. In  
20 our culture, it is not customary for a man to raise another man's son, even in circumstances like  
21 ours. Although I did not want to leave G.E., I was sure that I could figure out a way to bring him  
22 with me soon enough.

23 7. In January 2012, while the petitions were pending, my parents and G.E. moved to  
24 Damascus, Syria because conflict was getting worse and worse in Daraa. I had to stay in Daara  
25 with my husband and our two sons. Between January 2012 until June 2012, my son G.E. would  
26 come to visit his paternal grandparents and I would see him, too. On June 2012 I saw my son  
27 G.E. for the last time. I did not know then that I would not see him again. On August 9, 2012, I  
28 received my immigrant visa from the U.S. Consulate in Amman, Jordan.

1 8. After we came to the United States, we lived in very poor conditions at my brother-in-  
2 law's house for one year. When we finally rented our apartment in August 2013, I was the only  
3 one working and supporting my family. I kept wanting to bring my son G.E. here as well. I  
4 remember very well one day my husband said "I feel like you want to bring your son here."  
5 When I answered "yes", he said "I didn't bring you here so that you can bring your son." I felt  
6 stuck. I did not know the immigration laws of the United States, I did not know that I could  
7 petition for my son G.E. as a lawful permanent resident. I thought I had to be a U.S. citizen.

9 9. In October 2015, through the help of Refugee Women's Alliance and Northwest  
10 Immigrant Rights Project, I found out that as a lawful permanent resident I could petition for my  
11 son G.E.. I filed the Form I-130, family petition, on October 19, 2015 with U.S. Citizenship and  
12 Immigration Services ("USCIS").

13 10. Given the terrible situation in Syria, I also submitted a request for Humanitarian Parole  
14 on November 30, 2015 with USCIS asking for a favorable exercise of parole so that my son G.E.  
15 could travel to the United States based on urgent humanitarian reasons and we can be reunited  
16 after so many years. No child should face the situation my son or any other child has been  
17 experiencing in Syria. My son has no future there; he has not been able to attend school for the  
18 last three years. Schools are no longer functioning; so many teachers have fled the country. My  
19 heart broke into pieces during one of our rare conversations with him when he told me "Mom, I  
20 feel like I am forgetting how to write." That is not the future I dreamt for him.

21 11. The family petition I-130 was approved by USCIS on June 1, 2016. Towards the end of  
22 July 2016, I received immigrant visa and affidavit of support fee bills from the National Visa  
23 Center ("NVC") to continue with the consular process. I started gathering the civil and financial  
24 documents. Meanwhile, the Humanitarian Parole request I filed was still pending.

25 12. On September 23, 2016, ten months after I filed for humanitarian parole, I received a  
26 Request for Evidence notice from USCIS asking for a detailed explanation of why my son G.E.  
27 cannot live with his biological father in Syria while waiting for the adjudication of his immigrant  
28



1 visa. The request for evidence also asked me to provide a DNA test result to establish the  
2 claimed biological relationship between my son and me. I prepared a detailed explanation why  
3 my son could not live with his biological father and I was ready to do the DNA test. Upon  
4 researching for the laboratories accredited by the American Association of Blood Banks  
5 (“AABB”), I learned that there is no AABB accredited laboratory where a DNA test could be  
6 conducted in Syria. My son had to travel to Jordan or another neighboring country in order to do  
7 the DNA test. This was impossible—he is only 16 years old. He cannot travel safely from Syria  
8 to Jordan and back on his own, and he had no other family to take him. Unfortunately, we could  
9 not provide the DNA test for these reasons. I explained this to USCIS.

10  
11 13. Meanwhile, I electronically submitted his online immigrant visa application (Form DS-  
12 260) on December 2, 2016 to NVC to continue with his immigrant visa process.

13 14. On December 8, 2016, I received a notice from NVC asking for a Syria Police Clearance  
14 Certificate (Judicial Record Extract) for my son G.E. as part of the consular process so that his  
15 immigrant visa interview could be scheduled.

16 15. The day before the Executive Order was announced, on January 26, 2017, I received a  
17 denial notice of the Humanitarian Parole I had requested. The denial notice indicated “Use of the  
18 Secretary’s parole authority is discretionary, justified on a case-by-case basis, and limited by law  
19 to include only to those requests that are based upon ‘urgent humanitarian reasons,’ or  
20 ‘significant public benefit.’” I thought that being a teenager in a war-torn country was an urgent  
21 humanitarian reason. I was crushed that the parole was denied. I had explained to USCIS the  
22 danger my son is in. The situation in Syria is so unstable that my son has even been kidnapped  
23 once. I am afraid for his safety the longer we wait.

