



Statement of the National Immigration Law Center

House Judiciary Committee

FULL COMMITTEE MARKUP:

H.R. 2214, National Origin-Based Antidiscrimination for Nonimmigrants Act (“NO BAN Act”)

February 12, 2020 at 10:00AM

Dear Members of the House Judiciary Committee,

Established in 1979, the National Immigration Law Center (NILC) is an organization long dedicated to protecting and advancing the rights and opportunities of low-income immigrants and their families. We believe that all people should have the opportunity to achieve their full human potential – regardless of their race, gender, immigration, and/or economic status. Over the past forty years, NILC has won landmark legal decisions protecting fundamental human and civil rights and advocated for policies that reinforce our nation’s values of equality and justice for all. This includes our legal challenges to numerous iterations of the Muslim Ban and refugee ban. Two examples of that are *International Refugee Assistance Project v. Trump*, challenging the indefinite ban on most or all nationals from Iran, Libya, Somalia, Syria, and Yemen, as well as North Koreans and certain Venezuelan government officials, and *Pars Equality Center, et al. v. Pompeo, et al.*, challenging the unlawful implementation of the Muslim Ban’s waiver provision that has served as window dressing to an otherwise unlawful ban.

We urge Members of this Committee to VOTE YES to support Chairman Nadler’s Amendment to H.R. 2214, the NO BAN Act.

Since the first version of the Muslim Ban was issued on January 27, 2017, via [Executive Order 13769](#), the Trump Administration has issued numerous iterations of this discriminatory ban, targeting individuals from Muslim-majority countries in order to prevent their ability to enter or return to the U.S. and access the U.S. immigration process in a fair way. The driving force behind the first version of the Muslim Ban, as well as subsequent iterations, [Executive Order 13780](#), [Presidential Proclamation 9645](#), [Executive Order 13815](#), and less than two weeks ago, [Presidential Proclamation 9983](#), has been to fulfill fear-mongering political campaign promises to effectuate a ban on Muslims from entering the U.S. While there have been cosmetic changes

to subsequent versions of the ban – such as adding non-Muslim-majority countries in a superficial attempt to conceal the ban’s primary motivation — each iteration is clearly driven by anti-Muslim animus. This includes the targeting of refugees, given the increasingly high number of refugees from Muslim-majority countries in the years preceding the Trump administration, as well as African immigrants. While the number of refugees from around the world and of all faiths has plummeted under this administration, Muslim refugees have been disproportionately affected, with the admission of Muslim refugees dwindling by 90% between FY 2016 to FY 2019. As a result, targeting refugees has been used as a proxy for banning Muslims.

Since the Supreme Court’s decision on June 26, 2018, allowing a permanent version of the ban -- Presidential Proclamation 9645 (Muslim Ban 3.0) – to remain in effect, most nationals from the impacted countries remain indefinitely banned from entering the United States. As a result of the Supreme Court’s ruling, American families have been kept apart and denied the opportunity to celebrate family milestones, mourn together at funerals, receive life-saving medical treatment, or pursue educational or professional opportunities. The administration has since used the Supreme Court ruling to justify additional bans, relying on what it believes to be its limitless authority under the Immigration and Nationality Act (INA) to abuse its executive powers in order to effectively rewrite our nation’s immigration laws.

As the Muslim ban so clearly illustrates, the current legal standard for allowing a president to ban people from entering the United States is dangerously overbroad, with little to no accountability or oversight. The **NO BAN Act would change the INA standard for all presidents, limiting executive authority to prevent any president from issuing future bans like the Muslim Ban**. Instead of relying on the current vague standard, **any future ban would have to be, among other things, temporary, based on specific and credible facts, and connected to specific acts**. It would have to **meet a compelling government interest and use the least restrictive means possible** to do so. It would also impose stricter requirements before any future ban could be issued, as well as reporting requirements to Congress to create an oversight mechanism once any future ban is in place. The No Ban Act would also ensure that, if a ban is imposed, Congress can hold the executive branch accountable by receiving regular briefings on the status, harm, and other impacts of a ban.

The **NO BAN Act would also broaden the INA’s nondiscrimination clause to specifically prohibit religion-based discrimination** against any immigrant or nonimmigrant visa applicant. This would help ensure that future presidents would not be allowed to issue orders based so clearly on anti-Muslim bias or any other religion-based animus and that every visa applicant would receive individual consideration.

Finally, the **NO BAN Act would also immediately repeal prior versions of the Muslim Ban, including one that specifically targets refugees for “extreme vetting”, and the asylum ban** that targets asylum seekers arriving at the border. The asylum ban, issued after the Supreme Court’s June 2018 ruling on the Muslim ban, relies on the same legal authority as the Muslim

ban and, in a demonstration of how emboldened the administration has become after Supreme Court ruling, does not include any waiver provision.

In order for the NO BAN Act to comprehensively address all Muslim Bans that have been issued to date, **we also urge you to amend H.R. 2214 to also repeal the most recent Muslim Ban, Presidential Proclamation 9983**, which was issued on January 31, 2020, and targets both primarily Muslim-majority and African immigrants.

Conclusion

The NO BAN Act is a much-needed step forward for redressing the devastating harms this administration has inflicted on Muslims and other communities. It both repeals several clearly discriminatory bans while also imposing reasonable standards and accountability tools to ensure that the executive branch does not exceed or abuse its authority.

NILC strongly urges you to:

- 1) VOTE YES to Chairman Nadler's Amendment to H.R. 2214, the NO BAN Act and**
- 2) VOTE YES to amend H.R. 2214, the NO BAN Act, to also repeal the most recent Muslim Ban, [Presidential Proclamation 9983](#)**

We are grateful to see the NO BAN Act move forward in the legislative process and hope to soon see it brought to the House floor for a vote without harmful amendments.

Sincerely,
Avideh Moussavian
Legislative Director
National Immigration Law Center