



International Refugee  
Assistance Project

**THE CONTINUING IMPACT OF THE MUSLIM BAN**

**Submission before the United Nations Human Rights Committee for its Review of the Fifth  
Periodic Report of the United States**

**Prepared by the International Refugee Assistance Project  
and**

**Endorsed by Asian Americans Advancing Justice - Asian Law Caucus, Iranian American  
Bar Association, and Lotfi Legal and Muslim Advocates, who receive legal assistance from  
international law firm Perkins Coie LLP**

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## I. Introduction

In this submission, the International Refugee Assistance Project (“IRAP”) seeks to provide the Human Rights Committee (“the Committee”) with an update on the ongoing impact of the Muslim Ban upon individuals in the United States who, six years later, are prevented from reunifying with their family members due to the continued discriminatory effects of the Muslim Ban. The prolonged family separation caused by the Muslim Ban violates Articles 2, 17, 23, 24, 26 of the International Covenant on Civil and Political Rights (“ICCPR”).

The submission is endorsed by several organizations that filed litigation in parallel cases on behalf of people who were denied visas because of the Muslim Ban, namely Lotfi Legal and Muslim Advocates, who receive legal assistance from international law firm Perkins Coie LLP, and represent the plaintiffs in the putative class action *Emami v. Nielsen*, 365 F.Supp.3d 1009 (N.D. Cal. 2019) and Asian Americans Advancing Justice - Asian Law Caucus and Iranian American Bar Association, two of the organizations that represent the plaintiffs in the Class Action Complaint, *Pars Equality Ctr. v. Pompeo*, No. C18-1122JLR, 2018 WL 3730676 (W.D. Wash July 31, 2018).

## II. Relevant Questions in the Human Rights Committee’s List of Issues and U.S. Government Response to Which this Submission is Directed

In Issue 8, the Committee asked the United States to comment, inter alia, on the ability of foreign nationals to obtain visas under Presidential Proclamation 9645 “Enhancing Vetting Capabilities and Processes for Detecting Attempted Entry into the United States by Terrorists or Other Public-Safety Threats” (commonly known as the “Muslim Ban”), and to explain how the Presidential Proclamation is compatible with the non-discrimination and non-refoulement provisions of the ICCPR.<sup>1</sup>

The United States responded that the Committee’s questions about foreign nationals’ eligibility for U.S. visas fell outside the scope of the ICCPR<sup>2</sup> and that Presidential Proclamation 9645 was “not a Muslim Ban.”<sup>3</sup> It argued that its enhanced vetting measures were necessary to

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<sup>1</sup> Hum. Rights Comm., List of Issues Prior to Submission of the Fifth Periodic Report of the United States of America, ¶ 8, U.N. Doc. CCPR/C/USA/QPR/5 (Apr. 18, 2019) available at [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2FC%2FUSA%2FQPR%2F5&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2FC%2FUSA%2FQPR%2F5&Lang=en)

<sup>2</sup> Hum. Rights Comm., Fifth Periodic Rep. by the United States of America Under Article 40 of the Covenant Pursuant to the Optional Reporting Procedure (“Fifth Periodic Report”), ¶ 22, U.N. Doc. CCPR/C/USA/5 (2021) available at [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2FC%2FUSA%2F5&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2FC%2FUSA%2F5&Lang=en)

<sup>3</sup> Fifth Periodic Report, Annex B, ¶ 3 available at [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCCPR%2FADR%2FUSA%2F44111&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCCPR%2FADR%2FUSA%2F44111&Lang=en)

assess threats to national security or public safety and denied that restrictions were based on animus against any country or religion.<sup>4</sup>

