

Statement for the Record of

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For a markup of the House Judiciary Committee

H.R. 2214 - NO BAN Act

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I. Introduction

January 27, 2020 marked the third anniversary of the [Trump Administration's Muslim Ban](#)¹ - an order prohibiting immigrant and non-immigrant visas to nationals from Iran, Libya, North Korea, Somalia, Syria, Venezuela, and Yemen. Following this announcement, thousands of people gathered at [airports across the U.S.](#)² to protest and show their support for Muslim communities effected by this bigoted policy. In an effort to further curb immigration, President Donald J. Trump recently [expanded his original order](#)³ to now include prohibiting immigrant visas from being issued to nationals from Sudan, Tanzania, Eritrea, Kyrgyzstan, Burma and Nigeria.

Emgage Action, a leading Muslim American civic engagement organization, has worked extensively with members of Congress to introduce and support meaningful legislation to repeal and prevent future bans on vulnerable populations. In light of these efforts, Emgage Action supports to move [H.R. 2214 - NO BAN Act](#)⁴ forward, with the condition of the legislation remaining free from harmful or restrictive amendments. It is imperative to maintain the current language which includes repeal in all iterations of the Muslim Bans (including the latest expansion) and language to amend the Immigration and Naturalization Act (INA) as a means to prevent future abuses of power.

From the beginning, the Trump Administration made it clear that there would be slow attacks and decreases in immigration to this country. There has been a clear agenda directly targeting minorities, with lethal consequences. To date, thirteen countries - mainly Muslim-majority and African countries - have been affected by these actions and discriminatory policies.

As one of the defining moments for Muslim Americans over the last few years, the Muslim Ban and its expanded African Ban has been the source of unnecessary hardship for thousands of parents, children, and families that have been separated from their loved ones. The barrage of vitriol in the form of tweets, remarks, nominations, and policies from the Trump Administration should have been enough to prove Trump's animosity towards Muslims.

Nobody should be blocked from entering this country based on how they choose to practice their faith or where they come from. That is why we must repeal these restrictions and Congress must

¹ United States, Executive Office of the President Donald Trump. Executive order 13769: [Executive Order Protecting The Nation From Foreign Terrorist Entry Into The United States](#).

² Time, Trump's Muslim Ban: New York Muslims Encouraged by Mass Support as Thousands Protest Trump's Immigration Ban (January 30, 2017), <https://time.com/4653063/donald-trump-muslim-ban-new-york-protests/>.

³ Reuters, Trump to Expand Travel Ban to Six Additional Countries - U.S. Official (January 31, 2020) <http://news.trust.org/item/20200131192545-k6ads/>.

⁴ United States. Congress House. [National Origin-Based Antidiscrimination for Nonimmigrants Act](#). 116th Congress, H.R. 2214.

pass the NO BAN Act. The bill would effectively repeal every iteration of the Muslim, asylum, refugee and African bans, amend the Immigration and Nationality Act's nondiscrimination provision to explicitly prohibit discrimination based on religion, and limit overreach by the federal government's executive branch to introduce future bans.

II. The Importance and Urgency of the NO BAN Act

Since 2017, the Muslim Ban has [separated families](#)⁵, denied individuals of [life-saving medical procedures](#)⁶, and prohibited others from [visiting their family](#)⁷ within the United States. Simply put, the NO BAN Act, as it stands, is the best effort to-date to repeal and prevent these policies from future implementation.

This urgent legislation would (1) rescind every iteration of the Muslim ban, including the refugee ban, the asylum ban; (2) expand and amend immigration legislation to prevent discrimination on the basis of religion by adding language to the INA, (3) require the executive branch to meet a more stringent and reasonable standard before issuing future bans, (4) and implement a Congressional check executive authority so that no future president has the power to issue any ban similar to the Muslim ban.

The NO BAN Act not only repeals the current bans, but it also creates more stringent prerequisites such that any future ban would have to be based upon credible facts and specific events, rather than the current vague criteria. Most importantly, it establishes a system of checks and balances by allowing Congress to hold the executive branch accountable should any future ban of its kind be imposed.

Most Americans share a common narrative, many citizens are a product of their family's immigration to this great nation. The United States is a product of the diverse waves of immigration which have only strengthened our communities. What connects these narratives has always been the common dream of pursuing opportunities in America. The Muslim Ban, in all of its iterations, including its most recent expansion to six additional countries, not only stifles those dreams but it is also unconstitutional as it targets individuals based on their religion and national origin. It is time for Congress to take action and ensure the American people that no future

⁵ Brennan Center, The Muslim Ban: A Family Separation Policy (June 29, 2019), <https://www.brennancenter.org/our-work/analysis-opinion/muslim-ban-family-separation-policy>.

⁶ Washington Post, Coveted Exemptions from Trump's Travel Ban Remain Elusive for Citizens of Muslim-Majority Countries (May 22, 2018), https://www.washingtonpost.com/national/coveted-waivers-for-trumps-travel-ban-remain-elusive-for-citizens-of-muslim-majority-countries/2018/05/22/d48cc8d8-48b6-11e8-827e-190efaf1f1ee_story.html.

