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Executive Disorder: The Muslim Ban, Emergency Advocacy, and the Fires Next Time

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EXECUTIVE DISORDER:
THE MUSLIM BAN, EMERGENCY ADVOCACY,
AND THE FIRES NEXT TIME

Abed Ayoub and Khaled Beydoun***

On January 27, 2017, one week into his presidency, Donald Trump enacted Executive Order No. 13769, popularly known as the “Muslim Ban.” The Order named seven Muslim-majority nations and restricted, effective immediately, the reentry into the United States of visa and green card holders from these states. With the Muslim Ban, President Trump delivered on a central campaign promise, and as a result, injected Islamophobia into American immigration law and policy.

The Muslim Ban had an immediate impact on tens of thousands of Muslims, directly affecting U.S. visa and green card holders currently outside of the country, while exacerbating fear and hysteria among immigrant and citizen Muslim populations within the country. This Essay memorializes the advocacy taken by the authors in the immediate wake of the Muslim Ban, highlighting the emergency legal and grassroots work done by the authors during a moment of national disorder and disarray, and within Muslim American communities, mass confusion and fear.

This Essay highlights efforts, coalition building, and the necessary resources that contributed to the effective defense and education of impacted Muslim populations. It further examines the heightened vulnerabilities of and compounded injuries to often-overlooked Muslims at the intersection of race and poverty, as a consequence of Islamophobic policies such as the Muslim Ban.

TABLE OF CONTENTS

INTRODUCTION.....	216
I. TRUMPING UP ISLAMOPHOBIA	220
A. <i>Campaigning on Hate</i>	220
B. <i>The Muslim Ban</i>	223
1. The Order	224
2. The Disorder	226

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The authors would like to especially thank Asha Mahomood Nour, our sister, and the third member of our emergency task force in Michigan. Her leadership in the wake of the Muslim Ban was vital.

We dedicate this work to our mothers, Majida Ayoub and Fikrieh Beydoun, who have given us everything. If anything, our work is a reflection of their strength.

II. EMERGENCY ADVOCACY IN THE WAKE OF THE MUSLIM BAN	228
A. <i>Legal Advocacy and Support</i>	229
B. <i>Grassroots Lawyering</i>	231
III. THE IMPACT ON MUSLIMS AT THE MARGINS OF SOCIETY	233
A. <i>Muslim, Black, and Banned</i>	234
B. <i>At the Intersection of Islam, Immigration, and Indigence</i> . . .	237
CONCLUSION	239

INTRODUCTION

“I know what the world has done to my brother and how narrowly he has survived it They have destroyed and are destroying hundreds of thousands of lives and do not know it—and do not want to know it.”

—JAMES BALDWIN¹

In 1982, the devastating war in Lebanon pushed scores of Muslim refugees from the small Middle Eastern nation nestled on the eastern banks of the Mediterranean to the center of the American Midwest.² Lebanese Muslims fleeing civil war and an Israeli incursion settled on the outskirts of Detroit, Michigan, the heart of the automobile industry and the heartbeat of American soul music.³ These immigrants also settled in Motown for the opportunities available on automobile assembly lines, and followed in the footsteps of family members who relayed stories of hope and a better life back to the homeland.

Chain migration and high hopes made Detroit a magnetic destination. However, immigration not only changed the lives of thousands upon thousands of Muslim refugees that settled in the rustbelt, but also the city they gradually made into their new home. The new Muslim immigrant waves that settled within and around the city of Dearborn left an indelible mark on its identity, helping to also make Motown “America’s Muslim

1. JAMES BALDWIN, *THE FIRE NEXT TIME* 24 (1963). The landmark work by African American intellectual James Baldwin, comprised of two essays, recounts his childhood in Harlem, New York, and the racial and political challenges of the Civil Rights Movement.

2. For an excellent history of the Lebanese Civil War, its sectarian dimensions, and the push factors that spurred Lebanese immigration to Michigan, among other places, see generally ROBERT FISK, *PITY THE NATION: THE ABDUCTION OF LEBANON* (2002).

3. The Lebanese immigrant community joins the Palestinian, Iraqi, and Yemeni communities to form a diverse Arab and Muslim immigrant population in Dearborn, Michigan. Nicole Crowder, *Starting Over in Dearborn, Michigan: The Arab Capital of North America*, WASH. POST (Mar. 5, 2015), https://www.washingtonpost.com/news/in-sight/wp/2015/03/05/start-ing-over-in-dearborn-michigan-the-arab-capital-of-north-america/?utm_term=.c80d1c69a98a.

Capital.”⁴ The circumstances of the newcomers changed for the better, as did the city they and their children adopted.

We grew up in the center of this Muslim immigrant community. The familiar tongue of Arabic mixed harmoniously with the accented English of our parents, and the dreams of refugee children intersected with the elders’ nostalgia for home. For us, “immigrant” and “America” were synonymous, exemplified in a refugee community that followed in the footsteps of the Jewish, Catholic, and Black Diaspora that fled persecution abroad or Jim Crow persecution in the American South for the safe haven Michigan offered. Beydoun and Ayoub lived in a modest two-family duplex at 6345 Bingham Street, with one family below (Abed Ayoub’s) and the other on the top floor (Khaled Beydoun’s). While our families eventually moved, settling in nearby Detroit and Dearborn respectively, and our educations and careers led us in different directions, our paths always intersected back home. And on the day Trump enacted the Muslim Ban, the sons of Muslim immigrants who fled war were again reunited, this time in Washington, DC, to advocate on behalf of today’s Muslim immigrant waves.

“We need you at the office,” texted Abed Ayoub, Legal Director of the American Arab Anti-Discrimination Committee (ADC), nearly twenty minutes after Executive Order 13769—popularly named the “Muslim Ban”—was enacted.⁵ Only seven days into his presidency, Donald Trump had made good on his campaign promise to implement “a total and complete shutdown of Muslims entering the United States.”⁶ Capitalizing on Islamophobia was the cornerstone of a campaign strategy that had helped deliver the presidency to Trump,⁷ and as illustrated by the passage of the Muslim Ban only a week after his inauguration, that Islamophobia would now also steer his administration’s immigration and national security policy. Furthermore, “structural Islamophobia,” which is “the fear and suspicion of Muslims on the part of institutions—most notably government institutions—manifested through the enactment and advancement of

4. Porochista Khakpour, *Reality TV Goes Where Football Meets the Hijab*, N.Y. TIMES (Nov. 10, 2011), <http://www.nytimes.com/2011/11/13/arts/television/all-american-muslim-on-tlc-life-in-dearborn-michigan.html>.

5. *Executive Order No. 13,769, Protecting the Nation from Foreign Terrorist Entry into the United States*, DAILY COMP. PRES. DOCS., 2017 DCPD No. 00076 (Jan. 27, 2017) [hereinafter Executive Order 13769].

6. Jenna Johnson, *Trump Calls for “Total and Complete Shutdown of Muslims Entering the United States*, WASH. POST (Dec. 7, 2015), https://www.washingtonpost.com/news/post-politics/wp/2015/12/07/donald-trump-calls-for-total-and-complete-shutdown-of-muslims-entering-the-united-states/?utm_term=.e72645753052.

7. See Khaled A. Beydoun, “*Muslim Bans*” and the (Re)making of Political Islamophobia, U. ILL. L. REV. (forthcoming 2017) (manuscript at 41) (on file with author) [hereinafter Beydoun, *Muslim Bans*] (arguing that Trump capitalized on Islamophobia as a full-fledged campaign strategy to appeal to voters that subscribe to damaging stereotypes about Islam and Muslims).

policies,”⁸ would be fully deployed by the Trump Administration, and introduced by way of the Muslim Ban.

I (Beydoun) raced over to the ADC office in Northwest Washington, DC,⁹ late in the afternoon on Friday, only hours after the Muslim Ban was signed. Far from home and only blocks from the White House, I scrolled through news headlines and social media statuses, and fielded intermittent phone calls from frightened friends and family members. It was at the ADC office where two sons of Muslim immigrants from Lebanon and Egypt would, for the weeks that followed, pause their careers as law professor and non-profit legal director, and become on-the-ground legal advocates.

Understaffed and overwhelmed by phone calls from mothers with detained children, e-mails and online messages from individuals from the restricted seven states deserted in their home countries,¹⁰ and questions from alarmed community members and mosque leadership, we coordinated a short-term emergency strategy that sought to serve the immediate needs of individuals directly impacted. We immediately shaped a grassroots educational effort that aimed to demystify the widespread confusion about the legal scope of the Muslim Ban, focusing specifically on indigent, working class, and immigrant-concentrated Muslim communities.

The Executive Order’s ambiguity spurred immediate disorder throughout the nation’s airports, which overnight, developed into jail cells where visa holders (non-immigrants) and even lawful permanent residents (immigrants) were detained and denied entry into the U.S.¹¹ With chaos unfolding at airports across the country, our immediate short-term strategy was to provide legal assistance to those impacted by the ban, and work with attorneys on the ground at the airports, as well as with attorneys preparing legal challenges to the executive order.

As lawyers, as Muslims, as civil rights activists, and as the sons of immigrants that fled war, we did not run from it, but raced toward the fire, seeking to aid individuals directly affected by it, educate those confused about the law’s actual content and those whom it affected, and empower others—Muslims and non-Muslims—to stand in solidarity.

