

ANALYSIS

THE ISLAMOPHOBIC ADMINISTRATION

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Introduction

This report examines the Trump presidency through the lens of its impact on American Muslims. During the campaign, President Donald Trump trafficked in anti-Muslim rhetoric, and proposed laws and policies targeting American Muslim communities. The first few months of his administration have seen sustained attempts to put those proposals into action. Within a week of taking office, Trump issued an executive order banning entry to the U.S. by travelers from seven Muslim countries, along with all refugees. Stymied by court rulings halting implementation of the order, he revised the ban to remove its obviously discriminatory provisions (such as a *de facto* exemption for Christians), but the latest version of the ban has also been enjoined by federal courts. In the meantime, the administration has moved to develop a system of “extreme vetting” that is likely to apply with particular intensity to Muslim travelers.

Upon taking office, Trump quickly installed notorious Islamophobes — including Steve Bannon, Michael Flynn, and Sebastian Gorka — in the White House. Trump’s own blatantly anti-Muslim rhetoric has emboldened people to act on their prejudices, and hate crimes against Muslims have soared. In sum, Trump

has created the most Islamophobic administration our country has seen.

This agenda should not, however, be viewed as a complete aberration. In some ways, it is an amplification and extension of practices and policies that became par for the course in post-September 11 America. President George W. Bush built, and President Barack Obama allowed to stand, national security laws and policies that treat American Muslims as suspects, subjecting them to widespread surveillance and preemptive prosecution. Travel to the U.S. from most majority Muslim countries was never easy, and extreme vetting has long been a reality for American Muslims, especially after the 9/11 attacks. Islamophobes have trained our soldiers and law enforcement officers and regularly testified at Congressional hearings. Hate crimes against Muslims have been an ongoing problem, with rates spiking after the attacks of 9/11 and showing an overall increase since 2010.¹

Trump’s actions have galvanized a robust resistance movement, with thousands of people taking to the streets and airports across the country to protest his ban on Muslims entering the country. His personnel choices have been criticized across the political

spectrum, as has his silence on attacks on Muslims. All this is heartening, but the continuity between Trump's policies and those of his predecessors must inform efforts both to push back against his blatant discrimination against Muslims and to shape new laws and policies that ensure equality and security for all Americans.

Trump's Anti-Muslim Rhetoric

Trump's inflammatory rhetoric on Islam, and more generally on immigrants and foreigners, defined much of his campaign and laid the foundation for the policies he would implement, the advisors he would put into place, and the growing fears that American Muslims have for their safety and the safety of their families. To be sure, there is a long and sorry history of politicians ginning up fear and baseless prejudice against the Muslim community, but now it has made its way to the White House. During the campaign, Trump consistently expressed suspicion and fear of Islam and Muslims:

- He stated categorically that “Islam hates us,” and refused to dismiss the possibility that hate was “in Islam itself.”²
- He called for a prohibition on Muslims entering the country, as described in more detail below.
- He proposed surveilling “certain mosques” and referred approvingly to the New York City Police Department’s (NYPD’s) program of mosque surveillance in the years after the 9/11 attacks, undeterred by the fact that its constitutionality had been challenged in three lawsuits, one of which was recently settled with the police agreeing to changes in the way they conduct investigations and accepting more robust external oversight.³
- He repeated a disproven canard that Muslims in New Jersey cheered when the World Trade

Center buildings fell on 9/11 — even claiming, impossibly, that he saw it on television.⁴

- He insinuated that “the Muslim community does not report” terrorists in their midst, a charge that the FBI itself says is flatly contradicted by the evidence.⁵
- He endorsed the idea of requiring Muslims in the United States to register in a special database — a proposal he backed away from after criticisms that it resembled registration of Jews in Nazi Germany.⁶ One of his surrogates suggested that Japanese internment camps served as a suitable precedent for the Muslim registry, despite the fact that the camps and the Supreme Court decision upholding them have been repudiated by a bipartisan Congressional commission, bipartisan legislation signed by President Reagan, and numerous judges and legal scholars.⁷

Trump has carried his suspicion of American Muslims into office. Most recently, his administration signaled that it planned to rebrand the government’s program on Countering Violent Extremism, or CVE, to focus solely on Islamic extremism.⁸ Even when CVE was ostensibly targeted at all forms of violent extremism, it was highly controversial because in practice it was directed mainly at Muslims and provided ample opportunities for law enforcement to spy on these communities.⁹ Removing the veneer of neutrality would only increase the stigma associated with CVE and the likelihood that it would be used by law enforcement agents as an intelligence gathering tool.

