

**Statement of Senator Christopher A. Coons and Congresswoman Judy Chu
Submitted to the Committee on the Judiciary
United States House of Representatives**

**Markup of H.R. 2214,
The “National Origin-Based Antidiscrimination for Nonimmigrants Act”**

February 12, 2020

Chairman Nadler, Ranking Member Collins, and members of the Committee, thank you for holding this markup. We are grateful for the opportunity to provide written testimony about the senseless pain inflicted on thousands of American families by the Muslim ban and our critically important solution – the NO BAN Act.

When President Trump campaigned for the presidency, he called for a “total and complete shutdown of Muslims entering the United States.” After one week in office, President Trump signed an executive order banning foreign nationals from seven predominantly Muslim countries from entering the United States, producing a massive bipartisan outcry. Several courts across the country blocked the first, second, and third versions of the Muslim ban, but on June 26, 2018, in a five-four ruling, the Supreme Court upheld the third version. That does not mean that the Muslim ban is good policy. It is not.

President Trump claims that this policy makes us safer. In fact, it does the opposite. According to retired officers of the U.S. Armed Forces, the travel ban harms our national security by perpetuating the perception that the United States is hostile to Muslims and Muslim-majority nations and undermining U.S. military operations. A bipartisan group of former national security, foreign policy, and intelligence officials agree that the administration has been unable to articulate any national security or foreign policy basis for the ban. The ban does not help us fight terrorism, combat extremism, or secure democracy around the world. It has senselessly separated thousands of U.S. citizens from their families. It reinforces President Trump’s message that we should fear refugees and our immigrant neighbors, and it fuels already growing division and intolerance here at home.

It is up to Congress to change the law to provide greater protection from discrimination, reassert Congress’s role in setting immigration policy, and bring relief to families who have been separated because of the ban.

Thousands of Muslim Americans continue to be harmed by this discriminatory policy that does not make us safer. Until recently, there were five majority Muslim countries that are subject to the sweeping ban – Iran, Libya, Syria, Somalia, and Yemen. On January 31, 2020, the President announced that he is expanding the ban to immigrants from six more countries: Eritrea, Kyrgyzstan, Myanmar, Nigeria, Sudan, and Tanzania. Five of these countries have Muslim populations ranging from 30 to 86 percent. In the sixth – Myanmar – the Rohingya population is facing a genocide. This expansion of the ban doubles down on a grave foreign policy mistake that is causing harm to people all over the world and here at home.

This ban will senselessly separate thousands more U.S. citizens from their families. Already, there are countless examples of married couples who cannot live together, parents who cannot live with their children, and families who cannot gather to celebrate or grieve. According to the Cato Institute, as of January 1, 2019, the ban has prevented an estimated 3,742 spouses or fiancés and 5,542 adopted children of U.S. citizens from entering this country.

The Supreme Court relied on the existence of a waiver process when upholding the ban, but there is abundant evidence that the process is a sham. As of December 2019, less than 30 percent of immigrant and nonimmigrant visa applicants from banned countries have been granted waivers. Cases abound where American citizens have waited for months and even years to see loved ones while waivers remain in administrative processing.

We implore you to consider the stories of human suffering across this country. They are stories of pain that our government is inflicting on American citizens without justification. They are stories that are echoed in communities across the country.

This pain was felt acutely in Wilmington, Delaware and is the reason that Senator Coons was inspired to draft this bill. In 2017, a wonderful young family that had fled Syria was all set to be resettled in Delaware. Amin and Samira had lived in the neighborhood in Damascus, Syria hit by nerve gas by the murderous regime of Bashar Al-Assad. They had met in a refugee camp halfway around the world, married, and given birth to a baby girl. Red Clay Creek Presbyterian Church, Masjid Ibrahim, and Jewish Family Services raised money; secured an apartment, clothes, and furniture; and eagerly waited to welcome the family into our community.

Amin, Samira, and little Maha were waiting for the plane tickets to arrive when President Trump issued the first Muslim ban, derailing their plans and their dreams of a safe, secure life in America. It was only because of injunctions suspending the Muslim ban that this family was able to come to the United States. Today, they would be banned, alongside countless individuals who cannot set foot on American soil because of this discriminatory policy.