We found ourselves squarely in the middle of the fire set ablaze by the Trump Administration, and instantly moved to coordinate a strategy

8. Khaled A. Beydoun, *Islamophobia: Toward A Legal Definition and Framework*, 116 COLUM. L. REV. ONLINE 108, 114 (2016) [hereinafter Beydoun, *Islamophobia*].

9. See generally *American Arab Anti-Discrimination Committee* (2017), <http://www.adc.org>.

10. The seven restricted Muslim-majority countries encompassed by the Muslim Ban are Iran, Iraq, Libya, Somalia, Sudan, Syria, and Yemen. See Executive Order 13769, *supra* note 5.

11. See Benjamin Mueller & Matthew Rosenberg, *Disorder at Airports As Travelers Are Detained Without Lawyers*, N.Y. TIMES (Jan. 29, 2017), https://www.nytimes.com/2017/01/29/nyregion/airports-travelers-detained-executive-order-donald-trump.html?_r=0 (providing an account of the mass detentions that took place across the country’s international airports in the immediate wake of the Muslim Ban’s enactment into law).

that would address the immediate needs of detained Muslim immigrants, the confusion and fear within Muslim households across the country, and the hysteria and concern over the Muslim Ban, and what was still to come, within concentrated Muslim communities—like the very one from which we hail.

This Essay memorializes the emergency advocacy and education work undertaken by the authors in the immediate wake of the Muslim Ban, specifically highlighting the efforts of two attorneys and their collaborators, and more saliently, illustrating the response efforts of activists and organizers, lawyers and leaders, within the broader Muslim American community on the day of and in the days after the enactment of the Muslim Ban.

Furthermore, this Essay aims to provide a firsthand account of grassroots lawyering during a moment of community crisis and climactic Islamophobia, centering on the most vulnerable Muslim communities in the U.S. Communities that we call home, that mothered our passion for social justice and cultivated our commitment to serving those fleeing persecution abroad and enduring surveillance and backlash at home. While the Muslim Ban was temporarily restrained as a consequence of an order of the Ninth Circuit Court of Appeals on February 9, 2017,¹² the decision will not halt President Trump's plan to enact another version of the Muslim Ban,¹³ or hinder his broader strategy of excluding, policing, and punishing Muslims—both citizens and foreign nationals.¹⁴ With additional promises of Islamophobic policies and practices coming from the administration, this Essay also provides insight on how to combat the challenges that lie ahead.

This Essay will proceed in three parts. Part I will summarize Trump's deployment of Islamophobia as a campaign strategy, which foreshadowed the enactment of the Muslim Ban and similarly spirited policies targeting Muslims and Muslim communities. Part II will examine the advocacy and education work of the authors and other advocates in the immediate wake of the Muslim Ban. And finally, Part III will explore the specific struggles and needs of individuals occupying the most vulnerable intersections of race, religion, and class differences.

12. *Washington v. Trump*, 847 F.3d 1151, 1156 (9th Cir. 2017) (per curiam).

13. Rachel Revesz, *Donald Trump Says He Will Sign New 'Muslim Ban' Order Next Week*, INDEPENDENT (Feb. 16, 2017), <http://www.independent.co.uk/news/world/americas/donald-trump-new-travel-muslim-ban-executive-order-next-week-justice-department-a7584541.html>.

14. Trump's Islamophobia is not limited to immigration policy, but also encompasses domestic national security strategy that prioritizes counter-radicalization policing, as well as designating foreign groups as terrorists in order to suppress the First Amendment speech, assembly, and free-exercise rights of Muslim Americans. See Lawrence Pintak, *The Trump Administration's Islamophobic Holy Grail*, FOREIGN POL'Y (Feb. 22, 2017), <http://foreignpolicy.com/2017/02/22/the-trump-administrations-islamophobic-holy-grail>.

I. TRUMPING UP ISLAMOPHOBIA

“Make America Great Again” was a vision for the country that not only excluded Islam, but demonized it and its adherents. Donald Trump, the candidate, made it the lead tagline of his bid for the presidency, but the message underlying these four words was far more backward- than forward-looking.¹⁵ In fact, the Supreme Court reinstated the second version of the Muslim Ban on June 26, 2017, which impacted nations from six Muslim-majority states (Iran, Libya, Somalia, Sudan, Syria, and Yemen).¹⁶ The Court plans to issue a final ruling on the ban in October of 2017.

Trump supplemented his call to reclaim American greatness with the brazen rhetoric of Islamophobia, declaring, “I think Islam hates us,” on the campaign trail,¹⁷ and on December 7, 2015, infamously calling for a “total and complete shutdown of Muslims entering the United States.”¹⁸ While many dismissed Trump’s campaign rhetoric as *merely* campaign rhetoric,¹⁹ he followed through by enacting the Muslim Ban during his first week as President.

This Part of the Essay examines the evolution of Trump’s deployment of Islamophobia, which he initially wielded as a campaign strategy and, after becoming the forty-fifth President of the United States, enshrined into law. Section A surveys candidate Trump’s mobilization of Islamophobia as a cornerstone of his presidential campaign, and Section B analyzes the scope and subjects impacted by the original Muslim Ban, a focal part of his administration’s structural Islamophobia program.

A. Campaigning on Hate

Beydoun walked into the Trump campaign rally in Warren, Michigan—a predominantly white, blue-collar suburb of Detroit—expecting a

15. See Charles M. Blow, *Trump: Making America White Again*, N.Y. TIMES (Nov. 21, 2016), <https://www.nytimes.com/2016/11/21/opinion/trump-making-america-white-again.html> (deconstructing Trump’s campaign slogan as a narrative premised upon a racist and xenophobic reclamation of the country).

16. Michael D. Shear & Adam Liptak, *Supreme Court Takes Up Travel Ban Case, and Allows Parts to Go Ahead*, N.Y. TIMES (June 26, 2017), <https://www.nytimes.com/2017/06/26/us/politics/supreme-court-trump-travel-ban-case.html>.

17. Jose A. DelReal, *Trump: ‘I Think Islam Hates Us.’*, WASH. POST (Mar. 9, 2016), https://www.washingtonpost.com/news/post-politics/wp/2016/03/09/trump-i-think-islam-hates-us/?utm_term=.116b936072c4.

18. Jenna Johnson, *Trump Calls for ‘Total and Complete Shutdown of Muslims Entering the United States.’*, WASH. POST (Dec. 7, 2015), https://www.washingtonpost.com/news/post-politics/wp/2015/12/07/donald-trump-calls-for-total-and-complete-shutdown-of-muslims-entering-the-united-states/?utm_term=.659573d2ce28.

19. See Chris Tognotti, *Marco Rubio Says Trump’s Mass Deportations and Muslim Ban Won’t Happen*, DAILY DOT (June 26, 2016), <https://www.dailydot.com/layer8/rubio-cbs-trump-proposals-wont-happen> (providing an example of this line of thinking, held by lay citizens as well as by prominent politicians).

riot. It was March 4, 2016,²⁰ more than four months before the polarizing business and media mogul won the Republican nomination.²¹ The raucous, concert-like atmosphere, comprised predominantly of working- and middle-class Whites, was animated by Trump's message that their jobs were being taken by Latinx immigrants, and their security was being jeopardized by Muslims immigrants.²² Though Warren is only twenty-two miles away from Dearborn, Michigan, the most concentrated Arab American community in the U.S., and less than fifteen miles away from Hamtramck, the first Muslim-majority city in the country,²³ Islam was not welcomed at this rally. Muslims—like myself—were on the outside of “Making America Great Again.”

Trump's campaign rallies, where Islamophobia, xenophobia and racism openly thrived, dubbed by some as “racism summits,”²⁴ offered a glimpse of the country the candidate promised and hoped to deliver. The Muslim Ban became far more than a central policy proposal, but a core component of the grand vision for America Trump would preside over. “Muslim Ban” became a common chant at his rallies, Islamophobic images and ideas were emblazoned on paraphernalia worn by his supporters, and Muslims were ejected—for no other reason than *being* Muslim—at several of his campaign pit stops.²⁵ The bulk of the “heaping doses of anti-Muslim rhetoric” that saturated the 2016 presidential campaign was contributed by the Trump campaign,²⁶ strategically employing “political Islamophobia as a campaign strategy” to mobilize and galvanize voters.²⁷

Trump's strategic deployment of political Islamophobia proved resonant and effective.²⁸ Apart from raising boisterous cheers when he con-

20. Donald Trump Rally in Warren, Michigan, MAKE AMERICA GREAT AGAIN (Mar. 4, 2016), <http://www.donaldtrump2016online.com/2016/03/rsbn-live-stream-donald-trump-rally-in.html>.

21. Andrew Rafferty, *It's Official: Trump Wins GOP Presidential Nomination*, NBC NEWS (July 19, 2016), <http://www.nbcnews.com/politics/2016-election/trump-set-become-gop-official-presidential-nominee-n612616>.

22. *Id.*

23. See Sarah Pulliam Bailey, *In the First Majority-Muslim U.S. City, Residents Tense About Its Future*, WASH. POST (Nov. 21, 2015), https://www.washingtonpost.com/national/for-the-first-majority-muslim-us-city-residents-tense-about-its-future/2015/11/21/45d0ea96-8a24-11e5-be39-0034bb576eee_story.html?utm_term=.25ac2fdb1d2a.