Trump’s unrelenting hostility towards Muslims is particularly striking in light of the very different approach taken by other Republican presidents. President George W. Bush observed that “Islam brings hope and comfort to millions of people in my country,” and emphasized that “we respect people of all faiths and welcome the free practice of religion.”¹⁰ Not long after signing legislation requiring the collection

and publication of data about hate crimes, his father, President George H.W. Bush, publicly condemned anti-Muslim discrimination and urged Americans to “join together to rid our communities of the poison of prejudice, bias, and discrimination.”¹¹ Presidents Gerald Ford and Dwight D. Eisenhower similarly recognized the contributions of the Islamic world and the links between Muslims and other people of faith.¹²

Islamophobes in the White House

For more than a decade, fringe voices have sought to demonize Islam, a religion practiced by 1.5 billion people, including millions of Americans. Three themes have been prominent in this discourse: first, that Islam is not a legitimate religion, but a dangerous political ideology. Second, that the United States and other Western countries are engaged in an existential war with Islam. And third, that American Muslim civil society organizations and prominent Muslim public figures serve as fronts for the Muslim Brotherhood, which itself is a broad social and political movement that has never been designated as a foreign terrorist organization by the United States.¹³

These theories justify aggressive military action abroad and the repression of American Muslims at home through invasive surveillance, religious and ethnic profiling, and the jettisoning of fundamental constitutional protections for religious freedom. Individuals holding these once fringe views now occupy central roles in the Trump administration and appear to have a major hand in shaping blatantly discriminatory policies such as the Muslim ban and the “extreme vetting” procedures being developed by the Department of Homeland Security (DHS).

A trio of men exemplify anti-Islam voices in the White House: Steve Bannon, the President’s Senior Advisor; Michael Flynn, who until recently served as the President’s National Security Advisor; and Sebastian Gorka, Deputy Assistant to the President.

Their Islamophobic views have been widely reported:

- **Steve Bannon** has said that “Islam is not a religion of peace. Islam is a religion of submission,” and has claimed that the West is “at war with Islam.”¹⁴
- **Michael Flynn** has called Islam a “vicious cancer inside the body of 1.7 billion people” that must be “excised” and said that “fear of Muslims is rational.”¹⁵
- **Sebastian Gorka** has argued that admitting Muslim refugees would be “national suicide” and claims that Islam and the Koran serve as the basis for much of terrorism.¹⁶

All of these men are closely connected to Frank Gaffney, who heads the Center for Security Policy, a think tank known for promoting an anti-Muslim agenda based on shoddy research.¹⁷ For example, Gaffney has promoted legislation to ban Sharia — which can loosely be defined as Islamic law and customs, including the basic tenets of prayer, fasting, charity, pilgrimage, and avowing faith in Allah — in U.S. courts.¹⁸ Anti-Sharia legislation is a solution in search of a problem: Islamic law is used in U.S. courts in adjudicating a small number of cases, such as contract disputes where the parties have chosen it as the applicable law, but only when it does not conflict with fundamental principles of American law.¹⁹ Indeed, federal courts have found anti-Sharia bills to be unconstitutional because they target one faith.²⁰ Gaffney, however, claims Islam is not a religion entitled to protection under the First Amendment but a totalitarian ideology.²¹ He is also a leading proponent of the outlandish theory that the Muslim Brotherhood controls American Muslim civil society groups, a position that is derided as fantasy even by staunch critics of the Brotherhood.²²

Flynn has been fired, and there are rumblings that Bannon and perhaps even Gorka may be on their way out — all for reasons apparently unrelated to their

Islamophobia. Most recently, Bannon was removed from the National Security Council. But two members of Trump's cabinet also have troubling records. Mike Pompeo, the new Director of the Central Intelligence Agency, has appeared on Gaffney's radio program over a dozen times in the past four years and has falsely claimed that "Islamic advocacy organizations and many mosques across America" do not condemn terrorism and are "potentially complicit" in "extremism."²³ Attorney General Jeff Sessions has a long record of hyping alleged threats from Muslim immigration.²⁴ Periodic staff changes aside, Trump appears to have built a team characterized by its determination to view Islam itself as a threat to the United States.