⁷ Washington Post, Travel Ban Takes Effect as State Department Defines "Close Family" (June 29, 2017), https://www.washingtonpost.com/world/national-security/travel-ban-to-take-effect-as-state-department-defines-close-family/2017/06/29/03eb8a8e-eba6-4749-9fa2-79117be89884_story.html.

Administration will have the authority to enact such a blanket ban targeting individuals based on their religion or national origin.

As such, the NO BAN Act is our legislative obligation in order to protect these freedoms. It is Congress' obligation to protect religious freedoms for all people, with no concessions. Although the Supreme Court of the United States (SCOTUS) ruled in favor of Trump's ban, the decision will remain a stain on our history - of the likes of the [Korematsu vs. United States](#)⁸ decision in 1944. Congress can change the direction and stand on the right side of history by amending the INA and by repealing the the Muslim, refugee, asylum and African bans.

III. Timeline and Effects of the Trump Administration's Muslim and African Ban

From the candidacy of Donald J. Trump to his inauspicious election to President of the United States, minority communities across this great nation understood the implications of this fateful day and the hardships they would inevitably face. From calling for the “[complete and total shutdown](#)”⁹ of Muslims into this country to [manufacturing a crisis](#)¹⁰ at our border to [denigrating African](#)¹¹ nations, there is zero surprise that multiple policies have been implemented which directly halt immigration mainly from countries with large Muslim, brown and black communities.

The first Muslim Ban (before the end of 2017 there would be four iterations) to the most recent expansion, the Trump Administration always made their intentions clear. Specifically highlighting these concerns, the most astonishing reaction came from SCOTUS. Written in the dissent, as presented by Justice Sonia Sotomayor, she referenced President Trump's own words which make it clear that the intent of these policies have always been to infringe upon the rights of Muslims and to target specifically the world's most vulnerable populations.

Further cementing the insidious intent, the waiver program demonstrates the skewed implementation of the Ban. According to reporting by [Reuters](#)¹², between December 8, 2017 and October 31, 2018, State Department officers ruled on nearly 38,000 applications for non-immigrant and immigrant visas filed by people subject to the travel ban who otherwise

⁸ Korematsu v. United States, 323 U.S. 214 (1944)

⁹ Washington Post, Trump Calls for “Total and Complete Shutdown of Muslims entering the United States” (December 7, 2015), <https://www.washingtonpost.com/news/post-politics/wp/2015/12/07/donald-trump-calls-for-total-and-complete-shutdown-of-muslims-entering-the-united-states/>.

¹⁰ The Atlantic, Why Trump Keeps Creating Crises (June 23, 2018),

<https://www.theatlantic.com/politics/archive/2018/06/trump-manufactured-crises-immigration/563495/>.

¹¹ New York Times, Trump Alarms Lawmakers with Disparaging Words for Haiti and Africa (January 11, 2018),

<https://www.nytimes.com/2018/01/11/us/politics/trump-shithole-countries.html>.

¹² Reuters, Exclusive: Only 6 percent of those subject to Trump travel ban granted U.S. waivers (April 4, 2019),

<https://www.reuters.com/article/us-usa-immigration-visas-exclusive/exclusive-only-6-percent-of-those-subject-to-trump-travel-ban-granted-u-s-waivers-idUSKCNI30X>.

qualified for the visas and needed waivers to get them. They determined that just 6 percent – or 2,216 applicants – met the criteria for the waiver. The data was provided on February 22, 2019 through a letter from Assistant Secretary of State Mary Taylor to Democratic Senator Chris Van Hollen. “This data paints a clear – and deeply disturbing – picture of the Trump travel ban,” Van Hollen said in a statement to Reuters. “The administration repeatedly swore to the Supreme Court and the American people that this was not a de-facto Muslim ban and that there was a clear waiver process to ensure fairness. That couldn’t be further from reality.”

Despite continuous denial from the Administration to its core reason behind these bans, this policy is unequivocally targeting people based on the way they choose to practice their faith and their national origin. The rhetoric and policies enacted by the Trump Administration have time and again demonstrated that at its basis, these policies are absolutely a ban on majority Muslim and African countries. As clearly stated by the Bridge: A Georgetown University Initiative, “the intent of the Muslim Ban has always been discriminatory.”¹³

The expansion of the ban only solidifies its original intent of discrimination. Families will continue to be separated, those seeking refuge will be denied safety, medical treatments will be out of reach for those in need, and those impacted are overwhelmingly brown, black or Muslim. The prior bans impacted 135 million people. Now, with expansion, an estimated 1.2 billion - or nearly a quarter of the total population of the African continent - people will be affected.

Innocent people such as mothers, fathers, children, students, teachers, researchers, doctors, scientists, and others are the most harmed by this unfair policy. Real lives are impacted; real people are being forced to choose between their families, dreams and life. In the most serious circumstances, refugees fleeing from conflict zones were turned away following the Presidential Proclamation. Lives are literally in the balance and we urge Congress to act by passing the NO BAN Act.

About Emgage Action

Emgage Action is a non-partisan, non-for-profit 501c(4) civic education and engagement organization dedicated to increasing the civic engagement of Muslim Americans and minority communities. Emgage is 100% funded by domestic sources including private donors and foundations.

¹³ Georgetown Bridge Initiative, The Muslim Bans (June 26, 2019), <https://bridge.georgetown.edu/research-publications/reports/muslimban/>.