24. See *As Trump's Rallies Become “Racism Summits,” Linda Sarsour and Mohamed Elibiary Debate Islamophobia*, DEMOCRACY NOW! (Mar. 11, 2016), https://www.democracynow.org/2016/3/11/as_trumps_rallies_become_racism_summits.

25. Jeremy Diamond, *Silently Protesting Muslim Woman Ejected from Trump Rally*, CNN (Jan. 11, 2016), <http://www.cnn.com/2016/01/08/politics/donald-trump-muslim-woman-protesting-ejected>.

26. Bridge Initiative Team, *Islamophobia in the 2016 Elections*, BRIDGE (Apr. 25, 2015), <http://bridge.georgetown.edu/islamophobia-and-the-2016-elections>.

27. Beydoun, *Islamophobia*, *supra* note 8, at 7.

28. *Id.*

flated Syrian refugees with the Islamic State of Iraq and Syria (ISIS),²⁹ or doubled up on the Muslim Ban by calling for “extreme vetting” of all Muslim immigrants coming into the country,³⁰ the message obtained wide Republican-voter support in national polls. Only days after introducing the proposal, a December 9, 2015 *Bloomberg* poll found that over two-thirds of likely Republican voters supported Trump’s Muslim Ban.³¹ 51% of Republican voters said they “strongly favor” the Ban, and 14% tallied a “not so strong favor” in support of the measure.³² On the other side, 25% of likely Democratic voters either supported the Muslim Ban or were unsure,³³ illustrating that Trump’s explicitly Islamophobic appeals not only resonated with a large majority of Republican voters, but also a sizable segment of Democratic voters. These figures show that Islamophobia was not exclusive to the right, or the “Alt Right,”³⁴ but was also an emerging form of animus on the left.³⁵

On the campaign trail, which ended with a stunning victory over Hillary Clinton on November 9, 2016 in the general election,³⁶ the Muslim Ban remained a prominent component of Trump’s broader Islamophobic vision. In addition to his immigration policy, Trump promised to expand and intensify the “counter-radicalization” surveillance implemented by President Obama in 2011,³⁷ Trump proposed reinstallation of a “Muslim registry” that would target immigrants coming in and

29. Harper Neidig, *Trump Warns Against Syrian Refugees: “A Lot of Those People Are ISIS,”* HILL (Jun. 29, 2016), <http://thehill.com/blogs/ballot-box/presidential-races/286068-trump-warns-against-bringing-in-syrian-refugees-a-lot-of>.

30. Khaled A. Beydoun, *America Banned Muslims Long Before Donald Trump*, WASH. POST (Aug. 18, 2016), https://www.washingtonpost.com/opinions/trumps-anti-muslim-stance-echoes-a-us-law-from-the-1700s/2016/08/18/6da7b486-6585-11e6-8b27-bb8ba39497a2_story.html?utm_term=.993fcf318f2.

31. *Bloomberg Politics/Purple Strategies Pulse Poll*, BLOOMBERG (Dec. 9, 2015), <https://www.scribd.com/doc/292796480/Bloomberg-Politics-Purple-Strategies-Trump-poll>.

32. *Id.*

33. *Id.*

34. Ben Schreckinger, *The Alt-Right Comes to Washington*, POLITICO MAGAZINE, (Jan/Feb 2017), <http://www.politico.com/magazine/story/2017/01/alt-right-trump-washington-dc-power-milo-214629> (profiling the Alt Right Movement and ideology).

35. For example, Bill Maher, the comedian and host of the popular HBO program *Real Time with Bill Maher*, regularly espouses damaging anti-Muslim tropes, offering an archetype for the Islamophobia robust among liberals, Democrats and progressives. See Hamid Dabashi, *The Liberal Roots of Islamophobia*, AL JAZEERA ENGLISH (Mar. 3, 2017), <http://www.aljazeera.com/indepth/opinion/2017/03/liberal-roots-islamophobia-170302152226572.html>.

36. Meghan Keneally, *Donald Trump Captures Presidency in Historic and Stunning Upset of Hillary Clinton*, ABC NEWS (Nov. 9, 2016), <http://abcnews.go.com/Politics/donald-trump-president-elect-clinton-concedes-historic-contest/story?id=43369466>.

37. Radicalization is the process by which an individual adopts an extremist ideology that is linked to terrorist activity. Although not explicitly associated with Islam, the term has been discursively and politically linked to Muslims. See generally Amna A. Akbar, *Policing “Radicalization”* 3 U.C. IRVINE L. REV. 809, 811 (2013).

out of the U.S.,³⁸ and supported designating the Muslim Brotherhood as a terrorist organization as an express means to suppress and chill the First Amendment free exercise, speech and assembly rights of Muslim American activists, advocates, and civic institutions.³⁹ These programs are not only part and parcel of a broader program of Islamophobia coordinated by Trump and his brain trust, but if implemented, will function in concert to enhance state-sanctioned Islamophobia targeting Muslim immigrants and citizens. And as examined more closely in Part III, such policies will especially harm those Muslims standing at the intersection of racial, legal, and economic vulnerability.

B. *The Muslim Ban*

It came like a fire in the night. Like much of the country, Muslims were still lulled by the surreal inauguration of a reality TV showman on January 20, 2017,⁴⁰ and still reeling from the actuality that he had in fact done what had seemed unthinkable—he won the election. Yet, these unexpected and unanticipated fires are the type that wreak the most havoc, and unleash the most injuries on victims with their guards down and those with no guard at all. If much of the country was not ready for a Trump presidency, then Muslims were especially ill prepared.

Trump swiftly converted a campaign message into an official policy. On January 27, 2017, Trump exercised his Article II executive powers and enacted the “Protecting the Nation From Foreign Terrorist Entry into the United States” Executive Order, or the Muslim Ban, into law.⁴¹ Trump

38. See Kaveh Waddell, *America Already Had a Muslim Registry*, ATLANTIC (Dec. 20, 2016), <https://www.theatlantic.com/technology/archive/2016/12/america-already-had-a-muslim-registry/511214>. Furthermore, Trump’s proposed Muslim Registry has spurred scholarly and popular comparison to the Executive Order calling for the internment of Japanese Americans and foreign nationals during World War II, affirmed by the Supreme Court. See Leti Volpp, *Impossible Subjects: Illegal Aliens and Alien Citizens*, 103 MICH. L. REV. 1595, 1626 (2004) [hereinafter *Impossible Subjects*]. Many legal scholars—including David Cole, Natsu Taylor Saito, and Leti Volpp, among others—have likened the current treatment of Muslim Americans to Japanese Americans during World War II, analogizing the internment of Japanese Americans and legal residents with the counterterror policing and dragnets deployed against Muslim Americans en masse. See, e.g., *Korematsu v. United States*, 323 U.S. 214 (1944) (upholding an Executive Action ordering the internment of at least one-hundred Japanese citizens and residents under the pretense of it being a compelling national security interest).

39. Shenaz Kermalli, *If You Thought Trump’s Travel Ban Was Bad, What He Has Planned Next for American Muslims Could Be Devastating*, INDEPENDENT (Feb. 9, 2017), <http://www.independent.co.uk/voices/donald-trump-muslim-travel-ban-muslim-brotherhood-terror-bill-civil-society-devastating-effects-a7571426.html> (“Blacklisting an Egyptian group with alleged links to terrorism has a direct impact on American citizens because these ‘affiliates’ encompass several US Muslim advocacy organizations, including the Council on American-Islamic Relations (Cair), the Islamic Society of North America (ISNA) and the Muslim Students Association (MSA).”).

40. Phillip Elliot, *Why Donald Trump’s Showmanship Couldn’t Save the Inauguration*, TIME (Jan. 20, 2017), <http://time.com/4641891/trump-inauguration-event-spectacle>.

41. Executive Order 13769, *supra* note 5.

positioned the Order as a measure to protect national security. National security is a compelling state interest that immigration law authorizes the President to address by way of executive order.⁴² Muslim visa holders and lawful permanent residents outside the country were immediately impacted, while those within the U.S. were confined to stay within the country's borders.

Shortly after the ban was implemented, the public began hearing accounts from those impacted—each person had a unique story. Those affected included students pulled away from their studies, brides who had to cancel wedding plans, ill persons coming to the U.S. for medical treatment, and families who had to wait to be reunited with their loved ones. The ban was implemented without notice, which led to chaos at the airports. The ban also had an impact on American citizens and institutions, such as universities. Foreign doctors were banned from entering, and missed critical appointments. Researchers working on important issues were banned from entering and continuing their work, resulting in set-backs for many programs housed at American universities.

1. The Order

The Order restricted entry of individuals from Iran, Iraq, Libya, Somalia, Sudan, Syria, and Yemen—seven Middle Eastern and African countries,⁴³ all Muslim-majority countries. Several of them are the targets of recent American foreign policy aggression and in the case of Iraq, full-scale war.⁴⁴ In addition to the seven states, the Order included a provision that enabled the Executive Branch to add additional states for “similar treatment” at “any point.”⁴⁵

The Ban suspended both “immigrant and nonimmigrant entry” into the U.S.,⁴⁶ thereby denying reentry to lawful visa-holders from the seven states, including the unprecedented measure of initially prohibiting the entry of lawful permanent residents (or green card holders).⁴⁷ Two days after

42. 8 U.S. Code § 1182 (Section 212(f) of the Immigration and Nationality Act of 1952) (“Whenever the President finds that the entry of any aliens or of any class of aliens into the United States would be detrimental to the interests of the United States, he may by proclamation, and for such period as he shall deem necessary, suspend the entry of all aliens or any class of aliens as immigrants or nonimmigrants, or impose on the entry of aliens any restrictions he may deem to be appropriate.”).

