

# FROM BIGOTRY TO BAN: THE IDEOLOGICAL ORIGINS AND DEVASTATING HARMS OF THE MUSLIM AND AFRICAN BANS

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## ABSTRACT

*In this paper we examine some of the recent history of the anti-immigration and anti-Muslim movements—looking to the Muslim and African Ban in particular—and how their rhetoric and ideology have directly influenced the policies of the Trump administration. We also discuss the irony of these policies in light of the Trump administration’s push for international religious freedom. Finally, we examine publicly available stories about the Muslim and African Ban and those directly impacted who are experiencing family separation and financial hardship. In addition to demonstrating the devastating harms and consequences of the Muslim and African Ban, we also show that this policy is not a product of the Trump administration alone. It is the culmination of decades of research and activism by white nationalist, anti-immigration, and anti-Muslim think tanks, organizations, and activists. In light of the fact that in November 2019 the administration slashed the number of refugees admitted for resettlement in the U.S. and further expanded the Muslim and African Ban in February 2020, we feel that any conversations about this policy that does not take into account its history and context is woefully incomplete.*

## I. INTRODUCTION

The first version of the Muslim and African Ban, known previously as the Muslim Ban, was enacted on January 27, 2017,<sup>1</sup> banning individuals from Iran, Iraq, Libya, Somalia, Sudan, Syria, and Yemen.<sup>2</sup> Between then and the June 2018 Supreme Court decision that upheld the policy,<sup>3</sup> the Ban

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<sup>1</sup> See generally Protecting the Nation From Foreign Terrorist Entry into the United States, Exec. Order No. 13,769, 82 Fed. Reg. 8,977 (Jan. 27, 2017), *superceded by executive order*, Exec. Order No. 13,780, 82 Fed. Reg. 13,209 (Mar. 6, 2017).

<sup>2</sup> Michael D. Shear & Helene Cooper, *Trump Bars Refugees and Citizens of 7 Muslim Countries*, N.Y. TIMES (Jan. 27, 2017), <https://www.nytimes.com/2017/01/27/us/politics/trump-syrian-refugees.html>.

<sup>3</sup> See generally *Trump v. Hawaii*, 138 S. Ct. 2392 (2018).

went through multiple iterations<sup>4</sup> and faced dozens of circuit and appellate court challenges,<sup>5</sup> ultimately banning individuals from ten countries.<sup>6</sup>

In February 2020, the Trump Administration expanded the Muslim and African Ban by adding six additional countries with Muslim majority populations and significant Muslim populations,<sup>7</sup> including Myanmar, Eritrea, Kyrgyzstan, Nigeria, Sudan, and Tanzania, to the list of already banned countries, which consists of Iran, Libya, Somalia, Syria, Yemen, North Korea, and Venezuela.<sup>8</sup> The expansion, codified in Presidential Proclamation 9983,<sup>9</sup> brought the total number of currently banned countries banned to thirteen—nearly half of which are located on the African continent.<sup>10</sup> Moreover, in November 2019, the Trump administration announced its Presidential Determination on Refugee Admissions for Fiscal Year 2020,<sup>11</sup> which lowered the refugee cap to eighteen thousand individuals total—the lowest number on record.<sup>12</sup> These policies are part of a broader immigration restrictionism effort to maintain a white, Christian, and English-speaking majority population in the U.S. The history of such policies is rooted in European resource and labor extraction through the enslavement of Africans, genocide against Indigenous Nations and Tribes, and the settler colonial establishment of the Americas.<sup>13</sup> Furthermore, in this historical backdrop, the Muslim and African Ban was enacted.

This paper will discuss several modern bearers of the immigration restrictionism ideology<sup>14</sup> and how these organizations and individuals have shaped anti-Muslim and anti-immigration policies by the Trump administration. In particular, this paper will examine the Trump

<sup>4</sup> *The Timeline: NIAC Takes on the Muslim Ban*, NAT'L IRANIAN AM. COUNCIL, <https://www.niacouncil.org/endtheban/> (last visited Apr. 30, 2020).

<sup>5</sup> Univ. of Mich. Law Sch., *Civil Rights Challenges to Trump Refugee/Visa Order*, C.R. LITIG. CLEARINGHOUSE, <https://www.clearinghouse.net/results.php?searchSpecialCollection=44> (last visited Apr. 30, 2020).

<sup>6</sup> They include Chad, Iran, Iraq, Libya, North Korea, Somalia, Sudan, Syria, Venezuela, and Yemen. All but North Korea and Venezuela are Muslim majority countries. *The Timeline: NIAC Takes on the Muslim Ban*, *supra* note 4.

<sup>7</sup> Nicole Narea, *Trump's Expanded Travel Ban Just Went into Effect for 6 New Countries*, VOX (Feb. 21, 2020), <https://www.vox.com/2020/1/31/21116736/trump-travel-ban-nigeria-immigrant>.

<sup>8</sup> *Id.*

<sup>9</sup> *See generally* Improving Enhanced Vetting Capabilities and Processes for Detecting Attempted Entry Into the United States by Terrorists or Other Public Safety Threats, Proclamation No. 9983, 85 Fed. Reg. 6,699 (Jan. 31, 2020).

<sup>10</sup> Rowaida Abdelaziz, *By Targeting Africans, Trump's Muslim Ban Is Even More Racist*, HUFFINGTON POST (Feb. 10, 2020, 5:45 AM), [https://www.huffpost.com/entry/by-targeting-africans-trumps-muslim-ban-is-even-more-racist\\_n\\_5e3dd9a7c5b6b70886ffed25](https://www.huffpost.com/entry/by-targeting-africans-trumps-muslim-ban-is-even-more-racist_n_5e3dd9a7c5b6b70886ffed25).

<sup>11</sup> Presidential Determination on Refugee Admissions for Fiscal Year 2020, 84 Fed. Reg. 65,903 (Nov. 1, 2019).

<sup>12</sup> Letter from Kamala D. Harris, Patrick Leahy, Dianne Feinstein, Richard J. Durbin, Sheldon Whitehouse, Amy Klobuchar, Christopher A. Coons, Richard Blumenthal, Mazie Hirono & Cory A. Booker, United States Senators, to Michael Pompeo, Secretary of State, and Kevin McAleenan, Acting Secretary of the United States Department of Homeland Security (Nov. 6, 2019), <https://www.leahy.senate.gov/imo/media/doc/11.06.19%20FINAL%20Jud%20Letter%20on%20Refugee%20PD.PDF>.

<sup>13</sup> Ctr. for Documentary Studies at Duke Univ., *Seeing White*, SCENE ON RADIO, <https://www.sceneonradio.org/seeing-white/> (last visited May 31, 2020).

<sup>14</sup> For further discussion of the interrelation between U.S. immigration law and legally defined whiteness, see IAN HANEY LOPEZ, *WHITE BY LAW: THE LEGAL CONSTRUCTION OF RACE* (NYU Press, 2nd ed., 2006) and Lori A. Nessel, *Instilling Fear and Regulating Behavior: Immigration Law as Social Control*, 31 GEO. IMMIGR. L.J. 525 (2017). For additional discussion on white nationalism and the role of U.S. immigration law in controlling non-white immigrant populations, see Jayashri Srikantiah & Shirin Sinnar, *White Nationalism as Immigration Policy*, 71 STAN. L. REV. 197 (2019).

administration's Muslim and African Ban, the groups that helped craft it, and the U.S. policymakers who were instrumental in its implementation. The paper will conclude by presenting the results of a large data collection project that analyzed publicly available narratives of individuals and families directly impacted by the Ban. The Ban is ongoing and individuals and families continue to be harmed, including children who have never met their parents, couples who are unable to reunite, and families who are unable to attend a loved one's funeral.

## II. THE MUSLIM AND AFRICAN BAN AND ANTI- IMMIGRATION NETWORK

Shortly after the passage of Executive Order 13769, the first version of the Muslim and African Ban, Trump's senior policy advisor Stephen Miller cited a study by the Center for Immigration Studies ("CIS")<sup>15</sup> as supporting evidence for the ban.<sup>16</sup> The study claimed that seventy-two individuals from the banned countries were implicated in "terroristic activity," a statement later deemed inaccurate by The Washington Post.<sup>17</sup> This is important for two reasons: first, it demonstrates the shaky political and logical ground upon which the Ban stands; and second, it puts the ban into the context of a larger campaign against immigration—especially non-white immigration<sup>18</sup>—that has been gaining steam for the past forty years.<sup>19</sup> CIS and its sister organization, the Federation for American Immigration Reform ("FAIR"), both claim to be nonpartisan and motivated by economic and environmental

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<sup>15</sup> Jessica M. Vaughan, *Study Reveals 72 Terrorists Came from Countries Covered by Trump Vetting Order*, CTR. FOR IMMIG. STUD. (Feb. 11, 2017), <https://cis.org/Vaughan/Study-Reveals-72-Terrorists-Came-Countries-Covered-Trump-Vetting-Order>.

<sup>16</sup> *Meet the Press* (NBC television broadcast Feb. 12, 2017), <https://www.nbcnews.com/meet-the-press/meet-press-02-12-17-n719951>.

<sup>17</sup> Michelle Ye Hee Lee, *Stephen Miller's Claim that 72 from Banned Countries Were Implicated in 'Terrorist Activity'*, WASH. POST (Feb. 13, 2017, 12:00 AM), <https://www.washingtonpost.com/news/fact-checker/wp/2017/02/13/stephen-millers-claim-that-72-from-banned-countries-were-implicated-in-terroristic-activity/>.

<sup>18</sup> For further discussion of the mutually reinforcing relationship between racism and immigration law, see

Kevin R. Johnson, *Race, the Immigration Laws, and Domestic Race Relations: A "Magic Mirror" into the Heart of Darkness*, 31 IND. L.J. 1111 (1998).