Banning Muslims from America

Exactly a week after his inauguration, Trump took the first step in delivering on his campaign promise of a "complete shutdown of Muslims entering the United States."²⁵ He signed an executive order banning the nationals of seven Muslim-majority countries from entering the country; the order also halted the entry of refugees for 120 days, while barring Syrian refugees indefinitely.²⁶ The order applied even to legal permanent residents, many of whom had lived in the United States for years, as well as students and others holding valid visas. Evidence of the intent to bar Muslims was found on the face of the order, which allowed exemptions for religious minorities from the seven Muslim countries — that is, non-Muslims.

Federal courts quickly stopped implementation of the order. A second version of the Muslim ban was issued on March 6, 2017.²⁷ This time, legal permanent residents and those holding valid visas were exempt. Iraq was dropped from the list of countries covered by the ban and the explicit preference for non-Muslims was removed. The new rule did not pass muster with the courts either, with two federal courts blocking the government from implementing key parts.

Trump's travel bans were enjoined because courts recognized that — despite the administration's claims of national security — they were aimed at excluding Muslims from the United States. This contravenes the Establishment Clause of the First Amendment to the Constitution, which prohibits the government from favoring one faith over another. Courts did not have to look far to find evidence of the intent behind the orders. Trump's own statements and those of his close advisers provided plenty of fodder. For example:

- Trump Press Release, Dec. 7, 2015: "Donald J. Trump is calling for a total and complete shutdown of Muslims entering the United States."²⁸
- Trump on CNN's 360 Degrees with Anderson Cooper, March 6, 2016: "I think Islam hates us." His spokesperson Katrina Pierson added that the United States had "allowed this propaganda to spread all through the country that [Islam] is a religion of peace."²⁹
- Trump in Fox Business interview, March 22, 2016: in reiterating his call for a ban on Muslim immigration, he explained that "we're having problems with the Muslims, and we're having problems with Muslims coming into the country."³⁰
- Trump during the second Presidential Debate, Oct. 9, 2016: "The Muslim ban is something that in some form has morphed into a[n] extreme vetting from certain areas of the world." When asked to clarify whether "the Muslim ban still stands," Mr. Trump said, "It's called extreme vetting."³¹
- Trump adviser Rudolph Giuliani explaining on television how the Executive Order came to be, Jan. 28, 2017: "When [Mr. Trump] first announced it, he said, 'Muslim ban.' He called me up. He said, 'Put a commission together. Show me the right way to do it legally.'"³²

Evidence like this led a federal district court in Hawaii to conclude that the statements that were made

in the months leading up to and contemporaneous with the signing of the Executive Order, and, in many cases, made by the Executive himself, betray the Executive Order's stated secular purpose. Any reasonable, objective observer would conclude ... that the stated secular purpose of the Executive Order is, at the very least, 'secondary to a religious objective' of temporarily suspending the entry of Muslims.³³

Similarly, a federal district court in Maryland found that:

These statements, which include explicit, direct statements of President Trump's animus towards Muslims and intention to impose a ban on Muslims entering the United States, present a convincing case that the First Executive Order was issued to accomplish, as nearly as possible, President Trump's promised Muslim ban.³⁴

Both the Hawaii and Maryland decisions were entered in preliminary proceedings where the courts were asked to preliminarily judge the likelihood that challenges to Trump's order would succeed. Other courts have looked at the same statements by Trump and his advisers and nonetheless allowed the executive order to stand.³⁵ The decisions enjoining the orders are currently being appealed, and ultimately the matter will likely be decided by the U.S. Supreme Court.