24 16. The day after the denial notice, on January 27, 2017, when I heard the Executive Order of  
25 the President, I was shocked. My heart sank. I felt that all the doors are closing on me. I waited  
26 so long to be with my son and now I was left with nothing. I haven’t seen my son for almost five  
27 years. We were so close to being reunited. This executive order took my dream away. I know  
28

1 they say it will only cause delay for a few months, but there is no guarantee of that. Besides, a  
2 few months is a long time in a country as dangerous as Syria. Do you know how it feels to live  
3 everyday not knowing if you will ever see your child again? I do.

4  
5 17. I want to be reunited with my son like any other mother would want in this situation. The  
6 war in Syria is getting worse and worse. My mother is elderly and sick, she cannot take care of  
7 G.E. like she used to. My father passed away. My siblings fled Syria. I cannot leave my two sons  
8 in the United States and go back to Syria. But I also cannot take my sons to live in the midst of a  
9 war that never seems to come to an end. It is an impossible situation.

10 18. I hope I can see my son soon.

11  
12 I declare under penalty of perjury under the laws of the United States that the foregoing is  
13 true and correct to the best of my information, knowledge, and belief.

14  
15 Executed on this 6th day of February, 2017, in Seattle, Washington.

16  
17   
18 Reema Khaled Dahman

## EXHIBIT R

UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF MASSACHUSETTS

MAZDAK POURABDOLLAH TOOTKABONI  
and ARGHAVAN LOUHGHALAM,  
*Plaintiff-Petitioners,*

FATEMEH YAGHOUBI MOGHADAM,  
BABAK YAGHOUBI MOGHADAM,  
ALI SANIE, ZAHRASADAT MIRRAZI  
RENANI, LEILY AMIRSARDARY, and  
OXFAM AMERICA, INC.  
*Plaintiffs,*

V.

No.17-cv-10154-NMG

DONALD TRUMP, President of the United States; U.S. DEPARTMENT OF HOMELAND SECURITY ("DHS"); U.S. CUSTOMS AND BORDER PROTECTION ("CBP"); JOHN KELLY, Secretary of DHS; KEVIN K. MCALEENAN, Acting Commissioner of CBP; and WILLIAM MOHALLEY, Boston Field Director, CBP,

*Respondents-Defendants.*

**AFFIDAVIT OF BABAK YAGHOUBI MOGHADAM**

Babak Yaghoubi Moghadam hereby affirms,

1. I am one of the Plaintiffs in this case.
2. I am an Iranian national, I am Muslim, and a lawful permanent resident of the United States.
3. I have a Ph.D. in mechanical engineering from the University of Washington, an M.S. degree in mechanical engineering from Ferdowsi University, and a B.S. degree in mechanical engineering from Iran University of Science & Technology.

4. I obtained my permanent resident status through the National Interest Waiver program based on the importance of my knowledge, skills, and experience to the United States. I am currently employed as a senior engineer by Becton Dickinson, a global medical technology company, and my current work is making medical devices to treat diabetes patients. Previously, I worked on developing ten-to-fifteen minute diagnostic tests to be used in doctors' offices, saving patients the need to go to hospitals for tests for infectious diseases like HIV.

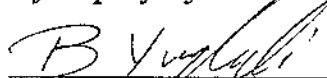
5. I have close family members living in Iran, including my parents, my brother Behrouz, my grandmother, and aunts and uncles. Behrouz recently suffered a major heart attack and I had been planning to visit him and my other relatives in Iran or other nearby countries. Since I learned of the President's Executive Order preventing non-U.S. citizens from Iran from returning to the U.S., I have put all plans of international travel aside. I cannot take the risk of not being allowed to return to my home here in the United States, to my work, and to my fiancé and sister with whom I live.

6. In addition, my employer has advised all non-citizen employees from Iran and other affected countries not to travel abroad because of the Executive Order. International travel is very important to the development of my work and to advancement within my company. I work for a global company with offices in more than 10 countries around the world. We frequently work on projects in collaboration with our development teams abroad and I need to be able to travel to contribute to these activities and grow within the company.

7. I grew up in Iran where, like other young people, I lived under the country's conservative religious social restrictions. I experienced stress and uncertainty on a daily basis because the government can change the laws that severely affect people's lives without any notice. I have been living in the U.S. for the past seven years, where I felt secure and confident that if I work hard and contribute to my society, I will be able to achieve my goals and plan for my future. In the last two weeks however, with the Executive Order on immigration, every day I am expecting the U.S. government to take new actions that can jeopardize my life, career and loved ones, just because of the country in which I was born and my religion.

8. While I understand the Counsel to the President has issued a memo saying the EO now does not apply to lawful permanent residents like me, I am still afraid because I have seen the government quickly shift what it has been saying numerous times over the past week. I feel that the U.S. government could change its position at any time. I have no certainty that if I travel abroad, the government will allow me to return, especially in light of the singling out of people based on religion and national origin.

Signed under the penalty of perjury this 2nd day of February, 2017.