<sup>19</sup> This campaign is often referred to as the "modern-day anti-immigration movement," and it is largely the work of several anti-immigrant organizations founded by the white nationalist John Tanton starting in the late 1970s. These organizations generally seek to limit or eliminate immigration of all kinds, and often frame immigration as a threat to American culture. Many of the policies that these groups have pushed for have been taken up by the Trump Administration. Gustavo Arellano, *John Tanton, Quiet Architect of America's Modern-Day Anti-Immigrant Movement, Dies at 85*, L.A. TIMES (July 18, 2019), <https://www.latimes.com/obituaries/story/2019-07-18/john-tanton-dead-anti-immigrant>.

concerns.<sup>20</sup> However, a closer look into their origins and the current actions of their members shows that they are in fact rooted in white nationalism.<sup>21</sup>

Additionally, a number of Trump's own comments have denigrated African countries and countries with a large African diaspora, such as Nigeria and Haiti, by referring to them as "shithole countries."<sup>22</sup> In the same meeting in which he made that comment, Trump reportedly suggested that the U.S. should accept more immigrants from countries like Norway—i.e., majority white countries.<sup>23</sup> Combined with other overtly racist statements made against immigrants from Latin America<sup>24</sup> and against Black immigrants,<sup>25</sup> including denigrating comments about Nigeria, one of the most recently added countries to the Ban, this comment demonstrates that Trump's opposition to immigration seems to be primarily influenced by racism. From these connections, it is clear that debate over the Ban is not simply a short-term debate over national security, but rather part of a larger conflict over the American identity.

The founder of both CIS and FAIR was John Tanton, an ophthalmologist-turned-lobbyist who was initially drawn to immigration policy because of environmental concerns. Like many anti-immigration activists and white nationalists (including the El Paso and Ōtautahi/Christchurch mass murderers<sup>26</sup>), Tanton used concern over environmental degradation and overpopulation to justify his anti-immigrant sentiments.<sup>27</sup> However, as time passed he became increasingly concerned about the racial aspect of immigration; Humza Kazmi, a scholar who has studied Tanton's papers, claimed that "[h]is ideologies are at best sympathetic and at worst fully supportive of white nationalists."<sup>28</sup> In a letter to a friend, Tanton warned that "for European-American society and culture to persist requires a European-

<sup>20</sup> See CTR. FOR IMMIGR. STUD., <https://cis.org/> (last visited Apr. 30, 2020) ("The Center for Immigration Studies is an independent, non-partisan, non-profit research organization founded in 1985."); ABOUT FAIR, FED'N FOR AM. IMMIGR. REFORM, <https://www.fairus.org/about-fair> (last visited Apr. 30, 2020) ("As a non-partisan, public interest organization with a support base comprising nearly 50 private foundations and over 1.9 million diverse members and supporters, FAIR is free of party loyalties and special interest connections.").

<sup>21</sup> For example, in 2018 the only Latino employee at FAIR resigned from the organization and filed a complaint with the Washington D.C. Office of Human Rights, claiming that top FAIR officials subjected him to racist abuse and discrimination, Scott Bixby, *Only Latino Employee Resigns From Anti-Immigration Group Over Racial Slurs*, THE DAILY BEAST (Aug. 27, 2018, 5:40 PM), <https://www.thedailybeast.com/only-latino-employee-resigns-from-anti-immigration-group-over-racial-slurs>.

<sup>22</sup> Josh Dawsey, *Trump Derides Protections for Immigrants from 'Shithole' Countries*, WASH. POST (Jan. 12, 2018, 4:52 AM), [https://www.washingtonpost.com/politics/trump-attacks-protections-for-immigrants-from-shithole-countries-in-oval-office-meeting/2018/01/11/bfc0725c-f711-11e7-91af-31ac729add94\\_story.html](https://www.washingtonpost.com/politics/trump-attacks-protections-for-immigrants-from-shithole-countries-in-oval-office-meeting/2018/01/11/bfc0725c-f711-11e7-91af-31ac729add94_story.html).

<sup>23</sup> Ibram X. Kendi, *The Day Shithole Entered the Presidential Lexicon*, ATLANTIC (Jan. 13, 2019), <https://www.theatlantic.com/politics/archive/2019/01/shithole-countries/580054/>.

<sup>24</sup> Anthony Rivas, *Trump's Language About Mexican Immigrants Under Scrutiny in Wake of El Paso Shooting*, ABC NEWS (Aug. 4, 2019), <https://abcnews.go.com/US/trumps-language-mexican-immigrants-scrutiny-wake-el-paso/story?id=64768566>.

<sup>25</sup> Michael D. Shear & Julie Hirschfeld Davis, *Stoking Fears, Trump Defied Bureaucracy to Advance Immigration Agenda*, N.Y. TIMES (Dec. 23, 2017), <https://www.nytimes.com/2017/12/23/us/politics/trump-immigration.html>.

<sup>26</sup> Susie Cagle, *'Bees, Not Refugees': The Environmentalist Roots of Anti-Immigrant Bigotry*, GUARDIAN (Aug. 16, 2019, 1:00 PM), <https://www.theguardian.com/environment/2019/aug/15/anti>.

<sup>27</sup> Susie Cagle, *Anti-Immigration White Supremacy Has Deep Roots in the Environmental Movement*, MOTHER JONES (Aug. 19, 2019), <https://www.motherjones.com/politics/2019/08/anti-immigration-white-supremacy-has-deep-roots-in-the-environmental-movement/>.

<sup>28</sup> Brian Kuang, *John Tanton, the Nativist Next Door*, MICH. DAILY (Sept. 18, 2018, 6:52 PM), <https://www.michigandaily.com/section/statement/john-tanton-nativist-next-door>.

American majority, and a clear one at that.”<sup>29</sup> He also had a long-standing interest in eugenics,<sup>30</sup> expressed racism towards people from Latin America,<sup>31</sup> corresponded with white nationalist figures,<sup>32</sup> and expressed a fondness for the overtly racist novel *The Camp of the Saints*.<sup>33</sup>

While CIS and FAIR have tried to distance themselves from their founder in the past few years,<sup>34</sup> his ideology lives just beneath the surface of their work. For example, in 2002, CIS published an article on Muslim immigration to the U.S., and designated “Islamist ambitions” as one of the three main reasons for this immigration.<sup>35</sup> In the same article, CIS describes Muslim immigrants’ supposed views on family life, stating that “Muslim immigrants widely see a range of American customs touching on family relations and the position of women as morally corrupt and endangering their way of life.”<sup>36</sup> The article also claims that “[i]n its long history of immigration, the United States has never encountered so violent-prone and radicalized a community as the Muslims who have arrived since 1965.”<sup>37</sup>

In 2014, CIS Fellow Steven Steinlight stated that he supported banning Muslims from the U.S. because “Muslims believe in things that are subversive to the Constitution.”<sup>38</sup> He additionally stated that “Muslim infiltration” is a great danger, and “Islam is not so much a religion as a hideous totalitarian political creed looking for world supremacy.”<sup>39</sup> In a similar vein, FAIR has advocated against the U.S. admitting Syrian refugees.<sup>40</sup> In a report discussing refugee resettlement from so-called “high

<sup>29</sup> Jane Coaston, *The Scary Ideology Behind Trump’s Immigration Instincts*, VOX (Nov. 6, 2018, 7:09 PM), <https://www.vox.com/2018/11/18/16897358/racism-donald-trump-immigration>.

<sup>30</sup> Brendan O’Connor, *The Eugenicist Doctor and the Vast Fortune Behind Trump’s Immigration Regime*, SPLINTER (July 5, 2018, 12:41 PM), <https://splinternews.com/the-eugenicist-doctor-and-the-vast-fortune-behind-trump-1827322435>.

<sup>31</sup> John Tanton, ‘WITAN MEMO’ III, S. POVERTY L. CTR. (Oct. 10, 1986), <https://www.splcenter.org/fighting-hate/intelligence-report/2015/witan-memo-iii>.

<sup>32</sup> John Tanton, S. POVERTY L. CTR., <https://www.splcenter.org/fighting-hate/extremist-files/individual/john-tanton> (last visited Apr. 30, 2020).

<sup>33</sup> John Tanton, *The Camp of the Saints Revisited*, 5 SOC. CONT. J. ISSUES 83, 83 (Winter 1994–95); Paul Blumenthal & JM Rieger, *This Stunningly Racist French Novel is How Steve Bannon Explains the World*, HUFFINGTON POST (Mar. 4, 2017, 5:00 PM), [https://www.huffpost.com/entry/steve-bannon-camp-of-the-saints-immigration\\_n\\_58b75206e4b0284854b3dc03](https://www.huffpost.com/entry/steve-bannon-camp-of-the-saints-immigration_n_58b75206e4b0284854b3dc03).

<sup>34</sup> CIS goes so far as to say that he was not involved in the founding, but in a 1985 letter, Tanton describes himself as being directly involved in the founding:

After careful and prolonged study, the FAIR Board has concluded that a ‘Think Tank’ on the scale of Worldwatch Institute is needed. For credibility, this will need to be independent of FAIR, though the Center for Immigration Studies, as we’re calling it, is starting off as a project of FAIR.

John Tanton, *Center for Immigration Studies*, S. POVERTY L. CTR. (Sept. 16 1985), [https://www.splcenter.org/sites/default/files/1985\\_september\\_tanton\\_creates\\_cis.pdf](https://www.splcenter.org/sites/default/files/1985_september_tanton_creates_cis.pdf). As recently as 1994, Tanton wrote that he was still setting what he called “the proper roles for FAIR and CIS.” Heidi Beirich, *The Nativist Lobby: Three Faces of Intolerance*, S. POVERTY L. CTR. (Feb. 1, 2009), <https://www.splcenter.org/20090131/nativist-lobby-three-faces-intolerance#cis>.

