

NO BAN Act

National Origin-Based Antidiscrimination for Nonimmigrants Act

President Trump’s Muslim ban was based on animus, and Congress should not allow this discriminatory abuse of executive authority to continue.

- 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.
- 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 impacted by the ban, and their pain is unjustified.

- Since December 4, 2017, there are five majority Muslim countries that are subject to the sweeping ban – Iran, Libya, Syria, Somalia, and Yemen.
- Visas from impacted countries have plummeted. In 2018, the first year the ban was in full effect, the State Department rejected approximately 37,000 visa applications from the banned countries. In 2017, fewer than 1,000 were rejected.
- 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 kept out an estimated 3,742 spouses/fiancés and 5,542 adopted children of U.S. citizens.
- The Supreme Court relied on the existence of a waiver process when upholding the ban, but this process is a sham. Between December 8, 2017 and April 30, 2018, roughly 98 percent of people who applied for a visa did not receive a waiver. Cases abound where American citizens have waited for months and even years to see loved ones while waivers remain in administrative processing.

The NO BAN Act would clarify and strengthen the Immigrant and Nationality Act. By ensuring that the nondiscrimination provision includes protection from religious discrimination and applies to all individuals traveling to the U.S.

- The bill broadens Section 202(a), the nondiscrimination provision of the Immigration and Nationality Act, to prohibit discrimination on the basis of religion.
- The bill also ensures that this nondiscrimination provision applies to nonimmigrant visas, entry into the U.S., or the approval or revocation of any immigration benefit.

By requiring that restrictions or suspensions on entry are supported by evidence and tailored to the specified purpose.

- The bill requires consultation with the Secretary of State and Secretary of Homeland Security when suspending or restricting entry under Section 212(f).
- 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 requires specific evidence supporting the use of Section 212(f), including evidence that is connected with the duration of the suspension or restriction.
- It also provides that the suspension or restriction must be narrowly tailored to address a compelling governmental interest, using the least restrictive means possible.
- The bill requires consideration of waivers for class-based restrictions and suspensions, with a rebuttable presumption in favor of family-based and humanitarian waivers.

By repealing the unilateral executive actions that have harmed the Muslim American community and damaged our standing in the world.

- The bill repeals the three Muslim ban executive orders/presidential proclamations.
- It also repeals an executive order that instituted extreme vetting for refugees, as well as an asylum presidential proclamation that abused the Section 212(f) authority.

By restoring congressional oversight.

- The bill ensures 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 bill requires backward-looking reporting on how each of the executive orders/presidential proclamations was implemented to ensure a complete reckoning.

The NO BAN Act has broad support from civil rights, faith-based, and community organizations, as well as the legal community.

- Nearly 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.