  
Babak Yaghoubi Moghadam

## EXHIBIT S

N.Y. / REGION

# Disorder at Airports as Travelers Are Detained Without Lawyers

By BENJAMIN MUELLER and MATTHEW ROSENBERG JAN. 29, 2017

Drab airport screening areas and waiting rooms were transformed into chaotic scenes on Sunday, with lawyers saying that border agents had put pressure on detainees and created an information blackout that left many struggling to discern how President Trump's immigration order was being applied.

In New York, a lawyer said detainees were being moved from one terminal to another in handcuffs. In Los Angeles, an Iranian graduate student was pushed by border agents to sign documents allowing them to send her out of the country, her lawyers said. And in the Washington area, agents told lawyers that officials had barred detainees from getting legal help, despite a federal judge's order that legal permanent residents be given access to lawyers.

Panic gave way to euphoria in some cases as travelers who had been detained for many hours were released and reunited with relatives. But well into Sunday, two days after Mr. Trump signed an executive order keeping many foreigners from entering the country, lawyers were still sweeping airport arrival sections in search of waiting relatives, often their only source of information about who was being held.

Some detainees said they had slept on office chairs. In Los Angeles, lawyers said Customs and Border Protection agents had told them there were cots but had declined to say how many there were, or how many people were being held.



Detainees were told their phones would be disruptive and had to be taken. Lawyers and relatives were growing increasingly concerned about older detainees with medical problems.

Among those with ailments were an Iranian couple who had arrived in Los Angeles on visitors' visas. The man, in his late 60s, had been through two open-heart operations, and he and his wife, in her late 50s, were both diabetic. After arriving at the airport on Saturday afternoon, they were allowed to call their daughter in the United States only once, around 1 a.m. on Sunday, said Patricia Corrales, a private lawyer working on detainees' cases there. Relatives and lawyers repeatedly asked whether the couple were receiving proper medical care but learned nothing further from border agents.

Ms. Corrales, who was an Immigration and Customs Enforcement lawyer for 17 years, said, "I think they don't necessarily have the resources, the staff and experience to deal with these large numbers."

In a statement, the Department of Homeland Security said, "We are committed to ensuring that all individuals affected by the executive orders, including those affected by the court orders, are being provided all rights afforded under the law."

Some detainees were reportedly pressured to sign documents they hardly understood and then put on flights out of the country. When two brothers from Yemen, Tareq Aqel Mohammed Aziz, 21, and Ammar, 19, landed on Saturday morning at Dulles International Airport near Washington with immigrant visas, they planned to board a connecting flight to Flint, Mich., to join their father. Instead, they were taken off the plane, put into handcuffs and told they needed to sign a form or face being barred from the country for five years, said their lawyer, Simon Y. Sandoval-Moshenberg, of the Legal Aid Justice Center in Virginia. They signed the form and were quickly put on a plane to Ethiopia.

A 24-year-old Iranian woman who is a graduate student in the United States told relatives of a similar problem at Los Angeles International Airport, where she

arrived on Saturday after a trip visiting family members in Europe. Border agents told the woman that her student visa was no longer valid, which lawyers said was not true, and that if she did not sign a document saying she was leaving voluntarily, she would be forcibly deported and barred from entry for five years.

The Iranian student signed. She had not been allowed to consult a lawyer and was permitted only three calls to relatives before her phone was confiscated and searched, said Ms. Corrales and Judy London, the directing attorney of the nonprofit Public Counsel's Immigrants' Rights Project, both of whom spoke with the woman's relatives. On Saturday night, after a federal judge in Brooklyn ruled the government could not remove travelers who had arrived with valid visas, she was put on a plane back to Europe, her lawyers said. They declined to share her name out of concern for her safety.

On Sunday morning, Ms. Corrales spoke to a supervisor from the customs agency who suggested that the Iranian student was still at the Los Angeles airport. The supervisor told Ms. Corrales that "they were waiting for orders from higher-ups in terms of how to enforce the injunction," Ms. Corrales said, referring to the Brooklyn judge's ruling.

Some detainees dealt with the whiplash of plans changing by the hour. A group of five Iranians detained in New York told family members on Sunday morning that the government planned to put them on a 1:30 p.m. flight back to Turkey, said Melanie Zuch, a staff lawyer at the Urban Justice Center. Several hours later, some of them were told they would be allowed to stay.

Vahideh Rasekhi, a graduate student at Stony Brook University on Long Island who was also detained at Kennedy Airport, said she and other detainees were also told they would be put on flights back out of the country, with agents promising only that if they held out a little longer, they might work out a way to keep them in the United States. Eventually they did, and shortly after 2:30 p.m., Ms. Rasekhi walked into Terminal 4 and was immediately surrounded by loved ones, lawyers and journalists.

“I’m just so exhausted,” she said.