In Los Angeles, the day after the order went into effect, and before a court could block it, Rep. Chu received a call from immigration lawyers that about 50 Iranians who held green cards were detained at Los Angeles International Airport and was there anything she could do? When she got there, she saw that scores of Muslims and travelers with a legal right to be in the United States were being held without food and blocked from their attorneys. When Rep. Chu managed to get Customs and Border Protection on the phone, they hung up on her.

That was just the beginning of the heartache. In the months after the Muslim ban went into effect, a dentist from the Los Angeles area, who had come to the United States from Yemen, was diagnosed with an acute form of leukemia. He needed a bone marrow transplant and neither his wife nor children were a match. He asked his mother and sister if they could be tested, but because the Muslim ban was in effect, their attempts to get a tourist visa were denied. Eventually after appealing that decision and obtaining legal counsel, his mother and sister were able to come to the United States. His sister turned out to be a match and the bone-marrow transplant was able to be performed. However, the Muslim ban caused a lot of stress and uncertainty to this family and could have cost a man his life, simply because his family was from a country that this Administration has decided to discriminate against.

That is why we have joined with Representatives Carson, Omar, Tlaib, Beyer, and nearly 250 more cosponsors in the Senate and the House to champion the NO BAN Act. The NO BAN Act would clarify and strengthen the Immigration and Nationality Act by doing a few simple things.

First, the NO BAN Act would broaden Section 202(a), the nondiscrimination provision of the Immigration and Nationality Act, to prohibit discrimination on the basis of religion. It would also ensure that this nondiscrimination provision applies to nonimmigrant visas, entry into the U.S., or the approval or revocation of any immigration benefit.

Second, the NO BAN Act would ensure that restrictions or suspensions on entry are supported by evidence and tailored to their specific purpose. The bill requires consultation with the Secretary of State and Secretary of Homeland Security when suspending or restricting entry under Section 212(f). However, the bill preserves the President's ability to use this authority when the Secretary of State determines, based on credible facts, that entry should be suspended or restricted to address specific acts that undermine the security or public safety of the United States, human rights, democratic processes or institutions, or international stability. These permissible uses of Section 212(f) have been employed by previous Democratic and Republican presidents. The bill would ensure that the duration of the suspension or restriction is as limited as possible to achieve the purpose. Importantly, the bill would also require consideration of waivers for class-based restrictions and suspensions, with a rebuttable presumption in favor of family-based and humanitarian waivers.

Third, the bill would repeal the three versions of the Muslim ban, an executive order that instituted extreme vetting for refugees, as well as an asylum presidential proclamation that abused the Section 212(f) authority.

Fourth, the bill would ensure that there will be congressional consultation and periodic reporting for any future use of Section 212(f) to ensure that Congress has data on visa applications and refugee admissions to conduct critical oversight. If a briefing is not provided within 48 hours and updated every 30 days thereafter, the emergency suspension or action will terminate absent congressional action.

The NO BAN Act has broad support. Over 400 civil rights, faith, and community groups joined letters supporting the bill, including Muslim Advocates, the ACLU, the National Immigration Law Center, the NAACP, the Leadership Conference on Civil and Human Rights, Church World Service, Amnesty International, and the International Refugee Assistance Project. Over 50 immigration law professors sent a letter supporting the bill, calling it a "common sense and humanitarian solution" to the *Trump v. Hawaii* decision. Additionally, scores of national security professionals agree that the Muslim ban undermines, rather than advances our national security. It is time that we close this hateful chapter. It is time for us to lead.

We are all proud Americans. But imagine if someone told you that you could not live with your wife because she was born in a banned country. Imagine if your parents could not dance at your wedding because they were born in a banned country. Imagine if your husband never got to meet your kids or be by your side in the hospital. Imagine if your family could not attend your funeral to mourn.

This is a reality facing too many families in the United States. I urge this Committee to move forward with policies that reflect the best of America. Passage of the NO BAN Act would put us on the right path.