43. Executive Order 13769, *supra* note 5, § 2(c).

44. See Zaid Jilani, *Trump’s Muslim Immigration Executive Order: If We Bombed You, We Ban You*, INTERCEPT (Jan. 25, 2017), <https://theintercept.com/2017/01/25/trumps-muslim-immigration-executive-order-if-we-bombed-you-we-ban-you/> (analyzing the relationship between U.S. military intervention and the seven states listed on the Muslim Ban).

45. Executive Order 13769, *supra* note 5, § 3(f).

46. Executive Order 13769, *supra* note 5, § 3(c). The scope of the Order’s enforcement against immigrants lasted for ninety days, which could be renewed by the President. *Id.*

47. See Max Greenwood, *Immigration Ban Includes Green Card Holders: DHS*, THE HILL (Jan. 28, 2017) (clarifying that the ban does apply to green card holders).

the enactment of the Muslim Ban, the White House clarified that it did not encompass lawful permanent residents,⁴⁸ reflecting the callousness of the drafting of the Order. Although it “reversed course” in regard to green card holders,⁴⁹ the White House stood firm against the reentry of lawful visa holders—many of them students, working professionals, and individuals with families in and established ties to the United States.

In addition to lawful visa and green card holders, the Order indefinitely stopped the absorption of Syrian refugees into the United States.⁵⁰ This measure codified Trump’s regular conflation of Syrian refugees with the ISIS threat, characterizing the entire class as “detrimental to the interests of the United States.”⁵¹ The Order also put a cap of 50,000 refugees for 2017,⁵² lowering the number from approximately 85,000, of which 38,901 were Muslims,⁵³ and suspended entry of all refugees for 120 days.⁵⁴

While the plain language of the Executive Order did not expressly identify Islam or Muslims as the specific targets of the immigration restriction, the religious composition of the seven states combined with the exception for refugees that are “religious minorities” (within their respective states) made it tantamount to a Muslim Ban.⁵⁵ In addition, the Order included a provision that seemingly enabled U.S. State Department and Customs and Border Protection (CBP) officials to investigate the religious views of immigrants and assess if they “place violent ideologies over American law.”⁵⁶ This section of the Muslim Ban also explicitly lists “honor killings,” a practice stereotypically linked to Islam, and “violence against women.”⁵⁷ As a result, the Order equipped CBP officers with the ability to conduct religious tests at primary and secondary checkpoints at airports to assess if immigrants’ religious identity, or views, was linked to “violent ideologies.”⁵⁸

48. Alicia Caldwell, *White House Reverses Course On Green Card Holders*, PBS NEWSHOUR (Jan. 29, 2017), <http://thehill.com/policy/national-security/316670-trump-refugee-ban-bars-green-card-holders-report>.

49. *Id.*

50. Executive Order 13769, *supra* note 5(c).

51. *Id.*

52. *Id.*, at § 5(d).

53. Philip Connor, *U.S. Admits Record Number of Muslim Refugees in 2016*, PEW RES. CTR. (Oct. 5, 2016), <http://www.pewresearch.org/fact-tank/2016/10/05/u-s-admits-record-number-of-muslim-refugees-in-2016/>.

54. Executive Order 13769, *supra* note 5, § 5(a).

55. “Upon the resumption of USRAP admissions, the Secretary of State, in consultation with the Secretary of Homeland Security, is further directed to make changes, to the extent permitted by law, to prioritize refugee claims made by individuals on the basis of religious-based persecution, provided that the religion of the individual is a minority religion in the individual’s country of nationality.” Executive Order 13769, *supra* note 5, at § 5(b).

56. Executive Order 13769, *supra* note 5, at §1.

57. *Id.*

58. *Id.*

Trump called his proposal a Muslim Ban at every step before its actual enactment,⁵⁹ but stepped away from that title in response to the swift political and legal response.⁶⁰ However, his distancing words could not match the overwhelming weight of his campaign admissions and rhetoric, and even more questionable was the Order's exclusive focus on Muslim-majority states and conspicuous appeals to Muslim stereotypes. "It was, is, and will always be a Muslim Ban," shared Asha Mohamood Noor at a Community Townhall in Dearborn, Michigan.⁶¹

2. The Disorder

Minutes after its enactment into law, the Muslim Ban spurred disarray and disorder at airports,⁶² and incited immeasurable fear within Muslim households and communities.⁶³ CBP officials at international airports across the U.S. received immediate instructions from the White House to enforce the Order. Almost instantly, thousands of lawful visa and green card holders from the seven states traveling to the U.S. were denied entry or reentry into the country, and indefinitely detained at the airport. In addition, "[v]arious people [were] in limbo outside of the U.S. because they [were] either unable to return due to now-invalid visas or unable to make connecting flights,"⁶⁴ with their family members within the U.S. wondering when and if their loved ones would be able to safely return. Trump intentionally implemented the ban without notice. In a tweet on January 30th he stated, "If the ban were announced with a one week no-

59. See Associated Press, *How Donald Trump's Plan to Ban Muslims Has Evolved*, *FORTUNE* (Jun. 28, 2016), <http://www.fortune.com/2016/06/28/donald-trump-muslim-ban> (detailing a chronology of Trump's express appeal to the immigration restriction qualifying as a ban while as a candidate).

60. Brady Dennis & Jerry Markon, *Amid Protests and Confusion, Trump Defends Executive Order: 'This is Not a Muslim Ban'*, *WASH. POST* (Jan. 29, 2017), https://www.washingtonpost.com/national/health-science/trump-gives-no-sign-of-backing-down-from-travel-ban/2017/01/29/4ffe900a-e620-11e6-b82f-687d6e6a3e7c_story.html?utm_term=.96619c2e9274.

61. Robert Kobylasz, *ACCESS Emergency Town Hall in Dearborn Informs Public About Controversial Order*, *DEARBORN PRESS & GUIDE* (Feb. 2, 2017), http://www.pressandguide.com/news/access-emergency-town-hall-in-dearborn-informs-public-about-controversial/article_6ae35e53-a9ee-5e5c-ae7b-84f1cc6bda7f.html.

62. See Yeganeh Torbati, Jeff Mason & Mica Rosenberg, *Chaos, Anger as Trump Order Halts Some Muslim Immigrants*, *REUTERS* (Jan. 29, 2017), <http://www.reuters.com/article/us-usa-trump-immigration-chaos-idUSKBN15C0LD>.

63. See Jenee Desmond Harris, *'Crying is an Everyday Thing': Life After Trump's 'Muslim Ban' at a Majority-Immigrant School*, *VOX* (Feb. 16, 2017), <http://www.vox.com/identities/2017/2/16/14584228/muslim-ban-trump-immigration-ban-children-kids-schools-anxiety> (describing how the Muslim Ban stirred fear in Muslim youth).

64. Emma Stefansky, *Refugees and Migrants Detained at Airports Across the Country Following Trump's Muslim Ban*, *VANITY FAIR* (Jan. 28, 2017), <http://www.vanityfair.com/news/2017/01/refugees-detained-at-airports-muslim-ban>.

tice, the ‘bad’ would rush into our country during that week. A lot of bad ‘dudes’ out there!”⁶⁵

For Muslims, especially those remembering the wounds of the post-9/11 era,⁶⁶ the Muslim Ban signaled another state-sanctioned attack on their faith and community. “This is only the first of many more laws to come,” Ayoub told a crowd of lawyers and volunteers huddled at ADC’s Washington, DC office, hours after the Order was enacted into law.⁶⁷ The phones rang nonstop at the ADC Office, the vast majority of them from concerned family members wanting to know if anything could be done to lift the detainment of their loved ones and from confused community members wondering if their unlisted countries of origin were nonetheless impacted by the law.

Every minute mattered, and every individual volunteer made a material difference. The social media statuses and phone calls from Muslims across the country manifested fear of what was occurring, and just as palpably, the fires still to come. “When will he come home,” an elderly Yemeni mother asked me (Beydoun) in her native Arabic, informing me that her son, who was roughly my age, was a green card holder stranded in their native country.⁶⁸ The words she shared were echoed by the hundreds of calls we fielded in the immediate wake of the Muslim Ban, and the tears she shed were also dropping from the eyes of the mothers and fathers, husbands and wives, sons and daughters of loved ones detained at airports, or marooned in one of the seven listed states.

Alarm and fear were soon met with action and activism. Protests erupted within the very airports in which travelers were detained.⁶⁹ Muslims stood alongside non-Muslims in demanding the reentry of lawful visa and green card holders, and the very spaces where the Muslim Ban was enforced also became the vivid venues of mass resistance and cross-racial, religious, and professional coalitions.⁷⁰ Lawyers, us included, rushed to air-

65. See Adam Edelman, *Trump Says ‘the Bad’ Would Have Rushed into U.S. If He Gave Notice Before Travel Ban*, DAILY NEWS (Jan. 30, 2017), <http://www.nydailynews.com/news/politics/trump-implementing-travel-ban-no-notice-article-1.2959442>.

66. See generally Susan Akram & Kevin R. Johnson, *Race, Civil Rights, and Immigration After September 11, 2001: The Targeting of Arabs and Muslims*, 58 N.Y.U. ANN. SURV. AM. L. 295, 327–45 (2002) (analyzing the strident immigration and national security policies enacted after the 9/11 terror attacks that targeted Muslims and Muslim communities).