She said that detainees had been given meals and water and that agents had even satisfied one person’s request for a lemon. Others gave accounts of more difficult conditions; one lawyer, Justin Orr, said some detainees had been given nothing but chocolate to eat.

Mousa Ahmadi, 30, an Iranian graduate student at the New Jersey Institute of Technology, gave a long hug to his sister, Dr. Fahimeh Ahmadi, 40, after she was released from additional screening at Kennedy. The siblings had not seen each other for over three years.

Dr. Ahmadi, a general practitioner in the Australian city of Gold Coast and a dual citizen of Australia and Iran, arrived for a long-planned visit without the siblings’ parents, who hold only Iranian passports and canceled their flights on Saturday.

“My Mom said, ‘If they don’t let me in the country do you think I can see him even for a half hour?’” Dr. Ahmadi recalled. “She said, ‘Is there a window where I can see him?’”

Lawyers at J.F.K. said that about half a dozen detainees were still in custody by late Sunday afternoon. The Los Angeles Police Department told lawyers there earlier on Sunday that about 40 people were being held.

A federal judge in Alexandria, Va., on Saturday ordered government officials to give lawyers access to all legal permanent residents being detained at Dulles. But when lawyers showed border agents there the court order and requested access to detainees, a supervisor replied, “That’s not going to happen.”

Matt Zeller, who runs No One Left Behind, a group that helps bring over Iraqis and Afghans who worked for the military, said he was told that there were 40 to 55 people who had been pulled aside by customs officers at Dulles on Sunday evening, and that at least some were Iraqis, although it was not clear if any had worked for the military. Detainees who had been released overnight — many of whom had

green cards — spoke of hours of uncertainty as they waited to find out if they would be allowed into a country that they called home but that no longer seemed to want them.

“This is not the America that I have lived in,” said one man who had been released, Seifollah Moradi, 34, a student from Columbia, Md., who has a green card. “We used to be treated with respect. This is the land of freedom.”

Mr. Moradi had been held for six hours after returning from Tehran, where he was visiting his sick father.

Protesters, who were lined up just past the set of one-way doors that separate the public areas of the Dulles arrival hall from the immigration and baggage claim areas for international flights, cheered loudly as Mr. Moradi came through the doors. They chanted, “Welcome to the U.S.A.,” and, “No hate, no fear, refugees are welcome here.”

Mr. Moradi, his face drawn, hardly seemed to notice.

Reporting was contributed by Ruth Bashinsky, Sheri Fink, Sean Piccoli and Liz Robbins.

A version of this article appears in print on January 30, 2017, on Page A13 of the New York edition with the headline: Confusion and Disorder at Airports as Travelers Are Detained Without Lawyers.

## EXHIBIT T

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA

Alexandria Division

TAREQ AQEL MOHAMMED AZIZ, et al., )

Petitioners, )

THE COMMONWEALTH OF VIRGINIA, )

Intervenor-Petitioner, )

v. )

Civil Action No. 1:17-cv-116

DONALD TRUMP, President of the United )  
States, et al., )

Respondents. )

**DECLARATION OF TAREQ AQEL MOHAMED AZIZ**

**Declaration of Tareq Aqel Mohamed Aziz**

I, Tareq Aqel Mohamed Aziz, do hereby declare and depose as follows:

1. I am over 18 years of age and have personal knowledge of the facts I state below, and if I were to be called as a witness, I could competently testify about what I have written in this declaration.

2. I am a citizen and national of Yemen. My childhood in Yemen before the civil war was comfortable, thanks in large part to the support afforded by my father Aqel Aziz who was living in the United States. I was learning English by watching American TV shows, listening to American music, and taking English lessons with my brother Ammar Aziz at an American non-profit educational organization. To further my education, I planned on attending the British University in Yemen.

3. However, all this came to an end when the civil war began. Every night the bombs would fall, and many times they were so close that my brother and I could not sleep. My neighbors began to starve around me, electricity became scarce, and everyday necessities became prohibitively expensive. One day after an unusually big explosion, I saw something that I never thought I would see. I was at the main square in Sana'a after the bomb was dropped. It was like a scene from a movie with people crying, people without limbs, and disfigured corpses beyond recognition.

4. Life in Yemen came to a standstill—people were afraid to go outside. Many foreign organizations closed including the British University where I planned on attending college and the non-profit where I was taking English lessons. My life in Yemen lacked opportunity and security in the most extreme sense.



5. After my father obtained his U.S. citizenship in April 2015, we began the visa application process for my younger brother Ammar and I to be able to join him in America. He filed paperwork with the help of an immigration attorney in Michigan.

6. Due to the civil war, there was no longer a functioning U.S. Embassy in Sana'a. So my father requested that my brother and I be scheduled an interview with the U.S. Embassy in Algeria. But Algeria would not issue a visa to me and my brother. Accordingly, I had no choice but to accept an interview in Djibouti.