Extreme Vetting

As noted above, shortly after becoming the official Republican presidential nominee, Trump rolled out a new plan: "extreme vetting" for Muslims entering the the United States.³⁶ He proposed that the United States admit only those "who share our values and respect our people." One campaign official explained

that people who have "attitudes about women or attitudes about Christians or gays that would be considered oppressive" would be barred.³⁷

Soon after taking office, Trump seized the opportunity to begin carrying out this campaign promise, incorporating into the first travel ban executive order a requirement that a new vetting process be developed. While the bans have been stayed for now, the work on the vetting procedures appears to be continuing apace, and the clues that have emerged paint a picture of a system custom-made to discriminate against Muslims.

Perhaps most alarmingly, proponents of the ban describe the process as instituting "a kind of ideological screening."³⁸ While cloaked in a security rationale, the emerging procedure appears to be targeted specifically at Muslims: Department of Homeland Security officials have indicated, for instance, that the procedure currently under discussion for visa applicants would query travelers about honor killings, the role of women in society, and legitimate military targets.³⁹ It is difficult to see the connection between a visitor's view of the role of women in society and terrorism, but the connection between such questions and criticisms of the rights of women in Muslim societies is plain.⁴⁰ Relatedly, travelers have already begun to field invasive questions about their beliefs, with some reportedly being asked whether they are Sunni or Shiite and why they are carrying a Quran in their luggage.⁴¹

Recent reports suggest the extreme vetting procedures may be instituted for travelers from a number of countries, including many of America's closest allies; these procedures could include, as a precondition for receiving even a visitor visa, requirements that applicants show immigration officials the contacts in their phones and reveal their social media handles and passwords.⁴² And while the policy may be facially applicable to visitors from all countries, the focus on ideological issues that are often associated with Islam means that it is almost certain to be disproportionately

EVOLUTION OF

EXTREME VETTING

2016

JULY 17

Asked about the Muslim ban, Donald Trump tells 60 Minutes, "...we're gonna have a thing called 'Extreme vetting'....They're gonna come in and we're gonna know where they came from and who they are."

AUGUST 15

Trump proposes an ideological test for visa applicants: "In addition to screening out all members or sympathizers of terrorist groups, we must also screen out any who have hostile attitudes towards our country or its principles."

OCTOBER 9

"The Muslim ban is something that in some form has morphed into extreme vetting from certain areas of the world."

2017

JANUARY 25

Trump explains focus of travel ban: "We're going to have extreme vetting in all cases, and I mean extreme. We're not letting people in if we think there's even a little chance of some problem."

FEBRUARY 7

DHS Secretary John Kelly tells Congress that new vetting procedures under consideration include demanding social media passwords.

MARCH 23

State Department directives leak; orders require social media check for any applicants who have ever been in territory controlled by the Islamic State and call on diplomatic officials to identify "population sets" that would warrant additional scrutiny.

APRIL 4

Reports emerge that DHS is considering asking for access to mobile phones, social media handles, and social media passwords, from all visa applicants and visitors.

targeted at Muslims.

To be sure, ideological vetting has a long history. Anarchists were banned beginning in the early 20th century, and Communists have been on the banned list as well.⁴³ But concerns about ideological exclusion led Congress to add a provision to the immigration law banning certain instances of the practice.⁴⁴ Not only is ideological vetting at odds with our country's history as an open democracy that welcomes robust debate, it relies on the disproven assumption that certain beliefs themselves constitute a security threat.⁴⁵

Moreover, aspiring immigrants and refugees are already subjected to rigorous checks. Applicants for immigrant visas are interviewed and generally require a full medical exam and the collection of biometric data, a process that can take, in extreme cases, up to ten years.⁴⁶ The process also includes security screenings, which can occupy an extended period of time for applicants coming from countries with an elevated risk of terrorism.⁴⁷ Refugee visas are even more time-intensive, involving as many as 20 steps, including "multiple interviews and a security vetting by nine U.S. law enforcement, intelligence and security agencies that check their backgrounds, social media activity and the reasons they fled their countries," a process that can take up to two years — a long wait for vulnerable populations fleeing desperate situations.⁴⁸ And any visa applicant can expect to be checked against databases administered by the Department of Homeland Security, Federal Bureau of Investigation, and other agencies to confirm that they do not pose a security risk.⁴⁹

In addition, many of the proposed tests are likely to be ineffective. As a former Commissioner of the Immigration and Naturalization Service has pointed out, ideological tests do not accurately predict how people will actually behave.⁵⁰ Likewise, demands for access to would-be travelers' cell phones will inevitably drive bad actors to change their practices by buying "clean" phones or undertaking other measures, undermining any possible utility of the

initiative. These tests are therefore likely to be highly counterproductive, undermining the historical tradition of the U.S. as a pluralistic, welcoming country without making Americans any safer.