67. Day One Emergency Strategy Meeting, in ADC Office, Washington, D.C. (Jan. 27, 2017) [hereinafter Day 1 Emergency Meeting].

68. Telephone Call received on Day Two Emergency Strategy Meeting, in ADC Office, Washington, D.C. (Jan. 28, 2017) [hereinafter Day 2 Emergency Meeting].

69. James Doubek, *Thousands Protest at Airports Nationwide Against Trump’s Immigration Order*, NPR (Jan. 29, 2017), <http://www.npr.org/sections/thetwo-way/2017/01/29/512250469/photos-thousands-protest-at-airports-nationwide-against-trumps-immigration-order>.

70. See Wale Aliyu, *Coalition of Volunteers, Attorneys Camp Out at JFK in Wake of Trump Ban*, NBC N.Y. (Feb. 2, 2017), <http://www.nbcnewyork.com/news/local/No-Ban-JFK-Volun>

ports to assist detained individuals, particularly after legal challenges against the Muslim Ban were filed at federal courts across the U.S.⁷¹

The abrupt grassroots resistance to the Muslim Ban paralleled the suits that poured in against it. From January 28 to January 31, 2017, nearly fifty cases against the Muslim Ban were filed in federal courts.⁷² One day after the Muslim Ban was enacted, the United States District Court for the Eastern District of New York issued an order compelling CBP to allow the reentry of restricted individuals on American soil and detained at airports,⁷³ and a Virginia federal court issued a similar order for the lone international airport within the state, Dulles International Airport.⁷⁴

The battle in the courts simultaneously raged forward as airports became sites for growing protests, peaking with the temporary restraining order issued by the United States District Court for the Western District of Washington, later upheld by the Ninth Circuit Court of Appeals.⁷⁵ Trump initially stated he would appeal the district court's order to the U.S. Supreme Court, but retracted that position in favor of drafting a new Executive Order. We remained firmly in the center of this flux, tending to the calls and concerns of family members, organizing attorneys and volunteers, and steering emergency advocacy efforts in Washington, DC, Detroit, and several other places in between.

II. EMERGENCY ADVOCACY IN THE WAKE OF THE MUSLIM BAN

"Please help me; I don't know what to do. All I want to do is travel to back home to bury my mother. Will this ban prevent me from coming back to the U.S.?"

—College student impacted by the Ban

Before the ink dried on the Muslim Ban, the phones at the ADC national headquarters in Washington, DC started ringing. Just as quickly, questions and concerns via email and social media began pouring in from distraught nationals of the seven listed states who have been impacted personally by the ban. Each person had a unique story, and they all resonated

teers-Attorneys-Coalition-John-F-Kennedy-Airport-New-York-City-Trump-Immigration-Ban-412204223.html.

71. Jonah Engel Bromwich, *Lawyers Mobilize at Nation's Airports After Trump's Order*, N.Y. TIMES (Jan. 29, 2017), <https://www.nytimes.com/2017/01/29/us/lawyers-trump-muslim-ban-immigration.html>.

72. See CIVIL RIGHTS LITIGATION CLEARINGHOUSE, *Civil Rights Challenges to Trump Refugee/Visa Order*, UNIV. MICH. L. SCH., <https://www.clearinghouse.net/results.php?searchSpecialCollection=44>.

73. *Darweesh v. Trump*, No. 17 Civ. 480, 2017 WL 388504 (E.D.N.Y. Jan. 28, 2017).

74. Adrian de Vogue & Eli Watkins, *Judges Temporarily Block Part of Trump's Immigration Order, WH Stands by It*, CNN (Jan. 29, 2017), <http://www.cnn.com/2017/01/28/politics/2-ir-aqis-file-lawsuit-after-being-detained-in-ny-due-to-travel-ban>.

75. *Washington v. Trump*, 847 F.3d 1151 (9th Cir. 2017).

with the staff and volunteers huddled at the ADC office. These people brought the impact of the Ban to life.

As the immediate shock of the ban subsided, a sense of urgency rushed over the staff of ADC. It was clear that this was unlike any moment our community has experienced. It was time to take action and I (Ayoub) knew that the assistance of dedicated volunteers would be essential to our efforts. The rapid response that transpired over the period of days following the signing of the ban would set the course for Arab and Muslim community advocacy for the years to come. In the midst of all the confusion, this moment highlighted the importance of attorney advocates and grassroots organizers in tackling these and other issues.

This Part will examine the conventional legal advocacy used to counter the ban, in Section A, and the grassroots lawyering, which proved to be a powerful source of information and clarity amidst the chaos of the ban, in Section B.

A. *Legal Advocacy and Support*

The morning after Donald Trump shocked the world, civil rights advocates and attorneys across the country understood the enormity of the challenges that lay ahead.⁷⁶ Organizing and coalescing around the issues began organically. Attorneys and advocates began to form new coalitions, and strengthen existing partnerships. A key factor in the post-ban activism was the readiness and sense of urgency rising within the community after the election of Trump. It was clear that attorneys would be needed on the front lines. It also became clear that lawyers would have to lead the fight against the Muslim Ban.

Trump signed the order at 4:30 P.M. EST on Friday, January 27, 2017. Immediately after the order was signed, attorneys and advocates congregated at the ADC office, and began to work. Through urgent meetings and planning sessions, attorneys and advocates determined that ADC would have three focal points, which were to:

- (1) Provide direct legal advice to those impacted by the ban, as many of the individuals impacted did not have resources to retain an attorney;
- (2) Coordinate efforts with attorneys on the ground at airports across the country, which created a structure to help the lawyers on the ground acquire an understanding of what was unfolding across the country; and

76. See Janell Ross, *Civil Rights Activists Grapple with the New Trump Reality*, WASH. POST (Nov. 9, 2016), https://www.washingtonpost.com/national/civil-rights-activists-grapple-with-the-new-trump-reality/2016/11/09/5098342c-a696-11e6-9bd6-184ab22d218e_story.html?utm_term=.a6803568d681.

- (3) Coordinate efforts with attorneys who were bringing legal challenges to provide the litigators with the facts needed to advance legal challenges.

Despite the cognizance that Trump would make good on his campaign promise, the confusion that ensued after the Muslim Ban was signed was unanticipated.⁷⁷ The confusion, and fear, led to over 1,000 individuals contacting ADC in the days following the signing of the Order. Inquiries came through phone calls, emails, and social media platforms (e.g., Twitter, Facebook). Given that many of the calls were coming from individuals overseas, the ADC offices were open 24 hours for the first few days following the signing of the Order. ADC recruited volunteers to assist in answering the phones and responding to messages. The volunteers, some of whom were not attorneys, received training on how to handle the calls and what questions to ask.

The most common inquiries came from students who were stuck abroad and unable to return to their studies. Many of the calls came from travelers returning to the U.S. after being abroad for a special event or purpose, such as a wedding or funeral. One call came from a bride in California who was waiting for her father to arrive for her wedding—he was turned away and the wedding had to proceed without him. Another traveler was coming to the U.S. to receive medical treatment for an ongoing medical condition; he had waited almost a year for his visa and opportunity to see an American doctor—the opportunity never came. Numerous cases involved U.S. citizens waiting for their fiancé or spouse to arrive in the United States; unfortunately, many of them were turned away and not allowed to enter the country.

A majority of the calls and inquiries received by ADC came from nationals of Iran, followed by Iraq and Syria. A significant number of calls came from green card holders. One of the biggest areas of uncertainty after enactment of the Ban pertained to green card holders, and whether the Ban applied to them.⁷⁸ ADC received calls from green card holders who were not permitted to board their international flights back home to the

77. See Evan Perez, Pamela Brown & Kevin Liptak, *Inside the Confusion of the Trump Executive Order and Travel Ban*, CNN (Jan. 30, 2017), <http://www.cnn.com/2017/01/28/politics/donald-trump-travel-ban> (“Administration officials weren’t immediately sure which countries’ citizens would be barred from entering the United States. The Department of Homeland Security was left making a legal analysis on the order after Trump signed it. A Border Patrol agent, confronted with arriving refugees, referred questions only to the President himself, according to court filings.”).

78. See Dara Lind, *Trump’s Immigration Ban Initially Applied to up to 500,000 Green Card Holders*, VOX (Jan. 30, 2017), <http://www.vox.com/2017/1/28/14425150/green-card-ban-muslim-trump> (“Given the aggressive way in which CBP agents have enforced the executive order—resisting a federal court order that prevented the deportation of immigrants who’d arrived at US airports since the ban was signed—it remains to be seen whether they will start treating green-card holders from affected countries the same way they treat other permanent residents.”).

United States. In addition, news of the Ban also caused concern among U.S. citizens. Many citizens contacted the office out of fear they would not be permitted to travel in and out of the country.

The attorneys in the office provided legal advice as quickly as possible. Many of the inquiries sought clarification on the Ban, and what impact it would have on their upcoming travel plans. When ADC received phone calls pertaining to travelers detained at specific airports, the call would be dispatched to the network of attorneys on the ground at airports across the country. Attorneys, at their own initiative, began coordinating efforts at airports to provide *pro bono* legal services to those impacted by the Ban. Many of these attorneys played a primary role in ensuring the admission of travelers who had initially been denied.