7. In October 2016, we were told that we could have an interview with the U.S. Embassy in Djibouti. However, there was no longer a functioning airport in Sana'a. My brother and I had to travel through areas under control of different warring factions to get to Aden where there was still a functioning airport. After waiting for space on a flight, we were finally able to get to Djibouti via Jordan and Qatar. This was an extremely expensive flight.

8. Due to our protracted journey, we missed our first scheduled interview with the U.S. Embassy in Djibouti, which was set for November 27, 2016. So we had to wait about four weeks for another interview, which was finally held on January 4, 2017. Our immigrant visas (category IR2) were approved that same day. My immigrant visa came quickly, but my brother's visa took longer to arrive.

9. Finally, on or about January 26, 2017, my brother received his immigrant visa and we prepared to join our father in Michigan.

10. My brother and I were ecstatic that we would be joining our father in Michigan, and we boarded the first available flight departing Djibouti on January 27. We flew Ethiopian Airlines to Addis Ababa, and then got on our flight to Washington-Dulles International Airport.



Our plane took off at the equivalent of 2:50pm Washington, D.C. time on Friday, January 27.

The plane stopped in Dublin, Ireland, but we did not have to get off of the plane.

11. While on the flight, we had no idea – nor any means of knowing – that about two hours after our flight took off, President Donald Trump had signed an Executive Order barring our entry into the United States; nor that a State Department official had signed a separate order purporting to provisionally revoke our valid immigrant visas.

12. At about 8:00am on Saturday, January 28, we landed at Dulles Airport excited and thinking that we were still on our way to join our father. However, as we got off the plane, a man was saying, “all Yemenis come this way.” A uniformed officer fingerprinted us and then took us back to a special office where he took our immigrant visa packets and our passports. They then called my brother Ammar to come to another office. My brother asked for a translator, since his English is not very good, but they told me that I had to come and translate for my brother.

13. We were then told that our visas had been cancelled and we were going back to our country. We asked if we could call our father and he told us, “give us his name and phone number and we will call him.” But this was a lie, no-one ever called my father.

14. Then they told me to tell my brother to sign a form. I asked to call our lawyer (the lawyer in Michigan who helped prepare our immigration paperwork), and the officer said, “You can’t, it’s a presidential order.” He then told me, “You sign this paper, you will go back to your country, your government will talk to our government, and then maybe you will be able to come back later. If you don’t sign this form, we force you to go back, and you will not be able to come back for five years.” We tried to read the form but we couldn’t understand all the words in it, so we asked the officer to explain it. The other officer responded, “Just sign it, it’s good for

you, it's the good option you have right now." So we signed the form, without having the opportunity to read it carefully or understand what it meant. We were then fingerprinted again, and the officers took pictures of us.

15. I could see that my visa, and my brother's visa, had been stamped multiple times with a stamp reading "CANCELLED-WAS, APPLICATION WITHDRAWN" in giant letters over top of the visas. But the officers did not give us back our passports. Instead, they gave our passports to airline personnel from Ethiopian Airlines.

16. The officer told us that once the situation was resolved between Yemen and the United States, we could reapply for visas. I understood this to mean that we would have to start the entire process all over again.

17. After this had been done, we were escorted by police in full view of every other passenger and put on a plane to Ethiopia – the same airplane that we had just come off.

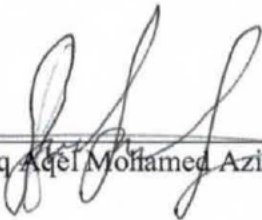
18. I saw that about 8 other people from the same flight were also put back on the same airplane with us.

19. After landing in Ethiopia, my brother and I called our father for the first time in 36 hours. He told us that he had been extremely worried for us, because no-one had called him to tell him what had happened to us. We then spent three more nights in the airport in Addis Ababa, because Ethiopian Airlines personnel would not give us our passports back – they were holding them hostage to try to get us to pay for the return flight.

20. At some point during this time, an official from the U.S. Embassy in Addis Ababa called me on the phone (by means of Ethiopian Airlines) and asked me for various personally identifying information. The next day he called back and told me that I had to go back to Djibouti and apply for another visa, and I should listen to the people from Ethiopian Airlines

who were trying to get me to board a flight to Djibouti. I asked if I could wait one more day before leaving Addis Ababa, because my lawyer had told me that he was working on a settlement with the U.S. government. But the U.S. Embassy official said, no, you have to go to Djibouti. Also, an Ethiopian Airlines official told us we had to go to Djibouti or we would be arrested. So we complied. We only got our passports back when we arrived in Djibouti.

I declare under penalty of perjury of the laws of the United States that the foregoing is true.

