



THE CONSTITUTION PROJECT



Safeguarding Liberty, Justice & the Rule of Law

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Contact: Katherine Hawkins, Senior Counsel, (202) 580-6928

khawkins@constitutionproject.org

TCP Lauds Ninth Circuit's Refusal to Reinstate Muslim Ban

WASHINGTON, D.C. -- The Constitution Project applauded the Ninth Circuit's unanimous decision declining to reinstate enforcement of President Trump's Executive Order that banned travelers from seven majority-Muslim countries from entering the United States.

The court rejected the Trump administration's argument that "the president's decisions about immigration policy, particularly when motivated by national security concerns, are unreviewable, even if those actions potentially contravene constitutional rights and protections.... There is no precedent to support this claimed unreviewability," the court continued, "which runs contrary to the fundamental structure of our constitutional democracy." The court also correctly noted that Fifth Amendment protection against "deprivation of life, liberty, or property, without due process of law" applies to all persons within the United States, not only to citizens.

TCP Senior Counsel Katherine Hawkins said, "the Ninth Circuit's decision shows that even in matters of national security, the President is constrained by the law and the Constitution."

A group of 29 distinguished experts from The Constitution Project's [Liberty and Security Committee](#) and [Task Force on Detainee Treatment](#) issued a statement criticizing the seven country travel ban and several other recent executive orders by President Trump. The experts wrote that the orders "threaten to harm fundamental constitutional rights, American values, and innocent people, without any evidence that they will benefit national security," and went on to discuss more specific problems with the order whose stay the Ninth Circuit upheld and three others:

- Executive Order 13,768, which empowers state and federal law enforcement officials to target virtually any undocumented person for deportation, and calls for the publication of weekly lists of "criminal actions committed by aliens;"
- Executive Order 13,767, which directs construction of not only a physical wall along the U.S.-Mexico border, but also of detention facilities to hold virtually all individuals facing removal proceedings; and
- A draft executive order directing that the prison at Guantanamo Bay remain open, and that new captives be sent there.

The group concludes by asking Congress and the courts to fulfill their constitutional role to act as a check on the executive, and executive branch employees to comply fully and promptly with all court orders.

The full statement and list of signatories is available [here](#) .

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[About The Constitution Project](#) ®

Created out of the belief that we must cast aside the labels that divide us in order to keep our democracy strong, The Constitution Project brings together policy experts and legal practitioners from across the political spectrum to foster consensus-based solutions to the most difficult constitutional challenges of our time through scholarship, advocacy, policy reform and public education initiatives. Established in 1997, TCP is based in Washington, D.C.