### III. Reporting Organization

IRAP is a global non-governmental legal aid and advocacy organization working to create a world where refugees and all people seeking safety are empowered to claim their right to freedom of movement and a path to lasting refuge. IRAP has offices in the United States, Germany, Lebanon, and Jordan and has directly represented and litigated on behalf of hundreds of refugees and other forced migrants around the world seeking reunification with their relatives in the United States and Europe. IRAP has been at the forefront of challenging the Trump administration's Muslim Ban and its ongoing impact on individuals' ability to reunify with family members in the United States. We were counsel in *Darweesh v. Trump*, Civ. No. 1:17-cv-00480, 2017 WL 388504 (E.D.N.Y. Jan. 28, 2017), the first case to obtain a temporary restraining order against the impact of the initial version of the Muslim Ban. Subsequently, we were named plaintiffs in *Trump v. International Refugee Assistance Project*, 137 S. Ct. 2080 (2017), the first lawsuit to challenge the unconstitutionality of the Muslim Ban. We were also counsel in *Jewish Family Service v. Trump*, Case No. C17-1707JLR, 288 F. Supp. 3d 1045 (W.D. Wash. 2017) ("*JFS v. Trump*"), which challenged the suspension of family reunification and admissions for refugees from certain predominantly Muslim countries as a consequence of the Muslim Ban, resulting in a settlement with the U.S. government in February 2020.

### IV. Issue Summary

The Committee asked the United States about Proclamation 9645, which was one in a series of bans issued by former President Trump restricting the immigration of people from Muslim-majority countries into the United States.<sup>5</sup> The bans also included a lesser known ban on Muslim refugees ("Refugee Ban"), which was implemented through a joint agency memorandum ("Agency Memo") to the President in October 2017.<sup>6</sup> The Agency Memo announced changes to refugee processing that targeted Muslim refugees in two ways. First, it singled out refugees from a list of Muslim-majority countries for suspension of admissions and for extreme vetting.<sup>7</sup> And

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<sup>4</sup> *Id.*

<sup>5</sup> Throughout this submission, "the Muslim Ban" or "ban" refers to the series of Muslim bans introduced under the Trump Administration, including the Refugee Ban.

<sup>6</sup> Rex W. Tillerson, Elaine Duke, & Daniel Coats, *Memorandum to the President: Resuming the United States Refugee Admissions Program With Enhanced Vetting Capabilities*, Oct. 23, 2017, available at [https://www.dhs.gov/sites/default/files/publications/17\\_1023\\_S1\\_Refugee-Admissions-Program.pdf](https://www.dhs.gov/sites/default/files/publications/17_1023_S1_Refugee-Admissions-Program.pdf) ("Agency Memo").

<sup>7</sup> According to public reporting, the countries on the Security Advisory Opinion (SAO) list as of October 2017 were: Egypt, Iran, Iraq, Libya, Mali, North Korea, Somalia, South Sudan, Sudan, Syria, and Yemen. *See, e.g.,* Yeganeh Torbati & Mica Rosenberg, *Under Trump Plan, Refugees from 11 Countries Face Additional U.S. Barriers*, Reuters, (Oct. 24, 2017), <http://reut.rs/2gRvoDh>; Sabrina Siddiqui, *Trump Ends Refugee Ban With Order to Review Program For 11 Countries*, The Guardian, Oct. 24, 2017, <https://www.theguardian.com/us-news/2017/oct/24/trump-refugee-ban-end-immigration-executive-order>; Ted Hesson, *Trump Targets 11 Nations in Refugee Order*, Politico, Oct. 24, 2017, <http://politi.co/2gJQ5NW>.

second, it targeted family reunification for relatives of resettled refugees, who had in recent years been majority Muslim, by suspending admissions while adding unnecessary layers of process and review.<sup>8</sup> These changes dramatically increased the processing times for the domestic stage of refugee family reunification from 5.3 months in FY 2016 to 28.6 months in FY 2022.<sup>9</sup>

Upon his inauguration, President Biden revoked the ban.<sup>10</sup> Yet the revocation has proved inadequate to rectify the damage caused by extreme vetting measures and other procedural barriers which the Biden administration has allowed to persist to this day.