  
Tareq Adel Mohamed Aziz

Date: 2/7/17

## CERTIFICATE OF SERVICE

I hereby certify that on February 8, 2017, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send a notification of such filing (NEF) to the counsel of record for Petitioners and Respondents.

By: /s/  
Stuart A. Raphael

## EXHIBIT U

- UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**



time to arrive in time to have any treatment for my severe neck pain before Persian or Iranian New Year on March 20, 2017 and to have time to recover afterwards before coming back to the United States.

6. I pre-paid three months of my rent and my employer arranged to have coverage for my job for three month for this trip. I saved up money and planned for a trip for two years to be able to make a trip back to Iran.
7. I purchased gifts for my family in Iran. I had scheduled an MRI, physical therapy and time for surgery if necessary in Iran. I cannot work until I have medical help because I am in so much pain and I choose to seek help with a doctor in Iran and with my father and friends in Iran to help me.
8. I was emotionally very upset when I had to abort my long-awaited trip to Iran just at the last minute. I was crying and now I am confused about what my future will hold.
9. I cannot go to work at my job because my replacement has been hired. I am afraid to travel to Iran at this time because I fears that, if I leave the United States, I will not be permitted to return to the United States.

I declare under penalty of perjury that the foregoing is true and correct. Executed on February 2, 2017.

  
\_\_\_\_\_  
Ali Sanie

## EXHIBIT V



**UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF MASSACHUSETTS**

ARGHAVAN LOUHGHALAM and,  
MAZDAK POURABDOLLAH TOOTKABONI

*Plaintiff-Petitioners,*

FATEMEH YAGHOUBI MOGHADAM,  
BABAK YAGHOUBI MOGHADAM, ALI  
SANIE, ZAHRASADAT MIRRAZI  
RENANI, LEILY AMIRSARDARY, and  
OXFAM AMERICA, INC.

*Plaintiffs,*

v.

No.17-cv-10154-NMG

DONALD TRUMP, President of the United States;  
U.S. DEPARTMENT OF HOMELAND  
SECURITY ("DHS"); U.S. CUSTOMS AND  
BORDER PROTECTION ("CBP"); JOHN KELLY,  
Secretary of DHS; KEVIN K. McALEENAN,  
Acting Commissioner of CBP; and WILLIAM  
MOHALLEY, Boston Field Director, CBP,

*Defendants.*

**AFFIDAVIT OF LEILY AMIRSARDARY**

I, Leily Armirsardary, state the following under penalty of perjury:

1. I am an Iranian national and a lawful nonimmigrant in F-1 status, residing in Boston, Massachusetts.

2. I was born in Iran and attended high school in France, where I am a resident. I attended Wellesley College in Massachusetts on an F-1 student visa, and graduated from Wellesley with a bachelor's degree in 2016.

3. I obtained Optional Practical Training ("OPT") in July 2016 through U.S. Citizenship and Immigration Services.

4. In 2016, I founded Anara, a Boston-based women's luxury footwear startup company that produces shoes and regionally-inspired accessories. Anara is hoping to launch its first line of products in June 2017.

5. Anara is funded by U.S and foreign investors, and will soon join a university affiliated incubator, the Harvard Innovation Lab. In addition, Anara currently receives some operational support from Harvard Business School students. The company is on track to raise a convertible note from angel investors and venture capital groups. Several United States-based angel investors have already committed to investing, and investment will begin in the coming weeks.

6. Once successfully launched, Anara will hire its own employees. Currently, however, I am solely responsible for nearly every aspect of Anara's operations, ranging from designing the products to raising capital for the company.

7. I have worked tirelessly to build Anara, and the company is a few short months from being able to launch its products.

8. Anara's test products (currently limited to footwear) are manufactured in Italy. It is crucial that I travel to Italy every six to eight weeks to source materials for Anara and oversee its manufacturing process. Before the EO, I was legally entitled to, and did, travel from

10. My regular travel to outside of the United States, and my right to return to the United States after my travel, is crucial to the success of my small business Anara.

12. I have always entered the United States lawfully, and been inspected and vetted thoroughly by the United States of America. I have never committed a crime, either in Iran or the United States, and I have never engaged in any terrorist activity, nor do I hold any views sympathetic to terrorists or those who wish to harm the United States of America.

Signed this 2<sup>nd</sup> day of February, 2017 under the pains and penalties of perjury pursuant to the laws of the United States of America.

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## EXHIBIT W

**UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF MASSACHUSETTS**

ARGHAVAN LOUHGHALAM and,  
MAZDAK POURABDOLLAH TOOTKABONI

*Plaintiff-Petitioners,*

FATEMEH YAGHOUBI MOGHADAM,  
BABAK YAGHOUBI MOGHADAM,  
ALI SANIE, ZAHRASADAT MIRRAZI  
RENANI, LEILY AMIRSARDARY, and  
OXFAM AMERICA, INC.

*Plaintiffs,*

V.