Hate Crimes

Anti-Muslim rhetoric amplified by Trump himself during the campaign and since the election and inauguration has coincided with a rise in hate crimes. According to the FBI, during 2015, the year the presidential campaign season kicked off, hate crimes against Muslims soared nearly 67 percent — to the highest level since 9/11.⁵¹ A soon-to-be-published report from the Council on American-Islamic Relations is expected to show that 2016 was the worst year on record for incidents in which mosques were targets of bias.⁵² In the first three months of 2017, violence, vandalism, and aggression toward mosques doubled compared to the previous year.⁵³

Following the election, reports of anti-Muslim incidents mounted. The Southern Poverty Law Center, an organization that tracks hate groups and hate crimes, collected anecdotes about hundreds of incidents of hate and intimidation towards a range of groups in the five days post-election.⁵⁴ These included an account of a Muslim woman on an Oregon commuter train who was confronted by a group of teenagers who called her a terrorist, threatened that Trump was going to deport her, and told her she could not wear her hijab anymore; in Gwinnett County, Georgia, a Muslim high school teacher received a note saying that her headscarf “isn’t allowed anymore” and that she should hang herself with it. The stories have not abated; from the end of January 2017 through the end of March, there were approximately 32 anti-Muslim and anti-Arab incidents, or an average of one every other day.⁵⁵

And while suggesting that Trump’s rhetoric “caused” hate crimes is much too simplistic, some perpetrators

have not been shy about invoking the president as their inspiration. In March, a note left at an Islamic Center in Des Moines, Iowa, threatened that the “new sheriff in town — President Donald Trump” was “going to cleanse America” and would “start with you Muslims”; other Islamic centers have received similar notes.⁵⁶ Last December, a motorist called a Muslim Uber driver a “scumbag” and “terrorist,” yelling at him that because Trump had been elected president, “you can kiss your visa goodbye” because “they’ll deport you soon.”⁵⁷

At the same time, even in the face of entreaties from the affected communities, Trump has been notably silent in response to bias-motivated crimes. A week after an Indian engineer was killed in Olathe, Kansas, by a man who mistook his nationality for Iranian, Trump had yet to issue a statement.⁵⁸ Similarly, after a wave of post-inauguration incidents targeting Jewish cemeteries and community centers, he waited weeks to address and finally condemn the events, drawing criticism from the Anne Frank Center for Mutual Respect and Jewish leaders.⁵⁹

Perhaps the starkest example of the “Trump effect,” however, comes from the spike in hate crimes after he announced his proposal to ban Muslims entering the United States. On December 7, 2015, Trump posted a statement on his campaign website calling for a “complete and total shutdown of Muslims entering the United States until our country’s representatives can figure out what is going on.”⁶⁰ He followed up the online posting with tweets and a public announcement at a campaign rally that evening. In the subsequent five days, anti-Muslim incidents in the United States rose nearly 90 percent as compared to the five days prior to the announcement.⁶¹

By contrast, on September 17, 2001 — six days after the attacks of September 11 — George W. Bush visited an Islamic Center in Washington, D.C. to meet with American Muslim leaders. He gave a speech titled “Islam is Peace,” lauding the contributions of American Muslims and urging Americans to treat

each other with respect. In the following days, anti-Muslim hate crimes dropped by a substantial margin as compared to the days before the speech.⁶² While Trump may not be responsible for every incident of hate and intolerance that occurs in his America, history shows that words do matter.

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Well before the 100-day mark of his presidency, President Trump and his associates have shown themselves willing to turn anti-Muslim rhetoric and policy ideas into action. We can anticipate more measures focusing on these communities, some of which may be obvious and overt (such as the registry he once suggested), while others will likely be more insidious and harder to expose (such as increased surveillance of Muslim communities). In order to ensure safety, liberty and justice for all Americans, we must keep a keen watch and stand ready to oppose laws, policies and practices animated by prejudice against Muslims.

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