The dialogue and communication between the ADC office in Washington, D.C., and attorneys in cities across the country, proved to be an effective approach. With the assistance of volunteer attorneys, a significant number of travelers ADC advised were ultimately granted entry back into the United States.

Through rapid response actions, ADC staff and volunteers were able to implement a system that helped thousands of individuals. The information that was collected provided attorneys on the ground with a solid understanding and picture of what was happening. By coordinating efforts with lawyers across the country, we were able to assist many travelers in gaining entry into the United States. Although overwhelmed and under-resourced, our small corps of staff attorneys and volunteers made a vital contribution at airports, on the ground, and in various spaces in between.

B. *Grassroots Lawyering*

In addition to coordinating legal advice and providing live updates, it was crucial to provide travelers with information about the Ban.⁷⁹ Because of the complexity of the Ban and immigration law and policy at large, impacted communities relied heavily on attorneys to also engage in grassroots educational efforts. By working with grassroots community organizers, we were able to reach concerned citizens across the country, providing them with the information they needed to navigate the new and difficult travel policies.

I (Beydoun) helped lead a volunteer effort to prepare informational material related to the Ban for the ADC.⁸⁰ The information was subsequently translated into Arabic, Farsi, Somali, and Urdu. Once complete and posted, the informational material was sent to impacted communities domestically and abroad, using email, social media, and phone messaging

79. See *A Breakdown of the 'Muslim Ban,' An Advocacy Tool for Impacted Communities* (drafted on Jan. 27, 2017), <http://www.adc.org/wp-content/uploads/2017/01/Muslim-Ban-Breakdown-Final.pdf>.

80. *Id.*

platforms,⁸¹ such as WhatsApp. Additionally, the ADC received assistance in preparing informational material from attorney Shoba Sivaprasad Wadhia and the Center for Immigrants' Rights Clinic at Penn State University School of Law.

In addition to written material, the ADC conducted multiple live streaming sessions via Facebook Live. The multiple sessions featured subject matter experts, including ourselves, ADC staff, and Darakashan Raja of the Washington Peace Center. This proved to be effective as hundreds of thousands of individuals viewed the videos, asked questions about the Order, and became educated about the law and state of affairs. Additionally, the use of Twitter was an effective way to quickly disseminate the latest information to the public about the Ban.

On early Saturday morning, less than 24 hours after the Ban was signed, Zainab Chaudry, Spokeswoman and Maryland liaison for the Council on American-Islamic Relations (CAIR), contacted us, and requested that we present at multiple community town halls scheduled throughout the day on January 29, 2017—less than 48 hours after the Ban was signed by Trump. Shortly thereafter, we received additional speaking requests from mosques and churches, community centers, and educational institutions. At the same time, ADC President Samer Khalaf, and Staff Attorney Yolanda Rondon, represented the organization at town halls and speaking engagements.

On February 1, 2017, the ADC in collaboration with *Take on Hate*,⁸² hosted an emergency town hall in Dearborn, Michigan. The event was organized and coordinated by Asha Mohamood Noor, a Somali American activist and community leader. At the time, Noor was an employee of the National Network of Arab American Communities, which houses *Take on Hate*. The session featured Beydoun and myself as speakers—two natives of the city returning home to answer the questions of the community and to ease their concerns. Despite being organized in only three days, the event drew over 2,000 concerned community members.⁸³

A flood of speaking requests came our way from community organizations, mosques, and advocacy groups. Beydoun, Noor, and myself replicated our session a few nights later to a crowd of nearly 2,000 people. Additional events were hosted in the Metro-Detroit area, including organizing sessions with local attorneys volunteering to work on the Ban.

Throughout the weekend, there was a continued emphasis on coalition building and working with partner communities and organizations in

81. See *ADC Community Advisory: Toolkit on Arab & Muslim Ban*, ADC (Jan. 28, 2017), <http://www.adc.org/2017/01/update-muslim-ban-executive-orders>.

82. See *Take on Hate*, ACCESS, <http://www.takeonhate.org/access> (last visited Aug. 1, 2017) (providing more information on the Take on Hate campaign).

83. See Laura Herberg & Eli Newman, *Dearborn "Emergency" Town Hall on Immigration Draws a Crowd*, WDET (Feb. 1, 2017), <http://wdet.org/posts/2017/02/01/84618-dearborn-emergency-town-hall-on-immigration-draws-a-crowd>.

addressing this Ban. Shortly before the order was signed, #NoBanNoWall began trending on Twitter,⁸⁴ showing solidarity between the Muslim and Latinx communities. After the order, the ADC received numerous calls of support from non-Arabs and non-Muslims who felt compelled to stand up against the Muslim Ban, which spurred stronger coalitions and opened the door to coordinated events addressing the Ban, the proposed Mexican Wall, immigration raids, and other policies targeting Latinx communities. By working in coalitions, the impacted communities would have more resources to counter the actions of the Trump administration and could better coordinate grassroots efforts.

The publication and dissemination of material, with a relatively quick turnaround time, proved to be extremely helpful to impacted communities. The use of social media and newer messaging technologies provided a gateway to send the information to travelers across the world. Additionally, the emergency town halls and speaking engagements allowed for community members to hear from and speak to the experts directly. Amidst the chaos of the Muslim Ban attorneys played a significant role in providing clarity and guidance on the ground, embodying the grassroots lawyering that penetrated into the most impacted and marginalized segments of the Muslim community.

III. THE IMPACT ON MUSLIMS AT THE MARGINS OF SOCIETY

“If we aren’t intersectional, some of us, the most vulnerable, are going to fall through the cracks.”

—Kimberlé Crenshaw⁸⁵

Although the stereotypes that direct the Muslim Ban imagine Muslims as a monolith, the global and U.S. population reveals that it is anything but. Islam is the fastest growing religion in the world, outpacing every other faith group in the U.S. in terms of membership.⁸⁶ Muslim Americans are more commonly Black than they are Arab, and at 25%, they

84. See #NoBanNoWall Search Results, TWITTER, <https://twitter.com/search?q=%23NoBanNoWall&src=tyah>.

85. Kimberlé W. Crenshaw, WOMEN AND PEACE, http://www.feminist.com/resources/kimberly_crenshaw.html; see generally Kimberlé Crenshaw, *Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color*, 43 STAN. L. REV. 1241 (1991) [hereinafter Crenshaw]. “Intersectionality” is the phenomenon where an individual belonging to two (or more) subordinated groups occupies a position that exposes them to compounded stigma, animus, or violence. *Id.* at 1282–83.

86. Michael Lipka & Conrad Hackett, *Why Muslims Are the Fastest-Growing Religious Group*, PEW RES. CTR. (Apr. 3, 2015), <http://www.pewresearch.org/fact-tank/2017/04/06/why-muslims-are-the-worlds-fastest-growing-religious-group>.

comprise the biggest plurality of the Muslim American population.⁸⁷ Moreover, despite being caricatured as an immigrant-dominated faith group, the Muslim American community is overwhelmingly composed of American citizens.⁸⁸ In addition, 45% of Muslim American households earn an annual income that is below, at, or dangerously close to the legal poverty line,⁸⁹ demystifying the trope that Muslims are an overwhelmingly affluent and upwardly mobile demographic.

Therefore, when the Muslim Ban was enacted, it had disparate effects on different segments of the Muslim population, and furthermore, compounded the threat to and injury on subsets of the faith group that are racially and socioeconomically marginalized. This Part of the Essay examines two of the many “intersections” occupied by Muslims at the furthest margins,⁹⁰ where the Muslim Ban had a distinct and more damaging effect. Section A profiles the experience of Black Muslims impacted by the Muslim Ban. Section B provides insight into its effect on indigent and working-class Muslim American communities.

A. Muslim, Black, and Banned

Three out of the seven Muslim-majority states listed in the Muslim Ban are in Africa.⁹¹ Two of them—Somalia and Sudan—are home to Black Muslims. Therefore, in the same way that Islamophobia intersects with anti-Black racism to intensify the targeting of Black Muslims living in the U.S.,⁹² the convergence of these two forms of prejudice was experienced by Somali and Sudanese immigrants impacted by the Muslim Ban.

87. Dalia Mogahed & Youssef Chouhoud, *American Muslim Survey Poll 2017: Muslims at the Crossroads*, INST. FOR SOC. POL'Y & UNDERSTANDING 9 (Mar. 21, 2017), <http://www.ispu.org/american-muslim-poll-2017> [hereinafter *2017 American Muslim Poll*].

88. Khaled A. Beydoun, *Between Muslim and White: The Legal Construction of Arab American Identity*, 69 N.Y.U. ANN. SURV. AM. L. 29, 40–41 (2014).

89. See *Muslim Americans: No Signs of Growth in Alienation or Support for Extremism*, PEW RES. CTR. (Aug. 30, 2011), <http://www.people-press.org/2011/08/30/muslim-americans-no-signs-of-growth-in-alienation-or-support-for-extremism> [hereinafter *2011 Pew Study*].

90. Crenshaw, *supra* note 85, at 1282–83 (using “intersectionality” to highlight and illustrate the compounded discrimination endured by individuals who belong to two or more marginalized groups).

91. Libya, Somalia, and Sudan were three of the seven restricted nation-states listed in the original Order.

92. See generally Donna Auston, *Mapping the Intersections of Islamophobia and #BlackLives-Matter: Unearthing Black Muslim Life and Activism in the Policing Crisis*, SAPELO SQUARE (Aug. 30, 2016) (addressing how Islamophobia and anti-Black racism function to simultaneously stigmatize Black Muslims, and erase Black Muslims, their experiences, and narratives from the broader discussion of Muslim life in the U.S.).

