



## **The U.S. Commission on Civil Rights Voices Concern Over Executive Proclamation Expanding Existing Orders on Religious and National Origin Travel Discrimination**

**March 20, 2020**

On February 27, 2017, the U.S. Commission on Civil Rights expressed concern that a cluster of Executive Orders unilaterally imposed travel restrictions into the United States from certain Muslim-majority nations in the absence of any legal basis for discriminatory standards of admission to this country.<sup>1</sup>

On January 31, 2020, less than three years after this Commission's original condemnation of the relevant Executive Orders and under two years from their subsequent validation by the U.S. Supreme Court<sup>2</sup> – which this Commission also denounced<sup>3</sup> -- the White House issued a "Proclamation on Improving Enhanced Vetting Capabilities and Processes for Detecting Attempted Entry." By this order, the White House expanded the reach of the original "Muslim ban" and unilaterally closed the door to almost all would-be immigrants from Burma (Myanmar), Eritrea, Kyrgyzstan, Nigeria, Sudan, and Tanzania.<sup>4</sup> The new rules quickly went into effect on February 21, 2020.

The justifications given for these exclusions relate to issues such as information-sharing, identity-management criteria, elevated risk of terrorist ties, and others considered to be ones of national security.<sup>5</sup> However, it is difficult not to see that there are two commonalities within the latest set of banned countries – they have significant Muslim populations, and four of the six are African.

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<sup>1</sup> In June 2018, a divided U.S. Supreme Court upheld this cluster of rules – twice amended -- that have become known colloquially as "the Muslim travel ban." (*Trump v. Hawaii*, 138 S. Ct. 2392 (2018)). That endorsement notwithstanding, this Commission still believes that the original Executive Orders "promote and endorse religious and national origin discrimination in contravention of our nation's core anti-discrimination principles." U.S. Commission on Civil Rights, *The U.S. Commission on Civil Rights Expresses Concern Over Executive Orders Promoting Religious and National Origin Discrimination*, Feb. 24, 2017, <https://www.usccr.gov/press/2017/statement-02-24-17-EO.pdf>.

<sup>2</sup> *Trump v. Hawaii*, *supra* n. 1.

<sup>3</sup> U.S. Commission on Civil Rights, *U.S. Commission on Civil Rights Decries Supreme Court Decision in Muslim Ban Case*, July 13, 2018, <https://www.usccr.gov/press/2018/07-13-18-Statement.pdf>.

<sup>4</sup> The White House, *Proclamation on Improving Enhanced Vetting Capabilities and Processes for Detecting Attempted Entry*, Jan. 31, 2020, <https://www.whitehouse.gov/presidential-actions/proclamation-improving-enhanced-vetting-capabilities-processes-detecting-attempted-entry/>.

<sup>5</sup> *Id.*

According to multiple news reports, the President has previously stated his hostility to immigration from Africa, asking “why do we want all these people from s---hole countries coming here?” In those same reports, he remarked that people from Nigeria “would never go back to their huts.”<sup>6</sup>

In almost all of the newly-impacted countries, Muslims constitute a large majority or near-majority of the population. It is difficult to conclude anything other than that this is a continuation of the President’s policy of deliberately denying immigration avenues to persons of the Muslim faith and, now, persons of African origin.<sup>7</sup> Both constitute, in our opinion, discrimination on the basis of religion, race, and national origin. Both, in our opinion, are contrary to the principles to which our country aspires.

Ironically, the Administration undercut its own policy of trying to protect the Rohingya Muslim people in Myanmar, a population that has been subjected to harsh anti-Muslim repression, separation, and internment by the government. According the U.S. Department of State, “[t]he United States is the leading contributor of humanitarian assistance in response to the Rohingya crisis, providing nearly \$542 million since the outbreak of violence in August 2017.”<sup>8</sup> To indiscriminately exclude persecuted members of the Rohingya is contrary to international and American principles governing claims of asylum.

The United States Commission on Civil Rights strongly condemns the continuation of these discriminatory immigration bans, and urges the White House to reverse its policies and adhere to the principles of non-discrimination and the law of asylum that protects free speech, free thought, and democratic principles at home and abroad.

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*The U.S. Commission on Civil Rights, established by the Civil Rights Act of 1957, is the only independent, bipartisan agency charged with advising the President and Congress on civil rights and reporting annually on federal civil rights enforcement. Our 51 state Advisory Committees offer a broad perspective on civil rights concerns at state and local levels. The Commission: in our 7th decade, a continuing legacy of influence in civil rights. For information, visit [www.usccr.gov](http://www.usccr.gov) and follow us on [Twitter](#) and [Facebook](#).*

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<sup>6</sup> See, e.g., Michael D. Shear and Julie Hirschfield Davis, *Stoking Fears, Trump Defied Bureaucracy to Advance Immigration Agenda*, The New York Times, Dec. 23, 2017, <https://nyti.ms/2DCJqPP>.

<sup>7</sup> We note that in the wake of the spread of COVID-19, travel bans (that also impact immigration) have been imposed that affect travel from Europe and Canada. This does not detract from or undermine our criticism of the specific, targeted immigration bans that are the subject of this statement.

<sup>8</sup> U.S. Department of State, *U.S. Continues to Push for Action Two Years of Rohingya Ethnic Cleansing*, Press Statement, August 24, 2019, <https://www.state.gov/u-s-continues-to-push-for-action-two-years-after-rohingya-ethnic-cleansing/>.