Data received by IRAP through its litigation in *JFS v. Trump* demonstrates the continuing impact of the Muslim Ban on refugee families in the United States. In *JFS v. Trump*, IRAP reached a settlement that required the government to expedite resettlement applications of over three hundred refugees affected by the ban.<sup>11</sup> However, the most recent settlement reporting data from July 2023 reveals that approximately 50% of refugees who had passed extensive background checks and were ready to board a flight at the time that the Refugee Ban came down in October 2017 have now been rejected.<sup>12</sup> And almost 40% of refugees who had been in the final stages of family reunification at that point remain indefinitely separated from their spouses, parents and children with no decisions on their applications.<sup>13</sup>

Behind these statistics are Muslim families who remain unfairly separated. IRAP's clients, a pair of Somali sisters, resettled in the United States ten years ago as refugees. On October 24, 2017, the sisters were on the cusp of reuniting with their mother and brother, who boarded a flight from Uganda to the United States with their approved refugee applications. On a planned layover in Turkey, our clients' mother and brother were stopped from boarding their connecting flight because they were Somali, and refugees from Somalia had just been banned from entering the United States pursuant to the Refugee Ban. After being sent back to Uganda,

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<sup>8</sup> See Decl. of Casey Smith ¶ 21, *Jewish Family Serv. v. Trump*, No. 2:17-cv-1707-RSM (W.D. Wash. Nov. 16, 2017), ECF No. 44, available at

<https://refugeerights.org/wp-content/uploads/2020/10/11.-DECLARATION-of-Casey-Smith.pdf>.

<sup>9</sup> U.S. Citizenship & Immigr. Servs., *Historical National Median Processing Time (in Months) for All USCIS Offices for Select Forms by Fiscal Year*, <https://egov.uscis.gov/processing-times/historic-pt> (last visited Sept. 11, 2023); see also Catholic Legal Immigr. Network, *I-730 Refugee/Asylee Family Reunification Practice Manual* 55 (2019), available at

<https://cliniclegal.org/resources/asylum-and-refugee-law/i-730-refugeeasylee-family-reunification-practice-manual> (reported processing times “only include the time that it takes to process the petition domestically” and do not include overseas processing times).

<sup>10</sup> See Exec. Order No. 14,013, 86 FR 8,839, 8,840 (Feb. 4, 2021).

<sup>11</sup> See Int'l Refugee Assistance Project, *Press Release: Major Settlement Secures Relief for Refugees Left Behind by Refugee Ban* (Feb 10, 2020), <https://refugeerights.org/news-resources/press-release-major-settlement-secures-relief-for-refugees-left-behind-by-refugee-ban>.

<sup>12</sup> See 90-Day Report in Compliance with Settlement Agreement for Executive Order No. 13815, Doe (JFS) v. Trump 1-2 (July 21, 2023) available at <https://refugeerights.org/wp-content/uploads/2023/09/Doe-v.-Trump-Settlement-Agreement-90-day-Report-July-21-2023-FINAL-1.pdf>.

<sup>13</sup> *Id.*

their case was put on hold without any explanation. Over five years later, they were told that their case was denied “as a matter of discretion.” The family was only reunited after the sisters, with IRAP’s assistance, sued the U.S. government to reverse the decision on their case.<sup>14</sup> Other IRAP clients remain in limbo, indefinitely separated from their loved ones, including a Somali man who has waited more than seven years for his wife and young sons to join him in the United States and who has yet to meet his youngest son.<sup>15</sup>

IRAP’s clients represent only a fraction of those who continue to suffer from the discriminatory impact of the Refugee Ban despite its formal repeal. We continue to learn about families outside the scope of *JFS* settlement monitoring whose cases were put on hold at the time of the ban and who are still waiting for a final decision on their applications.

Outside of the refugee context, countless families remain separated due to the denial of visas as a result of the unjust impact of the Muslim Ban’s unlawful waiver provisions. Between December 2017 and January 2021, the U.S. government rejected over 41,000 visa applications because of the Muslim Ban.<sup>16</sup> In January 2022, the Huffington Post revealed that in a sample of hundreds of visa applicants rejected because of the Muslim Ban, over 90% had family members in the United States from whom they were separated during the course of the ban.<sup>17</sup> According to data released by the U.S. State Department, between December 2017 and March 2019, 1,545 children were separated from U.S. citizen parents and 3,460 parents were separated from U.S. citizen children, solely as a result of visa denials because of the Muslim ban.<sup>18</sup> For many, that separation continues.<sup>19</sup> Although applicants who were denied visas were allowed to reapply after

