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Newsroom: SLATE: Goldstein On Travel Ban 02-17-2017

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February 17, 2017

Newsroom

SLATE: Goldstein on Travel Ban

Professor Jared Goldstein, a constitutional law expert, argues that Trump's immigration ban explicitly smears Muslims as being potentially hostile to the Constitution.

From SLATE: "[A Good American: How Trump's immigration ban explicitly smears Muslims as being potentially hostile to the Constitution](#)" by RWU Law Professor [Jared A. Goldstein](#)



Feb. 14, 2017: President Donald Trump's controversial executive order temporarily banning travelers from seven majority-Muslim countries — an order that the 9th U.S. Circuit Court of Appeals kept on hold last week — does not explicitly exclude people because of their faith. Instead, the language of the order uses potential hostility to the Constitution, not religion, as its stated benchmark for identifying dangerous foreigners who must be kept out of the United States. Section 1 of the order declares that it seeks to protect national security by excluding those who might “bear hostile attitudes” toward the United States “and its founding principles” and who “do not support the Constitution.” Protecting the nation against those who oppose its most fundamental principles, the president and his supporters have said, is the definition of patriotism, not bigotry.

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*The president has tried to justify the exclusion of Muslims in patriotic terms ... No
one should be fooled.* ~ Professor Jared Goldstein
”

As the 9th Circuit noted, of course, there is a wealth of evidence outside the plain language of the order that the policy was adopted to exclude Muslims — most obviously, Trump's campaign promise to ban

entrance to all Muslims. Yet even if the government were right that the president's campaign promises should be ignored in assessing whether the order is intended to discriminate against Muslims, and the 9th Circuit shot this argument down, the order's plain language evinces a discriminatory purpose that should justify striking it down. The order explicitly expresses suspicion that citizens of seven predominately Muslim nations are uniquely likely to be hostile to the Constitution and should be subject to "extreme vetting" to prove otherwise.

To see why the order's use of hostility-to-the-Constitution expresses anti-Islam animus requires understanding the claim that has long been peddled by the conspiratorial right that Islam is incompatible with the Constitution. For years, leading figures on the right have argued that Islam seeks to infiltrate the United States and replace the Constitution with Sharia law. The charge has been leveled by the Tea Party movement, by the Family Research Council, and by former presidential candidate and Secretary of Housing and Urban Development nominee Ben Carson, who argued that a Muslim must never become president because he would be loyal to Islam, not the Constitution. [...]

Every president elected between 1965 and 2012, however, has embraced the notion that anyone of any race, religion, or national origin can become American through dedication to the American creed expressed in the Constitution. In his first inaugural address, President George W. Bush declared that "America has never been united by blood or birth or soil. We are bound by ideals that move us beyond backgrounds, lift us above our interests and teach us what it means to be citizens." Presidents Ronald Reagan, Bill Clinton, and Barack Obama said the same thing in almost identical language.

With the issuance of the immigration order, President Trump signaled that he holds a radically different understanding of who can and cannot be a good American. The order puts the force of law behind the Islamophobic claim that Muslims should be excluded because they are not suited to becoming Americans. Like nativists of old, the president has tried to justify the exclusion in patriotic terms, claiming that the order does not target Muslims because of their religion but because they hate our constitutional ideals. No one should be fooled.

For full article, click [here](#).