

Center for Constitutional Rights

Discrimination, Detention, and Deportation: Immigration & Refugees

<https://ccrjustice.org/home/blog/2018/04/25/trump-s-ban-experienced-yemeni-americans>

Public Facing Advocacy Writing

The CCR blog

Cross-posted from [National Immigration Law Center](#).

Today the U.S. Supreme Court heard oral arguments on a legal challenge to President Trump's travel ban, which bars nationals of several Muslim-majority countries from entering the United States. Countless lives lie in the balance of this decision.

In this post, I focus on the ban's impact particularly on Yemeni-Americans and their families, as Yemen is one of the countries listed in the executive orders that initiated the ban. The ban denies U.S. citizens and lawful permanent residents of Yemeni descent who are in the U.S. the right to be with their children, spouses, and other close relatives, many of whom are stranded in third countries as they transit out of the war in Yemen.

Yemeni-Americans have been part of the American fabric for many generations. For more than a century, they have worked on railroads and in the steel and the automobile industry stretching from Buffalo and Lackawanna, New York, to Detroit and Dearborn, Michigan. Today they run small and midsize successful businesses from New York City in the east to Oakland, San Francisco, and Bakersfield, California, in the west. Yemeni-Americans have also historically maintained close ties with both the U.S. and Yemen, with families often going back and forth between the two countries.

Since December 2017, the Center for Constitutional Rights and many other organizations have received reports that hundreds of U.S. citizens, spouses, and children were called to come to the U.S. embassy in Djibouti, where their passports were returned, along with a document stating that they had been denied a U.S. visa and were not eligible for a waiver. The document also stated that this decision was final.

Yet Muslim Ban 3.0, the latest version of the Muslim ban, which is currently in effect and which was initiated by a presidential proclamation instead of an executive order, contains a provision for granting a waiver to certain people affected by the ban. A waiver would exempt from the ban the people to whom it is granted. To qualify for it, they would have to show that they would experience undue hardship if they were denied a visa, that their entry into the U.S. would be in the national interest, and that it would not pose a threat to national security or public safety.

The proclamation lists several examples of situations in which a waiver would be appropriate and assumes that consular officers will examine whether people are eligible for the waiver on a case-by-case basis. It is striking to me how many members of Yemeni-American families would seem to qualify for the waiver, based on the proclamations' plain language. The Yemenis who have been denied visas are overwhelmingly immediate relatives of U.S. citizens or lawful permanent residents. And due to the war in Yemen, most if not all of them experience hardship when denied reunification with their U.S.-based parents, children, or siblings. According to the United Nations, Yemen is considered the world's worst humanitarian disaster in half a century.

Following the start of the war in Yemen, the U.S. embassy in Sanaa, Yemen, was closed and all Yemeni visa petitions were transferred to U.S. consulates and embassies in other countries. As a result, these Yemeni relatives of Americans must travel to another country, usually Djibouti, to complete processing of their visa petitions. So not only are they stuck in limbo, they are often waiting for the bad news in third countries, far from their homes.

Thus, although the proclamation states that waivers are to be issued on a case-by-case basis and though it prohibits consular and U.S. Customs and Border Protection officers from issuing waivers to groups or categories of applicants, the U.S. embassy in Djibouti has done exactly the opposite. It has issued en masse visa denials to children, mothers, fathers, spouses, and other relatives of U.S. citizens and lawful permanent residents seeking to reunite with their families in the U.S.

My own organization heard of more than a hundred visa denials. Some Yemenis had tales of bringing their children who needed immediate medical attention to the consular interviews; others came with a detailed waiver petition to demonstrate their qualifications for a waiver. Most, however, were not even given a chance to seek a waiver, as their interviews had taken place months prior to the decision. Some had been told that their visas were approved only to learn later that they had been denied. In several cases we reviewed, some siblings had obtained a visa prior to the ban's implementation, while others had not.

Nobody received a waiver.

To assess the impact of Trump's ban and force some transparency into its seemingly arbitrary implementation, last month the Center for Constitutional Rights and a team from Yale Law School met with approximately 50 families in Djibouti—all U.S. citizens or their children, parents, or spouses. We hope to release our findings once we are able to process more thoroughly the information we gathered, including

placing this recent crisis into the context of a much longer history of anti-Yemeni and anti-Muslim discrimination. For now, I feel its important to provide a few of the stories that stuck with me most, as a reminder of whats at stake.

In one case, a three-year-old child had to be separated from his parents, who stayed behind in Djibouti while he was sent to the U.S. to be with extended family thousands of miles away. His mother was denied a visa.

In another case, a father had to choose between keeping his job in the U.S. or joining his stranded wife and children in Djibouti. When he was forced to choose the former, his children, who couldnt understand, told him they felt abandoned by him.

And many families had to decide to return to war-torn Yemen after receiving rejections.

Trumps ban has not only distressed Yemeni-Americans by separating families, it has created huge financial burdens. Many individuals were forced to leave their jobs or studies in the U.S. so they could support their spouses and children stranded in Djibouti, Egypt, and Malaysia. They were expecting to be in Djibouti for a few weeks and ended up being stranded for months, or in some cases a year. Life in Djibouti is expensive. The average monthly expense spending per family is about \$3,000-\$5,000.

Yemeni-Americans, like so many other impacted communities, are waiting for the Supreme Courts decision. In Djibouti, everyone I met with wanted to know: If the Court strikes down the Muslim ban in its entirety, is the Court going to force the government to reopen the hundreds of cases that were denied because of the executive orders and presidential proclamation? Will they need to reapply and again wait an indefinite amount of time to reunite with their families? And if the Court upholds the ban, will they ever be able to reunite with their families?

Many of those I met with in Djibouti had high hopes that the Supreme Court justices will uphold the values of the U.S. Constitution, as lower courts across the nation have in these Muslim ban cases. Theyve closely followed the litigation as it has made its way up and down our judicial system, with their lives hanging in the balance. They strongly believe that, surely, although the president may have the power to make policies, he certainly does not have the power to discriminate. The detail and attention with which theyve followed the courts decisions in these cases are remarkable, and they serve as a reminder to me: Regardless of what the justices ultimately decide, the fight for justice and equality will be a long one one in which Yemeni-Americans must be fully engaged along with our fellow Americans.

[View the discussion thread.](#)

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