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<sup>14</sup> *Mohamud v. DHS*, No. 22-cv-00195 (filed W.D. Wis. Apr. 7, 2022). *See* <https://refugeerights.org/news-resources/mohamud-v-dhs-challenging-the-continuing-impact-of-the-muslim-refugee-ban-and-arbitrary-denial-of-a-somali-family-s-previously-approved-refugee-application>

<sup>15</sup> Hibah Ansari & Aala Abdullahi, *St. Cloud Man sues U.S. Government After Failed Six-Year Effort to Sponsor Family’s Immigration from Refugee Camp*, *Sahan Journal*, (Apr. 13, 2023), <https://sahanjournal.com/changing-minnesota/st-cloud-minnesota-rabi-mohamed-somali-refugee-family-reunification-ethiopia/>.

<sup>16</sup> *See* U.S. Dep’t of State, Implementation of Presidential Proclamations (P.P.) 9645 and 9983 (hereinafter “Implementation Statistics”) (2021), *available at* [https://travel.state.gov/content/dam/visas/presidentialproclamation/PP-9645\\_Montly-Public-Reporting-January%202021.pdf](https://travel.state.gov/content/dam/visas/presidentialproclamation/PP-9645_Montly-Public-Reporting-January%202021.pdf).

<sup>17</sup> *See* Rowaida Abdelaziz, *Trump’s Travel Ban Forever Changed the Lives of Muslims Around The World*, *Huffington Post* (Jan. 25, 2022), [https://www.huffpost.com/entry/trump-travel-ban-muslims-changed-lives\\_n\\_61e86498e4b01f707dabddcd](https://www.huffpost.com/entry/trump-travel-ban-muslims-changed-lives_n_61e86498e4b01f707dabddcd).

<sup>18</sup> Harsha Panduranga, Brennan Ctr. for Just., *The Muslim Ban: A Family Separation Policy*, (June 26, 2019), <https://www.brennancenter.org/our-work/analysis-opinion/muslim-ban-family-separation-policy#:~:text=The%20ban%20has%20also%20kept,have%20otherwise%20received%20a%20visa> (citing U.S. Dep’t of State, Implementation of Presidential Proclamation 9645 December 8, 2017 to March 31, 2019, *available at* <https://travel.state.gov/content/dam/visas/presidentialproclamation/Combined%20-%20Report%20on%20Implementation%20of%20PP%209645%20December%2007%202017%20to%20March%2031%202019.pdf?fbclid=IwAR1e26Ce3wme5qpK0Oww4noKOI3uLRr6h9Nik-zF4f1P8DNkFOBKMr7Oc8> (last visited Sept. 11, 2023).

<sup>19</sup> Abdelaziz, *supra* note 17.

President Biden took office, those who did so joined a backlog of almost half a million cases.<sup>20</sup> As of September 2023, the backlog for immigrant visa applications stands at 275,000.<sup>21</sup>

In August 2022, a federal judge in California ordered the Biden administration to provide relief to individuals whose visa applications were rejected under the Muslim Ban and have not subsequently been approved.<sup>22</sup> Yet over a year later, the government has failed to create and implement a fair and effective visa reconsideration process for those who were denied waivers of the ban.<sup>23</sup> This absence of relief continues the harm for the 28,267 applicants for non-immigrant visas who were denied waivers of the ban and thus denied visas – people for whom no reconsideration process exists.<sup>24</sup> Many of these applicants were coming for a wedding, a birth, or another event lost in time, but they continue to want to travel to see their children and play with their grandchildren while they still can.<sup>25</sup>

Nor have there been any assurances that future Administrations will not bring back the Muslim Ban. Legislative efforts to prevent future discriminatory bans by the U.S. government have thus far been unsuccessful. The NO BAN Act was the first pro-Muslim civil rights bill ever voted on in the U.S. House of Representatives, which would have repealed the Muslim Ban and made necessary reforms to immigration law to prevent future bans.<sup>26</sup> The bill passed in the House of Representatives in April 2021, but over two years later Congress has not allowed the Act to come to a vote in the U.S. Senate.

By allowing the xenophobic legacy of the Muslim Ban to continue, the Biden administration has perpetuated the needless, cruel, and prolonged separation of families faced with arbitrary denials and indefinite delays of their applications.

