

ON SOLIDARITY IN THE FACE OF MUSLIM REGISTRY PLANS

In this post, I suggest you might donate to CAIR. Please consider a donation for this work, as well

Yesterday, Carl Higbie pointed to the Supreme Court decision in *Korematsu* in claiming that President Trump could legally establish a registry of Muslims.

A spokesman for a major super PAC backing Donald Trump said Wednesday that the mass internment of Japanese Americans during World War II was a “precedent” for the president-elect’s plans to create a registry for immigrants from Muslim countries.

During an appearance on Megyn Kelly’s Fox News show, Carl Higbie said a registry proposal being discussed by Trump’s immigration advisers would be legal and would “hold constitutional muster.”

This came after Kris Kobach said Trump were considering a formal proposal for such a registry.

Higbie’s remarks came a day after a key member of Trump’s transition team, Kansas Secretary of State Kris Kobach, said Trump’s policy advisers were weighing whether to send him a formal proposal for a national registry of immigrants and visitors from Muslim countries.

Kobach, a possible candidate for attorney general, told Reuters that the team was considering a reinstatement of a similar program he helped design after the Sept. 11, 2001, terrorist attacks

while serving in the Justice Department under President George W. Bush.

Kobach was talking about a rule *actually imposed* during the Bush administration requiring – among other things – that men from Muslim countries (and North Korea) register, practice that led to huge lines outside of immigration facilities during freezing cold weather to dutifully sign up.

Today, a lot of really well-meaning people have promised to also register on any such registry, which would have the intended effect of creating a group far too large to marginalize.

The underlying intent of those promising to sign up is great. But there are a couple of problems in theory.

First, note what the Reuters report cited above says about the registry.

Under NSEERS, people from countries deemed “higher risk” were required to undergo interrogations and fingerprinting on entering the United States. Some non-citizen male U.S. residents over the age of 16 from countries with active militant threats were required to register in person at government offices and periodically check in.

NSEERS was abandoned in 2011 after it was deemed redundant by the Department of Homeland Security and criticized by civil rights groups for unfairly targeting immigrants from Muslim-majority nations.

NSEERS was shut down in 2011 *because DHS was already creating the list via other means*. That is, the list tracking Muslim *already exists*. In notable form, it exists in the form of the No Fly and Terrorist Watch Lists. In addition, DHS tracks the movement of international travelers

closer than ever. Customs and Border Protection currently collects more metadata from incoming non-citizens – including permanent residents – than INS did of registered men at its inception, and automated CBP kiosks collect some of what they used to collect for people on the registry from everyone, including US citizens.

While in its heyday, NSEERS served to provide suspicion free excuses to stop Muslim-appearing men, it's not like authorities currently lack that (and I'd say that for Muslims, African Americans, or Latinos). And the rush to include social media registration at immigration will provide another way to prosecute people who inadvertently provide incomplete information at the border to be deported.

But there's a far bigger hurdle to getting a large group of people to register in solidarity with any Muslim registry. Unless Trump and Kobach dramatically reverse from the perverse logic established under Bush and continued under Obama, these lists are designed to be arbitrary and secret. The current No Fly list includes children. At one point it included Ted Kennedy. Because they are secret, these lists been difficult to challenge them – and before the work of lawyers at ACLU and Center for Constitutional Rights and a few lonely others – impossible.

So long as DHS retains the ability to create such registries in secret, no one will have the affirmative ability to just volunteer to sign up. Maybe Kobach will change that – and undermine the bureaucratic efficacy of the current list. But I'm not yet convinced.

If you want to get yourself on a list of for expressing solidarity with Muslims, a good way to do that may be to donate to the Council on American-Islamic Relations. CAIR is like the ACLU of the Muslim world, one of they key defenders of Muslim civil rights. For that (and discredited allegations of ties to Hezbollah and Hamas) it has been targeted for both surveillance and denormalization (FBI issued

guidance prohibiting outreach cooperation with it, for example). But they do absolutely critical work helping Muslims assert their civil rights. And a number of their state offices have already been targeted with hate speech or crimes since the election.

One final point: Just months ago, many Democrats were applauding banning people on the No Fly List from owning guns. I'd like to make gun ownership in this country safer, but using this arbitrary list to do so only encourages the expansion of such lists in the future.