<sup>35</sup> Khalid Duran & Daniel Pipes, *Muslim Immigrants in the United States*, CTR. IMMIGRATION STUD. (Aug. 1, 2002), <https://cis.org/Report/Muslim-Immigrants-United-States>.

<sup>36</sup> *Id.*

<sup>37</sup> *Id.*

<sup>38</sup> Miranda Blue, *CIS’s Steinlight: Ban Muslim Immigration Because ‘Muslims Believe In Things That Are Subversive To The Constitution’*, RIGHT WING WATCH (Mar. 27, 2014, 3:23 PM), <https://www.rightwingwatch.org/post/ciss-steinlight-ban-muslim-immigration-because-muslims-believe-in-things-that-are-subversive-to-the-constitution/>.

<sup>39</sup> *Id.*

<sup>40</sup> *National Security and Refugee Resettlement from “High Risk” Countries*, FED’N FOR AM. IMMIGR. REFORM (July 2017), <https://www.fairus.org/issue/national-security/national-security-and-refugee-resettlement-high-risk-countries>.

risk” countries such as Syria and Iran, FAIR states that “not all people who are fleeing dangerous situations are innocent victims.”<sup>41</sup> FAIR argues that “they may be fleeing for their lives, but had the outcomes of these conflicts been different, they might be committing atrocities and it might be the other guys fleeing.”<sup>42</sup>

In response to then-candidate Trump’s call for a “total and complete shutdown of Muslims entering the United States,”<sup>43</sup> FAIR’s official response pushed negative rhetoric about Muslim immigrants, claiming:

Both here and in other Western democracies, we are witnessing the radicalization of immigrants and their children in mosques that spread ideologies that are antithetical to those societies. The fact that these domestic incubators of Islamic radicalism are having a greater influence on recently arrived immigrants and their children than the values on which this country was founded is worrisome.<sup>44</sup>

This strong anti-Muslim stance is just part of FAIR’s stated goal to “reduce overall immigration to a more normal level,” which they describe as 300,000 people per year.<sup>45</sup> A growing number of prominent politicians have expressed support for these organizations, and many former FAIR employees and associates are now members of the Trump administration.<sup>46</sup> The CIS website lists endorsements from several prominent anti-Muslim figures, including former U.S. Attorney General Jeff Sessions, who stated: “I just want to thank CIS for providing invaluable research. You can be sure the other side has plenty of money and plenty of numbers, a lot of it not very accurate.”<sup>47</sup> Frank Gaffney, formerly the head of the anti-Muslim think tank Center for Security Policy (“CSP”), has called CIS’s work “truly first rate.”<sup>48</sup> Other politicians who have associated with CIS include Representatives Steve King, Lamar Smith, Mo Brooks, and Lou Barletta, all four of whom supported President Trump’s Muslim and African Ban.<sup>49</sup> In 2015, senior policy advisor Stephen Miller gave the keynote speech at the CIS Katz

<sup>41</sup> *Id.*

<sup>42</sup> *Id.*

<sup>43</sup> Jenna Johnson, *Trump Calls for ‘Total and Complete Shutdown of Muslims Entering the United States’*, WASH. POST (Dec. 7, 2015, 5:12 PM), <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/>.

<sup>44</sup> *FAIR’s Statement on Donald Trump’s Muslim Immigration Comments*, FED’N FOR AM. IMMIGR. REFORM (Dec. 8, 2015), <https://www.fairus.org/press-releases/fairs-statement-donald-trumps-muslim-immigration-comments>.

<sup>45</sup> *About FAIR*, *supra* note 16.

<sup>46</sup> Tess Owen, *A Radical Anti-Immigration Group Infiltrated the GOP. Now it’s in the White House*, VICE NEWS (May 3, 2017), [https://news.vice.com/en\\_ca/article/mb9nb3/fair-trump-white-house-federation-for-american-immigration-reform](https://news.vice.com/en_ca/article/mb9nb3/fair-trump-white-house-federation-for-american-immigration-reform).

<sup>47</sup> *About the Center for Immigration Studies*, CTR. FOR IMMIGR. STUD., <https://cis.org/Center-For-Immigration-Studies-Background> (last visited Apr. 30, 2020) (navigate to “Kudos for the Center”).

<sup>48</sup> *Id.*

<sup>49</sup> Mark Krikorian et al., *Panel Video: Deportation Numbers Unwrapped*, CTR. FOR IMMIGR. STUD. (Nov. 3, 2013), <https://cis.org/Video/Panel-Video-Deportation-Numbers-Unwrapped>; *Video: DC March for Jobs*, CTR. FOR IMMIGR. STUD. (July 16, 2013), <https://cis.org/Video/Video-DC-March-Jobs>. See generally Press Release, Mo Brooks, Brooks Applauds Supreme Court Ruling Upholding Trump Travel Ban and Effort to Protect American Citizens (June 26, 2018), <https://brooks.house.gov/media-center/news-releases/brooks-applauds-supreme-court-ruling-upholding-trump-travel-ban-and>; Aaron Blake, *Whip Count: Here’s Where Republicans Stand on Trump’s Controversial Travel Ban*, WASH. POST, (Jan. 31, 2017, 11:56 AM), <https://www.washingtonpost.com/news/the-fix/wp/2017/01/29/heres-where-republicans-stand-on-president-trumps-controversial-travel-ban/>.

Award Ceremony.<sup>50</sup> In his speech he thanked CIS “for everything they do to illuminate a debate that far too often operates, like illegal immigrants, in the shadows.”<sup>51</sup>

In events and forums sponsored by or affiliated with FAIR, anti-Muslim and anti-immigration rhetoric is pervasive. Sebastian Gorka, a former Deputy Assistant to President Donald Trump who supports religious profiling, has targeted Muslim civil rights and advocacy groups, publicly worn a medal affiliated with a Nazi-linked Hungarian group, and attended the FAIR-organized Hold Their Feet to the Fire (HTFTTF) conference in 2017<sup>52</sup> and 2018.<sup>53</sup> In the official FAIR podcast, Dan Stein and Director of Communication Dave Ray described Gorka as a celebrity and said he “brings an incredible view of the immigration movement.”<sup>54</sup>

This virulent anti-Muslim rhetoric clearly shows that the organizations and individuals that have been pushing for policies like the Muslim and African Ban for decades are perhaps less concerned with national security and more concerned with using the immigration debate to advance white nationalist ideologies.

### III. FRANK GAFFNEY AND THE CENTER FOR SECURITY POLICY

Anti-immigration, white nationalist organizations such as CIS and FAIR are not the only organizations whose former members are overseeing or advising immigration policies in the Trump administration. The administration and its Muslim and African Ban policy in particular have close connections with other organizations that routinely propagate conspiracy theories about Islam and Muslims, advocate for surveillance and discrimination against Muslims, and call for increased U.S. military intervention in Muslim-majority countries and regions.<sup>55</sup> Prominent among them is CSP,<sup>56</sup> an anti-Muslim think tank founded and previously headed by former Ronald Reagan administration official Frank Gaffney, and currently headed by former Trump administration official Fred Fleitz. Unfortunately,

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<sup>50</sup> Stephen Miller, Director of Communications, Office of Jeff Sessions, Keynote Address at the 2015 Katz Award Ceremony (May 31, 2015) (transcript available at <https://cis.org/2015-Katz-Award-Ceremony-Transcript>).

<sup>51</sup> *Id.*

<sup>52</sup> Interview by Lars Larson with Sebastian Gorka, Deputy Assistant to the President, Hold Their Feet to the Fire Conference, in Wash., D.C. (June 29, 2017).

<sup>53</sup> Interview by Phil Valentine with Sebastian Gorka, former Deputy Assistant to the President, Hold Their Feet to the Fire Conference, in Wash., D.C. (Sept. 6, 2018).

<sup>54</sup> Dave Ray & Dan Stein, *FAIR Reacts to Feet to the Fire 2018*, FAIRFEDERATION PODCAST (2018) <https://bridge.georgetown.edu/wp-content/uploads/2020/06/FAIR-React-to-Feet-to-the-Fire-2018-Gorka-1.mp3>.

<sup>55</sup> Bridge Initiative Team, *A New Era in American Politics: The Trump Administration and Mainstream Islamophobia*, BRIDGE: GEO. U. INITIATIVE (June 23, 2017), <https://bridge.georgetown.edu/research/a-new-era-in-american-politics-the-trump-administration-and-mainstream-islamophobia/>.

<sup>56</sup> Bridge Initiative Team, *Factsheet: Center for Security Policy*, BRIDGE: GEO. U. INITIATIVE (July 29, 2017), <https://bridge.georgetown.edu/research/factsheet-center-for-security-policy/>.

Gaffney and CSP have played an outsized role in the Muslim and African Ban policy.

On December 7, 2015, then-presidential candidate Donald Trump released a “Statement on Preventing Muslim Immigration.”<sup>57</sup> The statement read:

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.”<sup>58</sup>

A few hours later, Trump tweeted “Just put out a very important policy statement on the extraordinary influx of hatred & danger coming into our country. We must be vigilant!”<sup>59</sup> Trump reduces and denigrates Muslim immigration to an “influx of hatred and danger.” This inflammatory language grossly flattens both the historical and contemporary role of U.S. intervention in Muslim-majority countries. In fact, of the seven countries included in the first iteration of the Ban—Iran, Iraq, Libya, Somalia, Sudan, Syria, and Yemen—all but Iran are currently being bombed or have been bombed in the recent past by the U.S.<sup>60</sup> Moreover, the U.S. has a long history of intervention in Iran, including a CIA-assisted coup in 1953, a 1988 U.S. Navy shooting in which a civilian airliner was shot down killing all 290 people on board, years of sanctions, and a dangerous cyberattack by the U.S.