For Black Muslims from these two states, the Muslim Ban is anti-Black racism intersecting with Islamophobia.⁹³

The experience of Nisrin El Amin, a Sudanese woman traveling back to the U.S. on a student-visa the day after the Muslim Ban was enacted, painfully illustrates the intersection of Islamophobia and anti-Black racism at work.⁹⁴ El Amin, a thirty-nine year old graduate student at Stanford University, was detained in New York City's John F. Kennedy (JFK) Airport while in transit to San Francisco.⁹⁵ However, in addition to being detained, El Amin was also handcuffed—an additional step that not only held her out as an immigrant-outsider, but also a criminal.

“For the brief moment I was handcuffed, I couldn't control myself and I just started crying,” El Amin shared in regard to an additional step not taken with non-Black Muslims from the restricted states.⁹⁶ Omar's religious identity as a Muslim led to her detainment, while her racial status as a Black woman spurred CBP's decision to handcuff her as if she were arrested on the street. A day after her detainment, El Amin stated:

I think this order is a reflection of a larger trend in this country to criminalize Black people, to criminalize immigrants, to criminalize Muslims. And as a Black Muslim immigrant, I'm really concerned about that. And I do think that the Somalis and Sudanese, people of African descent who are going to be affected by this, you know, I think they're going to be treated differently, frankly.⁹⁷

As illustrated by El Amin's experience at JFK Airport, Black Muslims from Somali and Sudan faced a distinct, and multi-dimensional suspicion, as a consequence of their combined racial and religious identities. In addition to her racial and religious identity, El Amin's status as a (Black Muslim) woman also contributed to how she was profiled by CBP officers at the JFK airport. The gendered stereotypes linked to her Blackness conjured up suspicions of criminality, or the threat of it, in the minds of those officers

93. Layla Abdullah-Poulos, *Muslim Ban, Anti-Blackness and African American Muslims*, SAPELO SQUARE (Jan. 30, 2017), <https://sapelosquare.com/2017/01/30/muslim-ban-anti-blackness-and-african-american-muslims>.

94. See Queenie Wong, *Sudanese Student at Stanford Detained, Handcuffed at JFK Airport*, MERCURY NEWS (Jan. 28, 2017), <http://www.mercurynews.com/2017/01/28/stanford-university-student-detained-at-jfk-airport-for-five-hours-after-trumps-immigration-order>.

95. *Id.*

96. *Id.*

97. *Sudanese Stanford Ph.D Student Speaks Out After Being Detained at JFK Under Trump Muslim Ban*, DEMOCRACY NOW (Jan. 30, 2017), https://www.democracynow.org/2017/1/30/sudanese_stanford_phd_student_speaks_out [hereinafter *El Amin Speaks Out*].

before handcuffing her⁹⁸ and holding her in custody for five hours seemed to confirm that.⁹⁹

The erasure of Black Muslims was again on full display during media coverage in the wake of the Muslim Ban.¹⁰⁰ The story of El Amin, and those experiences of Black Muslims, was perpetually eclipsed by coverage of Arab and Iranian Muslims by mainstream news. This erasure is rooted in American law, starting with the enslaved African Muslims worshipping while in bondage,¹⁰¹ up through the ignored and overlooked stories of Black Muslims detained and handcuffed, or vilified by Trump as more prone to “join ISIS” and “spread extremist views” in communities with large Sudanese and Somali populations.¹⁰²

Our outreach efforts sought to effectively address this intersection. We held town halls in predominantly Black Muslim spaces, such as the Prince George’s Muslim Association in Maryland on January 29, 2017, and enlisted collaborators—including Asha Mohamood Noor, a Somali American Muslim woman—to speak directly to the experience of Black Muslim immigrants. The leadership of Black Muslim lawyers, advocates, and community organizers was vital in the immediate wake of the Muslim Ban, and not only vital to address the immediate concerns faced by Black

98. As Beydoun describes in a different Article:

[P]erformance of Muslim womanhood, by way of the headscarf or more conservative iterations of covering, renders readings of the actor as un-American. This stereotype fuels the common tropes that Muslim women are “oppressed” by Muslim men and a “tyrannical faith.” These stereotypes have been increasingly accompanied by stereotypes of the headscarf as a proxy for religious extremism, as illustrated by the U.S. Military’s classification of the headscarf as a form of “passive terrorism.” In addition, the “stereotype of Muslim women as terrorists, co-conspirators, or aiders and abettors to their male terrorist family members,” which is far more pronounced during the war on terror, has eroded the preexisting stereotype that terrorism was the exclusive terrain of Muslim men.

Khaled A. Beydoun, *Acting Muslim*, 53 HARV. C.R.-C.L.L. REV. ____ (forthcoming 2018). See also Sahar F. Aziz, *Coercing Assimilation: The Case of Muslim Women of Color*, 24 TRANS. L. & CONTEMP. PROBLEMS 341, 342 (2015) [hereinafter *The Case of Muslim Women of Color*] (discussing these and other stereotypes within the corporate and professional contexts).

99. *El Amin Speaks Out*, *supra* note 97.

100. “Dominant narratives in both media and scholarly literature tend to doubly efface the existence and voices of black American Muslims even in this moment when black bodies are at the very center of the unrest,” writes Auston in relation to the Black Lives Matter movement, which is also germane to Black Muslims in the direct aftermath of the Muslim Ban. Donna Auston, *Mapping the Intersections of Islamophobia and #BlackLivesMatter: Unearthing Black Muslim Life and Activism in the Policing Crisis*, SAPELO SQUARE (Aug. 30, 2016), at 3.

101. See generally Khaled A. Beydoun, *Antebellum Islam*, 58:1 HOWARD L.J. 141 (2015) (examining how the formative legal construction of Black and Muslim identity clash, and brought about the unseeing of enslaved African Muslims as bona fide Muslims).

102. Akinyi Ochieng, *Black Muslims Face Double Jeopardy, Anxiety in the Heartland*, NPR (Feb. 25, 2017), <http://www.npr.org/sections/codeswitch/2017/02/25/516468604/black-muslims-face-double-jeopardy-anxiety-in-the-heartland>.

Muslim immigrants, but also to frame the Ban as part and parcel of the broader experience of anti-Black racism.¹⁰³

As articulated by scholar Erik Love, the racialization of Muslims as people that “look Middle Eastern” facilitates the neglect of Black Muslims with regard to media representation, intra-community inclusion and attention, and during crisis, advocacy and outreach.¹⁰⁴ Our efforts sought to address this neglect and erasure, and the leadership of Black Muslims such as Asha Noor, Donna Auston, and organizations like the Muslim Anti-Racism Collaborative (Muslim ARC), strove to address this head on in the immediate aftermath of the Muslim Ban.¹⁰⁵

B. *At the Intersection of Islam, Immigration, and Indigence*

Muslims in the U.S. commonly experience poverty. Poverty is especially pronounced among Black and Arab Muslim communities, with 44% and 37%, respectively, of members in these communities earning household incomes of less than \$30,000 per year.¹⁰⁶ For Muslim newcomers, particularly those fleeing war-torn homelands or resettling in the U.S. out of economic necessity, poverty is experienced at an extraordinarily high rate. Therefore, many communities across the country with high concentrations of immigrant Muslim populations, such as East Dearborn or Hamtramck, Michigan; Astoria, New York; or Minneapolis, Minnesota, are also home to large numbers of indigent and working class Muslim households.¹⁰⁷

Poverty, particularly during crises such as the Muslim Ban, presents indigent Muslims with a set of challenges that intensifies the injury endured by Muslims. First, indigent and working-class Muslims are, in comparison to their wealthier Muslim counterparts, far less educated and lack the resources to procure legal counsel. This spawns confusion, fear, and vulnerability.¹⁰⁸ Second, as witnessed in the immediate wake of the Muslim Ban, indigent and working-class Muslims—with family members de-

103. The leadership of Black Muslim leaders, and the impact of the Black Lives Matter Movement that preceded—and intersected—with the rise of Trump, had an indelible impact on the politics of the Muslim American population at large. The Institute for Social Policy and Understanding found that “Muslims [were] the most likely faith group to support the Black Lives Matter Movement.” *2017 American Muslim Poll*, *supra* note 87, at 8. 66% of Muslims voted in support for the Movement, followed by Jewish Americans at 57%. *Id.*

104. ERIK LOVE, *ISLAMOPHOBIA AND RACISM IN AMERICA* 9 (2017).

105. See *Education for Liberation*, MUSLIM ANTI-RACISM COLLABORATIVE, <http://www.muslimarc.org> (last visited June 3, 2017).

106. *2017 American Muslim Poll*, *supra* note 87, at 9.

107. See Khaled A. Beydoun, *Between Indigence, Islamophobia and Erasure: Poor and Muslim in “War on Terror” America*, 104 CAL. L. REV. 1463, 1479–90 (2016) (analyzing how war on terror policies—namely counter-radicalization policing—are disproportionately deployed in and damaging to indigent and working class Muslim American communities) [hereinafter Beydoun, *Between Indigence*].

