



Oral Statement Delivered Under Item 3: Clustered Interactive Dialogue with the Special Rapporteur on terrorism and the Special Rapporteur on cultural rights

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First, the ACLU would like to thank Mr. Emmerson for his productive 6-year term as the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism. As relates to our work, we would especially like to recognize the Special Rapporteur's efforts in the areas of increasing transparency and accountability for the use of drones, torture, mass surveillance and Counter-Violent Extremism (CVE) programs.

In the weeks since his inauguration, President Donald Trump has signaled his intention to implement national security and immigration policies that clearly violate U.S. and international law and undermine human rights. Indeed, just a few weeks into office, he is already proving the High Commissioner for Human Rights Zeid Ra'ad al-Hussein correct in his prediction that President Trump would be "[dangerous from an international point of view](#)".

Just a week after taking office, President Trump took an extreme and harmful measure that violates the U.S. Constitution and other domestic law as well as human rights treaty obligations. Executive Order 13769, entitled "Protecting the Nation from Foreign Terrorist Entry into the United States" but known by many as the "Muslim Ban," is composed of three interrelated components: first, the order slashed and temporarily suspended the U.S. refugee program and explicitly provides priority for refugees of minority religions, which President Trump has made clear means Christians; second, the order indefinitely suspended the entry of all Syrian refugees to the United States; and third, it categorically banned entry to the United States of nationals of seven majority-Muslim countries—Iran, Iraq, Libya, Somalia, Sudan, Syria, and Yemen.

The ban's immediate disastrous effects were felt in the United States and around the world. The White House reportedly issued the executive order without consulting with or providing guidance to the executive branch departments responsible for implementing it. U.S. Customs and Border Protection (CBP) officials detained legal permanent residents of the U.S. as well as foreign nationals who held valid visas or authorization to enter the country, including, for example, many international students seeking to return to the United States from travel abroad. Many individuals who had valid entry documents were nonetheless deported or denied admission by CBP officials. Immediately after the order went into effect, the Department of State revoked valid visas from [about](#) 60,000 nationals of the designated seven majority-Muslim countries.

Needless to say, the executive order, in its language and its implementation, is a flagrant violation of [international refugee and human rights law](#) and norms, as well as U.S. domestic law and treaty obligations. The Trump administration has defended the legality of this abhorrent order by asserting the President's broad authority to take extreme measures in times of emergency to protect American citizens from terror attacks and even claimed that it should not be subject to judicial review. We've heard this argument before, in the United States and around the world, and it must be rejected.

Numerous lawsuits were filed in federal courts in the United States almost immediately upon the executive order taking effect. The [first](#) emergency court order blocking deportations under the executive order was issued on the evening of January 26, 2017, and many other court orders soon followed. Most notably, on February 9, 2017, a [panel of federal judges](#) in the U.S. Court of Appeals for the Ninth Circuit affirmed a lower court's ruling putting a temporary halt on the ban itself just a week after it took effect. But, since then, President Trump has promised a second executive order, expected to come as soon as today, that would "...have the same basic policy outcome for the country" but would purportedly pass legal muster. We believe that these two outcomes are fundamentally incompatible; if the second Muslim ban has the "same basic policy outcome" as the first, it will not pass legal muster. Just as the ACLU and other groups successfully challenged the first executive order, we are committed to challenging any future executive actions that violate the Constitution and human rights.

Further, the facts make clear that there is nothing behind this order other than religious discrimination and xenophobia. As [leaked reports](#) internal to the U.S. Department of Homeland Security have demonstrated, there simply is no need for such dramatic measures on national security grounds. The lack of a genuine national security justification is further demonstrated by the Trump administration's delay in issuing a revised executive order based on its acknowledged desire to time the issuance for a more opportune news cycle. Further, there is no evidence that refugees or immigrants, and especially refugees or immigrants from these seven majority-Muslim countries, pose any threat to U.S. national security. Indeed, former high-level U.S. national security officials have stated publicly that a reduction in refugee admissions, and discriminatory admission policies in general, would have an adverse effect on U.S. national security, as such restrictive and discriminatory policies play into ISIS narratives that the United States is fundamentally anti-Muslim.

In addition to the reprehensible Muslim ban, President Trump will [reportedly](#) re-focus the already-problematic Countering Violent Extremism (CVE) from ostensibly countering all forms of violent extremism to focusing solely on "Islamic extremism". The already-existing U.S. program raised numerous human rights concerns, as noted by Special Rapporteur Emmerson in a previous [report](#), because it singled out Muslims. President Trump's version of the program, if it targets so-called "Islamic extremism", would likely raise additional human rights concerns by only targeting Muslims both in its purpose and its application.

These developments reflect a deeply troubling trend from the current United States government that we anticipate will only worsen over the next four years – dressing up attacks on Muslims, immigrants (undocumented and documented), and other vulnerable communities as national security measures. As the Council knows, this threat is by no means new; but, it is dangerously acute coming from the President of the United States at a moment when Islamophobia and xenophobia are sweeping countries across the world.

President Trump has made fear, anti-Muslim discrimination, and xenophobia the hallmarks of his campaign and presidency, and in public speeches and appearances as President, has sought to create a crisis and sense of chaos that supposedly demand extreme national security measures in response. This strategy echoes tactics used by repressive regimes around the world, and it must be stopped. Last week, Erin M. Barclay, Deputy Assistant Secretary of State for In-

ternational Organization Affairs [told this Council](#) that “the United States’ commitment to fundamental human rights is stronger than ever.” But actions speak louder than words, and the Trump administration is not above the law and shouldn’t be allowed to pay lip service to human rights while its actions threaten to violate the human rights and fundamental freedoms of millions.

The United States should have learned in the last 15 years that disastrous counter-terrorism policies that undermine human rights in the name of national security make America less safe and less great. The United States must never abandon or compromise its foundational commitment to the rule of law, respect for human dignity, and universal human rights.

Thank you.

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