

July 20, 2020

**RE: VOTE “YES” ON NO BAN ACT / VOTE “NO” ON ANY AMENDMENTS OR OTHER CHANGES**

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, though we have concerns about language that was added during the Rules Committee markup regarding COVID-19. As the NO BAN Act is scheduled for a floor vote this week, it is essential that no further changes be made to the bill—so that this authority cannot be used to ban whole communities.



**We urge you to vote “YES” on the NO BAN Act in its current form and vote “NO” on any amendments or other changes. The ACLU will score this vote.**

National Political  
Advocacy Department  
915 15th St. NW, 6th FL  
Washington, D.C. 20005  
[aclu.org](http://aclu.org)

Susan Herman  
*President*

Anthony Romero  
*Executive Director*

Ronald Newman  
*National Political  
Director*

The ACLU continues to support the version of the NO BAN Act scheduled for a floor vote this week. However, we have concerns about language included in the bill defining public safety to address “communicable disease” in response to the current climate and fear around COVID-19. This language is unnecessary and further stigmatizes immigrant communities where many are facing discrimination in the United States given the Trump administration’s stereotypes about communities of color and immigrants—including in reference to COVID-19. There is a long history in the United States of inaccurate connections between health risks and immigrants, which has resulted in irrational immigration policies and discrimination; we are not interested in repeating the mistakes of our past or worsening the xenophobia that immigrants already face in this pandemic.

In the months since the pandemic began, the Trump administration has issued numerous orders barring the entry of people into the United States, many of which use the very authority addressed in this bill. The purpose of this bill is to enhance the standards and prevent the abuse of such authority, not to further legitimize it. Any restrictions related to COVID-19 must be based in science and public health, not politics or xenophobia.

The NO BAN Act continues to achieve the ultimate goals of the legislation, which are to rescind the Muslim ban, refugee Muslim ban, and asylum ban, and make critical changes to the Immigration and Nationality Act (INA) by putting in place a more stringent standard for presidents invoking any similar suspension or restriction. During the House Judiciary Committee markup, the bill was amended to

rescind the President's recently expanded Muslim ban which was issued on January 31st, and targets more African countries, and requires visa reporting related to this ban.

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 “specific and 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. While language connecting these two critical changes to the INA has been removed, the bill now includes a rule of construction indicating that the President, Secretary of State, and Secretary of Homeland Security cannot use this authority to act in a manner that is inconsistent with other policy decisions in immigration law.

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

The ACLU urges you to vote “YES” on the NO BAN Act in its current form and vote “NO” on any amendments or other changes. Please do not hesitate to contact Manar Waheed ([mwaheed@aclu.org](mailto:mwaheed@aclu.org)) if you have any questions. Thank you for your attention to this matter.

Sincerely,



Ronald Newman  
National Political Director



Manar Waheed  
Senior Legislative and Advocacy Counsel