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<sup>57</sup> Press Release, Donald J. Trump for President, Inc., Donald J. Trump’s Statement on Preventing Muslim Immigration (Dec. 7, 2015), <https://web.archive.org/web/20151207230751/https://www.donaldjtrump.com/press-releases/donald-j.-trump-statement-on-preventing-muslim-immigration>.

<sup>58</sup> *Id.*

<sup>59</sup> Donald J. Trump (@realDonaldTrump), TWITTER (Dec. 7, 2015, 1:47 PM), <https://twitter.com/realdonaldtrump/status/673982228163072000?lang=en>.

<sup>60</sup> Zaid Jilani, *Trump’s Muslim Immigration Executive Order: If We Bombed You, We Ban You*, INTERCEPT (Jan. 25, 2017, 2:06 PM), <https://theintercept.com/2017/01/25/trumps-muslim-immigration-executive-order-if-we-bombed-you-we-ban-you/>.



and Israel that caused the destruction of approximately one-fifth of Iranian nuclear centrifuges.<sup>61</sup>

Later that evening, Trump held a Pearl Harbor Day campaign rally in Mount Pleasant, South Carolina at the USS Yorktown.<sup>62</sup> The Trump campaign reportedly weaponized National Pearl Harbor Remembrance Day to link today's contemporary constructed threats of Muslim immigrants and Muslim-Americans to the past<sup>63</sup>—specifically, of an alleged Japanese infiltration and subversion of the U.S. during the 1940s, which culminated in the forced removal and detention in concentration camps of 110,000 Japanese immigrants and Japanese-Americans.<sup>64</sup> Similarly, constructed threats of Muslims have been used in an attempt to justify a post-9/11 mass Muslim registry and deportation regime called the National Security Entry-Exit Registration System (“NSEERS”),<sup>65</sup> and a roster of fifteen thousand informants hired by the FBI to target and infiltrate Muslim communities and vulnerable Muslims—those who are poor and in debt, those facing legal or immigration difficulties, those with psychological and cognitive disabilities, and new converts—into FBI plots of fabricated violence.<sup>66</sup> These are just two examples of the ways in which constructed threats of Islam and Muslims have led to policy decisions that are discriminatory and abusive.

In Trump's December 2015 speech, he read aloud his campaign's Muslim and African Ban statement, personally declaring his infamous campaign proposal for a “total and complete shutdown of Muslims entering the United States.”<sup>67</sup> Trump cited polling data to justify this ban proposal.<sup>68</sup> The poll was published by CSP and administered by Kellyanne Conway's polling company.<sup>69</sup> However, the poll was highly unreliable and

<sup>61</sup> Michael B. Kelley, *The Stuxnet Attack on Iran's Nuclear Plant Was 'Far More Dangerous' Than Previously Thought*, BUS. INSIDER (Nov. 20, 2013, 9:58 AM), <https://www.businessinsider.com/stuxnet-was-far-more-dangerous-than-previously-thought-2013-11>.

<sup>62</sup> *Presidential Candidate Donald Trump Rally in Mount Pleasant, South Carolina*, C-SPAN (Dec. 7, 2015), <https://www.c-span.org/video/?401762-1/presidential-candidate-donald-trump-rally-mount-pleasant-south-carolina>.

<sup>63</sup> According to reporting by Jenna Johnson in the Washington Post:

Trump dictated a statement to his spokeswoman, Hope Hicks, who copied it down on a note card that she has saved as a piece of history. For symbolic impact, the campaign decided to wait to announce the proposed [Muslim and African ban] policy on Dec. 7, National Pearl Harbor Remembrance Day.

Jenna Johnson, *Inside Donald Trump's Strategic Decision to Target Muslims*, WASH. POST (June 21, 2016), [https://www.washingtonpost.com/politics/inside-donald-trumps-strategic-decision-to-target-muslims/2016/06/20/d506411e-3241-11e6-8758-d58e76e11b12\\_story.html](https://www.washingtonpost.com/politics/inside-donald-trumps-strategic-decision-to-target-muslims/2016/06/20/d506411e-3241-11e6-8758-d58e76e11b12_story.html).

<sup>64</sup> *About the Incarceration: A Short Introduction to the History of the Exclusion and Incarceration of Japanese Americans During WWII*, DENSHO ENCYCLOPEDIA, <http://encyclopedia.densho.org/history/>. See generally *American Concentration Camps*, DENSHO ENCYCLOPEDIA, <https://densho.org/american-concentration-camps/> (describing the conditions of American concentration camps).

<sup>65</sup> See generally *National Security Entry-Exit Registration System*, ACLU, <https://www.aclu.org/issues/immigrants-rights/immigrants-rights-and-detention/national-security-entry-exit-registration> (last visited Apr. 30, 2020) (explaining the origins and shortcomings of the National Security Entry-Exit Registration System).

<sup>66</sup> Trevor Aaronson, *The Informants*, MOTHER JONES (Sept./Oct. 2011), <https://www.motherjones.com/politics/2011/07/fbi-terrorist-informants/>.

<sup>67</sup> Johnson, *supra* note 36.

<sup>68</sup> See *id.* (“Trump included recent poll findings that he says show that a sizable segment of the Muslim population has ‘great hatred towards Americans.’”).

<sup>69</sup> Bridge Initiative Team, *Factsheet: Kellyanne Conway*, BRIDGE: GEO. U. INITIATIVE (Dec. 4, 2018), <https://bridge.georgetown.edu/research/factsheets-kellyanne-conway/>. Conway would later join the Trump administration as Counsel to the President, a position she continues to hold as of spring 2020; see, e.g., Reuters, *Kellyanne Conway Joins Trump Administration as Counselor to the President*, BUS. INSIDER (Dec. 22, 2016, 4:14 AM), <https://www.businessinsider.com/trump-names-kellyanne-conway-counselor-to-the-president-2016-12>. See generally THE POLLING CO., INC. & WOMANTREND,

methodologically flawed, as debunked by Georgetown University's the Bridge Initiative,<sup>70</sup> employer of this paper's co-authors. CSP's poll relies on loaded questions and answers, selective readings and exaggerations, and a flawed opt-in methodology.<sup>71</sup>

In addition, that CSP is the author of the poll is a red flag; Frank Gaffney, who at the time of the poll's publication was the director of CSP, has a disturbing history of propagating conspiracy theories against Islam and speaking derogatively about Muslims.<sup>72</sup> Gaffney has claimed that Muslims are engaged in a "stealth jihad" to undermine and infiltrate "Western civilization" from within,<sup>73</sup> and has referred to Muslims as "termites."<sup>74</sup> Gaffney has also claimed that Sharia is a "totalitarian, supremacist Islamic doctrine"<sup>75</sup> and is "seditious" to the U.S.<sup>76</sup> He has also worked on campaigns to pass bills in state legislatures to ban Sharia<sup>77</sup> and has accused numerous politicians of enabling—and virtually all Muslim leaders and organizations of secretly working for—the Muslim Brotherhood to subvert America from within.<sup>78</sup> The Muslim Brotherhood is a movement that was founded by Hassan al-Banna in the 1920s in Egypt to revitalize Islam as a challenge to European colonization in the region.<sup>79</sup>

During his 2015 speech, Trump described CSP as a "very highly respected group of people who [sic] I know, actually."<sup>80</sup> After Trump won the November 2016 election, the New York Times reported that Gaffney became an advisor to the Trump transition team.<sup>81</sup> In addition, the former White House chief strategist Steve Bannon stated on Breitbart Radio in July 2016 that Gaffney is one of the top experts on Islam in America.<sup>82</sup> Bannon

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NATIONWIDE ONLINE SURVEY AMONG 600 MUSLIM-AMERICANS (Ctr. for Sec. Policy, June 2015), <https://www.centerforsecuritypolicy.org/wp-content/uploads/2015/06/150612-CSP-Polling-Company-Nationwide-Online-Survey-of-Muslims-Topline-Poll-Data.pdf>

<sup>70</sup> *Trump Calls for Ban on Muslims, Cites Deeply Flawed Poll*, BRIDGE: GEO. UNIV. INITIATIVE (Dec. 8, 2015), <https://bridge.georgetown.edu/research/trump-calls-for-ban-on-muslims-cites-deeply-flawed-poll/>.

<sup>71</sup> *Id.*

<sup>72</sup> *See, e.g., infra* notes 63–66 and accompanying text.

<sup>73</sup> *See generally* CTR. FOR SEC. POLICY, SHARIAH: THE THREAT TO AMERICA (2010), [https://www.voltairenet.org/IMG/pdf/Shariah\\_-\\_The\\_Threat\\_to\\_America\\_Team\\_B\\_Report\\_.pdf](https://www.voltairenet.org/IMG/pdf/Shariah_-_The_Threat_to_America_Team_B_Report_.pdf).

<sup>74</sup> Scott Shane et al., *Trump Pushes Dark View of Islam to Center of U.S. Policy-Making*, N.Y. TIMES (Feb. 1, 2017), [https://www.nytimes.com/2017/02/01/us/politics/donald-trump-islam.html?\\_r=2](https://www.nytimes.com/2017/02/01/us/politics/donald-trump-islam.html?_r=2).

<sup>75</sup> Eli Clifton, *Islamophobe Frank Gaffney Endorses Newt Gingrich's Anti-Muslim Comments*, THINKPROGRESS (Jan. 19, 2012, 6:38 PM), <https://thinkprogress.org/islamophobe-frank-gaffney-endorses-newt-gingrichs-anti-muslim-comments-b13b59c9f9c3/>.

<sup>76</sup> The American Decency Association, *Frank Gaffney—Shariah: Civilization Jihad and the Enemy Within*, YOUTUBE (Oct. 23, 2012), [https://www.youtube.com/watch?v=\\_3nRIDQcbnk](https://www.youtube.com/watch?v=_3nRIDQcbnk).