**No.17-cv-10154-NMG**

**DONALD TRUMP, President of the United States; U.S. DEPARTMENT OF HOMELAND SECURITY (“DHS”); U.S. CUSTOMS AND BORDER PROTECTION (“CBP”); JOHN KELLY, Secretary of DHS; KEVIN K. McALEENAN, Acting Commissioner of CBP; and WILLIAM MOHALLEY, Boston Field Director, CBP,**

*Defendants.*

**AFFIDAVIT OF ZAHRASADAT MIRRAZI RENANI**

I, Zahrasadat Mirrazi Renani, state under oath that:

1. I am an Iranian national with an F-1 student visa. I obtained that visa before moving to the United States in September 2016.
2. I reside in Amherst, Massachusetts.



5. My parents, a teacher and a businessman, live in Iran. My only sibling, a younger brother, died just eight months ago of a stroke while mountain climbing.

7. I made my first visit to my parents on December 14, 2016. I spent my entire winter break with them, returning to the University of Massachusetts Amherst on January 21, 2017.

9. I also had planned to attend the West Coast Conference on Formal Linguistics in Calgary Canada, and to arrive there on April 27, 2017. This conference is among the most prestigious in my field of research. I already have researched, drafted and submitted an abstract for presentation at the conference, on “Double-Object Construction in the Persian Language.” The opportunity to present to such an accomplished audience would be an invaluable step forward in my academic career.

10. I have been awarded full funding of my doctoral studies—worth over \$290,000—but that funding is conditioned upon my continued fulfillment of class requirements and the teaching and research responsibilities of an “Assistantship” which I hold at the University of Massachusetts Amherst.

11. Put simply, the January 27, 2016 Executive Order has put me in an unfair predicament: I must forfeit two invaluable opportunities for my family reunion and my professional growth; or I must forfeit the opportunity I have earned to pursue my doctorate in formal linguistics. As a consequence, I am refraining from any international travel. If I make either of my planned trips abroad, I am afraid I will not be able to return to the United States.

12. I have done nothing in my life which would cause me to pose any threat of terrorist activity. I have no criminal record in the United States or Iran.

Signed under the pains and penalties of perjury this 2<sup>nd</sup> day of February, 2017.

Zahrasadat Mirrazi Renani

## EXHIBIT X



IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA

Alexandria Division

TAREQ AQEL MOHAMMED AZIZ, et al.,	)	
	)	
Petitioners,	)	
	)	
THE COMMONWEALTH OF VIRGINIA,	)	
	)	
Intervenor-Petitioner,	)	
	)	
v.	)	Civil Action No. 1:17-cv-116
	)	
DONALD TRUMP, President of the United	)	
States, et al.,	)	
	)	
Respondents.	)	

**DECLARATION OF NAJWA ELYAZGI**

I, Najwa Elyagi, declare that the following facts are true to the best of my knowledge, information and belief:

1. I am a twenty-three-year-old student at George Mason University in Fairfax, Virginia. I have been a student at GMU since 2014, and I am now in my senior year pursuing a bachelor's degree in international relations, with minors in leadership and conflict resolution. I have devoted myself with passion to my studies and currently have a 3.98 grade point average (GPA). I am active in organizations that relate to my interest in international relations and politics, and I want my career to involve helping countries get along better.

2. I am a citizen of Libya. While there is political instability in Libya, the vast majority of Libyans yearn for peace and democracy. They consider the United States their friend and are allies in the fight against terrorism. I have family who live in the United States,

including a brother who is a green-card holder and is doing his medical residency, and an aunt and uncle and cousins who are U.S. citizens.

3. In 2011, I had the highest GPA for my high-school year in Libya, and I was awarded a full scholarship by the Libyan government to study at any university in the world that granted me admission. I chose to apply to schools in the United States because I believed it was a country that would accept my culture, and I located near Washington, D.C. because of my interest in international relations and politics. Studying in the U.S. has been a cross-cultural and educational opportunity that is rarely available to Libyan women.

4. As a citizen of Libya, I can travel to the United States only on a Libyan passport. Visa applications from Libyans are heavily scrutinized and visas are difficult to get. I have an F-1 student visa, which required about a year to obtain in the first place. Whenever I leave the United States and wish to reenter, I need to obtain an updated F-1 visa. Without a U.S. embassy in the Libyan capital, Tripoli, Libyan citizens like me must travel outside the country to obtain a U.S. visa. Before this year, I had entered and left the United States seven times since 2014 without any problems.

5. During the break between GMU's fall and winter semesters, I traveled home to Libya to visit family. I departed the United States from Dulles International Airport on December 27, 2016. I originally planned to return to the United States on January 22, 2017, but the issuance of my updated F-1 visa by the U.S. consulate in London, England was delayed.