108. *Id.*

tained or stranded abroad—could only turn to nonprofit advocacy organizations, like the ADC, to learn about the whereabouts of their loved ones. Private counsel, for economic reasons, was not an option, and access to justice was far more tenuous for indigent and working class Muslims with detained or deserted loved ones.¹⁰⁹

Again, almost half of Muslim households in the U.S. earn a household income of less than \$30,000—a figure just above the legal poverty line.¹¹⁰ “Umm Mohamed,” a native of Hamtramck, Michigan, belonged to one of these households.¹¹¹ A woman in her mid-sixties, Umm Mohamed lived in the vibrant community of Hamtramck, a small city entirely surrounded by Detroit. Hamtramck, the first Muslim-majority city in the U.S.,¹¹² is also home to a large Yemeni community—one of the seven restricted states listed on the Muslim Ban. Umm Mohamed’s son, Khaled, was among the thousands of green card (and visa) holders stranded in his home country after Trump enacted the Executive Order.¹¹³

“When will he come home?” she asked Beydoun, repeatedly, in her Yemeni-accented Arabic.¹¹⁴ An unemployed, elderly woman tended to and taken care of by her son, a blue-collar worker paid by the hour, Umm Mohamed’s strained voice and cries exhibited her yearning for the return of her son.¹¹⁵ She could not afford an attorney to assess the merits of her son’s claim as a green card holder, particularly in his absence. Therefore, calling the ADC—whose number she received from an immigration attorney in the metropolitan Detroit area—was her only avenue for obtaining answers.

We received continuous calls from concerned Muslim family members in the immediate wake of the Muslim Ban’s enactment. Many of them from communities which house ethnic enclaves. In response to this wave of calls, we hosted educational town halls in various other communi-

109. See Deborah L. Rhode, *Access to Justice*, 60 *FORDHAM L. REV.* 1785, 1797–1808 (2001) (analyzing how poverty undermines the ability of indigent Americans to access legal representation and the justice afforded by the court system).

110. Beydoun, *Between Indigence*, *supra* note 107, at 1463.

111. We have changed the name of the individual to maintain her anonymity and the anonymity of her son.

112. See Keith Matheny, *The Story of Hamtramck, Michigan’s Ellis Island, As Trump Takes Power*, *DETROIT FREE PRESS* (Feb. 3, 2017), <http://www.freep.com/story/news/local/michigan/wayne/2017/02/04/hamtramck-michigan-immigrants-trump/97450148>.

113. See Todd Spangler, *Once Blocked by Travel Ban, Yemeni Brothers Now on Way to Flint*, *DETROIT FREE PRESS* (Feb. 6, 2017) <http://www.freep.com/story/news/local/michigan/2017/02/06/yemeni-brothers-allowed-us-despite-order-headed-flint/97551590> (detailing the story of two other Yemeni men who, once blocked by the travel ban, eventually made their way to Michigan).

114. Telephone Call with Umm Mohamed (Jan. 28, 2017).

115. *Id.*

ties, including our native Dearborn, Michigan,¹¹⁶ to field questions in person and equip community members with the knowledge and resources needed to tackle the challenges that lay ahead. After several days of fielding phone calls from concerned community members, we went directly into these indigent and working class Muslim communities to speak to them in person. It was important that the communities hear directly from those working to protect their rights during these trying times.

Umm Mohamed was one of hundreds of phone calls we received in the first few hours after the enactment of the Muslim Ban. And one individual among thousands we spoke to in the days following the Ban, yet her voice remains a lurid reminder of the distinct perils indigent Muslims faced in the wake of the Muslim Ban and the myriad challenges they will continue to face as the Trump Administration imposes further surveillance and policing on Muslim communities, and more broadly implements structural Islamophobia.

CONCLUSION

In her landmark work, *Borderlands/La Frontera: The New Mestiza*, Gloria Anzaldua asks, “Who is to say that robbing a people of its language is less violent than war?”¹¹⁷ Although Anzaldua refers specifically to language and not religion, her words speak directly to the Trump Administration’s demonization of Islam and Muslim identity, and the intensification of the war on terror during its third phase.¹¹⁸ By marking Islam as presumptively terroristic, the Trump Administration is criminalizing Islam, and in turn, “robbing” Muslims of the ability to freely exercise their faith and express their religious identity.¹¹⁹ In relation to immigration, Trump has attempted to rob Muslims of their religious identity through an Executive Order not once, but twice.

On Monday, March 6, 2017 in Washington, DC, President Trump issued another Executive Order restricting the entry of Muslims.¹²⁰ The second rendition of the Muslim Ban dropped Iraq from the list of Muslim-

116. See Robert Kobylasz, *ACCESS Emergency Town Hall in Dearborn Informs Public About Controversial Order*, DEARBORN PRESS & GUIDE (Feb. 2, 2017), http://www.pressandguide.com/news/access-emergency-town-hall-in-dearborn-informs-public-about-controversial/article_6ae35e53-a9ee-5e5c-ac7b-84f1cc6bda7f.html.

117. GLORIA ANZALDUA, *BORDERLANDS/LA FRONTERA: THE NEW MESTIZA* 53 (1987).

118. Khaled A. Beydoun, *Acting Muslim*, 53 HARV. C.R.-C.L.L. REV. ____ , at 6. (forthcoming 2018). The Trump Administration is the third phase of the War on Terror, following the Bush and Obama Administrations, which respectively initiated the War on Terror and carried it forward. *Id.*

119. See Khaled A. Beydoun, *Being a Muslim Under Trump is Risky*, GUARDIAN (Mar. 30, 2017), <https://www.theguardian.com/commentisfree/2017/mar/30/being-muslim-under-trump-risky-many-hiding-identity>.

120. *Executive Order Protecting the Nation from Foreign Terrorist Entry into the United States*, WHITE HOUSE (Mar. 6, 2017), <https://www.whitehouse.gov/the-press-office/2017/03/06/executive-order-protecting-nation-foreign-terrorist-entry-united-states>.

majority states, exempted current visa and green card holders from the restricted states, and featured other tweaks designed to deflect and defeat constitutional challenge. Trump demonstrated that despite political upheaval and the will of the courts that he and his administration were dead set on carrying forward the Muslim Ban.

Both versions of the Muslim Ban are but the latest iteration of Islamophobic policies advanced by the state during the protracted war on terror, and for the Trump Administration, the first of a series of other policies and programs built upon the premise that Muslim identity is presumptively terroristic. Additional Islamophobic policies, including the implementation of “Countering Islamic Violence,”¹²¹ the designation of the Muslim Brotherhood as a terrorist group (as a means to stifle Muslim American activism),¹²² and reinstatement of a “Muslim Registry,”¹²³ are structural Islamophobic policies scheduled to follow the Muslim Ban. Like the Muslim Ban, these laws and policies have a specific legal aim and effect, but their cumulative impact is far broader:

By endorsing the Islamophobic premise that Muslim identity is presumptive of radical threat or terrorism, Islamophobic policies and programs enacted by the state [like the Muslim Ban] propagate the damaging stereotypes associated with this premise, and promote the private vigilantism that threatens Muslims and communities mistakenly caricatured as Muslims.¹²⁴

121. Max Greenwood, *Trump Plans to Reshape Counter-Extremism Program to Focus on Islam: Report*, HILL (Feb. 1, 2017), <http://thehill.com/policy/national-security/317465-trump-plans-to-reshape-counter-extremism-program-to-focus-on-islam>; see also Khaled A. Beydoun, *Trump's Counterterror Program*, AL JAZEERA ENGLISH (Jan. 25, 2017), <http://www.aljazeera.com/indepth/opinion/2017/01/trump-counterterror-programme-muslim-americans-170125103202700.html>:

Trump is inheriting from President Barack Obama the Countering Violent Extremism (CVE) program, that was based on the premise that foreign terror threats are tied to Muslim American citizens at home. . . [Trump] aims to integrate this conflation of radicalization and Islam with the belief that the US is interlocked in a war with Islam - and with the eight million American citizens that adhere to it.

Id.

122. Shenaz Kermalli, *If You Thought Trump's Travel Ban Was Bad, What He Has Planned Next for American Muslims Could Be Devastating*, INDEPENDENT (Feb. 9, 2017), <http://www.independent.co.uk/voices/donald-trump-muslim-travel-ban-muslim-brotherhood-terror-bill-civil-society-devastating-effects-a7571426.html>.

123. See Dara Lind, *Donald Trump's Proposed "Muslim Registry," Explained*, VOX (Nov. 16, 2016), <http://www.vox.com/policy-and-politics/2016/11/16/13649764/trump-muslim-registry-database>.

124. Khaled A. Beydoun, *How Muslim Ban Incites Vigilante Islamophobic Violence*, AL JAZEERA ENGLISH (Mar. 7, 2017), <http://www.aljazeera.com/indepth/opinion/2017/03/muslim-ban-incites-vigilante-islamophobic-violence-170307065614706.html>.

Therefore, the injuries endured as a consequence of Islamophobic laws and policies are considerable enough. But, as illustrated before, in the immediate aftermath and weeks after the enactment of the Muslim Ban, only a sliver of the violence enabled and emboldened structural Islamophobia.

We scrambled and strategized to help put out the first fire, which was then followed by a more carefully crafted version of the Muslim Ban. This administration will continue to force their will of Islamophobia and xenophobia onto Main Street—attorneys, advocates, and allies will play a central role in helping the impacted communities respond. If the Islamophobic will of the Trump Administration and the hate and violence it incites on Main Street and towards Muslim communities across the country illustrates anything, it is that the first fire only foreshadows the more furious *fires next time*.