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<sup>20</sup> See U.S. Dep't of State, National Visa Center (NVC) Immigrant Visa Backlog Report - April 2021, <https://travel.state.gov/content/dam/visas/iv-backlog-report/IV-report-April-2021.pdf> (showing that as of April 2021 there were 475,310 visa applicants pending before the NVC.)

<sup>21</sup> See U.S. Dep't of State, National Visa Center (NVC) Immigrant Visa Backlog Report, <https://travel.state.gov/content/travel/en/us-visas/visa-information-resources/visas-backlog.html>.

<sup>22</sup> Order re: Summary Judgement, *PARS Equality Center, et al. v. Pompeo, et al.* (8/1/2022), ECF No. 178.

<sup>23</sup> See Muslim Advocates, *Visa Applicants denied under the Muslim Ban File for Classwide Relief* (June 16, 2023), <https://muslimadvocates.org/2023/06/muslim-ban-plaintiffs-file-classwide-relief/>; No Muslim Ban Ever, Letter to the Administration (Jan. 26, 2023), <https://www.nomuslimbanever.com/jan2023adminletter>.

<sup>24</sup> See Implementation Statistics, *supra* note 16.

<sup>25</sup> *Emami v. Mayorkas and Pars Equality Center v. Blinken*, no. 18-cv-1587 (N.D. Cal. May 25, 2023), ECF No. 241 (transcript of proceedings on file with author).

<sup>26</sup> See NO BAN Act H.R.1333, 117th Cong. (2021), <https://www.congress.gov/bill/117th-congress/house-bill/1333/text>.

## V. The Continuing Impact of the Muslim Ban Amounts to a Violation of Articles 2(1), 17, 23, 24, 26 of the ICCPR<sup>27</sup>

The Muslim Ban and its continuing effects violate the ICCPR by interfering with the right to family life on the basis of nationality and religion. In its report, the United States claimed that foreign nationals' eligibility for U.S. visas, and therefore the Muslim Ban, fell outside the scope of the ICCPR. Yet this conclusion misreads the issue. Even under the United States' position that Article 2(1) of the ICCPR creates obligations for a State Party only with respect to individuals who are both within the territory and jurisdiction of the State Party,<sup>28</sup> the ICCPR applies: the Muslim Ban impacts the rights of individuals within U.S. territory and subject to its jurisdiction who are prevented from reunifying with their family members overseas. Such forced family separation falls squarely within the scope of the ICCPR.<sup>29</sup>

The United States also claimed that the Muslim Ban was not motivated by animus against any nationality or religion. Yet this claim is refuted by the numerous anti-Muslim statements made by former President Trump during his campaign and while in office,<sup>30</sup> not least his brazen announcement calling for "a total and complete shutdown of Muslims entering the United States."<sup>31</sup> Former President Trump promised a Muslim Ban, and that is exactly what he achieved: from FY 2016 to FY 2018 the number of Muslim refugees was slashed by 91% and the number of immigrant visas granted to individuals from Muslim-majority countries was cut by 30%.<sup>32</sup> This discriminatory impact continues: in 2016, nearly half of all refugees admitted to the United States came from Muslim-majority countries. In 2021, refugees from these countries represented less than a third of refugee admissions to the United States.<sup>33</sup>

The United States continues to violate the ICCPR under the Biden Administration by allowing the Muslim Ban's practices to continue and by failing to remedy its full impact. The

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<sup>27</sup> See ICCPR, Article 2(1) (right of non-discrimination); Article 17 (protection against unlawful or arbitrary interference with home and family); Article 23 (protection of family life); Article 24 (rights of the child); Article 26 (prohibition of discrimination).

<sup>28</sup> The United States reiterated this position in its Fifth Periodic Report, ¶¶ 8,14,16. An analysis of the U.S.'s position that the provisions of the ICCPR only apply to individuals within the territory and jurisdiction of the State Party is beyond the scope of this submission. Statements made in this report referencing the application of the ICCPR to individuals situated within the U.S. do not preclude the position that the ICCPR also applies to individuals outside the U.S. seeking reunification with their family members in the U.S.

