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Community Advisory
What You Should Know About the Latest Muslim Ban
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Dear Community Members and Friends,

Today, just a few days after the third anniversary of the first Muslim Ban, the Trump administration has expanded its travel restrictions targeting even more Muslims and immigrants of color. The expanded Muslim Ban includes Sudan, Nigeria, Tanzania, Myanmar, Eritrea, and Kyrgyzstan. Individuals from Libya, Iran, Somalia, Yemen, Syria, North Korea, and Venezuela remain subject to the Muslim Ban as [described here](#).

In this advisory, we cover information about the status of the Muslim Ban, who is impacted, as well as information about the so-called waiver process. Please note that this information is subject to change based on the various legal challenges. We will update you should changes happen.

Timing

Muslim Ban 3.0 is already in full effect for individuals from Libya, Iran, Somalia, Yemen, Syria, North Korea, and Venezuela. The expanded Ban affecting individuals from Sudan, Nigeria, Tanzania, Myanmar, Eritrea, and Kyrgyzstan goes into effect February 21, 2020.

Who is Impacted Under the Expanded Ban?

Certain nationals of Sudan, Nigeria, Tanzania, Myanmar, Eritrea, and Kyrgyzstan.

The expanded Ban only applies to individuals who are 1) outside of the U.S. on the effective date, 2) who did not have a valid visa on that date, and 3) who have not obtained a waiver (discussed below).

The expanded Ban does not apply to:

- U.S. Lawful permanent residents (green card holders);
- People admitted or paroled into the U.S. on or after February 21, 2020;
- People with a document other than a visa that allows them to travel to the U.S., if the document is dated on or after the effective date of the new Muslim Ban;
- Dual-nationals traveling on a passport from a non-designated country;
- People who have been granted asylum by the U.S.;
- Refugees already admitted to the U.S.; or
- Individuals granted withholding of removal, advance parole, or protection under the Convention against Torture.

Details on Impacted Countries

Sudan

- All Diversity Visas are suspended for Sudanese nationals.

Tanzania

- All Diversity Visas are suspended for Tanzanian nationals.

Nigeria

- All immigrant visas from Nigeria are suspended.
- Special Immigrants whose eligibility is based on having provided assistance to the United States Government are exempt from the Ban.

Myanmar

- All immigrant visas from Myanmar are suspended.
- Special Immigrants whose eligibility is based on having provided assistance to the United States Government are exempt from the Ban.

Eritrea

- All immigrant visas from Eritrea are suspended.
- B1/B2 visitor visas from Eritrea were previously suspended under a separate proclamation.
- Special Immigrants whose eligibility is based on having provided assistance to the United States Government are exempt from the Ban.

Kyrgyzstan

- All immigrant visas from Kyrgyzstan are suspended.

- Special Immigrants whose eligibility is based on having provided assistance to the United States Government are exempt from the Ban.

Waivers Seeking an Exception to the Muslim Ban

A “waiver” is permission to obtain a U.S. visa, even though the Muslim Ban says you are not eligible to get one. Muslim Ban 3.0 states that banned individuals can ask for a waiver to request an exception that would allow the visa to be issued as long as they can show that:

1. Denying entry would cause the visa applicant undue hardship;
2. Entry to the U.S. would not pose a threat to the national security or public safety of the U.S.; and
3. Entry would be in the national interest of the U.S.

The law states that a consular officer or Customs and Border Protection official has the authority to grant a waiver on a case-by-case-basis. The law also lists several examples where a waiver can be granted (such as needing urgent medical care, reuniting with immediate family members in the U.S., business ties etc.).

Unfortunately the waiver process has been very unclear and applied unevenly. The government has provided very little guidance on the waiver process. Our organizations are currently suing the government to challenge the waiver process.

Here are some things we know:

- There is no formal process to request a waiver. There is no available form online to fill out. Any documents submitted to the consulate outlining why you qualify for a waiver may or may not be accepted.
- Many consulates have been notifying individuals that either:
 - a. The consulate is denying the waiver for their case, stating that the visa is “refused under 212(f)”:
 - In this case, there is no appeal process for the decision. Many individuals are submitting waiver requests, however, it is unclear if they are being accepted.
 - b. The consulate is considering their case for a waiver:
 - In this case, the consulate may or may not ask you about the above criteria in the interview; the consulate may or may not accept a written letter outlining why you meet the above criteria either during your interview or

if you try to email/mail it in; the consulate may or may not refer your case to Washington D.C.

If you have an upcoming interview before a consulate, please seek legal advice about the waiver process.

Information around waivers can change very quickly, so seek legal help (while watching out for scams) and please check back frequently.

How to Get Legal Help

Both of our organizations provide information and legal services free of charge. You can contact our organizations if:

- You or someone you know is impacted by this Muslim Ban and would like free legal advice or assistance;
- Your community would like to request a “Know Your Rights” presentation.

CAIR SF Bay Area:

408.986.9874 or online at: bit.ly/cairsfbaimmigration.

Advancing Justice-Asian Law Caucus:

415.848.7733 or online at: bit.ly/TravelIntake