<sup>77</sup> Andrea Elliott, *The Man Behind the Anti-Shariah Movement*, N.Y. TIMES (July 30, 2011), <https://www.nytimes.com/2011/07/31/us/31shariah.html>.

<sup>78</sup> Secure Freedom, *Muslim Brotherhood in America: The Enemy Within*, YOUTUBE (last updated on June 12, 2014), <https://www.youtube.com/playlist?list=PLF834C7965BEA6BCC>; Secure Freedom Radio, *Frank Gaffney with Glenn Beck: Shariah & Stealth Jihad*, YOUTUBE (Aug. 24, 2010), <https://www.youtube.com/watch?v=AqV8syZPPT4>.

<sup>79</sup> Julie Spears & Steven Aftergood, *Muslim Brothers, Muslim Brotherhood, al-Ikhwan al-Muslimin, Jama'at al-Ikhwan al-Muslimun, Hizb Al-Ikhwan Al-Muslimoon, al-Ikhwan ("The Brothers")*, FAS: INTELLIGENCE RESOURCE PROGRAM (Jan. 8, 2002), <https://fas.org/irp/world/para/mb.htm>.

<sup>80</sup> *Presidential Candidate Donald Trump Rally in Mount Pleasant, South Carolina*, *supra* note 52.

<sup>81</sup> Julie Hirschfeld Davis, Mark Mazzetti & Maggie Haberman, *Firings and Discord Put Trump Transition Team in a State of Disarray*, N.Y. TIMES (Nov. 15, 2016), <https://www.nytimes.com/2016/11/16/us/politics/trump-transition.html>.

<sup>82</sup> Jihad Watch, *Robert Spencer on Breitbart: The Complete Infidel's Guide to Iran*, YOUTUBE (July 12, 2016), [https://www.youtube.com/watch?v=J6H1adN4V\\_Y](https://www.youtube.com/watch?v=J6H1adN4V_Y).

was a co-architect of the Ban with Stephen Miller (described above as citing a CIS study to justify the Ban).<sup>83</sup>

In August 2017, an anti-Muslim law firm—the American Freedom Law Center (“AFLC”), which describes itself as “the Nation’s first truly authentic Judeo-Christian, public interest law firm”<sup>84</sup>—filed an amicus brief in the U.S. Supreme Court in support of the Ban.<sup>85</sup> AFLC filed the brief on behalf of half a dozen so-called “national security experts,” including Frank Gaffney—who sits on the AFLC advisory board<sup>86</sup>—and CSP itself.<sup>87</sup>

The authors of the brief redefine Islam and its so-called “mainstream strain” of “sharia supremacism” as “less a religion than it is a totalitarian political ideology hiding under a religious veneer.”<sup>88</sup> They claim that if the U.S. government does not vet what they describe as “sharia supremacists” from “patriotic, pro-American Muslims” who “reject the imposition of sharia on civil and political life,” Muslim “enclaves” that are “assimilation-resistant . . . will breed the jihadists of the future while stifling the Constitution in the here and now.”<sup>89</sup>

It is clear then that Gaffney and his various associates provided much of the flawed research and legal support to the Muslim and African Ban. This is further proof that the rationale and motivations behind the Ban are rooted more in anti-Muslim animus than authentic concerns about national security and the public good.

#### IV. THE MUSLIM AND AFRICAN BAN AND THE ADMINISTRATION OF RELIGIOUS FREEDOM

In July 2019, the State Department hosted its second Ministerial to Advance Religious Freedom, under the leadership of Secretary Mike Pompeo and Ambassador-at-Large for International Religious Freedom Sam Brownback.<sup>90</sup> While the conveners of the Ministerial made lofty calls for religious freedom around the world, as individuals their support of religious

<sup>83</sup> Brian Bennett & Noah Bierman, *White House Aides Who Wrote Trump’s Travel Ban See It as Just the Start*, L.A. TIMES (Jan. 30, 2017, 6:30 PM), <https://www.latimes.com/politics/la-na-pol-trump-immigration-20170130-story.html>; Bridge Initiative Team, *Factsheet: Steve Bannon*, BRIDGE: GEO. U. INITIATIVE (Sept. 16, 2016), <https://bridge.georgetown.edu/research/factsheet-steve-bannon/>.

<sup>84</sup> *About*, AM. FREEDOM L. CTR., <https://www.americanfreedomlawcenter.org/about/> (last visited Apr. 30, 2020).

<sup>85</sup> *AFLC Files Brief on Behalf of National Security Experts: Trump Travel Ban Is Constitutional as Interim Step to Extreme Vetting for Islamist Sharia Ideology*, AM. FREEDOM L. CTR. (Aug. 17, 2017), <https://www.americanfreedomlawcenter.org/press-release/aflc-files-brief-on-behalf-of-national-security-experts-trump-travel-ban-is-constitutional-as-interim-step-to-extreme-vetting-for-islamist-sharia-ideology/> [hereinafter *AFLC Files Brief*].

<sup>86</sup> *Advisory Board*, AM. FREEDOM L. CTR., <https://www.americanfreedomlawcenter.org/about/advisory-board/> (last visited Jan. 20, 2020).

<sup>87</sup> *AFLC Files Brief*, *supra* note 74.

<sup>88</sup> Brief for National Security Experts et al. as Amici Curiae Supporting Petitioners at 12, *Trump v. Int’l Refugee Assistance Project*, 138 S. Ct. 353 (2017) (No. 16-1436), *Trump v. Hawaii*, 138 S. Ct. 1 (2017) (No. 16-1540).

<sup>89</sup> *Id.* at 10.

<sup>90</sup> *2019 Ministerial to Advance Religious Freedom*, U.S. DEP’T ST., <https://www.state.gov/2019-ministerial-to-advance-religious-freedom/> (last visited May 31, 2020).

freedom of Muslims has been troubling.<sup>91</sup> The Ministerial also failed to account for its administration's ongoing ban on Muslims and its slashing of the numbers of refugees, particularly Muslim refugees, admitted into the U.S.

At the Ministerial, Secretary Pompeo welcomed attendees in his opening remarks, stating, “[a]ll people, from every place on the globe, must be permitted to practice their faith openly in their homes, in their place of worship, in the public square, and believe what they want to believe.”<sup>92</sup> This language stands in stark contrast to the actions of the Trump administration to ban Muslims from the U.S. It also contradicts Pompeo's frequent use of inflammatory language against Muslims, his support of anti-Islam conspiracy theories, and his close associations with anti-Muslim activists, organizations, and think tanks.<sup>93</sup>

As a U.S. Member of Congress from the Fourth District of Kansas from 2011 to 2017, Pompeo worked closely with CSP and ACT for America (“ACT”), another anti-Muslim organization.<sup>94</sup> Then-Congressman Pompeo appeared over a dozen times on CSP's radio program, Secure Freedom Radio.<sup>95</sup> In February 2015, Pompeo spoke at an invitation-only and self-described “counter-jihadist” roundtable hosted by CSP.<sup>96</sup> Pompeo attended in company with white nationalist Congressman Steve King, anti-Muslim and anti-North African Dutch Parliamentarian Geert Wilders, and AFLC co-president David Yerushalmi.<sup>97</sup>

While in Congress, Pompeo also maintained close ties with ACT and its founding director, Brigitte Gabriel. In 2016, Pompeo was awarded ACT's “National Security Eagle Award,” which ACT describes as its “highest honor.”<sup>98</sup> Pompeo has spoken at ACT's annual congressional briefings in 2013,<sup>99</sup> 2015,<sup>100</sup> and 2016.<sup>101</sup> His office also sponsored the room in the U.S.

<sup>91</sup> Emma Green, *Leading, Just Not by Example*, ATLANTIC (July 19, 2019), <https://www.theatlantic.com/politics/archive/2019/07/religious-freedom-united-states/594418/>.

<sup>92</sup> Bureau of Democracy, Human Rights & Labor, *Ministerial to Advance Religious Freedom (Tuesday Part 1 of 3)*, YOUTUBE (July 16, 2019), <https://www.youtube.com/watch?v=J6QNysB2pDE>.

<sup>93</sup> Bridge Initiative Team, *Factsheet: Mike Pompeo*, BRIDGE: GEO. U. INITIATIVE (Sept. 12, 2017), <https://bridge.georgetown.edu/research/factsheet-mike-pompeo/>.

<sup>94</sup> Brigitte Gabriel, *Personal Message from Brigitte*, ACT FOR AM. (June 10, 2017), <https://web.archive.org/web/20170610105418/http://www.actforamerica.org/bgeoy>; Medhi Hassan, *Mike Pompeo Has Extreme Views on Muslims—and Liberals Don't Seem to Care*, INTERCEPT (Aug. 20, 2019, 5:25 AM), <https://theintercept.com/2019/08/20/mike-pompeo-new-yorker-muslims/>; Stephen Piggott, *Following Trump Appointments, Anti-Muslim ACT for America May See Growing Influence*, S. POVERTY L. CTR. (Nov. 28, 2016), <https://www.splcenter.org/hatewatch/2016/11/28/following-trump-appointments-anti-muslim-act-america-may-see-growing-influence>.

<sup>95</sup> Hassan, *supra* note 92.

<sup>96</sup> Secure Freedom, *Defeat Jihad Summit*, YOUTUBE (Feb. 11, 2015), <https://www.youtube.com/watch?v=xl-7nxBOWyU>.

<sup>97</sup> *Id.*

<sup>98</sup> Brigitte Gabriel, *Personal Message from Brigitte*, ACT FOR AM., <http://web.archive.org/web/20180702075829/http://www.actforamerica.org/bgeoy> (last visited July 2, 2018).