<sup>29</sup> See, e.g., *Aden et al. v. Denmark*, (Comm. No. 2531/2015, 25 July, 2019) (Committee recognized that ICCPR rights were violated in a family reunification spousal application where one spouse was overseas).

<sup>30</sup> See *Trump v. Hawaii*, 138 S.Ct. 2392, 2433-2440 (2017) (Sotomayor, J., dissenting) (outlining former President Trump's public statements expressing animus against Islam and finding that "based on the evidence in the record, a reasonable observer would conclude that the Proclamation was motivated by anti-Muslim animus."); see also Complaint, ¶¶ 37-65, *JFS v Trump*, No. 2:17-cv-01707 (W.D. Wash. Nov. 13, 2017), listing numerous statements made by former President Trump during his campaign, promising to ban Muslims.

<sup>31</sup> *Trump v. Hawaii*, 138 S.Ct. 2392, 2433 (2017) (Sotomayor, J., dissenting).

<sup>32</sup> David J. Bier, *Trump Cut Muslim Refugees 91%, Immigrants 30%, Visitors by 18%*, Cato Institute (Dec. 7, 2018), <https://www.cato.org/blog/trump-cut-muslim-refugees-91-immigrants-30-visitors-18>.

<sup>33</sup> Int'l Refugee Assistance Project, *How the Muslim Ban Lives on for Some Refugees* (2022), <https://refugeerights.org/news-resources/how-the-muslim-ban-lives-on-for-some-refugees>.

ICCPR guarantees individuals the right to family reunification in the country where a family member is located, regardless of their nationality, race, or religion. Further, under the ICCPR, individuals are afforded protection from unlawful or arbitrary interference with their family life regardless of whether one spouse is overseas.<sup>34</sup> Thus, the Committee has recognized a violation of ICCPR Articles 23 (protection of family life) and 17 (protection against unlawful or arbitrary interference with home and family life) where a state denied the family reunification visa of a person to a country where their spouse and child were living.<sup>35</sup> The ongoing discriminatory measures brought about by the Muslim Ban violate the ICCPR (including Articles 2(1), 17, 23, and 26) because they disproportionately and arbitrarily interfere with the right to family life for individuals within the United States based on national origin and religious discrimination.

The ongoing effects of the ban on vulnerable groups such as children and refugees are particularly egregious. The arbitrary denials and inexplicable delays plaguing family reunification applications as a result of the Muslim Ban have caused children to be separated from their parents indefinitely. The Committee has recognized a breach of Article 24 in conjunction with Articles 23 and 17 where the deportation of a parent would result in separation from their child.<sup>36</sup> In the cases of children separated from their parents as a result of the Muslim Ban, the United States is in violation of its obligation under Article 24(1) of the ICCPR to provide the necessary measures of state protection as are due to minor children without discrimination.

In the context of refugee families, the Committee has stated that the right to live together pursuant to Article 23 of the ICCPR entails the adoption of appropriate measures to ensure “reunification of families, *particularly when their members are separated for political, economic or similar reasons*” (emphasis added).<sup>37</sup> This provision guarantees an enhanced right to family reunification for refugees given the unique dangers posed to them in reuniting with their family members in their country of origin. Yet through the Refugee Ban, the U.S. government has done the opposite of what the ICCPR requires: it has singled out refugees and their family members for additional burdens and extreme vetting, which impacts their family reunification cases disproportionately and prejudicially. The continued targeting of Muslim refugee families seeking to reunite in the United States is both a violation of the U.S. government’s international

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<sup>34</sup> See *Aden et al. v. Denmark*, (Comm. No. 2531/2015, 25 July, 2019), ¶ 10.4 (recognizing that Article 23 protects the right to family reunification and that this right is not displaced by geographical separation); see also *Aumeeruddy-Cziffra et al. v. Mauritius*, (Comm. No. 35/1978, 9 April, 1981), ¶ 9.2(b)(2)(i)(2) (finding “in principle, article 17(1) applies also when one of the spouses is an alien.”).

<sup>35</sup> See *Aden et al. v. Denmark*, (Comm. No. 2531/2015, 25 July, 2019), ¶ 10.8.

