

Center for Constitutional Rights

Discrimination, Detention, and Deportation: Immigration & Refugees

<https://ccrjustice.org/home/blog/2019/04/10/supreme-court-failed-america-muslim-ban-congress-its-your-turn>

Public Facing Advocacy Writing

The CCR blog

Today, Members of Congress are introducing the No Ban Act. This is Congress opportunity to ensure that we mean it when we promise to be a nation of ideas and not one built for any single race, ethnicity or religion.

Candidate Trump committed to a total and complete shutdown of Muslims from entering the United States. He delivered on that promise, issuing the Muslim Ban. Last year, the Supreme Court upheld the Muslim Bans third iteration, after the administrations legal spin-doctors sanitized the text of the original Ban. The Supreme Court chose to overlook the bias that Trump had so publicly declared while campaigning.

I am a fourth generation U.S. citizen. My adopted sister was compelled to leave Yemen for her own safety. I should be able to bring my relative here to live with me, in safety and away from the war.

Unable to bring her here, my brother and mother had to travel to bring her to a third country so as not to leave her alone in a war-torn Yemen. I work to pay their rent and other living expenses. My mother and brother have yet to meet my daughter who is now a year and a half old. For the president, the Ban was a campaign maneuver aimed at winning votes. For me, it represents the broken promise of citizenship as my mother, brother, sister and child remain separated for no reason other than our faith.

Just as the Trump administration whittled away some of the most egregious elements of the Ban, another element was added with the goal of getting this inherently biased policy to pass constitutional muster. This was the waiver process that, on paper, would allow consular officials to give otherwise banned individuals visas, on a case-by-case basis, if they find that denial of entry to the United States would cause the person undue hardship, among other things.

During court proceedings, several Justices questioned whether the waiver process was mere window dressing to the Ban, to borrow Justice Sotomayors words. Their concerns have been borne out. According to data received last week by U.S. Senator Chris Van Hollen, only 6 percent of those who apply for a waiver receive one and fewer actually receive a visa.

Instead, people suffering from undue hardship have to resort to lawsuits and public shaming to get visas.

For example, the organization where I work, the Center for Constitutional Rights, filed a lawsuit on behalf of three mixed American and Yemeni families who each received, after their interviews at the U.S. Consulate in 2017, a notice informing them that their visa has been approved. All of these clients suddenly had their visas issued shortly after they sued, and after their cases received media attention.

Public shaming is often the only recourse for the sick and mothers as Trumps State Department too frequently deems them impermissible threats. Shaema Alomari, a disabled Yemeni child whose father is a U.S. citizen, is another exampleshe received a waiver after her case received public attention, including the Supreme Court Justices questioning the government about her situation at oral arguments.

Marzieh Taheri, a 62-year-old woman with a fatal brain disease was initially denied a visa to come to America for life-saving medical treatment. She only received one after activists called out the State Department in public. She is now cancer-free. American medicine saving people is a much better reflection of our promise than banning them.

Shaima Swileh was denied permission to visit her dying toddler in Oakland until her case garnered public outcry. She was there when Abdullah died. American compassion reuniting a family in its moment of extreme tragedy is a much better reflection of our promise than what the headline could have been.

The Muslim Bans original bias was not changed by the superficial changes made to it by the Trump administration lawyers. After candidate Trump promised a shutdown of Muslims entering the United States, Rudy Guiliani said Trump asked him to figure out a way to legally enact the promised ban. It took three legal facelifts to push the Ban through the courts. While the legal challenges continue, it is time for Congress to act.

I support the idea of passing a law so that a ban on Muslims, refugees, or other asylum seekers can never be enacted again. The President has failed Muslim-Americans. The Supreme Court has failed to check the executive. Congress, now it's your turn.

Ibrahim Qatabi is a Yemeni American and a senior legal worker at the Center for Constitutional Rights.

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