<sup>99</sup> Lisa Piraneo, *Legislative Action Alert: U.S. Congressman Mike Pompeo Stands Up to CAIR!*, TENNESSEANS WATCHING FED. & ST. GOV'T, <http://web.archive.org/web/20161129012910/http://www.tngovwatch.org/act-for-america-congressman-mike-pompeo-stands-up-to-cair/> (last visited Nov. 29, 2016).

<sup>100</sup> *National Conference Speakers Announced*, ACT FOR AM., <http://web.archive.org/web/20160516090437/http://www.actforamerica.org/2015-national-conference-speakers-announced> (last visited Jan. 26, 2020).

<sup>101</sup> Stephen Piggott, *Following Trump Appointments, Anti-Muslim ACT for America May See Growing Influence*, S. POVERTY L. CTR. (Nov. 28, 2016), <https://www.splcenter.org/hatewatch/2016/11/28/following-trump-appointments-anti-muslim-act-america-may-see-growing-influence>.

Capitol for the 2016 briefing.<sup>102</sup> Gabriel has described Pompeo as a “steadfast ally” of ACT for America “since the day he was elected to Congress.”<sup>103</sup>

In a July 2019 interview on EWTN-TV with Raymond Arroyo, Pompeo discussed the Ministerial and its significance to him as a Christian:

I am an Evangelical Christian. My faith informs my behavior. I hope I can get it right most days. It is special in that it’s not about promoting Christianity. It’s everyone having this chance. I live in this amazing country that permits me to practice my faith as I see fit.<sup>104</sup>

Just five years prior, however, then-Congressman Pompeo was propagating anti-Islam tropes and conspiracy theories to his constituents. In a June 2015 visit to a Kansan church, Pompeo stated that “we are engaged in a struggle against radical Islam” and that “this evil is all around us.”<sup>105</sup> While Pompeo does not specify who the “we” is, he is engaging in the anti-Islam trope that there is a civilizational difference in religion and a constructed geography of the “West.”

Pompeo’s expressed belief in a “clash of civilizations” can be traced back to Bernard Lewis, who died in May 2018.<sup>106</sup> Lewis has been criticized by Palestinian-American public intellectual Edward Said as “presuming to speak for a whole religion or civilization,”<sup>107</sup> as well as by others as “a propagandist against Islam”<sup>108</sup> and the “intellectual muscle” behind interventionist U.S. foreign policy in the Middle East.<sup>109</sup> In May 2018, merely a week prior to his announcement on the first annual Ministerial,<sup>110</sup> Pompeo issued a State Department press statement on the death of Bernard Lewis, stating that he “read much of what [Lewis] wrote” and “owe[s] a great deal of [his] understanding of the Middle East to [Lewis]’ work.”<sup>111</sup> Lewis is notorious for racist and anti-Muslim publications such as “The Roots of Muslim Rage,” published in September 1990 in *Atlantic Magazine*,<sup>112</sup> and

<sup>102</sup> *Id.*

<sup>103</sup> Secure Freedom, *supra* note 68.

<sup>104</sup> Secretary of State Michael R. Pompeo With Raymond Arroyo of EWTN-TV, U.S. DEP’T ST. (Jul. 19, 2019), <https://www.state.gov/secretary-of-state-michael-r-pompeo-with-raymond-arroyo-of-ewtn-tv/>.

<sup>105</sup> Summit Church Kansas, *Summit Church God and Country Rally 2015*, YOUTUBE (July 8, 2015), <https://www.youtube.com/watch?v=sO0opXYM52w>.

<sup>106</sup> Douglas Martin, *Bernard Lewis, Influential Scholar of Islam, Is Dead at 101*, N.Y. TIMES (May 21, 2018), <https://www.nytimes.com/2018/05/21/obituaries/bernard-lewis-islam-scholar-dies.html>.

<sup>107</sup> Edward Said, *The Clash of Ignorance*, NATION (Oct. 4, 2001), <https://www.thenation.com/article/clash-ignorance/>.

<sup>108</sup> Peter Osborne, *Do Not Weep for Bernard Lewis, High Priest of War in the Middle East*, MIDDLE EAST EYE (May 22, 2018), <https://www.middleeasteye.net/opinion/do-not-weep-bernard-lewis-high-priest-war-middle-east>.

<sup>109</sup> Ian Buruma, *Lost in Translation*, NEW YORKER (Jun. 6, 2004), <https://www.newyorker.com/magazine/2004/06/14/lost-in-translation-3>.

<sup>110</sup> Michael Pompeo, *Release of the 2017 Annual Report on International Religious Freedom*, U.S. DEP’T ST. (May 29, 2018), <https://www.state.gov/release-of-the-2017-annual-report-on-international-religious-freedom/>.

<sup>111</sup> Michael Pompeo, *On the Passing of Bernard Lewis*, U.S. DEP’T ST. (May 20, 2018), <https://www.state.gov/on-the-passing-of-bernard-lewis/>.

<sup>112</sup> Bernard Lewis, *The Roots of Muslim Rage*, ATLANTIC (Sept. 1990), <https://www.theatlantic.com/magazine/archive/1990/09/the-roots-of-muslim-rage/304643/>.

“Time for Topping,” published in September 2002 in the *Wall Street Journal*, in which Lewis argued that the U.S. should militarily intervene in Iraq.<sup>113</sup>

While Secretary Pompeo has uplifted the human rights abuses and genocide in Xinjiang by China against Uighur Muslims, his Ambassador-at-Large for International Religious Freedom Sam Brownback has advocated on behalf of British white nationalist Tommy Robinson, who at the time of this advocacy was incarcerated after pleading guilty to contempt of the court<sup>114</sup> following his Facebook broadcast outside of a courthouse and making comments that caused an ongoing trial to collapse.<sup>115</sup> Stephen Christopher Yaxley-Lennon, otherwise known as Tommy Robinson, is notorious for his white nationalist, anti-Muslim, and anti-immigration activism and ideologies.<sup>116</sup> Robinson has described Islam as a “disease” and has propagated conspiracy theories against Islam and Muslims.<sup>117</sup> Robinson has stated that there is an ‘Islamification’ of Europe underway,<sup>118</sup> and has claimed that the relocation of refugees in Europe is a “Muslim invasion.”<sup>119</sup> But, why would the U.S. Ambassador for International Religious Freedom be intervening for a person who has denigrated Islam and spread dangerous propaganda and conspiracy theories about Islam and Muslims?

For starters, Brownback himself has a despicable history of discrimination and animus against Muslims and Islam. This includes his time as Governor of the state of Kansas—the same state Pompeo previously represented as a U.S. Member of Congress—in which he signed bills into law that singled out Muslims on the basis of their faith and operationalized the anti-Muslim conspiracy theory that Muslims seeks to subvert America from within by instituting Sharia, or Islamic law.<sup>120</sup>

In May 2012, then-Governor Brownback signed Kansas Senate Bill 79 into law.<sup>121</sup> The law declares void and unenforceable any court, arbitration, tribunal, administrative ruling or decision, or contract or contractual provision that is “based on a foreign law, legal code, or system that does not grant the parties affected the fundamental liberties, rights, and privileges

<sup>113</sup> Bernard Lewis, *Time for Toppling*, WALL STREET J. (Sept. 27, 2002), <https://www.wsj.com/articles/SB1033089910971012713>.

<sup>114</sup> Frances Perraudin, *EDL founder Tommy Robinson jailed for contempt of court*, GUARDIAN (May 29, 2018), <https://www.theguardian.com/uk-news/2018/may/29/edl-founder-tommy-robinson-jailed-13-months>.

<sup>115</sup> Steve Bird, *Tommy Robinson Knew What He Was Doing When He Identified Alleged Grooming Gang on Facebook, Court Hears*, TELEGRAPH (Jul. 4, 2019), <https://www.telegraph.co.uk/news/2019/07/04/tommy-robinson-knew-full-broadcasting-facebook-grooming-gang/>.

<sup>116</sup> See *infra* notes 100–102 and accompanying text.

<sup>117</sup> Matt Rowland Hill, *Who Is the Real Tommy Robinson?*, TELEGRAPH (Oct. 18, 2013), <https://www.telegraph.co.uk/news/politics/10389954/Who-is-the-real-Tommy-Robinson.html>.

<sup>118</sup> Steve Hopkins, *Tommy Robinson Helps Launch Pegida Netherlands, Implores Crowds To ‘Stand Together To Fight Islamification’*, HUFFINGTON POST U.K. (Oct. 11, 2015), [https://www.huffingtonpost.co.uk/2015/10/11/tommy-robinson-pegida\\_n\\_8277094.html?guccounter=1](https://www.huffingtonpost.co.uk/2015/10/11/tommy-robinson-pegida_n_8277094.html?guccounter=1).

<sup>119</sup> Josh Lowe, *Pegida U.K.: What Does Tommy Robinson’s ‘Anti-Islam’ Group Want?*, NEWSWEEK (Feb. 5, 2016), <https://www.newsweek.com/tommy-robinson-edl-pegida-uk-423623>.

<sup>120</sup> KAN. STAT. ANN. §§ 60-5101–5108 (2012). See generally ELSADIG ELSHEIKH, BASIMA SISEMORE & NATALIA RAMIREZ LEE, HAAS INST. FOR A FAIR & INCLUSIVE SOC’Y, LEGALIZING OTHERING: THE UNITED STATES OF ISLAMOPHOBIA (Marc Abizeid, Rhonda Itaoui & Stephen Menendian, eds., Sept. 2017),

[http://haasinstitute.berkeley.edu/sites/default/files/haas\\_institute\\_legalizing\\_othering\\_the\\_united\\_states\\_of\\_islamophobia.pdf](http://haasinstitute.berkeley.edu/sites/default/files/haas_institute_legalizing_othering_the_united_states_of_islamophobia.pdf); Bridge Initiative Team, *Factsheet: Sam Brownback*, BRIDGE: GEO. U. INITIATIVE (May 2, 2018), <https://bridge.georgetown.edu/research/factsheet-sam-brownback/>.