<sup>36</sup> See, e.g., *Winata and Li v. Australia*, (Comm. No. 930/2000, 26 July, 2001), ¶¶ 7.2, 7.3 (finding that the State party’s decision to deport the parents of a child who had attained citizenship after living there for 10 years amounted to a violation of Article 24 in relation to the child due to a failure to provide him with the necessary measures of protection as a minor).

<sup>37</sup> Hum. Rights Comm., General Comment No. 19, Article 23, 39th Session, Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, U.N. Doc. HRI/GEN/1/Rev.1 at 28 ¶ 5 (1994), available at

<http://hrlibrary.umn.edu/gencomm/hrcom19.htm#:~:text=During%20marriage%2C%20the%20spouses%20should,c hildren%20and%20administration%20of%20assets.>



obligations as well as its own historic commitment to respond to the urgent needs of refugees under the U.S. Refugee Act.<sup>38</sup>

## **VI. Recommended Questions**

1. What steps has the U.S. government taken and what steps will the U.S. government take to end all remnants of the Muslim Ban instituted by the Trump administration?
2. What steps has the U.S. government taken and what steps will the U.S. government take to remedy the harm caused to individuals who applied for immigrant and non-immigrant visas, but whose applications were denied as a result of the Muslim Ban, or who never received visas as a result of the Muslim Ban?
3. How does the U.S. government propose to address prolonged delays and arbitrary denials in family reunification cases occurring as a result of the Muslim Ban, particularly where this results in separation of children from their parents?

## **VII. Suggested Recommendations**

In order to begin rectifying the harm wrought by the Muslim Ban, the U.S. government must:

1. Rescind the practices implemented by the Agency Memo that have continued in practice despite the revocation of the Refugee Ban in principle. This should include eliminating the practice of extreme vetting based solely on the applicant's country of origin and reducing onerous data collection requirements.
2. Institute fair, efficient, and transparent processes to resolve indefinite delays and arbitrary denials in family reunification cases for refugees and nationals of countries impacted by the Muslim Ban. This should include ensuring that refugees are able to reunite with their family members in the U.S. within less than 2 years.
3. Publicize all steps taken to rescind the Muslim Ban as well as current policies and procedures related to the family reunification process to guard against future discriminatory bans that could quietly pose obstacles to family reunification.
4. Exeditiously establish a transparent and speedy reconsideration process for all visa applicants unjustly impacted by the unlawful waiver provision of the ban at no additional cost to impacted individuals.

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<sup>38</sup> Refugee Act of 1980 § 101(b), Pub. L. No. 96-212, 94 Stat. 102 (1980).

## **Appendix - Endorsing Organizations**

**Asian Americans Advancing Justice–Asian Law Caucus (ALC)** is a national legal and civil rights organization serving Asian and Pacific Islander communities. Its National Security & Civil Rights program defends those targeted by so-called national security, counterterrorism, and other related policies, especially Arab, Middle Eastern, Muslim, and South Asian communities. ALC has worked to end the Muslim and African Bans, leads efforts to challenge the state of California’s homeland security operations, and actively represents individuals targeted by the government’s national security policies.

**Iranian American Bar Association (IABA)** is the only national association of Iranian-American judges, attorneys, scholars, and law students in the United States with over 1,500 members. Part of IABA’s mission is to protect and advance the legal rights of Iranian-Americans and other minority communities. *See* <https://iaba.us/>.

**Lotfi Legal LLC** is a small law firm taking on huge challenges. It is a full-service, women-owned immigration law firm serving clients around the world and fighting for the rights of immigrants and their families.

**Muslim Advocates** is a national civil rights organization that uses litigation, policy engagement and communications strategies to promote justice and equity while protecting the diverse spectrum of Muslim communities from anti-Muslim discrimination in all of its forms.

**Perkins Coie LLP** is a leading international law firm that is known for providing high-value, strategic solutions and extraordinary client service on matters vital to its clients’ success. With more than 1,200 lawyers in offices across the United States and Asia, it provides a full array of corporate, commercial litigation, intellectual property, and regulatory legal advice to a broad range of clients, including many of the world’s most innovative companies and industry leaders as well as public and not-for-profit organizations.