

Four ways the U.S. is already banning Muslims

Donald Trump's proposal isn't so far from official government policy.



By **Diala Shamas** December 17 at 6:00 AM

Diala Shamas is a supervising attorney at Stanford Law School's International Human Rights Clinic. This article is based on her work as an attorney with the [CLEAR project at CUNY School of Law](#).

Donald Trump's proclamations about banning all Muslims from entering the United States — even if temporarily — have triggered welcome condemnation, as politicians have scrambled to remind us that such a ban would be contrary to [American values](#). Yet those of us engaged with policies affecting U.S. Muslims between election cycles are dismayed, but not surprised, by Trump's idea. For the past 14 years, authorities have steadily and silently implemented variants of the proposed Muslim exclusion.

In my four years working at the [CLEAR project](#), I saw how our primarily U.S. Muslim clients encountered an array of policies and practices denying Muslims — citizens or residents — full access to the privileges of citizenship and permanent residency. A few examples:

1. **Delaying and denying Muslim immigrant petitions**

There is a little-known, formerly secret, but sweeping federal program that results in delays or outright denial of citizenship or immigration benefits for otherwise eligible Muslims, apparently based on their religion or national origin, among other things. That program, known as the "[Controlled Application Review and Resolution Program](#)" or "CARRP," has been in place since at least 2008. One of our clients likely subjected to this program is a religious leader, prominent in his community, who had been in the United States for over 20 years. He was never alleged to present any security threat, and his children are all U.S. citizens. While he is eligible to become a resident, he has been waiting for 12 years for his petition to be processed. Another client, in the United States since he was a young boy, had his naturalization petition first "held" for years by the FBI and eventually denied on a pretext. While we ultimately prevailed in challenging that denial, it took considerable resources, many years and a significant toll on him and his family. With these unpredictable delays and denials, life becomes impossible to plan. And the promise of American citizenship or residency becomes elusive.

ADVERTISING

2. **"Proxy denaturalization" through passport confiscation**

This is an even less well-known program with strikingly Trumpian characteristics. Around 2013, our organization, along with a number of civil liberties organizations, began receiving complaints from more than a dozen U.S. citizens of Yemeni origin, [all describing the same peculiar pattern](#): They went to the U.S. Embassy in Sanaa, Yemen, for a routine consular matter such as registering a newborn. Once there, they were subjected to lengthy and coercive interrogation by State Department officials, at the end of which they were forced to sign statements and had their U.S. passports seized without any explanation. Some were only told after months — or sometimes a year — that they would be allowed to fly back to the United States and go through an opaque process to argue that they should get their passports back. The arbitrary character of this entire process has led many advocates and scholars to argue that this program amounts to [proxy-denaturalization](#): allowing the government to strip a subset of citizens — all Muslim — of all the benefits of citizenship without having to go through appropriate procedures. To date, an unknown number of Americans are likely stuck in Yemen. Or if they have now fled current violence there, they are stuck in neighboring countries, unable to return to their families or businesses in the United States. The State Department, which claims it is acting pursuant to “reasons set forth in federal law and in federal regulations,” has not issued any apologies and has doubled down on its position in individual administrative hearings.

3. The no-fly list

Another tool disproportionately affecting Muslims is the “no-fly list,” a database of individuals who are denied boarding any commercial flights to or from the United States. In 2013, there were reportedly [468,749 names](#) on the watch list. Based on all the publicly known examples that I am aware of, and all of my clients, the no-fly list is almost entirely populated by Muslims or individuals assumed to be Muslim. Federal courts have ruled that the process to challenge one’s placement on this list is constitutionally [inadequate](#), and there have been some recent, limited [revisions](#) to this process. But it remains arduous and unpredictable, the criteria for placement on the list remains too broad and the list — which likely continues to grow — is riddled with errors. At CLEAR, I represented a dozen clients who were on the no-fly list, a mix of U.S. citizens and permanent residents. Those stranded overseas were ultimately allowed to return to the United States while they went through the lengthy process of trying to get off the list. But they had to make difficult choices of leaving parents, grandparents, spouses and young children, not knowing when they would be able to reunite. Some decided to remain overseas to avoid being separated from their loved ones, who had no way of joining them in the United States. And the process remains a looming threat to many others who have not been denied boarding, but fear the possibility of being put on the list — a surprisingly common concern among many young Muslims I regularly met with. When the possibility of an arbitrary ban on travel colors decisions about where to live, where to raise families and what jobs to take, access to citizenship or legal status becomes moot.

4. “Special registration” for Muslims

And let us not forget another very recent historical precedent for Trump’s proposal: The [National Security Entry-](#)

[Exit Registration System program](#), implemented after the 9/11 attacks, mandated that all non-immigrant males from 24 Muslim-majority countries (and North Korea) register with the government. Though the program [did not yield a single terrorism-related prosecution](#), it resulted in widespread deportations and exclusions, and its effects on thousands of families remain to this day.

None of these programs quite amount to the outright ban that Trump has called for. But they are all variants on a theme — a theme that has been alive and well for some time.

As pundits race to condemn Trump's particularly egregious breed of Muslim scapegoating, anyone watching our country's trajectory is left wondering where the outrage has been all along. We should be far more concerned by well-oiled federal programs vigorously defended by a Democratic administration than by bombastic election-season proclamations of a candidate who is particularly adept at tapping into the national mood. Americans have been primed for this moment. Donald Trump is merely capitalizing on that reality.

Read more:

[Stop spying on American Muslims who dare to express their opinions](#)

[Americans see Muslims as less than human](#)

[When we celebrate Muslims for opposing terrorism, we do them no favors](#)