<sup>121</sup> KAN. STAT. ANN. §§ 60-5101–5108 (2012).

granted by the U.S. and Kansas Constitutions.”<sup>122</sup> Such “anti-foreign law” bills have been proposed and passed in state legislatures across the U.S. The aforementioned David Yerushalmi, whose law firm submitted the amicus brief to the Supreme Court in support of the Ban on behalf of CSP and individuals such as Frank Gaffney, is actually the architect of anti-foreign law legislation at the state level.<sup>123</sup> In fact, the focus on “foreign law” was a strategic recasting of the more explicit and direct “anti-sharia law” legislation<sup>124</sup> that was initially pushed in Oklahoma and found to be unconstitutional.<sup>125</sup> When Kansas Senate Bill 79 was passed, the anti-Muslim activist movement ACT took credit.<sup>126</sup> According to a 2018 HAAS Institute report, between 2010 and 2016 thirty-nine states have introduced anti-Sharia legislation: 194 bills have been introduced; eighteen bills have been enacted; and 176 bills have not been enacted.<sup>127</sup>

In addition to signing anti-Sharia legislation into law, then-Governor Brownback also passed an executive order that discriminated against LGBTQIA2S+ Kansans.<sup>128</sup> Brownback rolled back anti-discrimination protections for state employees on the basis of sexual orientation.<sup>129</sup> Brownback further issued an executive order titled “Preservation and Protection of Religious Freedom”<sup>130</sup> to legally protect faith leaders and religious organizations from lawsuits in order to deny marriage, charity, housing, adoption, and foster care services on the basis of religious beliefs.<sup>131</sup> In March 2016, Brownback signed into law Kansas Senate Bill 175.<sup>132</sup> The

<sup>122</sup> *Id.* It is unclear how this law does or does not impact state and federally recognized tribes (Iowa Tribe of Kansas and Nebraska, Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas, Prairie Band Potawatomi Nation, Sac & Fox Nation of Missouri (Kansas and Nebraska)) and tribal law within the territorial borders of the state of Kansas. While other anti-foreign law bills have explicitly exempted tribal law from the law’s provisions (i.e. Arkansas and Mississippi. *Id.*; *State Resources on the Prohibition of the Use of Foreign or Religious Law in State Courts*, NAT’L COUNCIL ST. LEGISLATORS (July 6, 2017), <http://www.ncsl.org/research/civil-and-criminal-justice/-state-resources-on-the-prohibition-of-the-use-of-foreign-law-in-state-courts.aspx>).

<sup>123</sup> See generally Brief for National Security Experts et al. as Amici Curiae Supporting Petitioners, *Trump v. Hawaii*, 138 S. Ct. 2392 (2018) (No. 17-965); ELSHEIKH, SISEMORE & RAMIREZ LEE, *supra* note 118; Bridge Initiative Team, *Factsheet: A.F.L.C.*, BRIDGE: GEO. U. INITIATIVE (July 23, 2018), <https://bridge.georgetown.edu/research/factsheet-american-freedom-law-center/>; Bridge Initiative Team, *Factsheet: David Yerushalmi*, BRIDGE: GEO. U. INITIATIVE (Dec. 8, 2017), <https://bridge.georgetown.edu/research/factsheet-david-yerushalmi/>.

<sup>124</sup> *Oklahoma International and Sharia Law, State Question 755 (2010)*, BALLOTPEdia, [https://ballotpedia.org/Oklahoma\\_International\\_and\\_Sharia\\_Law\\_State\\_Question\\_755\\_\(2010\)](https://ballotpedia.org/Oklahoma_International_and_Sharia_Law_State_Question_755_(2010)) (last visited Apr. 30, 2020).

<sup>125</sup> Mary Wisniewski, *Judge Bars Oklahoma from Implementing Anti-Sharia Law*, REUTERS (Aug. 16, 2013), <https://www.reuters.com/article/us-usa-oklahoma-muslims/judge-bars-oklahoma-from-implementing-anti-sharia-law-idUSBRE97F11720130816>.

<sup>126</sup> Stephen Piggott, *Kansas Becomes the Latest State to Ban Sharia Law*, IMAGINE2050 (May 31, 2012), <http://web.archive.org/web/20170408141250/http://imagine2050.newcomm.org/2012/05/31/kansas-becomes-the-latest-state-to-ban-sharia-law/>.

<sup>127</sup> ELSHEIKH, SISEMORE & RAMIREZ LEE, *supra* note 118, at 8.

<sup>128</sup> Bridge Initiative Team, *Factsheet: Sam Brownback*, BRIDGE: GEO. U. INITIATIVE (May 2, 2018), <https://bridge.georgetown.edu/research/factsheet-sam-brownback/>; Bryan Lowry, *Gov. Sam Brownback Issues Executive Order on Religious Liberty After Same-Sex Marriage Ruling*, WICHITA EAGLE (July 7, 2015), <https://www-1.kansas.com/news/politics-government/article26668207.html>.

<sup>129</sup> Jonathan Shorman, *Brownback Rescinds Executive Order that Offered Protections on Basis of Sexual Orientation*, TOPEKA CAP. J. (Feb. 10, 2015), <https://www.cjonline.com/news/2015-02-10/brownback-rescinds-executive-order-offered-protections-basis-sexual-orientation>.

<sup>130</sup> Preservation and Protection of Religious Freedom, Kan. Exec. Order No. 15-05 (July 7, 2015), <https://kslib.info/DocumentCenter/View/4451/EO-15-05?bidId=>.

<sup>131</sup> Lowry, *supra* note 126.

<sup>132</sup> KAN. STAT. ANN. §§ 60-5311–5313 (2016).

law permitted religious groups on publicly funded college campuses to discriminate against members or would-be members on the basis of religious beliefs.<sup>133</sup> One of the Republican legislators who supported the legislation stated that “gays, Muslims or other outsiders could force their way into Christian organizations in ways that compromised religious liberty of core members.”<sup>134</sup>

Furthermore, under Governor Brownback’s leadership, Kansas became the first state in the country to withdraw from the federal refugee resettlement program in April 2016.<sup>135</sup> Brownback cited “national security” concerns, just as President Trump would in coming years.<sup>136</sup> When Ambassador Brownback was asked a question about religious freedom in the context of refugee resettlement at the 2019 Ministerial to Advance International Religious Freedom, Brownback responded to this broad question with incredible specificity, discussing the religious freedoms of Christian refugees in the Middle East.<sup>137</sup> Furthermore, under the administration in which he and Pompeo served, the number of Muslim refugees admitted to the U.S. declined by 91 percent during fiscal years 2016–2018.<sup>138</sup> The State Department has slashed the maximum number of refugees admitted to the U.S. to thirty thousand in fiscal year 2019,<sup>139</sup> and eighteen thousand in fiscal year 2020<sup>140</sup>—the lowest level since the start of the refugee resettlement program in 1980.<sup>141</sup> These plummeting numbers fall squarely within Trump’s Muslim and African Bans, which have prioritized the admission of Christian refugees over Muslim refugees.<sup>142</sup>

The past anti-Muslim actions and rhetoric of current administration officials Pompeo and Brownback call into question the lofty calls for religious freedom under the Trump administration. Whose religious

<sup>133</sup> Bryan Lowry, *Brownback Signs Bill Allowing Campus Religious Groups to Restrict Membership*, WICHITA EAGLE (Mar. 22, 2016), <https://www-1.kansas.com/news/politics-government/article67612967.html>.

<sup>134</sup> Tim Carpenter, *Kansas House Endorses Bill to Shield Faith-Based Campus Organizations*, TOPEKA CAP.-J. (Mar. 15, 2016, 1:06 PM), <http://www.cjonline.com/news/2016-03-15/kansas-house-endorses-bill-shield-faith-based-campus-organizations>.

<sup>135</sup> Niraj Chokshi, *‘The Federal Government Has Failed’: Kansas Gov. Brownback Backs out of Refugee Program*, WASH. POST (Apr. 27, 2016, 9:43 AM), <http://www.washingtonpost.com/news/post-nation/wp/2016/04/27/kansas-gov-brownback-turns-away-refugees-over-security-concerns/>; Edward M. Eveld, *Gov. Sam Brownback Withdraws Kansas from Federal Refugee Resettlement Program*, KAN. CITY STAR (Apr. 26, 2016, 11:13 AM), <http://www.kansascity.com/news/politics-government/article73945807.html>.

<sup>136</sup> Justin Carissimo, *Republican Governors Are Refusing Syrian Refugees Following the Paris Attacks*, INDEP. (Nov. 16, 2015, 2:45 PM), <http://www.independent.co.uk/news/world/americas/two-republican-governors-are-refusing-syrian-refugees-in-alabama-and-michigan-a6736511.html>.

<sup>137</sup> Bureau of Democracy, Human Rights & Labor Video, *MARF - Closing Press Conference with Ambassador Brownback*, YOUTUBE (July 18, 2019), <http://www.youtube.com/watch?v=UmLWFxKueRc&feature=youtu.be>.

<sup>138</sup> David Bier, *Trump Cut Muslim Refugees 91%, Immigrants 30%, Visitors by 18%*, CATO INST. (Dec. 7, 2018, 9:44 AM), <http://www.cato.org/blog/trump-cut-muslim-refugees-91-immigrants-30-visitors-18>.

<sup>139</sup> Presidential Determination on Refugee Admissions for Fiscal Year 2019, 83 Fed. Reg. 55,091, 55,091 (Nov. 1, 2018).

<sup>140</sup> Presidential Determination on Refugee Admissions for Fiscal Year 2020, 84 Fed. Reg. 65,903, 65,903 (Nov. 1, 2019).