6. On January 27, having obtained an updated F-1 visa in London, I began my planned trip back to the United States. My travel itinerary from London to Dulles on Turkish Airlines included a 10-hour layover in Istanbul's Ataturk Airport. I arrived in Istanbul at 5 a.m. local time on January 28. My excitement about returning to school turned to high anxiety when I

got off the plane and learned on social media and at airport television monitors of President Trump's executive order (the "Executive Order"), which he had issued while I was in the air. I learned that the Executive Order prohibits persons travelling on passports from seven countries, including Libya, from entering or re-entering the United States.

7. I went to the boarding gate for my scheduled outbound flight to Dulles and asked the security officials assigned to that gate if I would be affected by the Executive Order, and they said no. They explained that they did not yet have official instructions from the U.S. Customs and Border Protection to implement the Executive Order. I felt deep relief when I was provided a boarding pass by airline personnel.

8. At 2 p.m., when I arrived to wait in line to board my scheduled flight, my relief turned to anxiety again when one of the same security officials approached me and said that he had received updated information about the Executive Order and that I would not be allowed to board the plane to Dulles. He pulled me out of line and the flight departed without me. I waited at the airport until 7 p.m. for my checked luggage to be returned to me, and then I left the airport in search of a hotel.

9. I found a hotel near the airport and ended up staying there for more than 6 days, alone and worried about what was going to happen. It was a nightmare. I checked the news frequently, and spoke often with my family and with contacts in the United States, including GMU, trying to figure out how I was going to get back. My classes at GMU had resumed, and I worried about my absence from them. I was also worried about the money I was spending while stranded. My family had to arrange for money to be sent to cover my unexpected lodging and travel expenses. Without knowing if I would ever be allowed to return to the United States, I

began looking at other universities outside the United States. I even applied to and was accepted by one, given my high grades and the emergency circumstances.

10. Late in the week, I learned that Lufthansa was recognizing an order by a federal court in Massachusetts that stopped the U.S. government and authorities from implementing the Executive Order against persons like me who had valid visas to study in the U.S. but happened to be abroad when the Executive Order was issued. The few tickets on Lufthansa flights to Boston were quickly snatched up, and although I would have paid a very high price just to get back, I was unable to purchase one.

11. Early on February 4, I learned that a federal court in Washington State had temporarily stopped enforcement of the Executive Order. Hoping it was true that the ban was lifted, I went to the airport and was so happy when security officials verified that for me. I quickly bought a ticket to Dulles on a Turkish Airlines flight that departed that morning—the same itinerary I had booked for a week earlier—and I was cleared to fly.

12. I arrived at Dulles the evening of February 4 and was very prepared for extra security to re-enter the United States. I was surprised to be allowed in very quickly. Instead of the hour or more I expected to wait, the process took only a few minutes. When I left the secure area, I was so happy to be greeted by my family and others who celebrated my arrival back.

13. I am now back in classes at GMU and I have been catching up on schoolwork since I returned. I am still frustrated by the ordeal that I experienced. The Executive Order was released hastily and became immediately effective without any advance warning to travelers like me. The lack of notice was grossly unfair to students like me who have respected the laws of the United States and made travel plans in reliance on our ability to come and go. My experience made me understand better how refugees must feel when their world is turned upside down.

14. I also wonder why the U.S. government did not do more to help. The Department of Homeland Security and the State Department were tasked by the Executive Order to develop any exceptions to the ban, but they appeared uninterested in making these exceptions. The U.S. Consulate in Istanbul told me it did not have jurisdiction to review my request for an exception to the Executive Order. I wondered whether the people who drafted the Executive Order really meant to keep me out of America and deprive me of an invaluable opportunity to complete my education at GMU.

15. Because of the Executive Order, I estimate that I incurred extra costs of about \$4,000 in food, lodging, and travel and flight-change fees. Luckily, my family was able to scramble and get the money to me, but I know others are not as fortunate.

16. Because of the Executive Order, I missed a week of classes, and I hope that I never have to miss any more. I worry that if the Executive Order is extended, and I am prevented from re-entering the United States if I have to leave, then my education plans will be severely disrupted, and I will have lost the significant time and money that I have invested in my education in the last three years.

17. Because of the Executive Order, I am reconsidering my plans to pursue a further degree in the United States. A master's degree would take about three years, and I could not risk the possibility of not being able to visit my parents during that time. Although I love the people of the United States, I am now considering applying to graduate programs in Canada instead.

Pursuant to 28 U.S.C. § 1746, I, Najwa Elyazgi, declare under the penalty of perjury that the foregoing is true and correct.

Executed on February 7, 2017.



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NAJWA ELYAZGI

## CERTIFICATE OF SERVICE

I hereby certify that on February 8, 2017, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send a notification of such filing (NEF) to the counsel of record for Petitioners and Respondents.

By: /s/  
Stuart A. Raphael