

January 29, 2020

**RE: NO BAN Act (H.R. 2214)**

Dear Representative,

On behalf of the American Civil Liberties Union (ACLU), and our more than 8 million members, supporters and activists, we write to express our support for H.R. 2214, the NO BAN Act. This critical legislation would repeal President Trump's Muslim ban, asylum ban, and refugee ban, and make necessary reforms to the Immigration and Nationality Act (INA) to prevent future discriminatory bans.



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President

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**As this bill moves forward, it is crucial that this legislation remain intact, rescinding the Muslim ban as well as the Muslim refugee ban and asylum ban, and requiring the executive branch to meet a more stringent standard in invoking any similar suspension or restriction. Any changes to this language may impact the ACLU's position on this bill.**

As one of his first acts in office, President Trump fulfilled, in significant part, his campaign promise to ban Muslims from entering the United States by issuing an executive order banning the entry of nationals of certain Muslim-majority countries. People around the country flooded airports in outrage and Members of Congress waited in airports awaiting the release of those detained. Court rulings enjoining the initial ban forced the President to issue three separate versions. But his efforts to respond to legal challenges by diluting the original ban, adding countries that are not Muslim-majority or splitting off the refugee ban in a separate order, did not change his fundamental agenda—to exclude large numbers of Muslims from coming to the United States, using national origin as a proxy for religion.

On June 26, 2018, in a 5-4 ruling, the Supreme Court issued one of its worst decisions in history, upholding the third iteration of President Trump's Muslim Ban. As a result, millions of Muslims are banned from America, even if they have family members, jobs, academic positions, or other compelling connections here, and even if they are otherwise eligible for a visa. The effect has been that people are unable to celebrate life events or mourn the loss of loved ones, denied life-saving health care treatment, and prevented from pursuing educational and career opportunities. Additionally, discriminatory government policies and rhetoric play a role in the escalation of bigotry, harassment, and attacks on community members. The ban's impact comes in many

forms, reaching well beyond individuals from the listed countries and into the hearts, homes, and neighborhoods of the American people as well as those around the globe. Furthermore, the decision upholding the Muslim Ban emboldened the President to attempt to institute a ban on certain asylum-seekers, in direct contravention of the Refugee Act.

As introduced, the NO BAN Act would immediately rescind the Muslim ban, refugee ban, and asylum ban, ending these discriminatory orders and abuses of authority by the Trump administration. In fact, the Trump administration has continued to use this authority to implement a ban on those who cannot prove they will have certain types of health insurance shortly after entering the country; this ban was issued after the NO BAN Act was introduced.

Under current law, the executive branch claims the authority to bar the entry of large groups of people without effective accountability and without regard for the policies codified in other parts of the INA. The NO BAN Act would strengthen limitations on this authority by raising the standard for invoking it. Rather than the current broad and undefined standard, the proposed bill would require the executive branch to meet a more stringent standard—based on “credible facts” that any suspension of or restriction from entry must be connected to “specific acts” that have actually occurred. Furthermore, the bill requires that any such suspension or restriction meet a compelling government interest and that the government use the least restrictive means in doing so. The NO BAN Act would also establish a system of checks and balances whereby Congress would be routinely notified and briefed on the status, implementation and constitutional and legislative authority of the executive branch’s actions. Finally, the proposed legislation would expand the non-discrimination provision of the INA to prohibit discrimination based on religion. Under this act, presidents would be prohibited from using such rank prejudice against a religion in lieu of individualized consideration in the visa process.

This bill is a significant step forward for Muslim communities and other communities that could be targeted discriminatorily or without good reason. By creating substantive standards and accountability, it greatly reduces the possibility of future bias-based bans.

Thank you for your leadership on this bill. We look forward to working with your offices to ensure that this bill moves forward without changes so that we may put an end to these discriminatory bans today and for the future.

Sincerely,



Ronald Newman  
National Political Director



Manar Waheed  
Senior Legislative and Advocacy Counsel