<sup>141</sup> Eileen Sullivan, *What Is the Refugee Program and Why Does the Trump Administration Want to Make Cuts?*, N.Y. TIMES (Sept. 6, 2019), <http://www.nytimes.com/2019/09/06/us/politics/what-is-the-refugee-program.html>.

<sup>142</sup> Laurie Goodstein, *Christian Leaders Denounce Trump’s Plan to Favor Christian Refugees*, N.Y. TIMES (Jan. 29, 2017), <http://www.nytimes.com/2017/01/29/us/christian-leaders-denounce-trumps-plan-to-favor-christian-immigrants.html>.



freedoms is the administration actually concerned with, and whose religious freedoms is the administration willing to restrict? Is prioritizing the resettlement of Christian refugees over Muslim refugees emblematic of religious freedom? Where does the Ban fall into questions of religious freedom?

## V. DATA FROM THE MUSLIM AND AFRICAN BAN

The Muslim and African Ban is currently in effect, and it has been since December 2017.<sup>143</sup> The first version of the Ban (there would be three additional versions by the end of 2017),<sup>144</sup> signed just days after President Trump's inauguration,<sup>145</sup> made it clear that this was a ban on Muslims and a fulfillment of his campaign promise to ban Muslims from entering the U.S. The current Ban impacts nationals from eleven countries with a Muslim majority or significant Muslim population—over half of which are located on the African continent—in addition to North Korea and Venezuela.<sup>146</sup> They include Eritrea, Iran, Kyrgyzstan, Libya, Myanmar, Nigeria, Somalia, Sudan, Syria, Tanzania, and Yemen.<sup>147</sup> These immigration restrictions have devastating impacts on directly affected individuals, as well as their families—many of whom are U.S. citizens or greencard holders.<sup>148</sup>

As detailed in the data collection and analysis by the Bridge Initiative, of the 549 entries of individuals targeted by the Ban whose stories and narratives are publicly available through June 2018, over one in ten, or 15.3%, were siblings who have been separated from each other.<sup>149</sup> One in four, or 26 percent, are children who have been separated from their parents, and one in three, or 37.7%, have been partners separated from each other.<sup>150</sup> Moreover, at least sixteen babies have been born while their parents, grandparents, or siblings await adjudication on their visa or waiver application; twenty-four individuals have put off having children; thirteen have missed or may miss the funeral or final goodbye of a loved one; and thirteen have had to cancel, postpone, or miss a wedding.<sup>151</sup> In terms of the psychological toll of those impacted by the Ban, one in eight, or 12.5%, of

<sup>143</sup> Adam Liptak, *Supreme Court Allows Trump Travel Ban to Take Effect*, N.Y. TIMES (Dec. 4, 2017), <https://www.nytimes.com/2017/12/04/us/politics/trump-travel-ban-supreme-court.html>.

<sup>144</sup> *The Muslim Ban(s) – An Explainer*, INT'L REFUGEE ASSISTANCE PROJECT (May 3, 2018), <http://refugeerights.org/the-muslim-bans-an-explainer/>.

<sup>145</sup> See *Protecting the Nation From Foreign Terrorist Entry into the United States*, Exec. Order No. 13,769, 82 Fed. Reg. 8,977, 8,977 (Jan. 27, 2017), *superseded by executive order*, Exec. Order No. 13,780, 82 Fed. Reg. 13,209 (Mar. 6, 2017).

<sup>146</sup> Narea, *supra* note 7. See generally *Improving Enhanced Vetting Capabilities and Processes for Detecting Attempted Entry Into the United States by Terrorists or Other Public Safety Threats*, Proclamation No. 9983, 85 Fed. Reg. 6,699 (Jan. 31, 2020).

<sup>147</sup> Narea, *supra* note 7.

<sup>148</sup> Bridge Initiative Team, *The Muslim Bans*, BRIDGE: GEO. U. INITIATIVE, <https://bridge.georgetown.edu/research-publications/reports/muslimban/> (last visited May 31, 2020).

<sup>149</sup> *Id.*

<sup>150</sup> *Id.*

<sup>151</sup> *Id.*

individuals have explicitly reported experiencing anxiety, depression, and/or emotional distress.<sup>152</sup>

In June 2018 the Supreme Court ruled that the Muslim and African Ban did not violate the First Amendment of the U.S. Constitution, nor did it overstep the bounds of presidential power under the Immigration and Nationality Act largely due to the so-called waiver process.<sup>153</sup> According to State Department data, however, from December 2017 to March 2019, only 5.1% of all applications for a visa waiver have been issued a visa.<sup>154</sup> U.S. consular officials have stated that “there really is no waiver [process],” and have described it as a “fraud.”<sup>155</sup> Moreover, Senator Chris Van Hollen has described the waiver process as a “sham” that has “nothing to do with national security.”<sup>156</sup> More recently updated data from the State Department, from December 2017 to April 2020, indicate that of all applicants subject to the Ban, 26 percent of applicants were issued a visa pursuant to a waiver, and 74 percent or nearly three in four applicants were denied a visa pursuant to a waiver.<sup>157</sup> Indeed, the waiver process is nothing more than a technicality that enables the Trump Administration to continue to implement the Ban in furtherance of its long-standing discrimination against and denigration of Muslims.

## VI. CONCLUSION

In this paper we have attempted to demonstrate not only the devastating and ongoing harms and consequences of the Muslim and African Ban but also that it is not a product of the Trump administration alone. It is the culmination of decades of research and activism by white nationalist, anti-immigration, and anti-Muslim think tanks, organizations, and activists, such as the CIS, FAIR, and CSP, in addition to John Tanton, Stephen Miller, David Yerushalmi, and Frank Gaffney. Moreover, the Trump Administration’s

<sup>152</sup> *Id.*

<sup>153</sup> *Trump v. Hawaii*, 138 S. Ct. 2392, 2400–02 (2018). For additional discussions on challenges to the Ban, the legality of the Ban, and legal precedent for the Ban, see generally Robert S. Chang, *Whitewashing Precedent: From the Chinese Exclusion Case to Korematsu to the Muslim Travel Ban Cases*, 68 CASE W. RES. L. REV. 1183 (2018); Zainab Ramahi, *The Muslim Ban Cases: A Lost Opportunity for the Court and a Lesson for the Future*, 108 CALIF. L. REV. 557 (2020); Sirine Shebaya, *The Permanent Muslim Ban*, 32 GEO. IMMIGR. L.J. 249 (2018); Shoba Sivaprasad Wadhia, *National Security, Immigration, and the Muslim Bans*, 75 WASH. & LEE L. REV. 1475 (2018); Maggie Blackhawk, *The Indian Law that Helps Build Walls*, N.Y. TIMES (May 26, 2019), <https://www.nytimes.com/2019/05/26/opinion/american-indian-law-trump.html>.

<sup>154</sup> U.S. DEP’T OF STATE, IMPLEMENTATION OF PRESIDENTIAL PROCLAMATION 9645, DECEMBER 8, 2017 TO MARCH 31, 2019 3 (2019), <http://travel.state.gov/content/dam/visas/presidentialproclamation/Combined%20-%20Report%20on%20Implementation%20of%20PP%209645%20December%2007%202017%20to%20March%2031%202019.pdf>.

<sup>155</sup> Jeremy Stahl, “*The Waiver Process Is Fraud*”, SLATE (June 15, 2018), <http://slate.com/news-and-politics/2018/06/trump-travel-ban-waiver-process-is-a-sham-two-consular-officers-say.html>.

<sup>156</sup> Press Release, Van Hollen Releases New State Department Data on Travel Ban (June 10, 2019), <http://www.vanhollen.senate.gov/news/press-releases/06/10/2019/van-hollen-releases-new-state-department-data-on-travel-ban>.

<sup>157</sup> See generally U.S. DEP’T OF STATE, IMPLEMENTATION OF PRESIDENTIAL PROCLAMATIONS (P.P.) 9645 AND 9983 (2020), <https://travel.state.gov/content/dam/visas/presidentialproclamation/P.P.%209645%20Monthly%20Public%20Reporting%20E2%80%93%20April%202020.pdf>.

Muslim and African Ban and its anti-Muslim rhetoric are especially egregious when juxtaposed with its lofty calls for religious freedom worldwide. While the Ban already makes it clear whose religious freedom the Trump Administration is concerned with, the actions of officials tasked with promoting religious freedom—past and present—have targeted Muslims on the basis of their faith. This includes Secretary of State Mike Pompeo, who has connections with anti-Muslim organizations CSP and ACT, and U.S. Ambassador-at-Large for International Religious Freedom Sam Brownback, who signed anti-Sharia legislation into law as Governor of Kansas and advocated in his current capacity as Ambassador-at-Large on behalf of an anti-Muslim white nationalist from the UK.

The Bridge Initiative data analysis on the Muslim and African Ban demonstrates the severe human toll that this policy has had. According to the State Department, between December 2017 and March 2019, 60,275 immigrant and non-immigrant visa applications were subject to restrictions due to the Ban. And as of April 2020, 86,362 immigrant and non-immigrant applicants were subject to the Ban.<sup>158</sup> The administration has since added six additional countries to the Ban, and it has further slashed the number of refugees admitted for resettlement in the U.S.<sup>159</sup> These drastic policies will only exacerbate the ongoing suffering of those whose religious freedoms are of no use to this administration except as a tool to advance their anti-immigration, anti-Muslim, and white nationalist agenda.

Disclaimer: Opinions expressed are solely our own and do not necessarily reflect the views or opinions of our employer.

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<sup>158</sup> See generally *id.*

<sup>159</sup> Zolan Kanno-Youngs, *Trump Administration Adds Six Countries to Travel Ban*, N.Y. TIMES (Feb. 3, 2020), <https://www.nytimes.com/2020/01/31/us/politics/trump-travel-ban.html>.